

# **SYNOPTIC OVERVIEW**

*OF*

## **HRVIC REPORT:**

### ***CONCLUSIONS AND RECOMMENDATIONS***

**(INCLUDING CHAIRMAN'S FOREWORD)**

PRESENTED TO PRESIDENT,  
**COMMANDER-IN-CHIEF OF THE ARMED FORCES OF  
THE FEDERAL REPUBLIC OF NIGERIA  
CHIEF OLUSEGUN OBASANJO GCFR**

SUBMITTED BY

**HUMAN RIGHTS VIOLATIONS INVESTIGATION COMMISSION**

MAY, 2002

**SUMMARY, CONCLUSIONS AND RECOMMENDATIONS**

## FOREWORD

*By the CHAIRMAN*

**HON. JUSTICE CHUKWUDIFU A. OPUTA CFR,  
JUSTICE EMERITUS SUPREME COURT OF NIGERIA**

*“Ill fares the land, to hast’ning ill a prey,  
where wealth accumulates, and men decay...”*

Oliver Goldsmith *[The Deserted Village]*

1.1 This was the lament of Oliver Goldsmith about “the deserted villages”. In a sense, this Report is also a lament. However, unlike Oliver Goldsmith’s **The Deserted Village**, this particular lament is a lament, not about the disappearance of village life but about the aftermath of military rule in Nigeria and the consequential disappearance and violations of the human rights and essential freedoms of Nigerians. Like Oliver Goldsmith, I can then say:

*Ill fares the land, to hast,ning ill aprey,  
Where might tramples over right,  
And essential freedoms Decay.*

1.2 For much the greater part of the period covered by this Report, Nigeria was under military rule. During this period, most of our rulers’ principal motivation and pre-occupation were not service to country but the accumulation of wealth and personal gratification.

1.3 This personal accumulation of wealth led to the decay of our society. Public and private morality reached its nadir; and the casualties included human dignity, human rights and our basic freedoms. We also experienced institutional and structural decay.

1.4 This Report has attempted to provide an over-view of the extent of our moral, physical and institutional decay under military rule. The proscription and circumscription of our human rights and freedoms under military rule were symptomatic of a much serious malaise, the departure from constitutional or limited government and with it the absence of accountability and transparency in public life. This was the ultimate decay involving the personalization of the governmental process around the military ruler.

1.5 The return to democratic civilian rule on 29 May 1999 provided the opportunity for us to rise above this decay, to break the silence of the past and to forge ahead, determined to lay to rest the ghost of this dark and painful period in our national history.

1.6 But we must be prepared to confront this history, if we are to forge ahead. We need to understand it, even if it means asking unpleasant questions and offering blunt answers. Where did we make the wrong turn? Who was responsible for what? What opportunities did we miss and why? What are the major lessons to be learnt? What do we now need to do to put the past behind us and to look to the future with renewed hope and patriotic zeal? What are the basic conditions for us to effect national catharsis?

1.7 This is what we have attempted to do in this Report. We have tried to be faithful to our terms of reference and to our mandate, both of which imposed on us the obligation “to review the past;” and to map out or indicate

pathways to enable us as a people “redress the injustices of the past; [and] to prevent and forestall future violations...”

1.8 But it was not an easy task. We had to overcome serious obstacles and constraints—some institutional, some organizational, some legal, some cultural, some political, some logistical and financial and some inevitably arising from the very nature of a truth commission like ours. Nonetheless, undaunted and unfazed, we were determined to succeed as we trudged on, albeit indefatigably, in the knowledge that ours was a historic mission.

1.9 We have to confront and resolve a basic paradox in looking at the past: to forget, we have to remember. But remembering the past is one thing and living in the past is another thing. To live in the past is to be a slave to revenge, to retributive recrimination. We must rise above and beyond the pettiness and the social and political paralysis that revenge breeds.

1.10 We have to remember in order to forget, to learn lessons and to forge ahead. In other words, we must know our *terminus a quo* in order to arrive at our *terminus ad quem*. We must build on our bitter and sad past.

1.11 This has been the *raison d’etre* as well as the *leitmotif* of our work at the Commission. If this Report contributes, even in the smallest way, to a national *risorgimento*, then our work will not have been in vain.

1.12 We, therefore, hope that the Report will offer a credible perspective on our past, while also serving as a road map for our future. We do not claim that we have said all there is to be said about our past and our future. Much, perhaps, remains to be said, and will be said by present and future chroniclers. This is as it should be, if only because history is forever unfolding itself, as new evidence arises, as new interpretations confront old

ones and as the ineluctable march of science brings forth new tools for unscrambling the past.

1.13 The following apt observation by the Most Revd. D.M. Tutu, Chairperson of the *Truth and Reconciliation Commission of South Africa* in the *Foreword* to his Commission's Report, at paragraphs 17-19 of Volume 1 of the Report, underscores this point so well that I quote it *in extenso*:

*"The past...is another country. The way its stories are told and the way they are heard change as the years go by. The spotlight gyrates, exposing old lies and illuminating new truths. As a fuller picture emerges, a new piece of the jigsaw of our past settles into place.*

*Inevitably, evidence and information about our past will continue to emerge, as indeed they must. The Report of this Commission will now take its place in the historical landscape of which future generations will try to make sense-searching for clues that lead, endlessly, to a truth that will, in the very nature of things, never be fully revealed."*

It has been the privilege of this Commission to explore a part of that landscape and to represent the truths that emerged in the process. And we have tried, in whatever way we could, to weave into this truth about our past some essential lessons for the people of this country. Because the future, too, is another country. And we can do no more than lay at its feet the small wisdoms we have been able to garner out of our present experience.

1.14 A word on our approach to our mandate is pertinent here. In searching for the truth about our past, we tried to adhere scrupulously to the requirements of due process and fair hearing and to the canons of historical and cultural scholarship.

1.15 We provided the platform, through our Public Hearings and Special Sessions, held across the various geo-political zones of the country, for alleged victims and alleged perpetrators of human rights abuses and violations to bare their minds in public. But we were careful not to take their accounts at their face value. We had to devise means of corroborating them.

1.16 We wish to underscore this point, if only to disabuse the minds of critics who accused the Commission of re-opening old wounds by providing this platform. We realize that this is partly a matter of methodology and perspective, regarding how we should unscramble and come to terms with the past.

1.17 We firmly reject the view that we should simply forget the past. As I have already observed in this Foreword, we need to talk about the past, no matter how painful, in order to move ahead and because of the cathartic or cleansing and purifying possibilities it offers, at the individual psycho-cultural level and at the wider community and national levels.

1.18 This is not to deny that public hearings are inherently problematic. For example, during our public hearings in Abuja, Lagos and Port Harcourt, alleged perpetrators of human rights abuses and violations blatantly denied the human rights abuses and violations alleged against them by their victims and families.

1.19 To this extent, it was not possible or easy to extract from some alleged perpetrators the measure of remorse and plea for forgiveness so vital for forgiveness and reconciliation to take place.

1.20 Yet, all is not lost. Public Hearings still have their redeeming aspects. Thus, there are denials, which make no difference to the facts. When so many witnesses from different ethnic and geographical backgrounds allege unlawful arrests, illegal detentions and torture against the same set of persons or security agencies, such witnesses cannot all be lying and the alleged perpetrators cannot all be witnesses of truth. In such situations, the Commission had to read between the lines.

1.21 And, as one witness pointed out, it takes more than human courage to admit one's wrong- doing. And so the Commission found out!

1.22 In trying to discover the truth, we commissioned research teams of lawyers, historians and social scientists to write background papers for the Commission on various aspects of our mandate and terms of reference. The research reports submitted to us have been useful in the preparation of this Report.

Let me now turn briefly to some of the important issues raised and discussed at length in the Report.

### **TRUTH: RECONCILIATION & JUSTICE**

1.23 Public perceptions and expectations about the work and mandate of the Commission varied enormously. But a common denominator was the concern with Justice. In some cases, justice was equated with revenge.

1.24 This is understandable and is not unique to Nigeria. Indeed as is clear from our comparative analyses of the work of truth commissions in Argentina, Chile, Guatemala, South Africa and Uganda in Volume 2 and

Volume 5 of this Report, any society that has gone through the trauma of unbridled human rights violations and abuses is invariably confronted with a choice among two options: (a) Revenge and/or Nuremberg-type trials; and (b) Forgiveness and Reconciliation.

1.25 Which option is chosen will depend on what each truth commission is set up to accomplish. Indeed, of the five truth commissions referred to above and analyzed in Volume 2 and Volume 5 of this Report, it was only in the case of Argentina that there were criminal prosecutions of members of the military junta and their collaborators for gross human rights abuses. In the other four cases, Chile, Guatemala, South Africa and Uganda, the aim was for people to know what happened in their respective countries during the dark days of military rule.

1.26 Which option should Nigeria choose? The answer is clear from the Commission's mandate, its terms of reference and the President's Address at the inauguration of the Commission: *Forgiveness and Reconciliation. Reconciliation was the key word in the President's Address. Our quo warranto is the search for this reconciliation.*

1.27 To forgive and to reconcile is not necessarily to deny justice. We should not confuse or conflate justice with prosecution and with criminal or retributive justice. Viewed in the broader perspective of legal theory or jurisprudence as well as moral and political philosophy, reconciliation represents not the antithesis but the triumph of justice.

1.28 Nigeria now has a nascent and fledgling democracy, with all its imperfections and teething problems. Managing the transition from military to democratic civilian rule requires deft and dexterous navigational skill to avoid land mines and treacherous waters. To manage the transition successfully and to consolidate it may require that we sacrifice criminal

justice for the higher moral imperative of reconciliation and to avoid the trauma, anguish and pain criminal prosecution will give rise to.

1.29 In short, Recrimination and Revenge are, have always been and will forever be, poor chisels with which to hue out of stones of reconciliation, unity and peace.

1.30 If we try, we can achieve reconciliation and the onus is on all of us to try and do so. We are encouraged in this respect by our own experience on the field during the Public Hearings in reconciling warring communities. One or two examples will suffice.

1.31 During our sessions in Lagos, Lagos State, we reconciled the quarrelling communities of Maroko Village. We also recorded our first major break-through when the warring Ife and Modakeke communities in Osun State signed a Memorandum of Understanding and a Joint Declaration (see appendix to the report pledging to live in peace and harmony and to adopt only peaceful means in pursuing their respective rights and entitlements. It was unfortunate that the media did not give the Ife/Modakeke reconciliation the prominence it deserved.

1.32 During our session in Port Harcourt, Rivers State, the Commission succeeded in brokering a Peace Accord among the warring factions and groups in Ogoniland. In particular, we managed to unite and amalgamate the **Ogoni Four** and the **Ogoni Nine** into the **Ogoni Thirteen**. As the New Nigerian Editorial of Friday, 16th February 2001 observed,

*“The Peace Accord signed by the warring factions in Ogoniland...will go down in the sociopolitical development of this country as one of the landmark achievements of the Human Rights Violations Investigation Commission.”*

1.33 While I do not wish to over-dramatize or generalize from these examples, what needs emphasis is that unless we try, and try, we cannot even start the long journey to national reconciliation, and maintain its momentum. The flashpoints of communal unrests in our country constitute albatrosses around our necks. Let us with the crossbow of the Commission shoot down each albatross in the interest of the peace and unity of our country and for the sake of the survival of our nascent democracy. Let us all adhere to the message of our 1960 national anthem:

*“...Though tribes and tongues may differ, in brotherhood we stand... Nigerians all”*

1.34 The President’s Address at the inauguration of the Commission made repeated references to *Our Nation; Our Land; and Our Country*. These references presuppose a common citizenship and the existential reality of an historical as opposed to a geographical entity called Nigeria.

1.35 Yet Petition No. 1648 submitted to the Commission by Oha-na-eze Ndigbo and the responses to it by the Arewa Consultative Forum, the Joint Action Committee on the Middle Belt, the Afenifere, the South-South and the Government of Rivers State, Ogbakor-Ikwere Convention provide telling illustration of how divided we are as a country and of how suspicious and afraid we are of one another.

1.36 What is also clear from this is that the various ethno-communal groups in the country, including the major ones, complain of marginalization in the scheme of things.

1.37 I cannot address the issue of citizenship and marginalization in this Foreword other than to observe that they are central to the consideration of human rights as group, ethno-cultural, ethno-religious or collective rights as well as to the foundations of federalism in the country, going as far back

as the mid-1940s and the fears of domination expressed by minority ethnic groups in the penultimate years of the decolonization process in our country.

1.38 As one of our research teams pointed out, quite correctly, our national experience with federalism shows that the problem of marginalization is at the bottom of minority ethnic group fears of the curtailment or violation of substantive human rights—the right to self-determination, the right to the promotion of their cultural rights, and their citizenship rights, especially the right to equitable participation in the cultural, economic and political life of the country.

1.39 Under simple majoritarian, first-past-the-post competitive democratic electoral processes, and much more so under authoritarian regimes ethnic minorities all too easily find themselves excluded by the structure of power and the rules of the electoral process, making them less competitive and denying them access to the State and its enormous patronage.

1.40 A refreshing and confidence-building fall-out from the work of our Commission is the raising of the issue of minority rights as a core dimension of gross human rights violations and bringing it on the agenda of national debate. In this way, such public consciousness may engender well-thought out remedial public policies and constitutional guarantee of minority rights, thereby facilitating national reconciliation.

1.41 These interrelated citizenship aspects of our constitutional and political history—their origins and trajectories, and how best to confront them at the constitutional and policy levels are extensively covered in Chapters Two and Three of Volume One, and in Volumes Three and Seven.

1.42 I only wish to observe here that we need to distinguish between marginality, which is a self-imposed constraint to full citizenship participation, and marginalization, which is imposed from the outside by wielders of political and economic power and is therefore historically deep-rooted and structurally-determined.

1.43 While marginality can be redressed by affirmative-type action, consistent with the federal character clauses of the 1999 Constitution of the Federal Republic of Nigeria, the problem of marginalization is best solved by the political restructuring of our federal system of government, underlined by equitable and fair resource allocation and distribution.

#### **PROFESSIONALISM, LOYALTY AND THE CULT OF THE HEAD OF STATE**

1.44 The military is a great and ancient profession, which requires appropriate demeanor and exemplary standard of conduct, encapsulated in the expression professionalism. Yet professionalism in the military, as was clear in various testimonies before us, even by senior military officers, and as established in some of the Volumes of this Report, particularly Volumes Four and Five, has been a casualty of military rule in the country, further evidence of the institutional decay I referred to earlier in this Foreword to the Report.

1.45 One unfortunate dimension of this decay is what I refer to as the cult of the Head of State. If and when the Head of State is elevated to the State and made coterminous with the State, then the cult of the Head of State is created. The personal ambitions of the Head of State, his or her fears and apprehensions; his or her enemies, real or imagined, become matters of State interest and concern, deserving State intervention and state protection, and as borne out by the evidence before us necessitating State-sponsored assassinations, murders and “disappearances.”

1.46 Some examples in testimonies before us of this conflation of the State with the persona of the Head of State are pertinent.

1.47 In his evidence before the Commission, Major Al-Mustapha emphasized that he had subscribed to an oath “to protect the Head of State and his family as well as the Seat of Government, even if this calls for my making the supreme sacrifice.” General Sabo also said in his evidence that the Head of State is but an extension of the State.

1.48 These are troublingly menacing views, which if concretized and carried to their logical conclusion may create practical difficulties. There must be a difference between the State and the Head of State. The Head of State is but a functionary of the State, and not the State itself. This is made clear in the Presidential Oath in the Seventh Schedule and in the impeachment provisions of the 1999 Constitution of the Federal Republic of Nigeria.

1.49 Unfortunately, our various military rulers, like all dictators, were unable to draw this distinction between themselves and the State. Their intelligence outfits danced to their tune and their agents also saw themselves as beyond and above the law. This led to the hounding of journalists and those who criticized their administrations and policies. Intellectuals and human rights activists, among other critics of military rule, were arrested and jailed, without recourse to due process, in the so-called interest of State security.

1.50 This attitude was also reflected in the protection given to oil companies, which supplied the much of the needed oil revenue to various military administrations. Their interests became “State interests,” which must be protected. This logically led to the systematic and generalized violations and abuses, which occurred in the Niger-Delta during the dark

period of military rule in the country, as detailed in Volumes One, Three and Five of this Report.

1.51 I find it instructive to say a further word about the cult of the Head of State, in the context of our experience with military rule and the institutional and moral decay I referred to at the beginning of this Foreword.

1.52 Military rule is absolute rule. It subverts and undermines the institutions of the State, imperceptibly initially but surely and gradually. It leads inevitably to moral and political corruption, alongside the decay of time-honoured loyalties and values as well as institutional decay. In due course and as a manifestation of this deepening decay, cruelty and murder become norms of governance. Good faith and truthfulness become childish scruples while force and craft become the keys to success. Selfishness, naked and unadorned, need only succeed to supply its own justification.

1.53 This sums up the character and odious dimension of military rule in the country, as elsewhere. The fall-out, in our case, was the gross violations of the human rights of Nigerians, which are enumerated and elaborated upon in this Report, particularly in Volumes Two, Four, Five and Six.

### **THE NON-APPEARANCE OF 3 FORMER HEADS OF STATE AND OTHER TOP GOVERNMENT FUNCTIONARIES**

1.54 The non-appearance of three former Heads of State and a number of former top government functionaries, when summoned by the Commission, put to test the theory that in a democracy all men are equal before the law, that the rule of law and not the rule of man should prevail. In addition to not appearing, these former Heads of State filed civil actions challenging the Commission.

1.55 The former Heads of State are: Generals Muhammadu Buhari, Ibrahim B. Babangida, and Abdulsalami Abubakar. The former top functionaries are: Colonel Halilu Akilu and Lt-Colonel A.K. Togun.

1.56 Many in Nigeria and, indeed, in the international community, wondered why these highly placed Nigerians, who had held high public office, refused to appear and testify in person before the Commission.

1.57 Although the Commission had the power to issue warrants for their arrest, it refused to do so, in the over-all interest of national reconciliation.

1.58 The spirit of the Commission's mandate and terms of reference are implicitly both against impunity. For impunity makes social reintegration, rehabilitation and reconciliation difficult. It represents the triumph of might over right.

## **APPRECIATION**

1.59 I must express my delight at the *esprit des corps* with which we worked together as members of the Commission. It shows that, when all is said and done, there are innumerable Nigerians who apply themselves to work conscientiously and with dedication.

1.60 We thank the President, Chief Olusegun Obasanjo (GCFR) for the opportunity given to us to serve this country and the confidence reposed in the members of the Commission.

1.61 Our gratitude also goes to the Honourable Ministers of Justice and Attorney-General of the Federation, first Hon. Mr. Kanu Agabi(SAN), then the late Hon. Bola Ige(SAN) and, then again Hon. Kanu Agabi, for the keen interest they showed in our work and, more specifically, for their

support. We regret and are saddened by the assassination of Chief Bola Ige(SAN) and wish his equally eminent wife and family the continued guidance and Grace of God.

1.62 We thank the Secretary to the Government of the Federation, Obong Uffot Ekaete for his understanding and support.

1.63 In the same vein, we thank all the government departments and their staff at federal, state and local government council levels for facilitating our work, whenever we needed their assistance.

1.64 No less important and encouraging has been the keen interest shown in our work by a number of foreign missions and international governmental organizations. We particularly thank the Ford Foundation for their immense financial support throughout the duration of the Commission's assignment. Our gratitude also goes to CDD, IDEA, British Council and German Embassy for their support.

1.65 We thank the various national and international non-governmental organizations that worked closely with us, providing useful insights into the nature of human rights abuses in the country.

1.66 Our work would have been much more difficult and tedious but for the cooperation we received from all those who submitted memoranda and petitions and all those who testified before us. We thank them all.

1.67 We owe special gratitude to the electronic and print media for highlighting our work and bringing our deliberations, especially the public hearings to the attention of millions of our people.

1.68 We were fortunate to have had a good team of researchers and resource persons, who worked with us. To them, we say a big thank you.

## **INTRODUCTION**

### **REVISITING THE HISTORICAL CONTEXT OF THE COMMISSION'S MANDATE**

1. The Commission has attempted in this Report, to capture the faltering if slippery threads of Nigeria's chequered history. Africa's most populous nation has faced challenges of enormous proportions. It has been battered and bruised. Its national history reflects an undulating landscape, made up of curves, hillocks, valleys and little mountains.

2. The questions persist: Where did Nigeria take the wrong turn? What is the root of its problems? Is it with its leadership or the followership? Have its resources been its undoing or is it the inability of the ruling elite to manage or distribute these resources in a prudent, accountable and transparent manner? What went wrong? Can we put Nigeria back on track again? Or, as a famous Nigerian playwright has asked, "*Are the gods to Blame?*" Or else why would a nation so richly endowed turn so suicidal?

3. These and several other questions go to the heart of the interlocking problems of democracy and development, and of peace and security in the country. The problem of the Nigerian State, and of good governance in the country is ultimately bound up with the oxymoronic formulation of the federal idea as unity in diversity.

4. The Nigerian State is a multinational State in conception; yet the possibility of a Nigerian nation, demanding overarching loyalty from its diverse ethno-national groups, seems perpetually constrained and contradicted by the primordial demands of its multinational diversity. This

has been, and continues to be the fundamental problem of nation-building, of democracy and development in the country.

5. How do we transform the Nigerian State into the Nigerian nation, thereby confounding the cynics who contend that, almost 87 years after amalgamation in 1914, Nigeria is no more than a *mere geographical expression*, or who refer to her as the *mistake of 1914*.

6. Despite the lingering multifaceted and complex crises it has been going through since independence in 1960, the country has remarkably held together, always pulling away from the precipice, except for the civil war years between 1967 and 1970. Indeed, many would argue that perhaps the country's resilience is both its strength and its weakness.

7. In short, as if in a stupor, the country has tottered on, all the fears, anxieties and frustrations of nation building, notwithstanding. Many have concluded that indeed, rather than being seen as evidence of weakness or fragility, the sense and sentiments of nationhood actually run deep in the veins of Nigerians. Nigerians love their country. They want to see it united and strong. The real problem is, at what cost and who bears the brunt?

8. The missing link appears to be the inability of the ruling elite and the political class to establish a nexus between the yearnings, desires, hopes and aspirations of its young and coming generation and the design and construction of a new future for Nigeria.

9. It is arguable that the continuing frustration about the character of the polity is not unconnected with the general feeling among the Youth in

the age brackets of 30-40 and below that earlier generations of the political class have squandered their hopes and future.

10. There is the feeling that the country's political leadership has been greedy, self-serving and lacking in serious political will, contributing in no small measure to the crises of democracy and development, which have delayed the country's march to nationhood.

11. When the military seized political power in January 1966, there was a general feeling in the country that they were motivated by altruistic intentions and objectives to save the country from descent into political chaos and instability.

12. As time passed, the country's military rulers and the military as an institution by and large lost their sense of direction. The greed of the military dragged the nation further and further away from the project of nationhood. The result is that by the end of almost thirty years of military rule, Nigeria is far more fragmented than it was in January 1966, when the military first seized power.

13. The democratic struggle against military rule in the country, whose high water mark was the return to democratic civilian rule on 29 May 1999, symbolizes and marks the return to *the project of the three Rs (Rehabilitation, Reconstruction and Reconciliation)*, which the military enunciated after the end of the civil war in January 1970.

14. After wandering in the wilderness, the country seemed ready and prepared to return to the path it had abandoned through the military option.

15. Looking back with the benefit of hindsight, we can see that, in a way, the noble and patriotic *project of the three Rs was a forerunner to the*

*Human Rights Violations Investigation Commission*. Yet, the setting up of this Commission could be considered an indictment of the Nigerian political military class.

### **LAYING THE BASIS FOR A REGENERATED NIGERIA**

16. This is why we believe that there is need for this country, this nation-in-the-making to reflect more seriously on its future, so as to render the establishment of a similar Commission in the future unnecessary.

17. The preceding volumes of this Report have tried to show how the Commission grappled with the problems of providing a platform for Nigerians to confront their gory past, in order to gear themselves for the difficult but essential battles of laying the foundation for a just and democratic Nigeria.

18. Generally, it was evidently clear, from most of the petitions received by the Commission and from the verbal presentations and arguments canvassed during the Commission's Public Hearings, that there were genuine concerns among the petitioners and the generality of our people, the citizens, that Nigerians need a nation to belong to, a nation cemented by a social contract of mutuality and reciprocity in cultural, economic, political and social relations, a nation to be proud of, one that provides its citizens with an enabling umbrella of equality of opportunities, social and distributive justice, protection and security.

19. From the sentiments re-echoed in messages received and the keen interest demonstrated in the mandate and work of the Commission by innumerable Nigerians, within and outside our country, we are convinced that, with the right social, economic and political atmosphere, a united, powerful, purposeful, compassionate and egalitarian nation will emerge from

the frustrations expressed and captured by such expressions as *marginalization, stranger, indigene, discrimination* etc.

20. There is enough evidence on the ground to suggest that, were Nigerians to see a leadership that can synchronize public sentiments for the emergence of a Nigerian nation with genuine policy programmes of national reconciliation, reconstruction and national integration, in the next ten or so years, the country could achieve harmony.

21. In view of this, our aim in the present *Volume* is to highlight some of the major institutional and structural changes that the Federal Government of Nigeria needs to embark upon to ensure justice to its citizens and thus lay a durable and solid foundation for a democratic Nigerian nation.

22. After reviewing the tons of petitions submitted to it, the Commission has had to come face-to-face with the profoundly deep level of frustrations among the various communities in Nigeria.

23. But as we listened to the various petitions, we also detected the flaws in many of the assumptions. A very interesting picture emerges, when we put all the petitions together in perspective.

24. For example, it was interesting to find that there was hardly any consensus on what really constitutes *marginalization*. What is more, it was interesting to note that while the *Ohaneze* petition on behalf of the Igbos pointed accusing fingers at the Federal Government, their allegations were challenged by both the *Arewa Consultative Forum*, on the one hand, and the *Southern Minorities on the other*.

25. While the *Arewa Consultative Forum* claimed to represent the North, the *Joint Action Committee of the Middle Belt* also leveled accusations against

the North, which the *Arewa Constultative Forum* claimed it was speaking for.

26. Indeed, from the submissions received by the Commission, it is possible to conclude that as clusters of ethnic or regional blocs, we are all marginalized, but as Nigerians, the story is different. For example, although a rather unsteady picture has emerged, most of the Memoranda received by the Commission constituted a documentation of frustrations among ethnic blocs.

27. This ethnicised anger focused on the negative and did not give much thought to the substantial progress in many other areas that the country and the communities had made together in earlier periods of our national history.

28. We are of the view that a more consistent and objective reading of the country's history will lead to the inevitable conclusion that much progress had been made in the country's earlier post-independence history. For example, despite the excesses of military rule, we heard very commendable stories among various communities relating to what some patriotic and imaginative military administrators or governors had done when they governed States that were outside their own immediate States.

29. Evidence exist of the great works done by Muslim administrators in non- Muslim States and vice versa. We also recall periods when the

nation knew tolerance and accommodation across ethnic and religious divides.

30. We are therefore of the view that there is need for the country to trace where the cracks set in and seek the best means of closing these cracks, in order to re-establish trust among the various segments of Nigeria.

31. We hold that this is possible and also very much desirable. It is a much easier goal to pursue under a democracy than under military rule. This prospect opened up by the nascent democratic dispensation in the country posed a challenge to the Commission. How could the Commission contribute to charting a course for this noble objective, which is seemingly beyond its immediate Mandate?

32. The Commission was of the view that there was need to go beyond the Mandate, in search of pathways along which the project of nation building must proceed. This is more so, because the Commission is uniquely the best opportunity that Nigerians have had in several years to forge an informed understanding of their country's past and to put in place the necessary foundational building blocks on which a new Nigerian nation would rest.

33. After consultations with a broad spectrum of the stakeholders, it became clear to the Commission that the nature of Nigeria's chequered and fractured history demands that the Commission's work should serve as a mirror to reflect the trials and tribulations of our country. This was not easy.

## **THE GLOBALIZING CONTEXT OF HUMAN RIGHTS PROTECTION**

34. The terrain the Commission traversed was long and excruciatingly tortuous. In spite of this, the Commission believes that it has laid a firm

basis for a proper understanding of its work and of the imperative need for reconciliation in the country. But the work of the Commission and the recommendations put forward in this Volume must be set in a wider globalized and globalizing perspective setting.

35. Contemporary Globalization has brought in its wake, as its predecessors had done before it, a wide range of challenges, problems and prospects. The Commission believes that every nation must work out its own *modus vivendi* in making choices that will enhance its national image and advance its national interests.

36. It is in the context of the challenges of globalization that, in making our recommendations, we have taken cognizance of the fact that the choices Nigeria makes to strengthen respect for human rights and consolidate the nascent democratic experiment in the country will have an impact on the rest of Africa. Nigeria must be a model for Africa in this respect.

### **ESTABLISHING THE CAUSES AND NATURE OF HUMAN RIGHTS VIOLATIONS**

37. Among the first tasks of the Commission, when it began its work, was the identification of the causes and nature of all gross human rights violations in the country. This particular task required paying special attention to all cases of human rights violations committed in the country during the period (15 January 1966 to 29 May 1999) under the Commission's purview.

38. After reviewing the petitions, the Commission came to the conclusion that the issue was not a simple or straightforward one as such. It discovered from the evidence tendered by the representatives of various interest groups and communities that there have been accusations and

counter-accusations targeted at particular communities, institutions or groups.

39. But on the whole, it was indisputably clear, from the evidence tendered before the Commission that the citizens of Nigeria generally believe that they have suffered badly in the hands of successive governments in the country, since independence, although this was more pronounced under military rule. However, it is clear that, beyond the accusations and counter-accusations of various ethno-communal, religious and other interest groups, the roots of bad governance in the country, historically and primarily, lie deep in the colonially-inherited structure and character of the post-colonial Nigerian State, and in the manner of its continuing incorporation into the world system.

40. As we shall try to show in the recommendations, justice and the protection of human rights in Nigeria must be anchored on fundamentally redesigned and restructured institutional (constitutional-legal, cultural, political and social) and structural (economic and resource-distributive) frameworks, which will help to forge and create in every Nigerian, a civic sense of belonging to a nation where we can all live with relative peace and security, a nation in which there is enough space for Nigerian citizens to be what God wishes them to become.

41. One of the major facts to emerge from the work of the Commission was that neither the federal government of Nigeria nor the Commission itself as well as the generality of informed Nigerians had an idea of how the work of the Commission would turn out. We have tried, in this Report, to explain the many difficulties that the Commission encountered.

42. However, the Commission felt strongly that there was no way it could answer *all* of the questions the country needed to address. Yet, the

Commission was of the considered view that its greatest strength might lie in its ability to provide Nigerians with the rare opportunity to tell their own stories, even beyond the period covered by the Commission's mandate and with the possibility of drawing out some of the unanticipated consequences of a broader interpretation of its mandate.

43. This is why, as we have already indicated in this Volume, members of the Commission believed that, in spite of its limitations, the Commission offered the country one of the best chances of resolving some of the thorniest and seemingly intractable issues in its political and social history.

### **THE ARGUMENT OF VOLUME ONE**

44. In the Introductory Volume of this Report, we drew attention to the historical context for understanding not only the development of constitutional provisions for human rights but also the violations of those rights in the country. The Introductory Volume also provided a theoretical basis for understanding and appreciating the burden of our colonial legacy and its implications for, and impact on human rights violations in the country.

45. It is clear from the analysis in the Volume that our present predicament is a product of a particular historical conjuncture. It is evident that colonialism by itself constituted a gross violation of the highest order of the human rights of the peoples of Nigeria. But the colonial inheritance can no longer be presented as the only or major reason for that predicament. Independence provided the opportunity for dissociation from that inheritance and for a new beginning. Unfortunately, the country's political class trifled with and, therefore, lost that golden opportunity for a national renaissance.

46. A proper understanding of the nature and character of the Nigerian State, as it is presently constituted and structured, and of current political practice in the country, is, therefore, fundamental to resolving the

problematic issues of the future promotion and protection of human rights, the national question and democracy and development in the country.

47. In the same Volume, the Commission also gave the background to its establishment and highlighted some of its subsequent travails. Given the fact that this was a road that the country did not tread before the Commission was established, the challenges were enormous. What was even more frustrating was the fact that it became clear that the Federal Government had not made the necessary budgetary provisions for the work of the Commission. This led to a lot of unnecessary delays.

48. The Commission is of the considered view that a work of this nature clearly needs to be insulated from the vagaries and red tape of the bureaucracy. Given that the Government has always been perceived as the accused in human rights violations, it is important that the Commission be seen to be insulated from or independent of the government. If this is seen to be the case, the better are the chances of the Commission being seen to be objective. This is more so in a society where suspicion of governments and their agencies runs high.

## **SUMMARIZING VOLUME TWO**

49. Volume Two of this Report considered the implications of the challenges posed by contemporary processes of globalization for the promotion and protection of human rights in Nigeria by looking at the ***International Dimensions and Contexts of Human Rights***. Globalization has made it impossible for any nation to try to be an island unto itself even it wished to be so.

50. The Volume examined at considerable length the implications of this internationalization or universalization of the core moral imperatives and values of the evolving international law and practice of human rights

for Nigeria's municipal law generally and more specifically for its human rights domestic law and practice.

51. It is clear that membership of such sub-regional, regional and universal organizations like the Economic Community of West African States, the African Union (the successor to the Organization of African Unity) and the United Nations, impose on their member-states the obligation not only to subscribe to the common values enunciated in the relevant human rights provisions of treaties, conventions and other international legal instruments to which they have duly acceded by virtue of their membership of such supranational organizations, but also to reflect them in their domestic laws and practice and to implement them as public policy accordingly.

52. In the Volume, we traced the historical and philosophical-(jurisprudential) legal origins of some of the major themes relevant for our work and we concluded that, in the main, the international community remains an important moderating force in guaranteeing the promotion and protection of human rights in the world generally and, particularly, in many developing nations.

53. In Africa in particular, the issues of human rights can no longer be left to the whims and caprices of its political leadership and the state. For example, it is of great significance that, even in the harsh and dark days of the military regime of the late General Sani Abacha, the regime sought international legitimacy by setting up a *National Human Rights Commission*, despite its atrocious and abysmal human rights record. This is obviously evidence of what international pressures can do to member-states.

54. Because the Commission believed that it did not possess all the wisdom and skill necessary to undertake its work, it commissioned researchers to help it unearth some very important aspects of human rights

violations during the period under review, which had either been inadequately covered or neglected by the various petitions received by the Commission.

### **THE RATIONALE FOR VOLUME THREE**

55. *Volume Three* of this Report, **Research Reports**, attempts to capture this neglected aspect of the country's history and politics. The Volume summarized the findings of the commissioned researchers by compressing them [the findings] into one volume.

56. The Research Reports underscored the fact that there are aspects of Nigeria's public life and public service that we need to take more seriously.

57. For example, given the prejudices and partisanship of both government-owned and privately-owned mass media, what happens when the rights of citizens who do not have access to sympathetic media, are infringed? This was the point or justification of the Commission's *Public Hearings*—to provide such an access to aggrieved citizens and communities who have had no opportunity to present their cases to the Nigerian public.

58. The Commission realized in listening to evidence of witnesses, during the Public Hearings, from various communities, especially in the Niger-Delta and in other parts of Nigeria, that there were many other communities, which had experienced and are still experiencing gross human rights violations and immiseration similar to, or worse than those experienced by the Ogonis.

59. However, the cases of such aggrieved communities never really got national or even international attention, perhaps owing to either their lack of a celebrity or the status of a Ken Saro Wiwa, or their lack of resources as vital as Oil is to the national economy or to the peripheral or politically

inconsequential nature of their location in the geopolitical calculations of the ruling elite.

#### **VOLUME FOUR: PROVIDING VOICE FOR THE WEAK**

60. We hope that by introducing this dimension of the Commission's work, we have enabled those without a voice to be heard through this outlet provided by the Commission. In Volume 4, we have looked at the **Public Hearings**.

61. This is perhaps one of the most significant Volumes in the Report. Its significance lies in the fact that it is the Volume that almost everyone who followed the proceedings is sufficiently knowledgeable about.

62. Despite the initial logistical problems over whether the Commission should have Public Hearings, it became clear that, beyond drawing public attention to the work of the Commission, the Public Hearings were likely to create the most interactive phase of the work of the Commission.

63. For a population that is largely illiterate, the public hearings provided them the best opportunity to see things with their own eyes. The effect, by all accounts, was indeed electrifying. The victims unburdened themselves of the latent agonies they suffered and in some instances reconciled in the full glare of the public. It was therapeutic.

64. The objective of the Volume is primarily to capture those events, without imposing our own or some other interpretation on the material that had been assembled.

#### **CONFRONTING THE PHILOSOPHICAL AND POLICY PROBLEM OF REPARATION: VOLUME FIVE**

65. *Volume Five*, titled **Reparation, Restitution and Compensation**, examined the philosophical and legal basis for reparation, rehabilitation

and compensation. Each and everyone of these three concepts, by raising ethico-philosophical issues, is loaded with a largely subjective meaning. But for the record, it is important to make a fundamental observation, in order to place the issues and controversies generated by the practical application of the concepts in proper context.

66. It is important at this juncture to state that when the Federal Government set up the Commission, it was more concerned with finding the truth and working towards reconciliation than dealing with the consequences or the spill-over effects of the work of the Commission.

67. Reparation and Compensation are largely consequences of the establishment of guilt and responsibility. The Commission's Public Hearings were not Victim Hearings, as such. Thus, the issue of Reparation and Compensation became a bit problematic. For example, as we have indicated in the preceding paragraphs, there are ethico-philosophical questions, which we also need to pose.

68. What really constitutes compensation and how do you compute it? How much can compensation cure and is it such an important component in reconciliation? How much compensation is enough compensation? Who determines if compensation meets the standard? Who sets the standards? How do you compensate for Life, Injury (whether physical, psychological or structural)? How do you even quantify it?

69. These questions might on the surface sound escapist or abstract, but they are important if we are to take these concepts with the seriousness they deserve.

70. This Volume is important, even if it is to underscore the fact that in the final analysis, arbitration to determine, and the knowledge of the truth, attribution of guilt and admission of guilt are all part and parcel of

the compensation that many seek for in, and expect from a Commission of this nature.

71. During our Public Hearings, almost all petitioners claimed some form of compensation and/or reparation. What is more, we need to underscore the fact that no matter how we may try, there can be no adequate compensation for life, but there is consolation when those in power or the perpetrators at least acknowledge the truth of the loss and sufferings of victims and their families. In Chile for example, the President, Patricio Aylwin apologized to Chilean people over the violation of his people's rights. **Also Pope John Paul apologized for the excesses of the Catholic Church during the Crusades. Following this, we recommend that all the Presidents between 1966 and 1999 should apologize for all the human rights violations that took place during their tenures. Failing this, the President should apologize on behalf of his fellow former Heads of State.**

72. In making our recommendations, we have not lost sight of these problems. What is more, we are also not unaware of the fact that bringing many of the contested issues regarding the loss of loved ones is one major step in another direction. Indeed, in the final analysis, this must be considered the beginning of a long road for many of the victims and the petitioners.

73. As we see from the discussion of Rehabilitation in the Volume, the Commission has attempted to draw public attention to this much neglected theme. It is impossible for society to visualize a period when it will rid itself of deviants and criminals.

74. The process of sin, repentance and forgiveness as an endless circle of human life is not just a philosophical issue. This is why rehabilitation and renewal must be integrated into our national agenda.

75. To this end, our attitudes towards penitents and penitentiaries must be radically overhauled. It is to be hoped that our society will realize that, as St. Francis of Assisi is quoted as having said, at the sight of every less fortunate person, we must always say, “There goes I but for the grace of God!” This is what is sometimes referred to as metaphysical guilt, following Karl Jasper’s articulation of the concept.

76. Such an attitude or “categorical imperative” will instill in us a sense of concern for one another’s welfare and security. This attitude will facilitate both the process of national reconciliation and ensure the guarantee and protection of individual and communal rights of citizens.

## **CONCLUSION**

77. Finally, in making our Recommendations, we have had to fall back on the relevant sections of the Instrument that set up the Commission, as a basis for finding the way forward.

78. For us, we see the driving force for the setting up of the Commission is the search for the truth about our past as the basis for the establishment of a framework for a just, fair and equitable Nigerian society.

79. Drawing from this, we found the relevant sections to be:

- i. To find out the root causes of human rights violations in Nigeria with special emphasis on gross human rights violations committed during the period covered by our mandate.
- ii. To identify the persons, authorities, institutions or organizations which may be held accountable and to also determine their motives.
- iii. To determine whether the state embarked on these as a state policy or whether its agents were merely overzealous.

vi. To recommend measures to be taken either against the institutions or persons identified.

80. To be faithful to our Terms of Reference in making our recommendations, we are conscious of the fact that certain persons and institutions would have to be CLEARLY IDENTIFIED AS BEING DIRECTLY OR INDIRECTLY ACCOUNTABLE FOR CERTAIN ASPECTS OF HUMAN RIGHTS VIOLATIONS IN THE COUNTRY.

81. We are not unaware of the fact that not all the agents and agencies of State appeared before the Commission. But whether we rely on the testimony of petitioners, the result of our research or even our personal reflections as citizens on the Nigerian situation, there are certain conclusions that Nigerians are familiar with.

82. The Commission noted over and over again that it was not on a witch-hunting mission nor was any one directly or even indirectly on trial, as such.

83. However, in reviewing the material that was submitted to us both by our researchers and by the petitioners, we have come to the following conclusions, regarding the agents and institutions responsible for gross human rights violations in Nigeria.

84. We shall briefly identify them and try to show how certain State policies have enabled certain institutions and individuals to engage in human rights violations.

#### **THE DIFFICULT TASK OF CRAFTING VOLUME SIX**

85. Volume Six of the Report, entitled Findings and Recommendations, however, presented the big but exciting challenge of sifting through the tons of material before us and stating the Commission's interpretation of the data before it.

86. There were many questions that emerged, as the Commission embarked on the task of analyzing and interpreting the data and the evidence it had gathered in the course of its work.

87. In so doing, the Commission found it necessary to go back to its Terms of Reference which demanded that it should try to establish not only what happened but also the nature of the circumstances that made human rights violations possible in the country.

We thematically summarize the findings as follows:

### **THE SCOURGE OF MILITARY RULE**

88 From the evidence before us, we hold that military rule has proved to be a cure that was worse than the disease. This much was admitted or conceded by military officers who appeared before the Commission.

89. It is plausible to argue that that in its heydays, military rule was indeed propelled by patriotism and the need to set Nigeria on a sound footing. Tragically, we all now know that things have worked differently. Military rule has left, in its wake, a sad legacy of human rights violations, stunted national growth, a corporatist and static state, increased corruption, destroying its own internal cohesion in the process of governing, and posing the greatest threat to democracy and national integration.

90. Clearly, *the military are to be held accountable for gross human rights violations in the country, during the period under review.* This is exemplified by cases of torture at the Intercentre, DMI headquarters in Lagos and Jos

Prison by the military. All the other prisons in Nigeria failed so far below the standards of the United Nations that they became torture centres.

### **OIL: BLESSING OR CURSE?**

91. Oil, one of the greatest blessings God has showered on our nation, has turned out to be a curse. Instead of providing the basis for national economic, political, scientific/technological and social growth and development, cushioning its citizens from the scourge of abject poverty, squalor and want, oil became, in the hands of the ruling elite and the political class, an instrument sounding the death-knell of such key principles of good governance as democracy, federalism, transparency, accountability and national growth. Oil was the mainstay of the economy and the junta saw any inhibition to its flow as a breach of security. Consequently, legitimate complaints/agitations against oil pollution by host communities were violently suppressed. We therefore had to pay a heavy prize in lives and human rights violations.

### **CIVILIAN COLLABORATORS OF THE MILITARY:**

#### **THE BUSINESS/ POLITICAL CLASS**

92. The long years of military rule in the country were due as much to the greed of the military elite for power as to the collusion of equally greedy members of the country's political class. From the testimonies of senior military officers, those allegedly involved in coup plotting and investigations, it was clear that rich and powerful civilians played critical supportive roles to the military in destabilizing the political process and preparing the way for the military coups that overthrew various civilian and military regimes.

93. Unable to accept defeat, some politicians often turned to their military contacts as a means to regain access to political power and the access to the state coffers flowing from it. Given that politics is essentially

about capturing power, the business class has often been unable to subordinate its interests to those of the nation. The result is that wealthy and influential Nigerians have used their resources to bankroll coup plotters. We therefore hold that they were accomplices and therefore should be held accountable for the resultant human rights violations. The politicians should imbibe democratic spirit. This is because the desperation to win at all costs propels them to use the army to resolve political problems through coups with resultant violation of human rights.

### **PRESCRIBING CONDITIONS FOR A VIABLE DEMOCRACY**

94. If democracy is to take firm roots in Nigeria, then the various segments of the stakeholders in the polity must realize that, no matter the nature of their interests, such interests can only be attained within the boundaries of a democratic and stable nation.

95. This means that politicians must learn to accept the rules of the game. Those who win elections must realize that they have not won a price for themselves and their party, but that they have won a national trust. Those who lose elections must realize that it is easier to go back to the drawing board and wait for the political calendar to turn around than to resort to the military solution, which has no timetable, as such.

### **WHAT ROLE FOR RELIGION?**

96. One of the missing links in Nigerian politics has been in determining and reaching a consensus on the exact role and place of religion in the political process. The country has remained in the firm grip of so-called believers of the two Abrahamic religions: Islam and Christianity.

97. Sadly enough, both Islam and Christianity have never really been able to rise above the limitations of their intra- and inter- denominational and sectarian cleavages. The result is that the country is now caught up in

what has come to be known as the *problem of religion in Nigeria*. Religious intolerance has been the main cause of communal clashes with attendant loss of lives and gross human rights violations.

98. The role of religion in politics is, therefore, largely seen in negative terms. Although we did not receive particular petitions from either Christians or Muslims as religious groups, there were submissions from various sections of the society that alleged religious discrimination, while also complaining of being under the stranglehold of religiously-inclined hegemonic groups. This much was clear in the submission by the Hausa Christian community in Northern Nigeria.

99. However, the religious bodies ought to have done much more than they did in the struggle against human rights violations, especially during the dark days of the late Abacha regime. On the whole, the politicization of religion has undermined religion.

100. A new responsibility has now devolved on both the leadership of Christianity and Islam to respond appropriately to the challenges of nation building and to help in laying a solid foundation for a Nigeria that promotes and respects human rights under the rule of law.

### **SECURITY AGENCIES AND HUMAN RIGHTS VIOLATIONS**

101. It is evident that under military rule, the security and survival of the Head of State and of his regime at all cost became an obsession. Regime security was equated to national security. Power became so personalized that the state became synonymous with the government of the day and its leader. Regime security became an excuse for the excesses of state security agencies, leading to various gross human rights violations.

102. As we found out during the public sittings, security agencies tended to resort to extra-judicial methods of extracting information from suspects.

Most of these agents and operatives were guilty of the torture, and sometimes even the murder of innocent suspects.

103. We received petitions of the alleged deaths of many suspects in police custody. By and large, these deaths were sometimes the result of excessive torture by overzealous individual security agents. Nonetheless, it is clear that these tendencies are inevitable in a military environment, where violence is largely glorified and or, celebrated, and where due process is thrown overboard.

104. As was noted in Volume Five, our findings have led us to the conclusion that security agencies will require a fundamental restructuring, so as to re-orient them to respect due process and the human rights of Nigerians, including those of suspected individuals under interrogation or investigation.

### **RESIDUAL EFFECTS OF MILITARY RULE: ALIENATION, ANOMIE, ATOMIZATION AND POLITICAL VIOLENCE**

105. One of the very obvious fallouts of military rule has been its impact on individual, family, communal and national identities. Dictatorships function through a strategy of divide-and-rule.

106. Thus, the emergence of ethno-religious cleavages and the subsequent hardening of these identities led to the persistence of violence, well beyond the life of the dictatorship. This climate is often ripe for treachery within many opposition groups, as government tends to co-opt willing members of these groups into its service.

### **MILITARY RULE AND THE JUDICIARY**

107. The courts form the citizen's lastline of defence in his unequal combat with power and its abuse. The military, by suspending the fundamental rights provision of the Constitution and by its various decrees containing ouster clauses emasculate the courts and turn them into toothless bulldogs. During military dictatorship, the court found it difficult to perform

their necessary function of upholding the fundamental human rights of the citizen.

108. Executive lawlessness and disregard for the rule of law became the order of the day. Although in theory, Nigerians are said to be equal before the law, in reality, this was not so. There were two laws: one for the ordinary Nigerian and the other for those in power. Those in power were perceived to be above the law. Impunity and abuse of power created conducive climate for human rights violations, as security officers operated well outside the boundaries of their powers.

### **MINISTRY OF JUSTICE AND HUMAN RIGHTS ABUSES**

109 We observed during our public hearings that some State Counsel in the Ministries of Justice, when asked by the Police for legal advice, turned themselves into judge and jury and “decided” cases submitted for advice. This attitude may be as a result of ignorance. But we regret to say that in most cases, it looked like a deliberate attempt to protect perpetrators. We refer to the cases of Dr. Eneweri from Bayelsa State, and some cases from Kaduna, Kano and Plateau States.

110 We recommend that the Federal Ministry of Justice should try to educate Nigerians on the nature of the country’s international obligations, as we have noted in Volume Two of this Report.

111 The knowledge of these obligations will assist government functionaries and the generality of our people in knowing what our international and domestic obligations are with respect to human rights issues that have been settled internationally. In this respect, the African Charter of Human and People’s Rights should be popularized in the country through seminars, workshops and publications.

### **ATTORNEY-GENERAL CUM MINISTER OF JUSTICE**

112 In Nigeria, the Office of the Attorney-General of the Federation is usually fused with that of Minister/commissioners for justice. In England and America, the two offices are separated for very good reasons. We will recommend that what obtains in those developed countries be made to apply to Nigeria. We therefore recommend a separation of the two offices, so that the Attorney-General becomes, as his name implies, the Chief Law Officer of the Federation or the State bound by the Unwritten laws of the Legal Profession. The Office of Minister/Commissioners for Justice should be a political office. When the two offices are separated, it will make far easier and more impartial discharge of the duties of the two offices.

### **CORRUPTION IN PUBLIC LIFE**

113. Nigerians agree that corruption in public life, which was pronounced under military rule, has reached alarmingly pandemic proportions, and should now be a matter of very serious and pressing public policy concern.

114. From the evidence, which the Commission received, it is clear that the quest for political power personal enrichment was largely the driving force for military interventions in politics. The military tended to treat the state as a conquered territory and proceeded to treat the proceeds of state as spoils of war to be shared among the members of the military, the conquering forces of occupation.

## **CHAPTER 2**

### **STATE POLICIES AND HUMAN RIGHTS VIOLATIONS**

1. It is our contention and conclusion that the state in Nigeria has failed its citizens. This much was clear from both the petitioners and their petitions. It is clear to us that the colonial nature of our historical experience is to a large extent responsible for the incapacity of the state to live up to its duties to its citizens.

2. It is easy to argue that colonialism was not peculiar to Nigeria and that indeed, many other nations, which had their own colonial experiences, have since moved on. However, Nigeria's peculiar regional, religious and cultural history sets it apart from other nations. But this is not an excuse.

3. It is clear now that the decision of the colonial administration to merge both the Northern and Southern Protectorates in 1914 was informed by reasons of British economic interests and not those of Nigeria. The legacy of dual administration and separateness, bequeathed by amalgamation, has become an albatross, casting a pall of mutual distrust, recrimination and antagonisms over the country's experiment in nation-building.

4. For example, the regional arrangements, which were introduced gradually through constitutional changes between 1945 and 1954 created more problems than they were designed to solve. They deepened the centrifugal tendencies, which amalgamation had set in motion and which were encouraged by colonial administrators.

5. What is more, the long period of preparation, during which regions became gradually self-governing, did not facilitate the process of integration after independence, especially in relation to national economic development and minority ethnic groups' demand for self-government.

6. The impression had been created that all three regions would function independently, each protecting its turf and with little emphasis on inter-governmental cooperation among the regions and between them and the federal government, in what has been described as a classic case of dual and coordinate federalism.

7. Thus, at independence, it was evident that the three regions had progressed differently, in such major areas as education, health, social infrastructures and economic development, generally.

8. The result has been that post independence politics threw up challenges that ought to have been thrashed out much earlier. This largely explains why political parties were formed along ethno-regional and, sometimes, religious lines.

9. Our constitutional and political history is replete with many inherent contradictions, which show very clearly that there were discrepancies between what the colonial government sought and what Nigerians themselves wanted. Having inherited this skewed arrangement, our political class is responsible for not quickly addressing these visible discrepancies.

10. The result is that we have continued to tinker with the inherited system. Unfortunately, our national history has followed the logic of post-colonial states in many respects. The inheritance elites in many post-colonial states have tended to see their roles as being merely inheritors of the apparatus of power from the departing colonial masters. This is why we ended up with a situation whereby local elites took up residences in what is

still referred to even today as *European Quarters*, *Government Reservation Areas* etc. These were some of the privileges that set them apart from the rest of their societies.

11. The project of broadening the political space was delayed mainly because the new local elites were preoccupied with defending their local spheres of power and influence.

12. Let us take the character and nature of the Nigerian state in three areas, to illustrate the argument advanced here.

### **THE CHARACTER OF THE STATE: PARTY POLITICS**

13. We noted, while examining the texture of Nigerian history, that not much effort was made in the first years of independence to form broad based political parties. The fact that parties were largely formed along regional and ethnic lines bears witness to this observation.

14. There were four main parties that dominated the landscape in immediate pre- and post- independent Nigeria. These were the *Northern Peoples' Congress* (NPC), with a base mainly in the North, the *Action Group* (AG), with its base in the South West, while the East was dominated by the *National Council of Nigeria and the Cameroons*, later re-named the *National Council of Nigerian Citizens* (NCNC).

15. The NCNC was by and large the most broadly based party that had substantial presence beyond its catchment political base in the east.

16. There was also the *Northern Elements Progressive Union* (NEPU), which was based on a radical populist ideology, drawing the core of its membership and electoral support from the radical, anti feudal elements in the North, and with hardly any presence outside the Northern region.

17. What is evident is that these political parties combined and manipulated regionalism, ethnicity and religion as a resource in competitive electoral politics.

18. But what is also evident from the structure of electoral politics in the immediate post-independence years is the emergence of the state as the prized terrain over which the major ethnic groups staked out their hegemonic claims for political power. Control of the state by an ethnic group or combination of ethnic groups, under a zero-sum approach to electoral politics, was to the exclusion of other ethnic groups. In this way, electoral politics became a matter of life-and-death affair with its resultant effect on human rights.

### **THE CHARACTER OF THE STATE: EXPANDING THE POLITICAL SPACE**

19. The Minorities' Commission Report was testimony to the reluctance of the leadership of the majority ethnic groups in the three regions to accede to state-creation demands from minority ethnic groups in their respective regions. We have elaborated at some length on the politics of state creation in the penultimate years of colonial rule in *Chapter 3 of Volume 1* of this Report.

20. Even when concessions were grudgingly made in some of the regions to demands of minority ethnic groups for representation in institutions of governance, it was with a view to ridding certain ethnic blocks of members of other ethnic groups.

21. With independence in 1960, it did not take a long time for the system to begin to overheat, as the agitations for home rule in their own sub-regional heartlands by the various minority ethnic groups in each of the three regions, persisted.

22. Since the expansion of the political space was a project that the political class among the three major ethnic groups was largely averse to, it was left to the military to start and accelerate the project of state and local government creation. But, as events since the military took the initiative in this respect have shown, state creation has been beset with serious problems.

23. We are saddened that the successive fractions of the country's minority ethnic group-based political class have tended to use less noble objectives as a basis for championing the creation of new states and local government councils in the country, under military rule.

24. While state creation was designed initially to go into the heart of the country's ethnic minority problems, it appears that, much later, it became an instrument for pacifying or compensating political brokers or clients, through the creation of ethnic fiefdoms. The result, as we can see, is that state and local government council creation has tended to generate tension and crisis in its wake. What is evident is that these faulty starts, rather than hasten national integration, have only increased the pressures and resentments among the various minority ethnic and sub-ethnic groups whose demands for self-determination and self-rule were not satisfied, leading to acrimony and accusations against the state and its functionaries.

25. The Commission discovered that the roots of many of the ethnic or communal crises are to be located in this crisis of confidence and the sense of exclusion on the part of minority ethnic and sub-ethnic groups, generated by the partisan and unfair manner in which state creation exercises were perceived to have been carried out.

26. In many cases, the state seemed to have had very good intentions in responding to the problems of inter-communal relations, but these were

often diluted by the voices of men and women of influence, political entrepreneurs who deliberately misled government, regarding the composition of the various communities in the country. The result is that every time the state tried to *liberate* certain communities from their so-called enemies, it tended to create more problems for the project of nation-building in the country.

27. Given the interminable and seemingly intractable crises generated by geopolitical rearrangements of the states and local government councils, it is evident that the problems will persist because government is essentially trying to cure the symptoms, and not the disease.

28. *The real disease is the general perception of injustice of the state, its lack of concern for the welfare of its citizens and the high handedness of government agents, which all give the impression that the state is partial to some ethnic groups, and is indeed an active protagonist in inter-ethnic or intra-ethnic conflict on the side of some ethnic groups.*

29. *The result is that many citizens have come to rely on this process of tinkering with the state as a means of creating a feeling of belonging. To the extent that this process has created so much pain, suffering and death, as we have seen in some states in Nigeria, the state is solely responsible for the sad and ugly developments that have often led to death during state creation exercises and the inter-communal violence that followed them.*

30. For example, the government of General Sani Abacha must assume full responsibility for the tragedies that attended the creation of new local government councils in places like Osun and Delta States.

31. There is need for us to turn our attention to the specific nature and character of the state in Nigeria that has generally turned state creation exercises into opportunities for some to engage in gross violations of the human rights of their fellow citizens.

## **THE MILITARY AND HUMAN RIGHTS VIOLATIONS**

32. The data and evidence, which the Commission gathered, very indisputably show that the military is primarily responsible for the persistence of human rights violations in the country. Military rule marked the rapid descent of the country into anarchy and destruction. It created conducive environment for gross violations of human rights, in three respects.

33. First, military rule violated the human rights of Nigerians to live under constitutional or limited government. Secondly, military rule militarized the country, creating in the process a climate of militarized fear. In fear, citizens were forced to retreat behind the security provided by ethno-communal and religious barriers. This militarized fear has taken its toll on the psyche of ordinary citizens in another respect: the language of the military has permeated our institutions and cultural life, through expressions that imitate military command.

34. Thirdly, the military turned their instruments of coercion on ordinary citizens. This was done by means of military personnel acting as enforcers for men and women of influence and power, who wish to settle personal matters and disputes arising from civil pursuits like land, rent and debts.

35. Ordinary citizens also fell back on their connections with military personnel to assert their authority and power over their fellow citizens.

36. Indeed, as military men took over law enforcement, they occasionally spun out of control in the application of their tools of violence. The evidence that was tabled before the Commission by various communities especially in such areas as the Niger-Delta lent weight to this position. There were many instances in which military men went out on a frolic of

their own. There were also many instances in which military personnel alone or in groups used their arms to intimidate citizens. Sometimes there were reports of pillage, rape and destruction of property. More often than not, these knee-jerk reactions by the military could be sparked off by such incidents as a motor accident around a military establishment or a quarrel.

37. In short, military rule disrupted almost every facet of our national life in a vicious cycle of violence, which expressed itself in various dimensions: in domestic violence, in armed robberies, in the rise in the spiral of ethno-communal and religious riots and in brigandage, impunity and lawlessness. Indeed, since 1966, the country has known no reprieve from the various spates of violence, which were precipitated by the contradictions of military rule.

38. In another sense, military rule was a fundamental violation of the Nigerian Constitution, which, by suspending relevant sections of the Constitution, replaced constitutional rule with rule by decree.

39. Military decrees, like the infamous Decree No. 2, were sometimes characterized by ouster clauses, which limited the courts' ability to entertain certain cases. In this way, the *rule of law*, the underlying basis for justice and democratic rule was replaced by the *rule of force*.

40. The pernicious impact of decrees on the promotion and protection of human rights cannot be over-emphasized and has been discussed at length in the preceding volumes, especially Volume 2, of this report. We only need to underscore here the fact that human rights were invariably the first casualty of military rule. Not only does military rule, by definition, truncate the human rights of Nigerians to constitutional government under liberal democracy, as enshrined in the constitution, it also disempowers

citizens, in cases where ouster clauses are involved, by denying them of access to courts to enforce their rights.

41. It is clear from the evidence before us that the State usually refuses to obey judgment of competent courts to the detriment of the citizens' rights as a creditor in breach of Section 287 of the 1999 Constitution.

42. The Commission has identified the implementation of certain public policies, like the Structural Adjustment Programme (SAP), by military regimes as being contributory to the violations of human rights. The reactions of Nigerians to SAP led to what came to be known in Nigeria as the *SAP riots*. These demonstrations took place within and outside university campuses and some students and workers lost their lives in the process.

43. Under the government of General Muhammad Buhari for example, we hold both himself and the Director-General of the National Security Organization (NSO) accountable for the various violations of the rights of several Nigerians notably Alhaji Rafindadi, Alhaji Shehu Shagari, Chief Solomon Lar, Isa'ac Shaahu and us, who were detained without trial in the various detain Centre. In addition, there is an evidence from Alhaji Dikko that he was "crated" by this regime for onward transmission to Nigeria.

44. We also hold both General Muhammed Buhari and the members of the Supreme Military Ruling Council, along with the Attorney General responsible for the death of Mr. Kenneth Owoh and three others over allegations of drug involvement. This is so because the Commission found out that their trial offended both the rule of law and the African Charter of Peoples' Rights.

45. The case of Dele Giwa has been dealt with exhaustively in Volume Four and we restate that the case be re-opened for thorough investigation and possible prosecution.

46. We strongly recommend that the Federal Government reopen the case of the death of General Shehu Yar' adua, a prominent Nigerian and one time Chief of Staff, Supreme Headquarters, died in prison custody in mysterious circumstance. The Commission received a petition about his death.

47. With respect to the death of Chief Moshood Abiola, we hold that, on the basis of the testimony of General Abdusalami's Chief Security Officer, there are still more questions than answers. It is, therefore, important for the state to reopen this case along with that of the late General Sani Abacha, in order to lay some misconceptions to rest.

48. We cannot wish these cases away. Nor can we sweep them under the carpet. What is more, there is need to create a conducive atmosphere to enable anyone who might have some relevant information regarding these ugly events to come forward with such information. It will be important for the government to guarantee such citizens enough protection.

49. Unless the cloud over these mysterious deaths of important public figures is cleared, the truth will elude us, making the process of national reconciliation the more difficult and tortuous.

### **THE POLICE AND HUMAN RIGHTS VIOLATIONS**

50. From the data and evidence gathered by our field researchers and from submissions we received from the public, Nigerians see the Police not as a friend but as offenders and agents of human rights violations in the country.

51. As the section in the volume of the report dealing with the security agencies has illustrated, there is little doubt that the police has suffered the most in negative public perception of its role in society.

52. Since the first contact that citizens generally have with the agencies of government regarding security is with the police, it is evident that the hostility of citizens towards the Nigeria Police has been based on the unwholesome experiences of ordinary citizens with the Police Force. There are many allegations that are popular among Nigerians against the police.

53. The import of this negative perception is the fundamental belief among Nigerians that members of the Nigeria Police constitute the most corrupt stratum of the security agencies. Although the scale of their corruption pales into insignificance when compared to their military counterparts, it is evident that since their victims are largely the ordinary citizens, the proverbial common man/woman, who constitute the majority of the Nigerian population, their negative impact is therefore considerable and profoundly felt. The implications of their corruption and the strategies for managing that corruption are myriad.

54. They are the ones that Nigerians seeking justice through the courts have to go through. Here, they are considered the principal means of obstructing justice. They do this through bribe taking, intimidation, harassment and outright violence. In a majority of the petitions that came before us involving assassinations, murders, disappearances, etc, the police were presented as accomplices and seen as part of the conspiracy against justice and the protection of human rights.

55. Like their military counterparts and even more so, the Nigeria Police has been used to further the excesses of the rich and powerful. They have

been willing agents in the hands of those who have power, from the rich and sometimes dubious businessmen, drug barons, and the top strata of the power elite.

56. It is clear from the petitions, which we received, that the police have often been a vital link in the chain of conspiracy against justice in many parts of the country. From the evidence we received, police complicity is manifested in the following ways:

57. First, there were cases of victims of human rights violations in the hands of the police often ending up as the accused. Secondly, there were reports of the policemen and policewomen sometimes destroying evidence, losing it outright, or distorting it against the petitioner. The objective in such cases is to instill fear and deny the victims the chance to follow up their case against the police. Thirdly, we had cases of people who died in doubtful circumstances in police custody, or physically abused and injured, or victims of intimidation, unable to get justice because the police was clever in protecting some of its officers involved in such gross human rights violations. Fourthly, we discovered that the Nigeria Police was good in making police officers who were alleged to be perpetrators disappear from the area by way of very quick transfers. Thus, if a police man/woman infringed the rights of a citizen in Port Harcourt and was being sought out, such an officer would be transferred to a place as remote as Potiskum, Jalingo, or Katsina or some little corner of the country. Fifthly, we also discovered that in many instances, when the Governor of a State, a person of influence, a retired senior security personnel has *interest in a case*, it was not difficult for the police to hatch out a plan with the Office of the Attorney-General or the Director of Public Prosecutions to frustrate the case of the victim. We found some concrete examples with the Nigeria Police in Bayelsa State, Kaduna State, and Kano State, among others.

58. There are as many stories as there are victims of human rights violations. We are aware of the fact that the inability of the police force to play its role is connected with the overbearing attitude of the military. With the capacity of the police to bear arms less visible and less threatening, soldiers never trusted the police with the ability to contain civil unrest.

59. It is evident though that the corruption within the Nigeria Police is a product of the misapplication of funds and the attendant corruption, which has dogged Nigeria. The Nigeria Police is starved of funds. Living under unbearable social conditions, policemen and policewomen have had to fall back on innocent victims for “*family support*,” as a means of making up for their economic shortfall. This is why Nigerian policemen and women rationalize their bribe taking as necessary for their “*family support!*”

60. So, like the military, the Nigeria Police stands accused as a perpetrator of human rights violations. Although we are aware of the fact that there are many innocent and hard working policemen and policewomen in its fold, the Nigeria Police knows that it suffers a very serious image problem in the country.

61. Finally, we are of the view that the following factors have created a favourable climate for human rights violations by the police to occur:

- Poor service conditions:
- Lack of working tools
- Poor training
- Low morale under the military
- Lack of trust by the citizens.
- Lack of internal discipline.
- Lack of control and monitoring of weapons among the policemen and women.

62. The government would do well to look closely on the recommendations we have made about the Police in this Report.

### **THE SECURITY AGENCIES AND HUMAN RIGHTS VIOLATIONS**

63. The evidence before the Commission makes it clear that security agencies were identified as major agents of human rights violations. One of the strategies that the Commission employed to elicit information in this regard was the call for memoranda from civil society groups and the security agencies, among others.

63. In their various submissions, civil society groups, especially the Civil Liberties Organisation (CLO), Prison Rehabilitation And Welfare Agency (PRAWA) and the Constitutional Rights Project (CRP) all presented detailed account of the experiences of both their members and many other members of the Nigerian society in the hands of security agencies. We received so many petitions from many victims complaining of arbitrary arrest, detention, passport seizure against the Directorates of State Security Services. For example, Chief Frank Kokori, Femi Falana and Mr. Fidelis Aidelomon and many others.

65. From the evidence we gathered during public hearings and in various documentations submitted to us, there were allegations of torture during detention. Inhuman and unsanitary conditions of living and starvation or very poor feeding during detention were identified as some of the strategies employed by state security operatives. This much was graphically underscored by the testimonies of Olisa Agbakoba (SAN), Abdul Oroh, Professor Jide Osuntokun, Professor Femi Odekunle, Chris Anyanwu, Shehu Sani and Gani Fawehinmi, among others.

66. In the case of the Directorate for State Security Services (SSS), the nature of the organisation itself made it difficult for victims to name names.

More often than not, victims only came in contact with those who arrest or detain them and not with those who ordered the arrests or detention. As such, the common expression we found among members of the Agencies whom we summoned to appear was simply that they were *obeying orders from above*.

67. We also discovered, from the evidence gathered through research and petitions, that the Directorate of Military Intelligence (DMI) was mentioned as a gross violator of human rights.

68. We visited the DMI detention cell at Apapa where civilian suspects who had nothing to do directly with the military were detained and tortured.

69. We also had evidence to the effect that told by petitioners that the Directorate had indeed become a place where both military and other men and women of influence outside the military tended to send those with whom they had a grouse to be detained at will. This was largely borne out of the favourable climate, which the military had created that enabled men of influence to use their connection with senior military personnel to settle scores.

70. The case of Chuma Nzeribe exemplifies this situation most eloquently. The petitioner had come to the Commission to state the case of his alleged detention in a military facility, the DMI. The case ended up dragging on for some two weeks and became a celebrated case that exposed the underbelly of both the military as an institution and the Directorate as a tool in the hands of men of influence. Mr. Nzeribe's detention came at the time when the military was faced with a spate of bomb blasts across the country.

71. We also found that many civilians had been detained for very long periods of time as a result of these bomb blasts, which occurred mainly between 1996-7.

72. The Government of the late General Sani Abacha is singularly accountable for the human rights violations during this period.

73. One of the instances in which violations of the rights of many citizens occurred was during allegations of coups. Nigerians know already the hundreds of lives that the country has lost as a result of allegations of the involvement of military personnel and civilians in these alleged coup plots.

74. The coup plots of 1995 and 1997 were cited by petitioners as those periods in which their rights were grossly violated during the periods of detentions and trials. From the testimonies we received, the following were named as perpetrators of gross violations of the rights of citizens, under military rule: Col Frank Omenka, General Patrick Aziza, General Mujakpero, Col John Olu, ACP Zakari Biu, Major Hamza Al-Mustafa, Brigadier-General Ibrahim Sabo. Many of these officers have already retired or have been retired from the armed forces. Others like Colonel Frank Omenka, who was copiously mentioned in many petitions, had already fled the country. The Commission recommends that those of them not yet retired or relieved of their jobs should be so retired forthwith.

75. From the evidence before us, the Commission is of the opinion that there is an urgent need to seriously overhaul most of the security agencies and also re-orientate their staff towards imbibing and respecting the human rights of Nigerians the values of democracy.

76. The issue of the processes employed during military court martial raised many doubts in our minds, regarding due process. The proceedings of court martial fell far short of the Rule of Law and the African Charter, which is now part of our domestic law (see Sani Abacha vs Fawehinmi (2000) 6 NWR Part 660 at page 228. The process used in the court-martial fell far short of the requirements of the Rule of Law and the African Charter which is now part of our domestic law.

### **PUBLIC BUREAUCRACY AND HUMAN RIGHTS VIOLATIONS**

77. We received over 600 memoranda from civil servants alleging that the federal government and state governments had violated their right to work. From the private sector, we also received memoranda from employees, alleging violations of human rights through what the petitioners described as “wrongful dismissals” and termination of employment, without due process.

78. Upon investigation, we discovered that the issue of the dismissals and termination of employment in the federal public service was in response to a circular, which the Secretary to the Government of the Federation had issued to all heads of ministries and parastatals, requiring them, among other things, to reduce their staff strength, across the board, by a stipulated percentage.

79. When we took the matter up with the federal government, we were informed that the Government had set up a committee to examine the cases. On the basis of this information, all the mentioned cases were passed on to the Office of the Head of Service of the Federation for further action.

80. We found from the content and tone of the petitions that concern was expressed about religious, ethnic, gender and regional biases in government appointments, promotions and retrenchment.

81. For example, there were allegations to the effect that certain senior officials tend to effect changes in their ministries along ethnic or religious lines.

82. While some of the allegations are frivolous, others are heavy and deserve to be taken seriously. On the whole, we hold that these allegations are disturbing and it is hoped that the setting up of the *Federal Character Commission* will deal with this issue.

83. Allegations of corruption, inefficiency and ineptitude against the public services of the federation and the states persist. In fact, there are many who believe that the public services in the country constitute the greatest obstacle to efficiency and proficiency in the execution of government policies at the state and federal levels.

84. We recommend that the federal and state governments effect some very fundamental changes to enable the civil service become responsive to the challenges of democratization.

## CHAPTER THREE

### RECOMMENDATIONS

1. The first task of the Commission was to clarify the petition it received. We identify those that amounted to gross human rights violations. The Commission thereafter decided to conduct public hearings only in respect of the cases alleging gross human rights violation.

2. The adoption of the public hearings method was meant to serve two purposes. First, for the victims, the need to **get the story out** was very important. For many people, this was the beginning of the healing process. There was also the secondary advantage to the petitioners, many of whom were sufficiently delighted that the rest of world had heard their stories.

3. Secondly, there was the need for the society itself to know what had gone wrong, beyond the public purview. Therefore, for many citizens, the public hearings meant a chance to heave a sigh of relief and to say: **now we know!**

4. The military had operated under a cloud of secrecy in many respects. What is more, except for some celebrated individuals who were prominent in society, the majority of victims who were not so well known languished in jails and detention centers without any mention by the media. They lived under very harsh and inhuman conditions. The public hearings gave them and the society a chance to hear their stories.

5. The Commission helped Nigerians through public hearings to get an idea of how their country had been run. The Commission was able to bring many of the perpetrators and victims to confront one another. This

was a development that was very emotional for individuals, their communities and the nation at large.

6. We recall the developments among the Ogoni people in Port Harcourt, Rivers State where the Ogoni Four and Ogoni Nine were reconciled and reintegrated into the Ogoni Thirteen and comparative peace was brought into into Ogoni land. It is against this background that the Commission wishes to call on Nigerians to remain steadfast and firm on the road to national integration.

7. The aim of the Commission was not to reconcile all Nigerians within the period of its sittings or its life. No one can be under any illusion that this project will be realized in the immediate future. The life of a nation is not the same as the life of an individual. We therefore call on Nigerians to be patient, whatever the difficulties and the challenges. The end of military rule, hopefully, should be the end of impunity. Under democratic rule, things may be chaotic and messy, but the system will correct itself, because we shall, in the long run, learn from our mistakes and improve on our efforts.

8. We have under our mandate to make recommendations “*to redress injuries of the past and prevent or forestall future violations of human rights*” i.e. to say what happened in the past should never happen again. To ensure that this does not happen again is the responsibility of every Nigerian. Our recommendations below constitute some of then strategies to ensure that what happened in the past will not happen again.

9. The Commission is not unaware that this project is merely the beginning of a very long process. This is because there is no way that any society can claim to lay down a foolproof system to ensure that these violations do not happen again. A society can only try to devise protection

mechanisms and also hope that its citizens take the protection of their rights as part of their lives.

10. Many Nigerians were already complaining while the public sittings were going on that the Commission had failed to reconcile Nigerians. We are of the view that the primary aim of the Commission has been very much fulfilled.

11. We are aware that our *Recommendations* cannot be conclusive or even exhaustive. We believe that they will merely offer a take off point. We therefore call on the Federal Government to address some of these *Recommendations* with dispatch.

12. In many respects, the Commission more than anything else in the country, has offered Nigerians an opportunity to open up their minds over a range of issues that went beyond politics. It is therefore with this sense of responsibility that we are making the following *Recommendations*:

#### **THE FUTURE OF THE NIGERIAN STATE:**

##### **THE NEED FOR AN ALTERNATIVE PLATFORM**

13. Nigerians have said it loud and clear that they are not happy with the state of the federation. Their fears, anxieties and frustrations are legitimate. The political class must not panic every time citizens question the basis of the federation. We do not believe that the cries of marginalization are evidence that Nigerians want their country to be broken into ethnic or regional kingdoms.

14. Indeed, from the inter- and intra-ethnic crises across the nation, we know that no single ethnic, regional or religious unit can lay claim to any form of homogeneity. We are aware of the fact that in the last twenty or

so years, the country was subjected to gross injustice, misrule and brigandage by its rulers.

15. There is need for Nigerians to talk through the problems thrown up by their recent experience. Unlike the South Africans who had four years of negotiation before their transition ended, Nigerians had a rushed transition. We cannot undo the past, but we can at least correct the present, so that we can build a secure future for generations yet unborn.

16. We believe that there is need for Nigerians to have platforms from which to articulate their fears and grievances, beyond the present political party arrangements. These platforms need not be primarily national.

17. The discussions can start from the wards and local government councils to the states and then finally to the national level. There is need for a shopping list of issues, which Nigerians should be free to discuss. Their discussion could be summarized and finally tabled before the state assemblies, before they are forwarded to the National Assembly.

18. Since the idea of a Sovereign National Conference has become so chaotic and lacking in clarity, we believe that our alternative suggestion of a bottom-up, broad-based series of national seminars or *palavers* on our country's future political and constitutional structure, would not disrupt the current one.

19. Items to be discussed at the proposed palavers might include the following: *Human Rights issues, Basis for Representation; Resource Generation; Infrastructure; Taxation; Participatory democracy; Identity (religion, ethnic, communal); Constitutional Rights; Policing; Crime Prevention etc).*

## **HUMAN RIGHTS AND CIVIC/MORAL EDUCATION IN SCHOOLS**

20. We recommend a teasing out of the results of the Commission's work, including some of the discussions suggested above and making them part and parcel of the curricula in schools. We also recommend an urgent return to civic/moral education from Nursery to Primary, Secondary School and Tertiary levels anchored on the principle of oneness and indivisibility of Nigeria.

21. Beyond the recitation of the National Pledge and the National Anthem, there is an urgent need for Nigerians to come to grip with the dynamics of their history, emphasising

22. It was clear to us that respect for Human Rights is very much a new concept in recent African political and social discourse. We have noted that many of the hierarchy of the security agencies did not see any thing wrong in the application of torture and kindred inhuman tactics to extract information during interrogation. We also noted that even for many victims, the idea of what constituted human rights violations was not very clear. ***We therefore recommend that human rights education become fully integrated into the curricula of the military, police and other security personnel in the country.*** The Law Faculties in our Universities should set up Departments for the inter-disciplinary study of Human Rights Law as a matter of urgency. It is our view that as more and more of our citizens become aware of their rights, the issue of violations will be minimized greatly. The fatherhood of God necessarily implies the brotherhood of all Nigerians. We as a sovereign nation under God, are resolved, "to live in unity and harmony as one, indivisible and indissoluble sovereign nation under God."

## **ON EXPANDING THE POLITICAL SPACE**

23. We recommend that the federal government and the state governments place a moratorium on the further creation of more states

and more local governments . It has become clear that states creation is far from being the answer to claims of marginalization. In fact, such exercises create more problems than they are designed to solve.

24. Many of the newly created states so far rely on Federal Government subvention and so progress development has not really been made, which the creation of states was intended to achieve has been frustrated.

25. We also recommend that state governments become more careful in creating more chiefdoms and districts as an alternative to concrete development programmes. It is important that the government realize that the fragmentation of identities could easily undermine the project of national integration.

#### **ON RESOURCE GENERATION AND ALLOCATION**

26. The memoranda from the various communities in the Niger-Delta dwelt substantially on what has come to be known as *resource control*. While we commend the Federal Government for the progress that has been made by the creation of the Niger-Delta Development Commission (NDDC), we believe more can be done. For now, the Commission should be closely monitored in terms of project conception and execution, with the local communities playing a central role in the execution and evaluation of the projects.

#### **SOVEREIGNTY AND CONSTITUTIONAL RULE**

27. Although the implicit and explicit prohibition of unconstitutional take-over of government in various Nigerian constitutions has never been respected, we recommend that from May 29, 1999, anyone who stages a coup in the country must be brought to trial, no matter for how long they had ruled and regardless of any decrees they had passed to shield themselves from future prosecution. We further recommend that thenceforth, the

country must be governed by the constitution and in accordance with its provisions. No one who overthrows a government should expect to get away with it, no matter for how long they govern unconstitutionally.

### **THE MILITARY AND THE FUTURE OF NIGERIA**

28. We recommend a programme of civic and human rights education in the military formations across the country.

29. We also recommend that the military review its methods of internal discipline, especially in relation to detentions in the guardrooms, court-martial and other methods of justice that violate human rights. Proceedings in guardrooms and court-martial should conform with the African Charter, especially relating to torture.

30. We recommend an overhaul of the Directorate of Military Intelligence (DMI), with its powers and functions limited strictly to military intelligence gathering.

31. We recommend an urgent return to professionalism while encouraging the authorities to act decisively to sanction the display of any form of religious, ethnic or sectarian sympathies in the exercise of official duties in the armed forces. Every member of the armed forces must, at least, undergo some form of training and re-ra-training. Training and re-training as an on-going process should be more vigorously be pursued.

32. The attention of the Chaplaincies of the military and those of the Directorate of Military Intelligence must be drawn to the creeping fragmentation of the Barracks, along religious lines by the intrusion of fanatics.

## **THE ACADEMIC COMMUNITY**

33. We recommend the immediate restoration of a climate that guarantees academic freedom in our universities. There is for proper fundings of the universities to enable them pursue Research and Development.

## **THE NIGERIA POLICE**

34. We recommend that urgent steps be taken immediately to restore the Nigeria Police to its lost, dignified place in our society.

35. As a matter of urgency, we recommend an immediate restoration and boosting of morale in the Nigeria Police. This should be done through proper funding and a programme of rehabilitation of their collapsed infrastructure.

36. We therefore recommend the following as a matter of urgency:

- \* Acquisition of the kits and tools required for modern day policing.
- \* Salaries and allowances should be paid as and when due.
- \* An improved barracks accommodation for serving police men and women.
- \* The need for change of uniforms at least every two years.
- \* Training and retraining to enhance professionalism.
- \* A comprehensive programme of education on the basic tenets of the law, civic education and human rights.
- \* Minimum entry qualification of secondary school education
- \* A review of the disciplinary measures, such as orderly room procedure to ensure that the trials conform to human rights norms.

## **THE JUDICIARY**

37. On the Judiciary, we recommend the immediate release of the findings and implementation of the Report of the 1997 Kayode Eso Panel of Enquiry on the Judiciary.

## MINISTRY OF JUSTICE

38. We recommend that the Federal Ministry of Justice and the National Human Rights Commission (NHRC) take very seriously the publication of readable summaries of citizenship rights and obligations in the country. The idea is to provide Nigerians with a guidebook on their citizenship rights and obligations.

39. We commend the Federal Government and a number of State Governments for setting up a Ministry for Women Affairs. It is the view of the Commission that this Ministry should be properly equipped to take on the major difficulties, which women encounter in Nigeria only. There is need for concrete legal codes to shelter women from the daily harassment and discrimination that they constantly suffer in Nigeria.

40. With regards to the allegations of murders, assassinations and disappearances, we recommend that the Office of the Inspector- General of Police be made to act on the cases that the Commission forwarded to it for further investigation.

41. However, in the cases of Chief Moshood Abiola, Chief Alfred Rewane, Bagauda Kaltho, Dele Giwa, such as Baguda Kaltho and the others and others, we recommend as follows:

- i. With respect to the cases of **Chief Rewane, Kudirat Abiola** and other cases the Commission passed the relevant files to the Honourable Attorney-General of the Federation for further action. The Attorney-General of the Federation then forwarded the files to the High Court in Lagos, where the cases are being prosecuted.
- ii. As for the case of **Dele Giwa**, we are of the view that beyond the legal technicalities that some of the key witnesses hung on to, the

federal government should be encouraged to re-open up this case for proper investigation.

iii. In the case of **Bagauda Kaltho**, there is enough *prima facie* to lead us to the conclusion that there was complicity by agents of government in the case. We therefore recommend that the case be re-opened for proper re-investigation and possible prosecution of the perpetrators.

iv. In the case of **Chief Moshood Abiola**, we are of the view that the government of the day knows much more than it has admitted. We believe that the denial of Chief Moshood Abiola's mandate was a violation of the rights of Nigerians to freely choose their leaders. We regard this as serious infringement.

42. While we affirm that matters pending before our courts should take their normal course, we also wish to advise that in the spirit of forgiveness, reconciliation, unity and peaceful co-existence across the country, which this Commission has belaboured in this report, the President may wish to consider a political solution as an alternative to the on-going protracted judicial process.

43. We also believe that Chief Moshood Abiola's death was the result of his incarceration and the denial of access to adequate medical attention. The testimony of the Chief Security Officer to the then Head of State, General Abdulsalami Abubakar, was full of contradictions. From the evidence before us, Chief Abiola died in suspicious circumstances. The Commission therefore recommends a thorough investigation to throw light to and inform the Nigerian people on what killed Chief Moshood Abiola.

## **PRISON REFORM**

44. Nigerian prisons have become notorious for their inhuman conditions. We recommend an entire overhaul of the prison system in the country.

45. We recommend the rebuilding, refurbishing or renovation of all prison facilities across the country to conform with United Nations standards.

46. We also recommend the establishment of the Office of Ombudsman for Prison Welfare. This body should serve as a half-way house between the inmates, the prison authorities, government and the families of the inmates. The Ombudsman should monitor prison conditions to ensure that they meet international standards.

## **POPULARISING THE REPORT/CONSTITUTION**

47. The Commission is of the view that no Commission or any constitution, for that matter, can put an end to human rights violations. Security agencies and law enforcement agencies will continue to breach the law. What is more, there will always be individuals within the system who will go beyond the call of duty.

48. We recommend the production and publication of what the Commission refers to as a **Popular Version** of both the relevant Human Rights provisions in our Constitution and the relevant sections of this Report. The idea is to put into the hands of the mass of our people, a document that can be the human rights version of the human rights Highway Code or of a Catechism, with a **Question** and **Answer** format. This should be a document that should be within the reach of every ordinary, literate citizen. It should be produced at very subsidized rate, in collaboration with the National Human Rights Commission.

49. In view of the importance that the international community has now placed on Human Rights, we are of the view that the Office of Minister for Human Rights should be created. There should be no conflict with the Office of the Attorney-General. In fact, the person chosen or appointed to the office need not have a legal background. This office is essentially to serve as a whistle blower, while also seeking to coordinate and harmonize the work of the Human Rights Commission, Public Complaints Commission, Code of Conduct Bureau and the Federal Character Commission. It should offer citizens another outlet to turn to for redress. To insulate it from the public bureaucracy, the Office should be independently funded with assistance from international agencies, corporate bodies and the United Nations.

#### **REHABILITATION/PRESIDENTIAL FUND**

50. We propose the immediate setting up of a Human Rights Violations Rehabilitation Fund. This Fund is imperative as a foundational building block for national reconciliation. We are also of the view that this fund need not be solely a federal government venture. After all, during the heydays of apartheid, when Nigeria was in the forefront of the battle against the evil of apartheid, the government encouraged citizens of Nigeria to contribute to the South African Relief Fund. The response was very encouraging. We are of the view that the victims of human rights violations be treated the same way victims of other man-made disasters are treated, whether they are wars or of natural disasters like earthquakes.

51. On compensation, we believe that it is necessary for the Government to carefully reflect on Volume 5 which has set out to lay a foundation for addressing the issues of restitution and compensation. We had earlier suggested the setting up of a Presidential Fund to address the issues of token assistance towards ameliorating the pains and sufferings of some of the petitioners. We are also of the view that if this Fund is set up,

it will also serve as a means for Nigerians to begin to make their own contributions towards this process. We recommend some of the following measures:

53 That the President should direct the Special Adviser on Economic Matters and the National Planning Commission to liaise with the European Union, so as to follow up the \$10m donation which that body made to the Commission in 1998.

54 That the Federal Government should levy all States, Local Government Councils, the Ministry of Defence, the Police, Corporate Bodies and individuals through a massive campaign to raise funds for this objective. We believe that the levy should be at the discretion of the Presidency. This will help create an atmosphere of family solidarity in the country and a feeling of being one another's keepers.

55 We recommend a *National Human Rights Day* to draw public attention to the issues of human rights violations. We suggest June 14, the date of the inauguration of the Commission as that date. If this recommendation is accepted, then the relevant agencies will work towards ensuring that a series of events are prepared around this date.

## **COMMUNAL CLASHES**

### **HAUSA COMMUNITY IN KAFANCHAN**

56 This petition was very hurriedly written from all indications. However, read along with the petition of the non-Hausa Community in Kafanchan, it is clear that the events have been over taken. It is to be noted that the non-Muslim community in Kafanchan against whom this petition had been directed had failed to follow up their petition because their prayer had been answered by the creation of a Chieftdom by the Kaduna State

Government. We are also satisfied that the Kaduna State Government has taken the appropriate steps, which in the long term, will bring lasting peace to the community. We call on the Kaduna State government to make public the findings of the Committee it set up, even if not to the public, at least to the Communities concerned, to allay their anxieties.

57 In creating Ussa Local Government, it would seem that the government ended up digging a hole to fill a hole. The Kutebs are of the view that Takum belongs to them while the Jukun/Chamba lay similar claim. Whatever may be the case it seems that two main issues are responsible for the problem. The first is the 1975 Government Gazette which revoked the existing one of 1963 which had apparently placed the control of Takum in the hands of the Kuteb. The second is the creation of Ussa Local Government Council ostensibly to deal with the Kuteb problem. It would seem from the two that there was interference with due process from above in the case of the creation and constitution of the newly created Ussa Local Government Council as can be seen from the two letters dated March 12th and April 28th.

58 We are of the view that the harm may have already been done and it is not possible to repeal the edict setting up the Local Government Council. We recommend a massive development programme of Ussa Local Government Council. The federal government should assist the state government in rehabilitating those who were displaced by the series of communal riots spanning over the last ten years or so. We also recommend the elevation of the status of the traditional institution of the Kutebs to be at par with that of the Jukun/Chamba of Wukari so as to allay their fears and anxieties and enable them to have a sense of cultural freedom.

59. The case of the Sayawa Community in Bauchi state is one of the long-standing cases of serious communal clashes in the Northern states.

Sadly, the Community has been victims of the lack of commitment of government to taking policies that may seem to be against the interest of the traditional ruling classes. When Bauchi state went through a spasm of violence in 1991, the Federal Government set up the *Babalakin Commission of Enquiry*. One of the most important recommendations of that Panel was the creation of a Chieftdom for the Sayawa people. Unfortunately, none of the successive governments has been courageous enough to implement this recommendation. Government has not told the people the reasons why it is unable to implement this very crucial recommendation. We very strongly recommend that the Federal Government requests the Bauchi State Government to comply with this recommendation and implement it to the fullest.

60. Secondly, we also recommend that the Bauchi State Government finds means to creating a more conducive atmosphere to guarantee harmony in the state. We are of the view that the State Government takes the necessary legal measures to ensure that the fears and anxieties of the non-Muslim communities are allayed and that adequate judicial arrangements be made to accommodate the cultural peculiarities of the State. In view of the fact that the media plays such an important role in the lives of citizens, we recommend that the state media tries to accommodate all shades of cultural and religious expressions that are not inimical to moral development and social harmony. We appeal to the Sayawa Community to cooperate with the State Government, taking cognizance that democracy now offers us all the best opportunity for resolving our conflicts through dialogue and collaboration.

61 We appeal to the Bauchi State Government to carefully go over the relevant sections of the various Panels of Enquiry and find ways of alleviating the sufferings of all those across the board who may have suffered in one crisis or the other.

## **GENERAL LEKWOT AND SIX OTHERS**

62 The petition submitted by Major-General Zamani Lekwot and Six Others was titled, ***Violations of the Fundamental Rights of the Petitioners on the Trial of the Complainants by Justice Benedict Okadigbo Tribunal.***

63 The substance of the petition is the outburst of violence that occurred in Kataf land in 1992. The violence occurred as a result of persistent misunderstanding between the local people, the Katafs and their Hausa settlers who are predominantly Muslim. It was alleged that sometime in 1992, a letter was addressed to the Emir of Zaria making references to a *jihad*, or a Muslim holy war. The situation deteriorated, leading to violence which left many people dead and property destroyed. The retired General and his kinsmen were arrested amidst allegations of complicity in the violence and the deaths that followed. They were arraigned before the Justice Benedict Okadigbo tribunal and subsequently tried, convicted and sentenced to death. They alleged that the trial was a travesty of justice because, among other things, that even after the Attorney-General had filed a *nolle prosequi*, they were recharged, their lawyer filed a stay and applied for the right to enforce their fundamental rights. Although the order was granted, the learned judge declined to halt proceedings. Their lawyer filed an appeal at the Court of Appeal in Kaduna but the judge continued and even ended his trial before the Appeal could be heard. They appealed to the Supreme Court but the appeal was struck out on the grounds that the record of proceedings was not supplied. The petitioners alleged that the trial violated their right to life, fair hearing and the Africa Charter. We have no right to review the sentence of a tribunal. But from the evidence before us the trial did not conform with the African Charter. Accordingly, we recommend a state pardon.

64 The Commission believes that it does not have the powers to order that a case in which the Supreme Court has ruled be open. During the

hearings the petitioners tendered a document from the African Court for Human and Peoples' Rights in which it ruled that the Federal Government of Nigeria had erred in the handling of this case.

#### **NINZAM DEVELOPMENT ASSOCIATION**

65. This petition, titled, ***An Appeal for Government Intervention and Restoration of Ninzam Chiefdom***, was signed by Messrs James Ambi (President) and Aku A. Amboson (Secretary), presented the problems of the Ninzam community who live in the Southern part of Kaduna State. It was dated July 20, 1999.

66 However, the creation of Districts in Kaduna State by the new government of Governor Muhammad Makarfi has put paid to the request as the Ninzam people have been duly granted a Chiefdom.

#### **BELETIEMA/IGBABELEU COMMUNITY**

67. The above community presented a petition titled, ***Human Rights Violation by the Liama and Egwema on the total annihilation of the Beletiemma/Egbabeleu Community of Brass Local Government Area of Bayelsa State on 18th July, 1997 and April 9th 1999 respectively***. The petition was signed on behalf of the Community by Chiefs M. E Dakolo Apiri, Lyton Owoidoi, Itari Collar Ikpikpi, Temple Ombu, Isaiah Bou and Alexander O. Diye.

68 The petition alleged that in the two occasions listed, they were set upon and attacked by their neighbours, the Liama community.

69 The Military Administrator of the time, Navy Captain Caleb Omoniyi Olubolade set up an Administrative Panel of Enquiry. The Community's demands for resettlement, compensation, provision of social services and so on must have been contained in their submissions to the Panel of Enquiry.

As such, the much that the Commission can do is to request the present administration in Bayelsa to dust up the findings of the Lt Col. C. O. Omoregie Panel and implement its findings.

### **MAROKO EVICTEES COMMITTEE**

70 The Petition, signed by Messrs S. A. Aiyeyemi (Leader) and 11 others is titled, simply Maroko Evictees Committee and simply dated, July 1999.

71 The petition chronicled the trials of this community in the outskirts of modern day, highbrow areas of Ikoyi and Victoria Island. The petitioners alleged that they had been the target of high handedness, executive recklessness and oppression, all because those in power wanted to take over their land. Obviously, they had been having series of running battles with almost all the Governors of Lagos state, going back to Brigadier Mobolaji Johnson in 1972. Whereas most of the battles against subsequent governments in Lagos had largely been legal, the climax came in July 1990 when the Government of Col Raji Rasaki ordered heavily armed soldiers into Maroko. Specifically on the 14th of July, the soldiers moved in and in less than one week, razed the houses of the 300,000 residents of Maroko to the ground. By the time the soldiers were through with their job, Maroko and its residents lay in ruins. This dastardly incident remains one of the greatest tragic legacies of military excesses. The Maroko residents had since then roamed the courts of Lagos State in search for justice.

72 After reviewing the evidence submitted by the petitioners, the Commission is of the view that the Lagos State government should, on behalf of its predecessors, *apologise to the residents of Maroko and publicly condemn the high-handedness of Col. Rasaki's government* especially given that these innocent citizens went through this harrowing experience so as to satisfy the greed of a few elites whose residences have now sprung up in

Maroko. We therefore propose that the Lagos State government should properly resettle the evictees of Maroko in the decent houses .

### **KAFANCHAN INDIGENOUS PEOPLE'S FORUM**

73 This petition, titled, ***Kafanchan Crisis and Human Rights Abuses*** sought to draw attention to the needs of those who call themselves the Indigenous People of Kafanchan. Essentially, they, like the Ninzam community were also demanding a chieftom of their own. Again, like the Ninzam, this request has been granted by the Government of Kaduna state. In fact, the Community did not show up when their petition was called in Kano and they later informed the Commission that they felt that their petition had been overtaken by developments in Kaduna State.

### **NWANIBA VILLAGE IN AKWA IBOM STATE**

74. This community submitted a petition titled, Human Rights Abuses meted out on the Nwaniba people by Ifiayong Usuk People with the support of Akwa Ibom State Police Command.

75. The body of the petition is made up of allegations of problems that border on boundary adjustment. We are of the view that the Akwa Ibom State Government should be able to deal with this problem as it is a boundary adjustment issue. The state government might need to refresh its memory by making reference to the Gazette referred to in the petitioner's submission.

### **UMUODE COMMUNITY**

76 After reviewing the petition from the Umuode Community, we have come to the conclusion that the issues of human rights violations are indeed not the prerogative of governments and their agencies. Individuals, communities and organizations are sometimes worse culprits. The Umuode Community case clearly demonstrates the cruel cultural practices that are

capable of bringing government efforts at securing human rights for its citizens to naught. Clearly, the predicament of this community is based on the false belief by the neighbouring community that the people of Umuode fall within a category of subhuman beings known as **Uhu**. Elsewhere in Igboland, this invidious cultural practice classifies the same groups as **Osu**. We condemn this philosophy in its entirety and call on the Federal Government to ban this assault on human dignity.

77 After reviewing the submissions by the various parties, we have come to the conclusion that although the problems are internal to the community, some influential agents within government have not helped matters. We note that this community has produced very important personalities such as a world renowned scientist. It is preposterous to think that he is such a figure is considered a non person where he hails from. We therefore call on the Enugu State Government to act immediately to resettle the people of Umuode and address the issue of creating a climate for peaceful coexistence within both communities. Over the issue of resettlement, there is the question of land. The bone of contention seems to be two pieces of land; namely, Abarri and Aguefi.

78 The Commission undertook a visit to the *locus in quo* and we were shown both pieces of land. Abarri land was said to be inaccessible and hence the reason why Umuode found it unacceptable. Aguefi on the other hand had been a very much litigated land. The Commission believes whichever piece of land the state Government settles on with the communities, this matter can be resolved in an amicable way. Even if the Abarri land were to be accepted, we believe that the State government can be assisted by the Federal Government to create infrastructures, provide road and water. The Enugu State Government indicated that it was ready to consider this possibility. We are of the view that if the State government

were to provide roads, light and water, there is really no reason why Umuode community should not accept this option.

79 Secondly, the Commission noticed that even at its public sittings, there were altercations between both chiefs in the communities. We are of the view that the Enugu state government should restore the autonomous community status that was given during the military era. If this is done, the traditional rulers of both communities can be encouraged to go back to the *status quo ante* whereby the Traditional stool was rotational.

80 In view of the role of the Catholic Church has played in arbitrating this case, given the fact that they have already got a priest on the ground and they were responsible for feeding the refugees, we are of the view that the State Government should continue to let them play the role of arbitration. We also noted that the Church is well respected and trusted by both Communities.

#### **HAUSA-FULANI COMMUNITY, KAFANCHAN**

81 This memorandum simply sought to draw public attention to the allegations of threats to the rights of the Hausa- Fulani to live under their Emirate system. This Memo was largely a response to the crises that surrounded the attempt by the Kaduna State government to install the new Emir of Kafanchan. It will be recalled that a petition had already been submitted by a group that called itself the ***Kafanchan Indigenes*** alleging subjugation to Hausa-Fulani rule in Kafanchan. That group admitted that subsequent developments in Kaduna state, leading to the creation of new chiefdoms had overtaken the petition. In this same way, the Emir of Jama'a has long been installed. We can only recommend further that since the prayers of the various communities have been duly answered, that the community leaders will ensure that their communities remain law abiding.

They are to be encouraged to preserve, nurture and protect that which has been given to them.

### **UMUECHEN COMMUNITY**

82. This community was apparently one of the very first to suffer hardship in the hands of some rather overzealous security agencies in the quest to protect oil installations belonging to Shell Petroleum Development Company. According to its petition, the community was attacked and their houses razed to the ground after a night is raid at the instance of the Divisional Manager of SPDC who had alerted the Police of a planned peaceful demonstration by the community.

83. The Commission recalls that the hearing on this petition was stalled by the community lawyer who vanished in the cause of the hearings of the case. However, the Commission notes that already, the Rivers State Government had set up a Judicial Commission of Enquiry headed by Justice Opubo Inko-Tariah and a White Paper already issued. Again, we have noted that just like a lot of other Commissions on Enquiry, the community feels that the government has not implemented the findings. We therefore call on the Rivers State Government to heed the cry of the community and look more closely at the various compensatory measures recommended and duly accepted by its own White Paper and execute what remains.

### **OHANEZE NDI IGBO**

84. This petition was very comprehensive in its textual form and its representation. It traversed the historical landscape, extrapolating extensive evidence of what it alleges to be the planned marginalisation of the Igbo people from the scheme of things. According to the petitioners, the civil war was the climax of the excesses of the Federal government of Nigeria against the Ndi Igbo. Despite the atrocities of the civil war, the petitioners still believe that the successive governments of the federation have constantly

sought through policy articulation, to exclude the Ndi Igbo from benefiting in the economic and political life of Nigeria. The petitioners drew attention to the tragic issue of Abandoned Property enunciated in the **Abandoned Property Act No 90 of 1979**. Also, Ndi Igbo argues in the petition that the absence of industrialization programmes in the entire area coterminous with the areas of abode indicate this policy of marginalisation. The petitioners argue that this marginalisation has persisted in appointments and promotions in the bureaucracy and the military, and even political offices. There were also the problems of the Aro Ikwerre Refugees and the Oji River and the murder of Gideon Akaluka, an Igbo man in the city of Kano.

85. This petition sparked off a response from across the country and we believe that Ohaneze is to be thanked for making it possible for the Commission to use this petition to elicit reactions from a cross section of the various communities in the country. After reviewing the mountain of evidence, the Commission makes the following recommendations in response to the prayers by *Ohaneze Ndi Igbo*:

\* We are of the view that the problems of the massive claims of marginalisation cut across the entire nation and we adduced enough evidence from the swelter of petitions. From all this, we can conclude that at least, every ethnic group in Nigeria claims marginalisation. However, none of this takes away the substance of this petition. On the request for an apology from the Federal Government, we do not believe that this should be done by only one party. We are of the view that for this to happen, the Federal government along with those who led the civil war find a way of presenting a common front in working out the modalities for public apology for the civil war as an unnecessary evil.

\* We are of the view that the Abandoned Property issue remains very delicate, yet, it can and needs to be dealt with. Time does not heal an injustice, only truth can. We therefore recommend that the Rivers State

government find a way of carefully going through the outstanding cases of the claims with a view to making amends where necessary.

\* On the issue of refugees, we are of the view that no matter the weaknesses of the Federal Government's policy of **Reconciliation**, **Rehabilitation** and **Reconstruction** may have been, it provided a platform for the successive governments to address the issues of refugees. We are of the view that the persistence of the Oji River Refugee problem is an indictment to various governments in the area.

\* On the issue of the Aro Ikwerre people, the Commission visited the *locus in quo* visit and we saw the terrible situation. However, we are of the view that the resettlement of the community cannot be the responsibility of the Government as proposed by Ndi Igbo. We however believe that the security of that community is the responsibility of the Rivers State government. We note that most of those living in the church premises were born in the area. We therefore suggest a systematic programme of their integration into the community rather than the creation of a Bantustan between Isiokpo and Elele as proposed by Ndi Igbo. Again, dialogue at the Local Government level can heal this wound.

\* In the case of Gideon Akaluka, we are of the view that this matter is a great tragedy. It is very unfortunate that the Government of the day did not handle this matter with the seriousness that was required. We therefore hold the prison authorities and the police responsible for the tragic circumstances that led to Mr. Akaluka's brutal murder. It is doubtful that much can be done in terms of compensation by the Government of Kano State. The Commission is of the view that this ugly matter be laid to rest.

\* The Commission is of the view that the petitioners have a good case in their claim of marginalisation in the area of industries. However, if, as it is being said, the Federal Government is embarking on a policy of dredging the Niger, we encourage this project. We hope that it will open up opportunities for the nation to tap the vast resources available in this part of the country.

\* We further recommend that the Government looks very closely at the issues of boundary adjustments and mineral development in some states in the area under consideration. Those that qualify to be included in the Niger-Delta Development Commission should be included immediately.

### **OGONI COMMUNITY**

86. The case of the Ogoni, their experience with the Shell Petroleum Development Company and the agents of the Federal Government under the late General Sani Abacha attracted world-wide attention. The brutal murder of the writer, Ken Saro Wiwa, was the climax of the federal government's brutality in the community. However, the Commission was glad to note the amount of harmony that was finally created by the time the Commission finalised its sittings in Port Harcourt. Essentially, the lingering problems of the so called Ogoni 4 and Ogoni 9 were resolved. There were many outstanding issues. It became clear that the Ogoni problem had four dimensions: the Ogoni 4 vs Ogoni 9, Ogoni vs Federal Government of Nigeria, Ogoni vs Rivers State Government, and Ogoni vs Shell.

87. The Commission decided to set up a platform made up of the representatives of the Ogoni, the Movement for the Survival of Ogoni (MOSOP), the Rivers State Government and representatives of SPDC. In attendance were representatives of the Christian Association of Nigeria, CAN and the Commission.

88. Since the end of the sittings, the Commission has had extensive meetings with all the parties. We are of the view that these meetings will be able to resolve many of the outstanding issues on the short term. On the long term, only State and Federal Government policies on the one hand and Shell's behaviour can restore confidence, peace and harmony in Ogoniland. We believe that the Commission has set all parties on the path of dialogue.

## **NON APPEARANCE OF THE THREE GENERALS**

89. It became clear to us that the issue of the appearance or otherwise of the former Heads of State was a matter of national significance. For the sake of the records, it is important to refresh the minds of all Nigerians on the initiatives which the Commission took which culminated in the decision to issue a *Composite Ruling* on October 3, 2001. The Commission went to great lengths to explain to our former leaders that they had a legal, moral and even political duty to honour the call of Nigerians and that the issues were not merely between them and the Commission. We explained that the summons was in reality the voice of Nigerians who were simply interested in knowing as much about the events in their country as possible.

90 The legal dimension of the cases was addressed by the three learned gentlemen who represented the former Heads of State and other interested respected lawyers. The key issue here was that of the appearances of the former Heads of State who had defied the Commission but still wished to first appear through their lawyers, and then secondly have their lawyers cross examine the witnesses. The Commission decided to listen to various opinions before arriving at its decision. Those who addressed this very lively session of the Commission on the legal issues were:

Chief G.O. K Ajayi, SAN

Chief Clement Akpambgo, SAN

Chief Shola Rhodes, SAN

Chief Olajide Ayodele, SAN

Mr. Emmanuel Toro, SAN

Chief Gani Fawehinmi, SAN

91 There were three issues for determination. They were:

- i) Whether the Commission, relying on Section 5 of the Tribunals of Inquiry Act, Cap 447 had the *vires* or the Constitutional competence

to issue and serve witness summonses or the former Heads of State.

- ii) Whether the former Heads of State can appear by proxy, i.e. through their lawyers, assuming that (i) above is not *ultra vires*?
- iii) Whether, having disobeyed the summonses of the Commission to appear in person to testify, they can be allowed to cross examine other witnesses for the Commission?

92 The Commission reviewed the evidence submitted before it and concluded that there was really only one central question which was: *Do proceedings before a Commission of Inquiry constitute a suit at law or a judicial proceeding?* In its wisdom, the Commission came to the conclusion that: *In a Commission of Inquiry under the Act, there does not exist an adversary situation. There is no litigation, and as such, there are no parties properly so called. No judgment is entered or can be even entered for or against the parties that do not in law exist. Everyone who appears before the Commission appears as a witness whose evidence will enable the Commission gather all the facts and make recommendations to the Proper Authority contemplated in Section 14 of the Act.... From our Terms of Reference, every President or ex-President, every top government functionary from January 15th, 1966 to May 28th 1999 is a relevant and necessary witness, whether or not he is specifically mentioned or implicated in any petition before the Commission. It is therefore no defence for failure to attend to say that any particular official was not mentioned in any particular petition. It is also erroneous to suggest that questions ought to be limited to the averments in a particular petition... That being so, every Head of State during those dark military years will be held accountable. He has to give account to the people of Nigeria, give account of his stewardship in respect of all gross human rights violations committed during his period of office. He is also accountable to history.*

93 The Commission, in its ruling went to great lengths to acquaint the former Heads of State with the fact that it was wrong for them to even speculate that they were being singled out for persecution since even the serving President had been issued with a summons. What is more, the Commission pointed out that it was not just a question of serving as Head of state that warranted their being summoned. Two former Heads of State, Alhaji Shehu Shagari and Chief Ernest Shonekan, were not summoned because no petitions were pending against them, nor were they in any way mentioned in any pending petition.

94 On whether it could exercise its powers of section, the Commission again, in its Composite ruling argued that although Section 10 of the Act empowers the Commission to issue a warrant of arrest to any person failing to attend on summons, it believed that: *... discretion is usually the better part of valour. The Commission, it ruled, is on a reconciliation process and one does not reconcile under duress.... The failure or refusal of our former Heads of State to attend has rudely shaken the faith and confidence of Nigerians in the reconciliation process Military rule thrives on the culture of impunity, which means that the leaders are both above the law and beyond punishment. Impunity, which is what the refusal to attend portrays, destroys the confidence of the people in the authority and role of the State.*

95 Since they did not avail themselves of the opportunity to come and tell their own side of the story, as the President and some former and serving senior governments functionaries did, we leave a blank space on our records against each and everyone of the three former Heads of State as evidence that we are leaving them and their side of the story in the court of human history.

96 We recommend to the Federal Government that all the former Heads of state be considered to have surrendered their right to govern Nigeria

and Nigerians at any other time in the future. It is left for Nigerians to judge.

97 The Commission also wishes to state as follows:

[REDACTED]

i. On General Muhammad Buhari, the Commission is of the view that the General has a case to answer in regard to the killing of the three young men referred to in the petition brought by the Kenneth Owoh family. There was overwhelming evidence to show that the execution of the three young men fell well outside the time frame allowed by the Decree under which they were tried. We therefore recommend that the General tender an unreserved apology to the families of the deceased. We equally hold accountable the Supreme Military Council of General Muhammadu Buhari that confirmed the brutal execution of the three young men. We therefore hold the then Supreme Military Council accountable.

[REDACTED]

98. On General Ibrahim Babangida, we are of the view that there is evidence to suggest that he and the two security chiefs, Brigadier General Halilu Akilu and Col. A. K. Togun are accountable for the death of Dele Giwa by letter bomb. We recommend that this case be re-open for further investigation in the public interest.

[REDACTED]

99. On the government of General Abdusalami Abubakar, the case against him had already been well argued by one of the witnesses, Col Idenhere, who testified in the case. Although he was not directly mentioned in the death of Chief Abiola, the inconsistency in the testimony of his Chief Security Officer, Lt Col Aliyu show that the Government of the day knows

much more about the circumstances leading to the death of the chief. We therefore recommend that that government is accountable.

100. By refusing to appear before the Commission, they denied themselves the wonderful opportunity of explaining to Nigerians what happened in each case, like General T. Y. Danjuma and Dr. Walter Ofonagoro did.

### **BREAKDOWN OF MORALITY IN THE SOCIETY**

101. We note the near total breakdown of the moral fabric of our society with much pain, sadness and regret. The impact of this breakdown can be felt right across the entire spectrum of the Nigerian society. Children in schools have no qualms in cheating in their examinations, school leavers have taken on to armed robbery in frustration, family life has become precarious, politics, business and the social life of the nation are weakened by the weight of intense corruption. The Commission is of the view that all strata of the Nigerian society, from kindergarten right through to the entire polity must be renewed by way of a comprehensive programme of moral education and re-armament. With hindsight, it is tragic that the various *Wars Against Indiscipline* waged by the successive regimes failed so woefully under the weight of their own contradictions since the leaders were preaching one thing and doing another. We are of the view that this programme can still succeed. Without a moral code of conduct that becomes natural to us all, our future remains in jeopardy.

### **INFERIOR STATUS OF CITIZENS**

102. We note with sadness the persistence of many ugly layers of injustice that persist in our society. Many communities came claiming violations of their rights by agents of government. Yet, we discovered that there are many of these societies that continue to harbour practices that are worse than what they claim against the government. We call on the

Federal Government, the National Assembly and the various Houses of Assembly to enact legislation that protects the rights of citizens and criminalizes such wicked and inhuman practices that condemn citizens to inhuman and degrading stations in society under the claims that they are, **Osu, Ogbanje** or **Uhu**. We also call for similar legislation to deal with widowhood practices as they pertain to the inhuman treatment meted out to widows during the deaths of their husbands. Effective legislation should protect women's rights to own property with a view to ensuring the welfare of both the widow and her children.

### **VIOLATIONS OF WORKERS RIGHTS TO FAIR PAY**

103. As the scriptures say, *Every labourer is worthy of his hire*. We received hundreds of petitions from civil servants alleging a range of violations of their rights to work and pay. Although these petitions have been forwarded to the Office of the Head of Service as requested by the Federal Government, we are of the view that the Federal Government of Nigeria needs to take the welfare of civil servants more seriously. A situation where workers have no feeling of job security and their welfare not guaranteed, leads to despondency and corruption. Across the country, non-payment of salaries, pensions, retirement benefits are the order of the day. The worst-hit are teachers, that source almost invaluable of our nation's hope for greatness. We call on the federal government to devise a strategy to lay a foundation for a sound civil service, that engine room of national growth.

## **SUMMARY OF RECOMMENDATIONS**

1. A bottom-up, broad-based series of national seminars to discuss our country's political and constitutional structure should be held as a matter of urgency.
2. Human Rights Education should be integrated into the curricula of our schools, with an urgent return to civic and moral education from nursery through secondary schools.
3. There should be harmonization of all education initiatives in the country, especially the Universal Basic Education Programme, to achieve higher national standards anchored on sound moral values.
4. There should be a moratorium on state and local government creation in the country, while caution should be exercised with respect to the creation of more chiefdoms – these exercises rather than weld the people together tend to emphasise division and to create enmity among our peoples and communities.
5. The Niger Delta Development Commission (NDDC) should be closely monitored, regarding project conception and execution, with local communities playing a central role in the process.
6. The National Assembly should, as a matter of topmost urgency, harmonise, in collaboration with the state legislatures, the findings of the various constitution review initiatives, so as to bring into existence an acceptable constitution.
7. While we are of the view that Sharia is an integral part of our religion and customary law, the Constitution should be the supreme law of

the land on criminal matters. The federal government should take action to make Sharia conform with all the international legal obligations Nigeria has subscribed to, as pointed out in Volumes Two and Five of this Report.

8. With effect from May 29, 1999, anyone who stages a *coup d'etat* must be brought to trial, no matter for how long and regardless of any decrees or laws they may have passed to shield themselves from future prosecution.

9. The Armed Forces should be pruned down to a manageable size, while they should also review their method of internal discipline.

10. The Directorate of Military Intelligence (DMI) should be overhauled and professionalized, with its powers and functions limited strictly to military intelligence gathering.

11. There should be an immediate restoration of a climate that guarantees academic freedom in our universities, and to fund them adequately.

12. As a matter of great urgency, steps should be taken to restore its lost dignity to the Nigeria Police, through proper funding, training and the rehabilitation of its collapsed infrastructures.

13. The Report of the 1997 Kayode Eso Panel of Enquiry on the Judiciary should be released immediately.

14. The Federal Ministry of Justice, in collaboration with the National Human Rights Commission, should publish readable summaries of citizenship rights and obligations in the country.

15. The Ministry of Women Affairs should be properly funded and equipped to take up major issues, which still confront women in Nigeria.

16. The Office of the Inspector-General of Police should be made to act expeditiously on the cases of murder that the Commission forwarded to it for further investigation (see appendix).

17. The Commission forwarded the cases of Chief Alfred Rewane and Alhaja Kudirat Abiola, to the Hon. Attorney-General of the Federation and Minister of Justice, who, in turn forwarded the files to the High Court of Lagos, where the cases are being prosecuted.

18. Arising from these cases are the arraignment of General Ishaya Bamaiyi and others before various High Courts in Lagos. The petitions from alleged victims about the alleged violations of their human rights by the aforementioned persons (General Bamaiyi and others) were dealt with in Volumes Four and Six of this Report. However, while we affirm that matters pending before our courts should take their normal course, we advise that, in the spirit of forgiveness, reconciliation, unity and peaceful co-existence, which the Commission has belaboured in this Report, the President may wish to consider a political solution as an alternative to the on-going protracted judicial process or else accelerate the hearing of these cases.

19. The federal government should open up the case of Dele Giwa for proper investigation.

20. The federal government should open the case of Chief Moshood Abiola again for proper investigation in the public interest.

21. There should be an overhaul of the country's prison system, with priority given to the rebuilding and refurbishing of prison facilities.

22. The Office of Ombudsman for Prisons Welfare should be created.

23. The Office of the Minister for Human Rights should be created.

24. A Human Rights Violations Rehabilitation/Presidential Fund should be established.

25. A National Human Rights Day should be proclaimed and celebrated annually on June 14. This coincides with the day the Commission was inaugurated.

26. A Popular Version of the Report of the Commission should be published.

27. It is recommended that security outfits such as the Strike Force, Body Guards and National Guard, which reared their ugly heads and were used to abuse the rights of Nigerians with impunity be scrapped. The outfits such as the SSS and NIA should be re-oriented to uphold the rights of Nigerians.

### **Military Trials:**

28. All cases tried under the DMI and SIP were in breach of the African Charter and the Rule of Law. As a result of the above, we recommend blanket pardon for such cases.

29. That a Presidential Fund be established for payment of compensation to victims. That the government, corporate organizations,

multi-nationals, Non-Governmental Organisations and International Organisations be invited to contribute to such a fund. We further recommend that the funds are to be managed by the National Human Rights Commission or any other body to be appointed by the government.

### **Right To Life**

30 That in concert with Chapter Two of the 1999 Constitution (Fundamental Objectives and Directive of Principle of State Policy), government should give all Nigerians the chance to participate meaningfully in the socio-economic activities of the nation. This way, Nigerians shall have access to decent shelter, food, clothing and social amenities. This is essential because the imperatives of government is to secure and guarantee the welfare of the people. The right to life presupposes the existence of the means to sustain that life closely interwoven with the means to sustain that right.

### **Employment**

31 That the government should consciously and assiduously create jobs. This will reduce crime and poverty as there is a correlation between unemployment with crime and poverty. The government can accomplish this by:

- setting up cottage industries;
- reviving our infrastructures;
- reviving our manufacturing sector;
- giving out grants to small scale businesses for graduates.
- reviving our agriculture.

## **MINISTRY OF JUSTICE**

32. We recommend that the Honourable Attorney-General of the Federation and Attorneys-General of the State should ensure that State Counsel are properly instructed as to the limit of their functions in rendering

legal advice to the Police and appropriate steps be taken to discipline erring State Counsel who, rather than give legal advice, turn themselves into courts and “decide” cases submitted merely for advice. In the Bayelsa case involving Dr. Eneweri, the Counsel was forced to recommend that those on board the outboard engine where Dr. Eneweri were supposed to have been drowned, be charged with the offence of murder. And that the State Counsel that proffered the advice be joined as an accessory after the fact. The Commission is sorry to say that in other jurisdictions we found the same practice still going on. We, however, did find in one or two jurisdictions such as the Rivers State when Mr. Adokie Amasiemeka was DPP, a correct advice being given and the Commission commended him for that.

i. As Chief Law Officers, Attorneys-General should appreciate the responsibility imposed on them by their high offices while rendering advice to the government especially on issues bordering on life and death. If such advice is rejected, he/she should have the courage to resign. We make this recommendation because the atrocities and human rights violations which occurred during the period under review would not have happened if the Attorneys-General lived up to expectation.

## EPILOGUE

When President Clinton visited Nigeria in 1999 he talked of “a Nigeria worthy of its peoples’ dreams, a new Nigeria which is to be the world’s next great opportunity to advance the cause of peace, justice and prosperity.”

Again in his Inaugural Address to the nation on the 29th day of May, 1999, President Olusegun Obasanjo charged all Nigerians as follows:

“Let us rise as one to face the task ahead and turn  
this daunting scene into a new dawn.”

The Nigerian scene from 1966 to 1999 has been very daunting indeed with many things falling apart including national unity, national loyalty, allegiance and patriotism. Of course, there has to exist a *patrios*; - fatherland; before one can talk about patriotism. The President wants Nigerians to see themselves as Nigerians and to put the interest of Nigeria over and above those of tribes or tongues. All the negative forces of *Fear of Domination, Tribalism, Ethnicity, Son of the Soil versus Stranger Element Syndrome* - all these should give way to “a new dawn of a People United; under one Flag, and bound together by common aspirations of liberty, freedom, justice and peace.” “A New Age of One Nation, One People, One Destiny” with the Culture of Unity in Diversity and of Brotherhood based on one Common Nigerian Citizenship and respect for the human rights of every Nigerian. It is in such a New Nigeria that any Recommendation of this Commission can achieve its purpose of healing and reconciliation, otherwise it will simply be pouring new wine into old bottles.

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Hon. Justice Chukwudifu A. OPUTA, CFR

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Dr. Mudiaga ODJE, SAN, OFR

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Rev. Fr. Matthew Hassan KUKAH

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Barr. Bala NGILARI

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Mrs. Elizabeth PAM, MFR

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Mrs. Modupe AREOLA

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Alhaji Adamu Lawal BAMALLI

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Nu'uman DAMBATA, mni

## VOLUME ONE

### CHAPTER ONE

*By the CHAIRMAN*

**HON. JUSTICE CHUKWUDIFU A. OPUTA CFR,  
JUSTICE EMERITUS SUPREME COURT OF NIGERIA**

*“Ill fares the land, to hast’ning ill a prey,  
where wealth accumulates, and men decay...”*

Oliver Goldsmith *[The Deserted Village]*

1.1 This was the lament of Oliver Goldsmith about “the deserted villages”. In a sense, this Report is also a lament. However, unlike Oliver Goldsmith’s **The Deserted Village,** this particular lament is a lament, not about the disappearance of village life but about the aftermath of military rule in Nigeria and the consequential disappearance and violations of the human rights and essential freedoms of Nigerians. Like Oliver Goldsmith, I can then say:

*Ill fares the land, to hast,ning ill apreya,  
Where might tramples over right,  
And essential freedoms Decay.*

1.2 For much the greater part of the period covered by this Report, Nigeria was under military rule. During this period, most of

our rulers' principal motivation and pre-occupation were not service to country but the accumulation of wealth and personal gratification.

1.3 This personal accumulation of wealth led to the decay of our society. Public and private morality reached its nadir; and the casualties included human dignity, human rights and our basic freedoms. We also experienced institutional and structural decay.

1.4 This Report has attempted to provide an over-view of the extent of our moral, physical and institutional decay under military rule. The proscription and circumscription of our human rights and freedoms under military rule were symptomatic of a much serious malaise, the departure from constitutional or limited government and with it the absence of accountability and transparency in public life. This was the ultimate decay involving the personalization of the governmental process around the military ruler.

1.5 The return to democratic civilian rule on 29 May 1999 provided the opportunity for us to rise above this decay, to break the silence of the past and to forge ahead, determined to lay to rest the ghost of this dark and painful period in our national history.

1.6 But we must be prepared to confront this history, if we are to forge ahead. We need to understand it, even if it means asking unpleasant questions and offering blunt answers. Where did we make the wrong turn? Who was responsible for what? What opportunities did we miss and why? What are the major lessons to be learnt? What do we now need to do to put the past behind us and to look to the

future with renewed hope and patriotic zeal? What are the basic conditions for us to effect national catharsis?

1.7 This is what we have attempted to do in this Report. We have tried to be faithful to our terms of reference and to our mandate, both of which imposed on us the obligation “to review the past;” and to map out or indicate pathways to enable us as a people “redress the injustices of the past; [and] to prevent and forestall future violations...”

1.8 But it was not an easy task. We had to overcome serious obstacles and constraints—some institutional, some organizational, some legal, some cultural, some political, some logistical and financial and some inevitably arising from the very nature of a truth commission like ours. Nonetheless, undaunted and unfazed, we were determined to succeed as we trudged on, albeit indefatigably, in the knowledge that ours was a historic mission.

1.9 We have to confront and resolve a basic paradox in looking at the past: to forget, we have to remember. But remembering the past is one thing and living in the past is another thing. To live in the past is to be a slave to revenge, to retributive recrimination. We must rise above and beyond the pettiness and the social and political paralysis that revenge breeds.

1.10 We have to remember in order to forget, to learn lessons and to forge ahead. In other words, we must know our *terminus a quo* in order to arrive at our *terminus ad quem*. We must build on our bitter and sad past.

1.11 This has been the *raison d'être* as well as the *leitmotif* of our work at the Commission. If this Report contributes, even in the smallest way, to a national *risorgimento*, then our work will not have been in vain.

1.12 We, therefore, hope that the Report will offer a credible perspective on our past, while also serving as a road map for our future. We do not claim that we have said all there is to be said about our past and our future. Much, perhaps, remains to be said, and will be said by present and future chroniclers. This is as it should be, if only because history is forever unfolding itself, as new evidence arises, as new interpretations confront old ones and as the ineluctable march of science brings forth new tools for unscrambling the past.

1.13 The following apt observation by the Most Revd. D.M. Tutu, Chairperson of the *Truth and Reconciliation Commission of South Africa* in the *Foreword* to his Commission's Report, at paragraphs 17-19 of Volume 1 of the Report, underscores this point so well that I quote it *in extenso*:

*"The past...is another country. The way its stories are told and the way they are heard change as the years go by. The spotlight gyrates, exposing old lies and illuminating new truths. As a fuller picture emerges, a new piece of the jigsaw of our past settles into place.*

*Inevitably, evidence and information about our past will continue to emerge, as indeed they must. The Report of this Commission will now take its place in the historical landscape of which future generations will try to make sense-searching for clues that lead, endlessly, to a truth*

*that will, in the very nature of things, never be fully revealed.”*

It has been the privilege of this Commission to explore a part of that landscape and to represent the truths that emerged in the process. And we have tried, in whatever way we could, to weave into this truth about our past some essential lessons for the people of this country. Because the future, too, is another country. And we can do no more than lay at its feet the small wisdoms we have been able to garner out of our present experience.

1.14 A word on our approach to our mandate is pertinent here. In searching for the truth about our past, we tried to adhere scrupulously to the requirements of due process and fair hearing and to the canons of historical and cultural scholarship.

1.15 We provided the platform, through our Public Hearings and Special Sessions, held across the various geo-political zones of the country, for alleged victims and alleged perpetrators of human rights abuses and violations to bare their minds in public. But we were careful not to take their accounts at their face value. We had to devise means of corroborating them.

1.16 We wish to underscore this point, if only to disabuse the minds of critics who accused the Commission of re-opening old wounds by providing this platform. We realize that this is partly a matter of methodology and perspective, regarding how we should unscramble and come to terms with the past.

1.17 We firmly reject the view that we should simply forget the past. As I have already observed in this Foreword, we need to talk about the past, no matter how painful, in order to move ahead and because of the cathartic or cleansing and purifying possibilities it offers, at the individual psycho-cultural level and at the wider community and national levels.

1.18 This is not to deny that public hearings are inherently problematic. For example, during our public hearings in Abuja, Lagos and Port Harcourt, alleged perpetrators of human rights abuses and violations blatantly denied the human rights abuses and violations alleged against them by their victims and families.

1.19 To this extent, it was not possible or easy to extract from some alleged perpetrators the measure of remorse and plea for forgiveness so vital for forgiveness and reconciliation to take place.

1.20 Yet, all is not lost. Public Hearings still have their redeeming aspects. Thus, there are denials, which make no difference to the facts. When so many witnesses from different ethnic and geographical backgrounds allege unlawful arrests, illegal detentions and torture against the same set of persons or security agencies, such witnesses cannot all be lying and the alleged perpetrators cannot all be witnesses of truth. In such situations, the Commission had to read between the lines.

1.21 And, as one witness pointed out, it takes more than human courage to admit one's wrong- doing. And so the Commission found out!

1.22 In trying to discover the truth, we commissioned research teams of lawyers, historians and social scientists to write background papers for the Commission on various aspects of our mandate and terms of reference. The research reports submitted to us have been useful in the preparation of this Report.

Let me now turn briefly to some of the important issues raised and discussed at length in the Report.

### **TRUTH: RECONCILIATION & JUSTICE**

1.23 Public perceptions and expectations about the work and mandate of the Commission varied enormously. But a common denominator was the concern with Justice. In some cases, justice was equated with revenge.

1.24 This is understandable and is not unique to Nigeria. Indeed as is clear from our comparative analyses of the work of truth commissions in Argentina, Chile, Guatemala, South Africa and Uganda in Volume 2 and Volume 5 of this Report, any society that has gone through the trauma of unbridled human rights violations and abuses is invariably confronted with a choice among two options: (a) Revenge and/or Nuremberg-type trials; and (b) Forgiveness and Reconciliation.

1.25 Which option is chosen will depend on what each truth commission is set up to accomplish. Indeed, of the five truth commissions referred to above and analyzed in Volume 2 and Volume 5 of this Report, it was only in the case of Argentina that there were criminal prosecutions of members of the military junta and their collaborators for gross human rights abuses. In the other four cases, Chile, Guatemala, South Africa and Uganda, the aim was for people to know what happened in their respective countries during the dark days of military rule.

1.26 Which option should Nigeria choose? The answer is clear from the Commission's mandate, its terms of reference and the President's Address at the inauguration of the Commission: *Forgiveness and Reconciliation. Reconciliation was the key word in the President's Address. Our quo warranto is the search for this reconciliation.*

1.27 To forgive and to reconcile is not necessarily to deny justice. We should not confuse or conflate justice with prosecution and with criminal or retributive justice. Viewed in the broader perspective of legal theory or jurisprudence as well as moral and political philosophy, reconciliation represents not the antithesis but the triumph of justice.

1.28 Nigeria now has a nascent and fledgling democracy, with all its imperfections and teething problems. Managing the transition from military to democratic civilian rule requires deft and dexterous navigational skill to avoid land mines and treacherous waters. To manage the transition successfully and to consolidate it may require

that we sacrifice criminal justice for the higher moral imperative of reconciliation and to avoid the trauma, anguish and pain criminal prosecution will give rise to.

1.29 In short, Recrimination and Revenge are, have always been and will forever be, poor chisels with which to hue out of stones of reconciliation, unity and peace.

1.30 If we try, we can achieve reconciliation and the onus is on all of us to try and do so. We are encouraged in this respect by our own experience on the field during the Public Hearings in reconciling warring communities. One or two examples will suffice.

1.31 During our sessions in Lagos, Lagos State, we reconciled the quarrelling communities of Maroko Village. We also recorded our first major break-through when the warring Ife and Modakeke communities in Osun State signed a Memorandum of Understanding and a Joint Declaration (see appendix to the report pledging to live in peace and harmony and to adopt only peaceful means in pursuing their respective rights and entitlements. It was unfortunate that the media did not give the Ife/Modakeke reconciliation the prominence it deserved.

1.32 During our session in Port Harcourt, Rivers State, the Commission succeeded in brokering a Peace Accord among the warring factions and groups in Ogoniland. In particular, we managed to unite and amalgamate the **Ogoni Four** and the **Ogoni Nine** into the **Ogoni Thirteen**. As the New Nigerian Editorial of Friday, 16th February 2001 observed,

*“The Peace Accord signed by the warring factions in Ogoniland...will go down in the sociopolitical development of this country as one of the landmark achievements of the Human Rights Violations Investigation Commission.”*

1.33 While I do not wish to over-dramatize or generalize from these examples, what needs emphasis is that unless we try, and try, we cannot even start the long journey to national reconciliation, and maintain its momentum. The flashpoints of communal unrests in our country constitute albatrosses around our necks. Let us with the crossbow of the Commission shoot down each albatross in the interest of the peace and unity of our country and for the sake of the survival of our nascent democracy. Let us all adhere to the message of our 1960 national anthem:

*“...Though tribes and tongues may differ, in brotherhood we stand... Nigerians all”*

1.34 The President’s Address at the inauguration of the Commission made repeated references to *Our Nation; Our Land; and Our Country*. These references presuppose a common citizenship and the existential reality of an historical as opposed to a geographical entity called *Nigeria*.

1.35 Yet Petition No. 1648 submitted to the Commission by Oha-na-eze Ndigbo and the responses to it by the Arewa Consultative Forum, the Joint Action Committee on the Middle Belt, the Afenifere, the South-South and the Government of Rivers State, Ogbakor-Ikwere Convention provide telling illustration of how divided we are as a country and of how suspicious and afraid we are of one another.

1.36 What is also clear from this is that the various ethno-communal groups in the country, including the major ones, complain of marginalization in the scheme of things.

1.37 I cannot address the issue of citizenship and marginalization in this Foreword other than to observe that they are central to the consideration of human rights as group, ethno-cultural, ethno-religious or collective rights as well as to the foundations of federalism in the country, going as far back as the mid-1940s and the fears of domination expressed by minority ethnic groups in the penultimate years of the decolonization process in our country.

1.38 As one of our research teams pointed out, quite correctly, our national experience with federalism shows that the problem of marginalization is at the bottom of minority ethnic group fears of the curtailment or violation of substantive human rights—the right to self-determination, the right to the promotion of their cultural rights, and their citizenship rights, especially the right to equitable participation in the cultural, economic and political life of the country.

1.39 Under simple majoritarian, first-past-the-post competitive democratic electoral processes, and much more so under authoritarian regimes ethnic minorities all too easily find themselves excluded by the structure of power and the rules of the electoral process, making them less competitive and denying them access to the State and its enormous patronage.

1.40 A refreshing and confidence-building fall-out from the work of our Commission is the raising of the issue of minority rights as a core dimension of gross human rights violations and bringing it on the agenda of national debate. In this way, such public consciousness may engender well-thought out remedial public policies and constitutional guarantee of minority rights, thereby facilitating national reconciliation.

1.41 These interrelated citizenship aspects of our constitutional and political history—their origins and trajectories, and how best to confront them at the constitutional and policy levels are extensively covered in Chapters Two and Three of Volume One, and in Volumes Three and Seven.

1.42 I only wish to observe here that we need to distinguish between marginality, which is a self-imposed constraint to full citizenship participation, and marginalization, which is imposed from the outside by wielders of political and economic power and is therefore historically deep-rooted and structurally-determined.

1.43 While marginality can be redressed by affirmative-type action, consistent with the federal character clauses of the 1999 Constitution of the Federal Republic of Nigeria, the problem of marginalization is best solved by the political restructuring of our federal system of government, underlined by equitable and fair resource allocation and distribution.

## **PROFESSIONALISM, LOYALTY AND THE CULT OF THE HEAD OF STATE**

1.44 The military is a great and ancient profession, which requires appropriate demeanor and exemplary standard of conduct, encapsulated in the expression professionalism. Yet professionalism in the military, as was clear in various testimonies before us, even by senior military officers, and as established in some of the Volumes of this Report, particularly Volumes Four and Five, has been a casualty of military rule in the country, further evidence of the institutional decay I referred to earlier in this Foreword to the Report.

1.45 One unfortunate dimension of this decay is what I refer to as the cult of the Head of State. If and when the Head of State is elevated to the State and made coterminous with the State, then the cult of the Head of State is created. The personal ambitions of the Head of State, his or her fears and apprehensions; his or her enemies, real or imagined, become matters of State interest and concern, deserving State intervention and state protection, and as borne out by the evidence before us necessitating State-sponsored assassinations, murders and “disappearances.”

1.46 Some examples in testimonies before us of this conflation of the State with the persona of the Head of State are pertinent.

1.47 In his evidence before the Commission, Major Al-Mustapha emphasized that he had subscribed to an oath “to protect the Head of State and his family as well as the Seat of Government, even if this calls for my making the supreme sacrifice.” General Sabo also said in his evidence that the Head of State is but an extension of the State.

1.48 These are troublingly menacing views, which if concretized and carried to their logical conclusion may create practical difficulties. There must be a difference between the State and the Head of State. The Head of State is but a functionary of the State, and not the State itself. This is made clear in the Presidential Oath in the Seventh Schedule and in the impeachment provisions of the 1999 Constitution of the Federal Republic of Nigeria.

1.49 Unfortunately, our various military rulers, like all dictators, were unable to draw this distinction between themselves and the State. Their intelligence outfits danced to their tune and their agents also saw themselves as beyond and above the law. This led to the hounding of journalists and those who criticized their administrations and policies. Intellectuals and human rights activists, among other critics of military rule, were arrested and jailed, without recourse to due process, in the so-called interest of State security.

1.50 This attitude was also reflected in the protection given to oil companies, which supplied the much of the needed oil revenue to various military administrations. Their interests became “State interests,” which must be protected. This logically led to the systematic and generalized violations and abuses, which occurred in the Niger-Delta during the dark period of military rule in the country, as detailed in Volumes One, Three and Five of this Report.

1.51 I find it instructive to say a further word about the cult of the Head of State, in the context of our experience with military rule

and the institutional and moral decay I referred to at the beginning of this Foreword.

1.52 Military rule is absolute rule. It subverts and undermines the institutions of the State, imperceptibly initially but surely and gradually. It leads inevitably to moral and political corruption, alongside the decay of time-honoured loyalties and values as well as institutional decay. In due course and as a manifestation of this deepening decay, cruelty and murder become norms of governance. Good faith and truthfulness become childish scruples while force and craft become the keys to success. Selfishness, naked and unadorned, need only succeed to supply its own justification.

1.53 This sums up the character and odious dimension of military rule in the country, as elsewhere. The fall-out, in our case, was the gross violations of the human rights of Nigerians, which are enumerated and elaborated upon in this Report, particularly in Volumes Two, Four, Five and Six.

### **THE NON-APPEARANCE OF 3 FORMER HEADS OF STATE AND OTHER TOP GOVERNMENT FUNCTIONARIES**

1.54 The non-appearance of three former Heads of State and a number of former top government functionaries, when summoned by the Commission, put to test the theory that in a democracy all men are equal before the law, that the rule of law and not the rule of man should prevail. In addition to not appearing, these former Heads of State filed civil actions challenging the Commission.

1.55 The former Heads of State are: Generals Muhammadu Buhari, Ibrahim B. Babangida, and Abdulsalami Abubakar. The former top functionaries are: Colonel Halilu Akilu and Lt-Colonel A.K. Togun.

1.56 Many in Nigeria and, indeed, in the international community, wondered why these highly placed Nigerians, who had held high public office, refused to appear and testify in person before the Commission.

1.57 Although the Commission had the power to issue warrants for their arrest, it refused to do so, in the over-all interest of national reconciliation.

1.58 The spirit of the Commission's mandate and terms of reference are implicitly both against impunity. For impunity makes social reintegration, rehabilitation and reconciliation difficult. It represents the triumph of might over right.

### **APPRECIATION**

1.59 I must express my delight at the *esprit des corps* with which we worked together as members of the Commission. It shows that, when all is said and done, there are innumerable Nigerians who apply themselves to work conscientiously and with dedication.

1.60 We thank the President, Chief Olusegun Obasanjo (GCFR) for the opportunity given to us to serve this country and the confidence reposed in the members of the Commission.

1.61 Our gratitude also goes to the Honourable Ministers of Justice and Attorney-General of the Federation, first Hon. Mr. Kanu Agabi(SAN), then the late Hon. Bola Ige(SAN) and, then again Hon. Kanu Agabi, for the keen interest they showed in our work and, more specifically, for their support. We regret and are saddened by the assassination of Chief Bola Ige(SAN) and wish his equally eminent wife and family the continued guidance and Grace of God.

1.62 We thank the Secretary to the Government of the Federation, Obong Uffot Ekaete for his understanding and support.

1.63 In the same vein, we thank all the government departments and their staff at federal, state and local government council levels for facilitating our work, whenever we needed their assistance.

1.64 No less important and encouraging has been the keen interest shown in our work by a number of foreign missions and international governmental organizations. We particularly thank the Ford Foundation for their immense financial support throughout the duration of the Commission's assignment. Our gratitude also goes to CDD, IDEA, British Council and German Embassy for their support.

1.65 We thank the various national and international non-governmental organizations that worked closely with us, providing useful insights into the nature of human rights abuses in the country.

1.66 Our work would have been much more difficult and tedious but for the cooperation we received from all those who submitted

memoranda and petitions and all those who testified before us. We thank them all.

1.67 We owe special gratitude to the electronic and print media for highlighting our work and bringing our deliberations, especially the public hearings to the attention of millions of our people.

1.68 We were fortunate to have had a good team of researchers and resource persons, who worked with us. To them, we say a big thank you.

## CHAPTER TWO

### ORIGIN OF THE COMMISSION

#### HISTORICAL AND POLITICAL CONTEXT

2.1 Many factors, both remote and immediate, contributed to the establishment of the Commission, initially as ***The Human Rights Investigation Panel*** but later as ***The Judicial Commission for the Investigation of Human Rights Violations*** (in Nigeria).

2.2 Formally inaugurated on 14 June 1999 by the President of the Federation, its establishment should not be seen in isolation from critical trends and developments, and the social forces impelling them, in Nigeria and in international society over the past several years.

2.3 The significance of the Commission, as an episode in Nigeria's political and constitutional history, lies in the fact that, against the background of historically deep-rooted contradictions generated by the dialectics of conflict and cooperation among the various peoples and social movements in the country, dating back to pre-colonial times, its establishment was an attempt to lay the groundwork for an enduring and sustainable peace and development in the country, founded on the concepts and principles of human rights, equality, justice and reconciliation.

2.4 It is this consideration that informed the methodology of the Commission in approaching its mandate. This is because it is

necessary to go beyond the more immediate reason for the establishment of the Commission, which is primarily to investigate various dimensions of cases of gross human rights violations in the country between 15 January 1966 and 28 May 1999 in order to determine their nature and extent, and their perpetrators and the victims.

2.5 This task is best undertaken through perspectives that seek the root causes of human rights violations and abuses in the country in more historically deep-rooted cultural, political and socio-economic sources than the country's recent or postcolonial political and constitutional history would unravel. This is why it is important to distinguish between the remote or *predisposing* causes and the immediate or *precipitating* causes of human rights violations or abuses in the country, and, therefore, of the reasons for the establishment of the Commission.

## **REMOTE CAUSES**

2.6 As the various research reports and other documents (petitions etc) submitted to the Commission show, while there were indications of cooperation and integration among the various peoples and communities in pre-colonial and colonial Nigeria, as well as political institutions that set premium on accountability, participation and responsibility in governance, there were also cultural and political norms, practices and institutions as well as economic institutions which entailed human rights violations and abuses, aggravating and deepening latent animosities and conflicts between the various communities and alienating individuals from the political system.

2.7 Colonial rule, itself manifestly authoritarian and exploitative, was founded as much on an underlying policy of *divide and rule*, which created fissures and encouraged animosities and unhealthy rivalry among the various communities in the country, as on a policy of arbitrary rule which, by its inherent nature, substantially and *substantively* denied the human rights, particularly the civil, economic and political rights, of Nigerians.

2.8 To this must be added the pattern and form the decolonization process in the country assumed, the social character of the inheritance political elite to whom political power was transferred by the colonial power, and the structural imbalance created by the contrived federal system inherited at independence.

2.9 In short, the long-term effect of the decolonization process in the country was to aggravate and ignite the latent but combustible centrifugal forces and tendencies in the country.

2.10 This is so for two fundamental reasons. First, the decolonization process did not provide a lasting solution to the fears of minority ethnic groups and their demand for self-determination and self-government. The on-going political crisis in the Niger-Delta, characterized by raging protest by social movements and the unleashing of state-sponsored violence and repression in reprisal, finds its deep-roots in the country's colonial politics.

2.11 Secondly, and more significantly, the character of the decolonization process in the country gave rise to a political party system, which placed premium on the crass mobilization of ethnicity for competitive electoral politics by the three major ethnic-based

political parties in the country, the *Northern Peoples' Congress (NPC)*, the *National Council of Nigerian Citizens (NCNC)* and the *Action Group (AG)*, ineluctably leading to the demise of the First Republic and the imposition of military rule on the country.

2.12 It cannot be overemphasized that military rule, as a form of *usurpation and arbitrary rule, maintained and sustained by violence*, is a fundamental breach of the political and civil rights of Nigerians to determine their rulers through the competitive electoral process, on the basis of *constitutional government and the rule of law*, as enshrined in the 1960, 1963 and 1979 Nigerian Constitutions.

2.13 *To sum up the remote causes: the establishment of the Commission must be seen in the broader historical compass of social forces and cultural and political practices that run historically deep in the social fabric of the country, providing an underlying stream from which flowed current practices that continue to pose a threat to good governance and sustainable development in the country and to the promotion and protection of the fundamental human rights of Nigerians.*

### **IMMEDIATE CAUSES**

2.14 The immediate causes of the events leading to the establishment of the Commission are complex and multifaceted, and can be dated to the collapse of the First Republic on January 15, 1966, although they are also intricately bound up with the remote causes. These immediate causes do not exist or arise *in vacuo*.

2.15 The onset of military rule, the prosecution of the Nigerian Civil War (6 July 1967 to 12 January 1970) and the partisan use of the state, especially the civil service, by various civilian and military

administrations in the country, to pursue and implement public policies, which favour some ethnic groups at the expense of other ethnic groups, spawned a political climate of marginalization, intolerance, intimidation and repression. This contributed in no small measure to political instability and the recurrent incidence or manifestation of human rights abuses and violations in the country.

2.16 This much is evident in the research reports, in other documents like petitions submitted to the Commission, and in oral submissions and evidence at the Commission's public hearings.

2.17 The incidence of human rights abuses and intimidation reached its apogee under the three different military administrations of General Muhammadu Buhari, General Ibrahim Babangida and General Sani Abacha, which ruled the country between January 1984 and June 1998.

2.18 The annulment of the June 12, 1993 presidential elections represented the high watermark in the arbitrariness and human rights violations that characterized military rule during this period.

2.19 So also were the torture, political assassinations, attempted political assassinations, judicial murder and other forms of state-sponsored violence, which were allegedly designed as instruments of state policy to create a siege mentality among the citizenry, but more particularly to silence pro-democracy activists and other opponents of the military regime, under the administration of General Sani Abacha.

2.20 *If military rule was arbitrary, involving gross human rights violations, it also gave rise to determined opposition from pro-democracy activists and the civil society, generally, in the country, especially during the twilight of General Abacha's administration.*

2.21 *It is in the struggle against military rule that the more immediate origin of the Commission is to be sought, for the democratic struggle kept the issue of arbitrary rule and state-sponsored violence, exemplified in many cases by gross violations and abuses of human rights, on the agenda of political discourse in the country and as a recurring and festering problematic aspect of military rule that must be confronted and for which, it is demanded, the military leadership and culpable state functionaries must ultimately be held accountable.*

2.22 The transition to constitutional government, under democratic civilian rule, and from the repressive and authoritarian rule of the military was, therefore, problematic in one significant respect: the transition would be incomplete, traversing rough and difficult terrain, if the past was not confronted, if *alleged perpetrators* and their *alleged victims* were not given an opportunity to provide their own testimonies, with a view to achieving national reconciliation and a sense of justice, without revenge. In this way, "confronting the past [is] building the future," to paraphrase an expression used to characterize the mandate of South Africa's Truth and Reconciliation Commission.

2.23 It is in this desire to confront the past, arising out of the opportunity provided by the 29 May 1999 democratic transition, so as to lay the foundations for building the future, that the immediate origin of the establishment of the Commission is to be found.

2.24 Indeed, one of the earliest calls for a Nigerian equivalent of a truth commission was voiced by Professor Sam Egite Oyovbaire, former Federal Minister of Information and Culture, under the administration of General Ibrahim Babangida, at the maiden annual *Champion Newspaper Better Society Lecture Series* on July 17, 1997.

2.25 Professor Oyovbaire had argued in that lecture that, *“I believe that sooner rather than later, the nation will need a purgative response to the June 12 [1993] quandary. My thoughtful suggestion is for a future establishment of a body akin to the South African Truth and Reconciliation Commission...a very serious judicial commission preferably called the National Commission for Truth, Justice and Reconciliation, and to which all actors-individuals and groups-can be compelled to confess or testify to their various roles in the annulment of the June 12, 19993 presidential election...I believe that if [such a commission is] properly, openly and transparently conducted, the cause of democracy and of national integration and economic development will be highly served for the benefit of nation-building and constitutional governance.”*

## **THE EXTERNAL DIMENSIONS**

2.26 It is trite but not trivial to observe that the world is now a global village and that domestic politics is so much bounded and affected by external forces and influences.

2.27 Therefore, in locating the sources of the origin of the Commission, it is instructive to refer, in a generalized way, to recent trends and developments in international law and international politics that provide the justification and the model for the establishment and the *modus operandi* of the Commission.

2.28 At the philosophical-legal and theoretical levels, these trends and developments pertain to changes in the concepts of *the state and of rights, which derogate from national sovereignty, subjecting it to a new concept of supranational sovereignty and accountability to humanity.*

2.29 What this also indicates, at the philosophical level, is the need to revise the emphasis in *philosophical liberalism, and its political form, liberal democracy, and its economic correlate, the market, on the discreet individual, on possessive individualism, to take account of other than individual rights, by conferring justiciable status and recognition to collective group rights, like ethno-religious rights, children's rights, workers' rights, rights of refugees and other displaced persons, and women's rights, among others.*

2.30 These trends and developments in political philosophy, international law and jurisprudence, as well as in international politics, as well as the experience of such counties as *Argentina, Chile, El Salvador and South Africa* in constituting analogous commissions, had an indirect bearing on the form the establishment of the Commission assumed and in the Commission's perspective towards, and understanding of its terms of reference and mandate.

2.31 *To sum up the immediate causes: the establishment of the Commission was an attempt to come to grips with developments in Nigeria's recent political history— its colonial inheritance; the collapse of the First Republic; the descent into and prosecution of the country's civil war; the inherent violent and arbitrary logic of military rule, especially between January 1984 and May 1999, involving the use of public policy*

*to favour particular ethnic groups and to disempower other ethnic groups; the annulment of the June 12, 1993 presidential elections; the use of political assassinations, torture and judicial murder as allegedly deliberate instruments of state policy to eliminate and harass regime opponents and pro-democracy activists; the democratic struggle against military rule in the country; the need to confront the past in order to build the future on a durable, non-vengeful basis; and trends and developments in international society which, while prescriptively universalizing human rights, also criminalize their gross violations, making rulers and perpetrators of such violations accountable to international society.*

## **ESTABLISHMENT, INAUGURATION AND MANDATE OF THE COMMISSION**

2.32 Initially titled ***The Human Rights Investigation Panel***, the establishment and composition of the re-named panel as ***The Judicial Commission of Inquiry for the Investigation of Human Rights Violations*** (in Nigeria), immediately after the new democratically-elected civilian administration of President Olusegun Obasanjo assumed office, underscored the administration's principled conviction and, indeed, the general feeling in the country that it was imperative as a matter of urgent and pressing public policy to investigate, in the words of President Obasanjo at the inauguration of the panel on 14 June 1999,

*“the wounds of the past and quickly put the ugly past behind so as to continue to stretch our hands of fellowship and friendship to all Nigerians for complete reconciliation based on truth and knowledge of the truth in our land.”*

2.33 If the aim of establishing the Commission was to restore confidence in government, it was also to achieve the utilitarian purpose of helping the country, in the words of President Obasanjo,

*“to scale over an unprecedented wicked and oppressive era in our history and [to] propose measures for such an era not to repeat itself.”*

2.34 *Instrument No. 8 of 1999*, which constituted and appointed the Commission and its members under powers conferred on the President by Section 1 of the Tribunals of Inquiry Act was amended effective 4 October 1999, to reflect changes in the membership and Terms of Reference of the Commission.

#### **COMPOSITION OF COMMISSION**

2.35 The membership of the Commission was made up of the following distinguished and eminent Nigerians, with rich experience in public affairs:

Hon. Justice Chukwudifu Oputa (rtd)	.....	Chairman
Dr. Mudiaga Odje, SAN, OFR	.....	Member
Rev. Mathew H. Kukah	.....	Member
Barr. Bala Ngilari	.....	Member
Mrs Elizabeth Pam	.....	Member
Mrs Modupe Areola	.....	Member
Alhaji Lawal Bamali	.....	Member
Mr. N.B. Dambatta mni	.....	Secretary

## **TERMS OF REFERENCE**

2.36 The Terms of Reference of the Commission were to:

- “(a) ascertain or establish the causes, nature and extent of all gross violations of human rights committed in Nigeria between the 15<sup>th</sup> day of January 1966 and the 28<sup>th</sup> day of May 1999;*
- (b) identify the person or persons, authorities, institutions or organisations which may be held accountable for such gross violations of human rights and determine the motives for the violations or abuses, the victims and circumstances thereof and the effect on such victims and the society generally of the atrocities;*
- (c) determine whether such abuses or violations were the product of deliberate State policy or the policy of any of its organs or institutions or whether they arose from abuses by State officials of their office or whether they were acts of any political organisations, liberation movements or other groups or individuals;*
- (d) recommend measures which may be taken whether judicial, administrative, legislative or institutional to redress injustices of the past and prevent or forestall future violations or abuses of human rights;*
- (e) make any other recommendations which are, in the opinion of the Judicial Commission, in the public interest and are necessitated by the evidence;*
- (f) to receive any legitimate financial or other assistance from whatever source which may aid and facilitate the realisation of its objectives.”*

2.37 The Commission was statutorily required:  
“to submit its interim reports to [the President] from time to time but shall, in any case, submit its final report not later than one year from the date of its first public sitting or within such extended period as may be authorised by [the President] in writing.”

#### **AMENDMENTS IN COMPOSITION AND TERMS OF REFERENCE**

2.38 Four members who were initially appointed to serve on the Commission were replaced for various reasons. The members replaced were Abubakar Ali Kura Michika (Member), Mallam Mamman Daura (Member), Dr. Tunji Abayomi (Member), and Mr. T.D. Oyelade (Secretary). They were replaced by Dr. Mudiaga Odje, SAN, OFR (Member), Barrister. Bala Ngilari (Member), Alhaji Lawal Bamali (Member) and Mr. N. B. Dambatta, mni (Secretary)

2.39 The amended instrument re-named the Panel as ***The Judicial Commission of Inquiry for the Investigation of Human Rights Violations***. It also contained amendments to the initial *Terms of Reference* of the panel. The amendment was at the instance of the Panel, which had asked the President to consider upgrading the Panel into a *Human Rights Abuses and Reconciliation Commission*, with powers to command and enforce the attendance of witnesses.

2.40 The more significant of such amendments are:

- (i) the reference in terms of reference (a) and (b) in the amended instrument to “gross violations of human rights...,” as opposed to the more specific reference to “...all known or suspected cases of mysterious deaths and assassinations or attempted assassinations...” in terms of reference (i) and (ii) in the original terms of reference;

- (ii) the stipulation, in term of reference (a) of the amended instrument, of the period to be covered by the Panel ( later ) Commission to be “between the 15<sup>th</sup> day of January 1966 and the 28<sup>th</sup> day of May 1999,” as against the stipulation in term of reference (i) in the original terms of reference to the period “since the last democratic dispensation in the country”;
- (iii) the addition of terms of reference (e) and (f), which were not in the original terms of reference, to the amended instrument;
- (iv) the absence in the original terms of reference of the requirement, contained in the amended instrument, for the Panel/Commission to submit interim reports and to submit its final report “not later than one<sup>th</sup> year from its first public sitting or within such extended period as may be authorized by [the President] in writing.”

### **COMMISSION’S POWERS AND MANDATE**

2.41 The Panel’s/Commission’s Terms of Reference define the scope and extent of its powers, functions and responsibilities, in the broader and limiting context of the instrument, *The Tribunals of Inquiry Act*, used in establishing it.

2.42 The address by the President, Commander-in-Chief of the Armed Forces and the Opening Remarks of the Chairman, both given at the formal inauguration of the Panel on 14 June 1999, provide amplification of the powers and mandate, as well as the expectations that informed the establishment of the Panel, and the direction it would take in approaching its mandate and objectives, and in exercising its powers and functions.

2.43 The address of the President emphasized his administration's determination to:

- pursue “a policy of openness and transparency in the conduct of Government business”;
- heal “the wounds of the past, ...to put the ugly past behind...”;
- “...achieve complete reconciliation based on truth and knowledge of the truth in our land,” and
- reconcile “the injured and seemingly injured with their oppressors or seeming oppressors.”

2.44 The mandate of the Panel/ Commission was primarily a *fact-finding one*, namely to investigate the causes, nature and extent of gross violations of human rights in the country between 15<sup>th</sup> January, 1966 and 28<sup>th</sup> May 1999, to determine the persons, authorities and institutions to be held culpable of such violations and their motives in doing so, as well as the effect of such violations on their victims, and to determine whether such violations were part of deliberate State policy or the policy of any of its organs.

2.45 To enable it pursue this mandate, the Panel/Commission was given “full powers and authority to hold public hearing but without prejudice to the exercise of powers conferred under proviso to section 1(2)(d)” of the *Tribunals of Inquiry Act*.

#### **THE COMMISSION'S ELABORATION OF ITS MANDATE**

2.46 The Opening Remarks of the Chairman at the formal inauguration of the Panel outlined the Commission's own perspective towards and understanding of its mandate and powers. The remarks indicated that the Panel's/Commission's mandate would be related to relevant provisions in the 1999 Constitution of the Federal Republic of

Nigeria and that the Panel/Commission would take a flexible and broad, as opposed to a narrow construction of its mandate and powers. It would see its assignment as using the instrumentality of the law to effect social change in the country.

2.47 To this end, the remarks interpreted the Panel's/Commission's mandate and powers in three significant ways.

- (a) Taking up the President's assignment of a central role to the work of the Panel/Commission in the process of national rebirth and reconciliation the administration had embarked upon, the Chairman directed attention to the need to consider the interrelated issues of possible *reparations (compensation) for victims, and of forgiveness (amnesty) for perpetrators of gross human rights violations*, when he referred to the need not only "...to make reparations where possible..." but also "...for forgiveness of offenders in the overall interest of the future of this great country."
- (b) The Chairman's Opening Remarks, in relating the terms of reference of the Panel/Commission to the Constitution of the Federal Republic of Nigeria, also underlined the universal dimensions of the mandate of the Panel/Commission. This was evident in his reference to the relevance of such international documents as the *United Nations Universal Declaration of Human Rights and the OAU African Charter on Human and Peoples' Rights*, to which Nigeria has subscribed, and of the work of the South Africa's *Truth and Reconciliation Commission* to the Panel's/Commission's assignment.
- (c) The Chairman related the concept of [human] *rights* to kindred and *contested* philosophical concepts like *justice, liberty, equality, fairness, democracy and freedom in the broader context*

*of their relationship to law, peace, security and sustainable development (what he calls, “prosperity and plenty”), as the core foundational building blocks of “the new dawn in Nigeria.”*

2.48 The Chairman saw in *South Africa’s Truth and Reconciliation Commission* a model, in requesting, as we have indicated in an earlier paragraph of this chapter, that the panel be upgraded into a

*“Human Rights Abuses and Reconciliation Commission [which] will allow for genuine confessions of guilt; and for forgiveness of offenders in the overall interest of the future of this great country.”*

2.49 The assumption in the request, informed by the South African experience, was that, in appearing before the Commission, alleged perpetrators and alleged victims of gross human rights abuses would both have the opportunity to “unburden their hearts,” and that their testimonies would expectedly have a psychologically therapeutic and re-integrative impact (in an individualistic as well as a collective sense) not only on them but also on the nation, thereby facilitating the national healing and reconciliation process, by allowing “*the truth*” to be told and disclosed in public.

### **CONCEPTS AND PHILOSOPHICAL FOUNDATIONS**

2.50 The mandate of the Commission derives its force and relevance not only as a matter of practical, instrumentalist public policy (nation-building) concern but also, and equally important, from the connection between philosophy, especially moral and political philosophy, on the one hand, and governance and public policy, on the other hand.

2.51 This connection between philosophy and governance (i.e. public policy) arises out of the fact that philosophy provides the ethical values and organizing ideas or principles, *the conceptual maps*, deriving from explicit assumptions about human nature and the conditions for the good life, on which governance as a form of *hypothesized social contract or covenant* is consummated to bind or weld the *covenantal parties*.

2.52 Philosophy, therefore, provides an ethical yardstick or standard by which to judge, compare and express preferences among forms of government and political systems, on the basis of how they define and construct the substantive rights and duties of citizens, and how they prescribe the relationship of the governors to the governed, and of the citizens to one another.

2.53 The promotion and protection of human rights becomes a public policy imperative under political systems and legal institutions built upon the foundation of such ideas and principles as *citizenship, tolerance, accountability and limited government or limits on the authority of the state*, which derive basically from *philosophical liberalism and its various modifications*.

2.54 However, *philosophical liberalism* also provides the *ethical justification* for resistance to authoritarian, tyrannical or oppressive rule by utilizing the idea of *rights and its correlative obligations* to mediate possible conflict between the authority of the state and the autonomy of the individual.

2.55 This mediation flows from the nature of the presumed or hypothesized social contract which philosophical liberalism postulates between the governed and their governors.

2.56 The contract rests on a reciprocal obligation between the state and citizens, based on the duty to respect the law and the authority of the state by the citizens on the one hand, and the duty or obligation not only of government but also of the citizens, in respect of one another, to act in accordance with the principles of fairness and respect.

2.57 The intellectual development and the core assumptions of philosophical liberalism are much more complex than have been summarized above. What needs emphasis here is that concern with the promotion and protection of *rights as such* assumes particular significance in the context of a world-view or philosophical outlook based on *philosophical liberalism* and its radicalized contending variants or modifications, such as are to be found in *social democracy and socialism*.

2.58 In short, *philosophical liberalism* provides the basic concepts around which the mandate as well as the work of the Commission is best understood, namely *human rights, justice, responsibility and accountability, truth, equality, reparations and reconciliation*.

2.59 In what follows, we provide a capsule account of the core meaning of the concept of human rights and its relevance to the mandate and work of the Commission.

## **HUMAN RIGHTS**

2.60 The intellectual development of the notion of *human rights* is a clear testimony to the impact of philosophy on public policy and political behaviour, bound up as it is with the time-honoured struggle against tyrannical rule and social and cultural intolerance. This is reflected in its emphasis on *human solidarity*, *social justice* and *the amelioration of human suffering*. Its shifting meaning, practical elaboration in political institutions and in constitutional law and jurisprudence, as well as the controversies it has elicited over the years, point to its strong connection with the *rule of law* and with the pursuit of human freedom and political toleration.

2.61 The legal and political framework of human rights derives, historically, from what has been described as “*the language of rights*,” which emerged out of the *United States Declaration of Independence* (1776) but more especially from the *French Declaration on the Rights of Man and the Citizen* (1789) which asserted the claims that

“*men are born and remain free and equal in rights*,”

and that,

“*...the natural and imprescriptible rights of man...are Liberty, Property, Safety and Resistance to Oppression.*”

2.62 Human Rights, then, as postulated in this language of rights, belong to human beings as such. They are “natural,” in the sense that they are not rights granted by the state or government, which can withdraw them or abuse them, at will. Historically, they have emanated as claims and entitlements, which are asserted against the state, as part of the struggle for political emancipation and political inclusiveness or broadened political participation.

2.63 These rights are now expressed and embodied in legal documents, although such rights as originally conceived and interpreted excluded children, women and blacks and other non-whites, like Indians, mulattos and coloureds, who are viewed as minors or non-human beings, undeserving of the rights extended to human beings.

2.64 It was not until the end of the Second World War and the establishment of the United Nations, as successor to the League of Nations, that *human rights as a new type of rights, came into use to denote fundamental rights which are universal rights, to which all peoples, human being as such, are entitled by virtue of their humanity.*

2.65 This concept of human rights has been variously elaborated, expanded and incorporated into national legal systems and constitutions by international agreements, which, among others, include *the United Nations Universal Declaration of Human Rights, the United Nations Charter, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Optional Protocol, the European Convention on Human Rights, the African Charter of Human and Peoples' Rights, the Arab Charter on Human Rights, and the various United Nations conventions and treaties on Racial Discrimination, Torture, the Rights of the Child, Discrimination Against Women, and the Rights of Migrant Workers.*

2.66 Three features of this elaboration are noteworthy, with respect to the mandate of the Commission “to address all issues that tend to bring our country into dispute, or perpetuate injustice, conflict and the violation of human rights.”

2.67 Firstly and typically, these international agreements underscore not only the philosophical foundations of rights, their universality and their equality of application but also the growing view or near consensus that cultural, social and economic rights, like the right of ethnic minorities, the right to education, the right to work and the right to participate in the cultural life of one's society are as important as such civil and political rights as freedom of assembly, freedom of thought and freedom of assembly.

2.68 Secondly, the acceptance of the universality, promotion and protection of human rights by the international community has made it practically difficult for states and regimes to claim a *domaine reserve*, which excludes the investigation of their domestic human rights practices and violations by the international community. Governments and political leaders are now accountable to the international community as well as to their own citizens for gross violations of human rights and crimes against humanity like war crimes, genocide, ethnic cleansing and the deliberate starvation of segments of a country's population for political ends.

2.69 Thirdly, human rights are now construed flexibly not simply as an end in themselves but as a central and critical dimension of peace, security, development within both national and international society, and offering the yardstick for determining the legitimacy and performance of governments.

#### **WHAT ARE GROSS VIOLATIONS OF HUMAN RIGHTS? GENERAL**

2.70 The Commission is empowered by its terms of reference to "ascertain or establish the causes, nature and extent of all gross

violations of human rights committed in Nigeria between the 15<sup>th</sup> day of January 1966 and the 28<sup>th</sup> May 1999.”

2.71 The term ‘*gross violations of human rights*’ is neither defined nor described in the enabling instrument establishing the Commission. In attempting to formulate a working definition or at least an objective description of the term, ‘gross violations,’ we considered the following factors:

- (a) The nature of the petitions received by the Commission.
- (b) The definition of “gross violations” by the South African Truth and Reconciliation Act of 1995.
- (c) Nigerian domestic legislation and International Conventions.

2.72 On the basis of our consideration of these factors, we decided to categorize as possibly falling under gross violations of human rights the following cases: (a) murder/assassination cases; (b) severe physical/mental torture cases; and (c) cases of sustained or continued denial of the rights of ethno-communal groups people, like the Ogonis.

2.73 These various cases involve claims to *the three basic human rights to life, to personal liberty and to human dignity*.

## **WHAT ARE GROSS VIOLATIONS OF HUMAN RIGHTS?**

### **NATURE OF PETITIONS RECEIVED**

2.74 The Commission received more than ten thousand petitions from the public, most of which fell under one or more of the following broad categories:

- (i) Murder/Assassination.
- (ii) Abduction.

- (c) Torture.
- (d) Harassment and Intimidation.
- (e) Prolonged Detention (with or without trial).
- (f) Employment related cases.
- (g) Contractual and business related cases.
- (h) Attempted Assassinations.

2.75 The criteria for selecting cases to be heard in public were arrived at after consideration of *(a) the nature of the right involved; (b) the extent or degree of the infringement or violation.*

2.76 With respect to the nature of the rights involved, it emerged from a cursory examination of the petitions that they involved claims to or assertions of three basic rights, which are entrenched in municipal and international law, namely: *(a) the right to life; (b) the right to personal liberty; and (c) the right to dignity of the person or human dignity.*

2.77 Where the examination of a petition reveals an allegation of the infringement or violation of any of these three basic rights, the petition was further examined to see if the term “gross,” which connotes the extent or degree of the violation or infringement, is appropriate to describe the infringement or violation.

2.78 In this way, the denial of the right to life, torture, brutality and other forms of degrading treatment, such as prolonged detention without trial, which derogate from *the basic rights to life, personal liberty and human dignity, are accepted as “gross violations of human rights,”* after being subjected to the “gross” or “extent” test.

2.79 Some other instances are not so obvious and critical examination is required to identify gross violations, as in cases of detention after trial under Decree No. 18 of 1994 (the Failed Banks Decree), or of those detained under Decree 2 of 1984.

2.80 In a number of cases, it is obvious that the petitioner is prima facie victim of the manipulation and abuse of the judicial process, which process is allegedly the tool of the gross violations of his human rights.

2.81 It is possible that the judicial and legal process can in fact be used as the tool for oppression. Therefore, the mere fact that there has been some form of trial should not be allowed to operate as a bar to the petitioner being heard by the Commission. In fact, it should not detract from the fact that there has been a possible abuse of a human right, as alleged in the petition.

## **WHAT ARE GROSS VIOLATIONS OF HUMAN RIGHTS?**

### **THE SOUTH AFRICAN FORMULATION**

2.82 We also found the following definition of “gross violations” in Section 1 of the *South African Truth and Reconciliation Commission Act [The Promotion of National Unity and Reconciliation Act 34 of 1995 (as amended)]* helpful:

*“The killing, abduction, torture or severe ill-treatment of any person or any attempt, conspiracy, incitement, instigation command or procurement to commit an act referred to in paragraph (a).”*

## **WHAT ARE GROSS VIOLATIONS OF HUMAN RIGHTS?**

### **MUNICIPAL AND INTERNATIONAL LAW**

2.83        *The right to life, the right to personal liberty and the right to the dignity of the person* are enshrined in the 1999 Constitution of the Federal Republic of Nigeria, as in previous constitutions (1960, 1963, 1979, 1989) since the country's independence.

2.84        They are also enshrined, as is illustrated in Volume 11 of this Report, in several International Conventions and Charters. For example, Article 4 of the International Covenant on Civil and Political Rights states that, “...no one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment.” Article 6 of the same covenant asserts that, “...every human being has the inherent right to life. This right shall be protected by law...”

### **CRITICAL PROCEDURAL AND ORGANIZATIONAL ISSUES**

#### **PROCEDURE AND MODUS OPERANDI**

2.85        Right from its inception, the Panel/Commission was faced with the issue of procedure. The issue was one of finding the best strategy to realize the spirit and intent of the Panel's/Commission's Terms of Reference. For example, how were we to address the issues of finding the Truth in the mass of allegations contained in petitions forwarded to us?

2.86        If the Panel/Commission were to establish accountability, it would necessarily have to hear as many sides as were possible of the various allegations it was expecting to receive. A central problem in this respect would be how to use Public Hearings judiciously and fairly

not only to establish the Truth but also to help the petitioners come to terms with their situation.

2.87 In confronting this problem, we sought answers to the following questions, among others:

- (a) How does the Panel/Commission ensure that Public Hearings do not degenerate into theatre?
- (b) How does the Panel/Commission ensure that the Public Hearings bring the nation closer to the Truth?
- (c) How does the Panel/Commission ensure that victims experience more healing than pain from the Public Hearings?
- (d) How does the Panel/Commission address the matter of the appearances of witnesses?
- (e) How does the Panel/Commission ensure that the Public Hearings do not end up tying too many legal knots around the necks of witnesses?

2.88 Arising from these questions and from the shift in the period to be covered by the Commission to 15 January 1966, we also had to resolve a number of important procedural and methodological problems.

2.89 First of all, we realized that by calling for Memoranda, we would run the risk of excluding a substantial amount of vital evidence from those who were not literate. We therefore had to look for a more inclusive methodology of evidence gathering and data-collection.

2.90 Secondly, we felt that much had gone on unrecorded in our past, especially as they affect communities which, being remote, do not attract the focus or searchlight of national and international

media. To fill this lacuna or gap in our national history, we decided to commission researchers to address this problem.

2.91 Thirdly, we realized that there were a number of controversial or “sticky” points in our immediate past that need to be confronted. Although many of these “sticky” points became prominent during the military administration of General Abacha, it was our belief that military rule by its very nature, had its own inner logic, with injustice, arbitrariness and human rights violations its hallmark. To address this problem, we commissioned researchers to look into it and to provide us with as much research-based data as possible. In this way, we were able to look at such vexed issues as the Abandoned Properties issue, the Niger-Delta conflict area and the Ogoni case.

#### **IS THE COMMISSION COURT OF LAW?**

2.92 *The Panel/Commission is not a court of law.* It is a fact-finding body, which is not empowered by its Terms of Reference and by the Tribunal of Inquiry Act to pass final judgement, regarding guilt or liability.

2.93 In our view, the Commission’s task is more like a preliminary investigation into the facts, with a view to recommending further actions, as are dictated by the evidence gathered. In this respect, the Commission is different from the South African Truth and Reconciliation Commission, appointed under the Promotion of National Unity and Reconciliation Act of 1995.

#### **SCOPE OF EVIDENCE**

2.94 In considering the scope of evidence we needed to gather and consider, we addressed our minds to the need to establish: (a) the

causes of gross human rights violations; (b) the nature of the violations; (c) the extent of the violations; (d) the identity of the person or persons, authorities and the organizations that are accountable and responsible for the violations; (e) the motives for the violations; (f) the motives for the violations; and (g) the circumstances of the violations.

### **OTHER SCOPE OF EVIDENCE-RELATED QUESTIONS**

2.95 In addition to clarifying issues pertaining to the scope of evidence, we also took the following questions into consideration as we set about our work plan:

- (a) What exactly did the government want to achieve? Was the instrument creating us sufficiently clear in this respect?
- (b) Was there harmony between what the government wanted to achieve and what Nigerians really wanted? If there areas of disharmony or disagreement, how could they be harmonized?
- (c) Has government provided all that was necessary and essential to enable us achieve government's objectives in constituting us as a Commission?
- (d) Was the instrument creating the Commission a sufficient mechanism for dealing with its terms of reference and mandate?
- (e) Considering what the country had gone through, was reconciliation possible, and at what cost?
- (f) What role could the Commission play in consolidating and enhancing democracy in the country?
- (g) How could the Commission impact on the international community and its expectations?

### **SPECIAL RETREAT**

2.96 In a bid to ensure the maximum participation of all stakeholders in its work, the Commission organized a retreat at the

Nicon Noga Hilton Hotel, Abuja from 27-29 September 1999, on the theme “*Investigating the Past: Sharing Experiences and Learning Lessons*,” to which relevant civil society groups were invited and with the collaboration of the London-based Centre for Democracy and Development (CDD) and the Stockholm-based International Institute of Democracy and Electoral Assistance (International-IDEA).

2.97 The main purpose of the retreat was to initiate discussion on the comparative experiences of truth commissions in other parts of the world, especially in Argentina, Chile, Guatemala and South Africa, with a view to enhancing the Commission’s work.

2.98 The Commission took advantage of the presence of five international resource persons, each with different national experiences of the work of truth commissions, as well as background research on the Nigerian situation to isolate critical success factors that must be taken into account in the design and implementation of truth, justice, reconciliation, forgiveness and reparation commissions.

2.99 The retreat identified the following important areas the Commission should explore as it pursued its work.

- (a) Clarification of the nature and character of its mandate.
- (b) Creation of appropriate structures to meet the challenges of its work.
- (c) Conceptual clarification of related terms like survivors, victims, abuse, violations, gross violation, and compensation, to name a few.
- (d) Gathering of evidence (including retrieval of information from security agencies, the government, multinational corporations operating in the country and embassies in the country),

corroboration, witness protection and general security of all parties involved in the process of truth-seeking.

- (e) Need for maximum publicity of the Commission's work for the benefit of all Nigerians.
- (f) Need to involve all stakeholders and the civil society in the country.
- (g) Ensuring the credibility of the Commission, emphasizing fidelity to the truth and fairness to all parties as a key project in the healing and reconciliation process.
- (h) Amnesty: to whom and in what context? Conditional or blanket?
- (i) Need for members of the Commission to pay visits to other truth commissions.
- (j) Preparation of a comprehensive budget for the Commission.

## **COMMISSION'S VISIT TO SOUTH AFRICA**

2.100 The Commission visited South Africa from 16 October 1999 to 22 November 1999.

2.101 Organized by the International Institute for Democracy and Electoral Assistance (International IDEA) and the Ford Foundation, the visit took the Commission to the headquarters and secretariat of the South African Truth Commission in Cape Town, where it inspected the Truth Commission's facilities and held useful discussions with the Chairman of the Truth Commission's Reparations Committee.

2.102 In addition to the visit to the Truth Commission's headquarters and secretary, members of the Commission visited and held useful discussion with the South African Minister of Justice and visited Robben Island.

2.103 The Commission's visit to South Africa impressed on the Commission the imperative need for the Federal Government to fund the Commission fully and to provide it with secretariat and logistic assistance to ensure the success of the Commission's assignment.

### **INTERACTIVE SESSION WITH CIVIL SOCIETY AND STAKEHOLDERS**

2.104 As part of its public confidence-building strategy, the Commission held interactive public meetings in Lagos and Abuja from 24 November 1999 to 1 December 1999 with a number of civil society and professional groups and other stakeholders in the Commission's work. (e.g. organized private sector, media group, security agencies, embassies and donor agencies, inter-religious groups, etc.)

2.105 The meetings generated exciting and useful debate and gave the Commission a simulated preview of the public sittings the Commission had planned to hold.

### **THE NEED FOR COMMISSIONED RESEARCH WORK**

2.106 The Commission, as we have indicated earlier in this chapter, decided to commission research into the country's history of human rights violations before and during the period covered by the Commission's mandate.

2.107 The Commission expected that the analyses of the origins, causes and nature of human rights abuse and violations in the research reports would provide a rich vein of background information and data, which would enable the Commission to contextualize and

categorize the history and pattern of human rights violations in the country.

2.108 The Commission, in pursuit of this objective, divided the country into six geo-political zones and farmed out the research to key research institutions in each of the six zones, as follows:

- |     |                    |       |   |
|-----|--------------------|-------|---|
| (a) | North East Zone    | ..... | Ceddert                                     |
| (b) | North West Zone    | ..... | Ceddert                                     |
| (c) | North Central Zone | ..... | African Centre for<br>Democratic Governance |
| (d) | South East Zone    | ..... | Arthur Nwankwo                              |
| (e) | South West Zone    | ..... | Development Policy<br>Centre                |
| (f) | South South Zone   | ..... | Centre for Advanced<br>Social Science       |

2.109 The reports of the commissioned research are summarized in **Volume 3** of this Report.

### **ADMINISTRATIVE PROBLEMS**

2.110 The Commission has had to contend with enormous administrative and logistic problems in carrying out its assignment. These problems, which revolved around setting up a well-staffed, well-remunerated and functional secretariat, with ample human and logistics support services and facilities, adequate funding, provision of housing and office accommodation for the members of the Commission, slowed down the take-off of the work of the Commission.

2.111 The retreat held with civil society and professional groups and other stakeholders in the work of the Commission deliberated on

these problems and recommended the appointment of more commissioners to enable it cope more effectively with its proposed expanded mandate.

2.112 It also recommended the decentralization of the organizational structure of the Commission, with the opening up of a zonal office in six geopolitical zones of the country, headed by a commissioner, and the establishment within the Commission of a Legal Department, Research and Investigations Unit, Media Liaison Unit, and Logistics and Human Resources Unit.

2.113 These recommendations were not implemented. This partly explains why the interrelated problem of inadequate funding and lean secretariat staff was a recurrent one, which faced the Commission. It was aggravated by bureaucratic red-tape within the civil service and the fact that the Commission's Secretary who was appointed a Permanent Secretary, while still on deployment to the Commission, more or less effectively combined his new appointment and subsequent posting with that of the Commission's Secretary, since government did not appoint a new Secretary to replace him.

### **PUBLIC HEARINGS**

2.114 The combined effect of Sections 1 (2) d and 4 (1) of the Tribunal of Inquiry Act and of the instrument establishing the Commission gives the Commission the powers to regulate its proceedings, including the authority to hold public hearings, if it so chooses.

2.115 In view of the sheer volume and of the variety of the cases/petitions before the Commission, we had to separate cases,

which must necessarily be disposed of through public hearings from cases, which could be disposed of by other means. **Volume 4** of this Report offers full and detailed account of the public hearings.

### **LEGAL CHALLENGES TO THE COMMISSION**

2.116 The Commission was the subject of a number of legal suits challenging its constitutionality and its powers to summon witnesses.

### **COMMISSION'S LIAISON WITH THE MEDIA**

2.117 Right from its inception, the Commission saw the mass (electronic and print) media as a critical bridge between it and the generality of Nigerians. The nature and the mandate of the Commission's work and the expectations thereby generated made this bridge-building enterprise on its part imperative. To this end, the Commission committed itself to brief the mass media about its activities regularly through its Media Co-ordination Unit, which was established early in its life.

2.118 The Commission placed advertisements in the major national newspapers in June 1999, inviting the submission of memoranda on complaints of human rights violations during its mandate period. Thereafter, the Commission continued to advertise its activities, especially its public hearings and the cases slated for the hearings, in the print and electronic media and through press releases.

2.119 The Commission faced four major media or public relations challenges early in its life, namely to (a) change the negative image or public perception that it was comatose; (b) transform media apathy and criticisms into support and sympathy for its work; (c) make the

Commission media friendly; and (d) make the Commission credible and accessible to the generality of Nigerians.

2.120 As part of its strategy to be mass media friendly and to ensure fair and accurate coverage of its work, including its challenges, difficulties and its successes, the Commission visited and consulted, through interactive sessions, a number of media executives, editors and journalists. The Commission also accredited journalists assigned to cover its public hearings and other important functions of the Commission.

#### **MEDIA COVERAGE OF COMMISSION'S ACTIVITIES**

2.121 The mass (print and electronic) media generally gave extensive coverage to the activities of the Commission. This was particularly so in the case of the coverage of the public hearings in different zones of the country.

2.122 This was not always the case. For the mass coverage of the Commission's activities has gone through a lot of transformation since the formal inauguration of the Commission. The mass media was in the forefront of the campaign for the establishment of something analogous to a truth commission in the country. When the Commission was eventually established, the media welcomed the development and declared its full support for the Commission's assignment. However, the mass media were critical of the initial slow pace of the Commission. In due course, this negative appraisal changed dramatically and the Commission was hailed in editorials "as the best thing that ever happened" to Nigeria.

2.123 The critical threshold in the media coverage of the Commission occurred during the public hearings held by the Commission. In the five centers, where public hearings were held, the electronic media offered adequate and extensive coverage of the hearings. Notably, the Commission's efforts in getting the Lagos Directorate of the Nigerian Television Authority (NTA) to give comprehensive coverage of the Commission's public hearings in Lagos transformed the entire media coverage of the Commission's work.

2.124 The NTA coverage and telecast late in the evenings on its network and the following afternoon on Channel 5, Lagos generated countrywide public interest. Because of the wide acclaim of this particular coverage, the NTA began live coverage of the public hearings in Lagos, extending it to the second Abuja public hearings.

2.125 The NTA's live coverage of the Lagos and Abuja public hearings led the private television stations, MINAJ, CHANNELS, MITV, DBN and GALAXY, to follow the NTA's example by offering live coverage of the public proceedings to their viewers. AIT television station joined the competition for the live coverage at the second public hearings in Abuja. AIT introduced discussion groups on various aspects and issues of each day's public hearings.

2.126 As for radio coverage, the Federal Radio Corporation of Nigeria (FRCN) and the Voice of Nigeria (VOA) devoted about 5 minutes on the average everyday on their national network news to reports from the Commission's public hearings. Reporters from the two radio stations were assigned on a permanent basis to cover each of the five centers where public hearings were held. In addition, local radio and television stations were encouraged to make summaries of the public

hearings in the local languages to ensure a wider knowledgeable audience, which is well informed about the work and relevance of the Commission to national development.

2.127 The combined effect of the live coverage of the public hearings in the electronic media as well as the coverage in the print media, more than anything else, gave the Commission a high profile in the country and showed quite clearly the sordid dimensions and corruption of our public life.

## **CHAPTER THREE**

### **INTRODUCTION**

3.1 In this chapter, we attempt to provide an overview of the political and social history of Nigeria, since the amalgamation of northern and southern Nigeria in 1914. In doing so, we hope to highlight a number of salient and recurring issues, trends and perspectives which provide the broader historical canvass for contextualizing and understanding recent political developments, including gross violations of human rights in the country.

3.2 We do this, because historical understanding is not only a mirror on the past but also, if the right lessons are drawn from it, a guide to the future.

### **THE BEGINNINGS**

3.3 Although Nigeria as a political and economic entity was brought together by the British colonial administration under a dual administrative structure, through the amalgamation of the two Protectorates of Northern and Southern Nigeria in 1914, it would be wrong to assume that its peoples had no history of cultural, economic, political or social history before country's boundaries were negotiated by Britain, France and Germany at the turn of the twentieth century. Indeed, there was much more cultural, economic and political contact and interaction among the various and diverse peoples of pre-colonial Africa than has been admitted by colonial apologists and historians who tend to argue, with respect to Africa generally that, the continent had no history prior to colonization.

3.4 The physical profile of Nigeria, which is located in West Africa between latitudes 4N and 14N and longitudes 3E and 15E meridian, is made up of a coastline intersected by a series of rivers and creeks, among which are the rivers Anambra, Benue, Cross River, Gongola, Kaduna, Niger, Ogun, and Sokoto, and by the Niger Delta and a vegetation, classified into *the high forest zone*, with its subdivision into the *mangrove and rain forest*, and *the savannah*, subdivided into the *grassland and scrub forest*.

3.5 This physical profile historically influenced population movements in pre-colonial Nigeria, while also providing the basis for and impelling complementary economic and cultural activities and interaction between and among the various peoples of the country before the advent of colonial rule.

3.6 In effect, there were in pre-colonial Nigeria migrations from one part of the country to the other. These migrations led to the development of vibrant embryonic cultural, economic and political networks, marked as much by cooperation as by competition and conflict among the various peoples and communities in the country.

3.7 This is why it is sometimes argued that the concept of “Nigeria” or of a “Nigerian” was not the creation of colonial rulers, although colonial rule created its own inner dynamics, which later shaped the historical and political development of the country.

3.8 What we wish to emphasize here, however, is that the physical structure of the country facilitated in pre-colonial Nigeria the embryonic emergence of networks of internal economic exchanges in various crops and commodities, on the basis of comparative

advantage. Out of these economic networks emerged cultural and political networks and the economic, political and socio-cultural institutions they spawned, which, though not without contradictions, as in wars and raids among the various peoples and communities in pre-colonial Nigeria, and their attendant violations of human rights had the long run potential of being integrative.

3.9 Colonial rule interrupted and “*arrested*” the logic of the auto-centered historical development of this internal economic exchange and of its supporting cultural, legal, political and social systems. In effect, colonial rule presaged the beginnings of a new historical phase, which led to the incorporation of Nigeria into the wider world economic and political system. What was in pre-colonial Nigeria an autonomous internal market, dependent primarily on endogenous forces, became, in due course, and under the mercantilist logic of colonial rule, *a trading post economy* dependent on foreign trade.

3.10 The historical trajectories which the country had gone through since colonial rule, especially the sometimes bloody and murderous forms which competition and conflict among the various peoples and communities assumed, resulting in gross violations of human rights, were shaped by the internal logic and the further elaboration and development of this *trading post economy*.

3.11 Prior to colonization and the amalgamation of the Northern and Southern Protectorates in 1914, there were, in what is now Nigeria, great kingdoms with complex systems of culture and government. The following examples of pre-colonial kingdoms and political systems in the country are illustrative our thesis that colonial

rule “*arrested*” the auto-centered development of Nigerian legal, political and social institutions.

3.12 These kingdoms included, among others the following: the kingdom of *Kanem-Borno*, with a known history of more than a thousand years; the *Sokoto Caliphate*, which for nearly a hundred years before its conquest by Britain had ruled most of the savannah of northern Nigeria; *the kingdoms of Ife and Benin*, whose works of art had become recognized as amongst the most accomplished in the world; the Yoruba *Empire of Oyo*, which had once been the most powerful of the states of the Guinea Coast; and the *city states of the Niger Delta*, which had grown partly in response to European demands for slaves and later palm-oil; and the largely politically decentralized and acephalous political systems of the Igbo-speaking peoples of southeastern Nigeria. We wish to emphasize the point made earlier that these kingdoms and the political structures and the socio-cultural and legal institutions that sustained them had their own internal contradictions, had undemocratic features and, from the perspective of modern concern with human rights, institutionalized practices and customary laws, some of which are still subsisting, that fundamentally derogated from human rights.

3.13 The point we wish to note is, therefore, not that pre-colonial political structures and their supporting socio-legal institutions were flawless and unblemished by violations of human rights. Our point, rather, is that on the eve of colonial rule, the various Nigerian communities had socio-legal and political institutions based on their unique historical and cultural circumstances, reflected in their chieftaincy institutions.

3.14 Thus, in the Northern parts of the country, these institutions in most of the communities were based on a combination of the cultural values of the Fulani *Jihadists*, the basic principles of *the Quran* and the cultural values of the Hausa *Sarauta system*. Among the Yorubas, the institutions were based on indigenous socio-cultural values, while among the so-called decentralized political communities of the Igbos and Tiv, their legal and political institutions were similarly the product of their cultures and history.

3.15 Colonial rule prevented endogenous development of these communities by creating “new rules of the game,” and new dynamics of interaction among the various peoples and communities in the country, subverting and weakening their traditional political and legal institutions.

3.16 In short, colonial rule arrested the auto-development of these pre-colonial political systems by imposing on the peoples of Nigeria and their communities a new political and economic order sustained by violence and by creating a new basis for loyalty and citizenship.

3.17 The expansion and consolidation of British colonial rule in Nigeria must be seen in the context of the rivalry and competition among the European powers over the acquisition of colonial territories in Africa.

3.18 In the case of Nigeria, and arising out of the initial encouragement of missionary and commercial activities by English missions and companies like the Church Missionary Society (CMS) and the Royal Niger Company, British colonial rule in Nigeria was

formally regularized with the establishment on January 1, 1900 of two separate administrative entities, the Protectorate of Northern Nigeria and the Protectorate of Southern Nigeria.

3.19 This was done to forestall the increasingly aggressive competition from France, whose activities posed serious strategic—military, security, commercial and political—threat to the Royal Niger Company, which had been given the mandate, through a Royal Charter, granted on July 10, 1886 to administer and rule Nigeria, as a proxy for the British government.

3.20 The creation of the two administrative entities of northern and southern protectorates in the country had been preceded as part of this consolidation process by the following constitutional measures: the colony and protectorate of Lagos, annexed as a colony in 1862, was in 1906 merged with the protectorate of southern Nigeria to form the colony and protectorate of southern Nigeria; and the amalgamation, already referred to, of the colony and protectorate of southern Nigeria with the protectorate of northern Nigeria on January 1, 1914 to constitute the new colony and protectorate of Nigeria.

3.21 What followed after 1914 was, however, not *nation-building* in Nigeria, in the strictest sense. British rule in Nigeria was less an attempt to forge a Nigeria nation than to “*conquer and pacify*” the country, under a regime of law and order, by bringing the various ethnic groups and communities under imperial authority through a policy of *divide et impera*.

## **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS: 1914-1960**

3.22 In spite of the amalgamation of 1914, the British did not rule the country as a political unit. The northern and southern protectorates were ruled separately, although the system of *Indirect Rule*, introduced by Lord Lugard in the north, was gradually extended to the south with modifications.

3.23 Constitutional reforms were introduced in stages as pragmatic responses by the colonial government to nascent nationalist agitation.

3.24 Critical constitutional landmarks in colonial Nigeria were the following:

(a) the *1922 Clifford Constitution*, which established a legislative council for the colony of Lagos and the southern protectorate, with 46 members, 10 of whom were to be Nigerians (4 of whom were to be elected on the basis of adult franchise);

(b) *the Richards Constitution of 1946*, which established a central legislature for the entire country, with 50% of the legislative seats reserved for the northern region, and a regional legislature in each of the 3 newly-created regions—*east (unicameral)*, *north (bi-cameral)* and *west (bi-cameral)*;

(c) *the Macpherson Constitution of 1950*, providing for cabinet government at the central and regional levels;

(d) *the Lyttleton Constitution of 1954*, which introduced a *quasi-federal system of government* into the country; and

(e) *the 1960 Independence Constitution*, bringing colonial rule to an end and transferring political power to democratically elected Nigerians at the state and federal levels, under a system of parliamentary government, based on the Westminster model. Earlier

the eastern and western regions had each been granted self-government in 1957 and the northern region in 1959.

3.25 The accelerated pace of constitutional reforms in Nigeria after the second world war was due to many factors, chief among which were (a) the terminal phase of the decolonization process in the Indian sub-continent and in Burma, particularly the demonstration effect the process had on Nigerian nationalist leaders and the Nigerian ex-servicemen who fought in Asia; (b) the pressures of international opinion in favour of independence to colonized peoples, as reflected in the new multilateralism, championed by the United Nations Organization; and (c) the accession to power of the Labour government of Clement Atlee.

3.26 The period between 1945 and 1955 was crucial in laying the foundations of the country's emergent party system and of the constitutional and political structure of independent Nigeria.

3.27 With respect to the party system, from early beginnings in 1922, when the Nigerian National Democratic Party (NNDP) was founded, and in 1934 when the Lagos Youth Movement (LYM), later to metamorphose into the Nigerian Youth Movement (NYM) was formed, the country's nascent party began to take firm shape in the dying years of the Second World War.

3.28 In 1944, the National Council of Nigeria and the Cameroons, later to become the National Council of Nigerian Citizens (NCNC) was formed. In 1948, the Jami'yar Mutanen Arewa (Union of the People of the North), formed as a politico-cultural organization, was transformed into a political party in 1950, under the new name

the Northern Peoples' Congress (NPC), with the immediate objective of contesting legislative elections under the Macpherson Constitution. In 1951, the Action Group (AG), which grew out of the Egbe Omo Oduduwa, a pan-Yoruba cultural organization, was launched with the immediate aim of fielding candidates for the legislative elections under the Macpherson Constitution.

3.29 With respect to the emergent constitutional and political structure of independent Nigeria, the following developments in the 1945-1960 period were critical.

3.30 First, there is the fact that Nigeria's federalism emerged, deriving from the dual administrative structure of amalgamation in 1914, through a process of disaggregation from preexisting regional units. Secondly, the new party system, reflected in the unfolding power base of each of the three major political parties, viz. NCNC, NPC and AG, assumed by and large an ethno-regionalist character, by which is meant that each of the three parties drew its electoral strength and support base from the region where the majority ethnic group was constituted by the ethnic group to which its leader belonged.

3.31 Thirdly, ethnicity began to be manipulated and politicized as a central variable in party political and electoral competition. It was in this context of ethnicised party electoral competition that minority ethnic groups began to assume increasingly important political roles not only in mediating inter-ethnic electoral competition among the three major political parties (NCNC, NPN and AG) but also in the demand for a restructuring of the structural imbalance of the three-

region Nigerian federation, which favoured the three major ethnic groups, Hausa/Fulani, Igbo and Yoruba.

3.32 An unsettled political question before independence was, therefore, the fear of domination expressed by minority ethnic groups in the eastern, northern and western regions and their demand for separate regions of their own to be created out of the then existing three regions.

3.33 While admitting that the fear of domination expressed by the minority ethnic groups in each of the then existing regions were well-founded, the *Willink Commission*, appointed on September 25, 1957 by the colonial government to look into their fears, rejected their demand for the creation of new states out of the existing ones.

3.34 We shall have more to say about the minorities' question later on in this chapter, but what we wish to emphasize here is that the fear of domination of one ethnic group or combination of ethnic groups over other ethnic groups and the broader issue of a structurally balanced or symmetrical federal system to remove or contain this fear remain major issues of contention in Nigerian federalism.

3.35 For example, each of the three regions contained majority and minority ethnic groups. Their composition was, therefore, criticized on this ground.

3.36 The emergent federal structure, whose foundations were laid by the 1945 Richards Constitution, the 1950 Macpherson Constitution, and the 1954 Lyttleton Constitution, was criticized for

its structural imbalance. This was because the Northern Region was much bigger in population and geographical size than the two other regions put together.

3.37 With a territorial size of 729,815 sq.km, by 1954 figures, the Northern Region occupied almost 76% of the country's territorial size, compared to the Eastern Region's 119,308 sq.km. (about 12.3%), and the Western Region's 117,524 sq.km. (about 12.1%).

3.38 The population of the Northern Region, by 1954 figures, was about 17 million (or 54% of the country's population), while the population of the Eastern Region was estimated at approximately 8 million (or 26% of the country's) and that of the Western Region was put at about 6 million (or 20% of the country's).

3.39 The problem posed by the multi-ethnic composition of the original three regions and the structural imbalance of the three-region federation finds continued and contemporaneous expression in current demands for restructuring of the country's federal system and for the convocation of a sovereign constitutional conference in the country.

3.40 These demands go to the heart of what needs to be done to effect *reconciliation* in the country and what it means to be a Nigerian, and under what citizenship rights and obligations.

3.41 Since an understanding of what brought us to where we are now is indispensable to our forward march on the basis of reconciliation and coming to terms with our past, we now turn to an examination of some of the problematic aspects of our constitutional

and political history during this period, 1914-1960 and an assessment of their impact on our checkered attempts at national integration.

3.42        **Indirect Rule:** The greatest impact of Lord Lugard's governorship of Nigeria lay in his development of the native administration system in the country, under a system of *Indirect Rule*, which, in its application to Northern Nigeria, Lugard defined in the following way, in his Amalgamation Report:

*“The system of Native Administration in the separate government of Northern Nigeria had been based on the authority of the Native Chiefs. The policy of the Government was that these chiefs should govern their people...as independent rulers. The orders of Government are not conveyed to the people through them, but emanate from them in accordance, where necessary with instructions received through the Resident. While they...are controlled by Government in matters of policy and of importance, their people are controlled in accordance with that policy by themselves.”*

3.43        Whatever local variation there may have been in the administrative system, there was one ultimate factor: there had been a diversion of power from the traditional authorities to the incoming colonial administration. Even in the Northern region where the principles of indirect rule were applied most intensively, the Emir was no longer sovereign and held power by grace of the colonial government. His authority was reduced by the knowledge that, if he stepped over the uncertain boundary of rules for good government, as stipulated by the British, he could be deposed.

3.44        In the South West, the Yoruba Oba and his courts were similarly subjected to the concepts of what good government

constituted and a certain a diminution of the Oba's authority inevitably ensued. On the other hand, the focusing of attention by the British on the executive role of the Oba gave him authority that he never possessed in the traditional context. In the South-Eastern Nigeria, the British, in the absence of chieftaincy institutions, appointed warrant chiefs, a "revolutionary" innovation in political communities, which had conceived political organisation at the village level on a largely democratic basis, where no one man/woman or group had exclusive power.

3.45 Furthermore, the introduction of the British system of taxation and justice for a large number of matters in the south naturally detracted from the authority of traditional chiefs and broke down many of the sanctions of traditional society. It only left a legacy of protests, revolts and bitterness against the system.

3.46 Of the over-all impact of the *Indirect Rule* system on political and constitutional development in Nigeria, we quote Professor Bolanle Awe's assessment in extenso:

*"In the light of the apparent success of the system in Northern Nigeria, administrative issues came to be tackled in the light of ideas and systems formulated for the Northern Emirates and very little cognizance was taken of the different cultures and governments among the different ethnic groups that make up the Nigerian nation. With the institution of the system of sole Native authority, the conciliar system of government among the Yoruba was jettisoned and most of the traditional chiefs' advisers to the traditional ruler lost their authority. The subtle and complex decentralized administration of the Igbo people was ignored; in an attempt to reproduce the Northern Nigerian model,*

warrant chiefs were created instead of finding the real seat of authority....

The system of native courts instituted along with this form of government perverted the traditional judicial system and deprived many chiefs of their judicial functions. In an attempt to increase further the power of the traditional ruler, the colonial administration gave him more judicial power than traditionally belonged to him. For instance, in Oyo Province...an appeals court was created in Oyo under the Alaafin Ladigbolu contrary to judicial practice in that part of the country. Indeed, in general, the British system of justice which was also being applied alongside the traditional system detracted from the traditional authority of the chiefs and broke down many of the traditional sanctions that helped to maintain law and order.

It is not surprising that Indirect Rule provoked serious reaction among Nigerians; the most notable was the Aba Women's War of 1929 when women in South-Eastern Nigeria rose up against the Warrant Chief System and defied the attempt to tax women without trying to understand the economic relations between the male and female in Igbo society." [Bolanle Awe, "Nation-Building and Cultural Identity," in Peter P. Ekeh and Garba Asiwaju (eds), Nigeria Since Independence: The First 25 Years: Volume V11 –Culture, p.20, Ibadan: Heinemann Educational Books, 1989].

3.47 The policy of Indirect Rule impacted negatively on the development of a pan-Nigerian identity, by emphasizing the differences between the north and the south. For example, southerners working or living in the northern towns were segregated into *sabongaris* or *settlers'/strangers' quarters*. The idea of *sabongaris* was replicated in due course in southern towns.

In short, the legacy of Indirect Rule underscored a paradox: while colonial rule brought Nigerians together in new ways and for new purposes, indirect rule emphasized and institutionalized differences among the various communities in the country.

3.48        *The impact of amalgamation:* The amalgamation of northern and southern Nigeria was effected in two phases, as recommended by the Selbourne Committee. The first phase, carried out in 1906, was the amalgamation of the protectorate of southern Nigeria with the Colony of Lagos. The second phase was the amalgamation of the northern and southern protectorates in 1914.

3.49        The decision to amalgamate as well as its implementation, both of which did not involve the participation of Nigerians, rested more on economic than on political considerations. Apart from the fact that it seemed economically prudent to amalgamate the two territories, the one land-locked and the other with a long seaboard, it was felt that the more prosperous Southern Protectorate would subsidize its northern neighbour until such a time as it would become self-supporting.

3.50        Although the two territories were amalgamated, Lugard chose to maintain the distinction between north and south. He also rejected the case made by others like his Lieutenant-Governor, Temple, and E. D. Morel, the Editor of the *African Mail*, for the division of the country into four or more provinces, which would have involved splitting the north into more than one big administrative unit.

3.51        By maintaining the dual administrative structure of northern and southern protectorates, Lugard laid the foundations of

the structural imbalance, which was later to constitute an ever-simmering sore point in the emergent federal system of government in the country.

3.52 In short, the dual administrative structure created by amalgamation in 1914 laid the foundations of the structural imbalance, to which we have made reference earlier on in this chapter, and by means of which the future Northern Region had continuously held sway politically over the South.

3.53 It gave rise to the fear, among southerners, of northern domination, based on the bigger population and geographical size and, deriving from this fact, the superior competitive electoral advantage of the north.

3.54 Within the north, the arrangement also presented serious problems. The ethnic minorities in the Middle Belt and in the North East among the Kanuris were later to protest against domination, marginalisation and religious discrimination by the Hausa-Fulani majority ethnic group. Similarly, the ethnic minority groups in the south expressed fears of domination by the two major ethnic groups in the south (the Igbo and the Yoruba).

3.55 It seems, therefore, that the long-term historical impact of the *1914 Amalgamation* has been the political asymmetry, including the fear of domination arising from it, that has come to shape not only inter-ethnic and intra-ethnic relations as well as other aspects of political behaviour and political development in the country but also the evolution of the country's federalism.

3.56 We now turn to highlight briefly constitutional and political trends in the country since 1960, divided into the following periods:

- (a) *1 October 1960-15 January 1966*);
- (b) *January 15, 1966-July 29, 1966*;
- (c) *July 1966-July 1975*; (d) *July 1975-October 1979*;
- (e) *October 1979-December 1983*);
- (f) *December 1983-August 1985*;
- (g) *August 1985-August 1993*;
- (h) *August 1993-November 1993*;
- (i) *November 1993-June 1998*; and
- (j) *June 1998-May 1999*.

## **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS:**

### **1 OCTOBER 1960-JANUARY 15, 1966**

3.57 The 1960-1966 period started on a halcyon note of excitement and rising expectations, which were dashed as a result of the violent explosion of the uncontrollable political tinderbox of centrifugal or separatist ethnic and ethno-regional politics, resulting in political violence, ethno-communal riots and gross violations of human rights, in which the state (federal and regional) often participated as an active protagonist, the use of federal troops to quell civil unrest, in the face of the helplessness of the police force, the brazen corruption of the electoral process, myopic political leadership, political corruption, political brinkmanship and constitutional crises.

3.58 The chorus of hope and the refrain of unity of the early days of independence, captured by the stanzas of the country's national anthem, had, by January 1966, when the Nigerian military took over power for the first time, given way to a revolution of rising

expectations, to despair and to public cynicism about politics, public affairs and politicians.

3.59 Why was this the case? Briefly, the explanation is partly to be found in a combination of institutional weaknesses in the practice of democracy in the country and in a political culture, which tended to view politics as a zero-sum game, in which winners win all, and losers lose all, with premium placed on political violence, political intolerance, subversion of constitutional government, the annihilation of one's political opponents and the rigging or subversion of the electoral process.

3.60 We wish to identify two such institutional weaknesses, which undermined the stability of the country during this period.

3.61 The first source of institutional weakness is the constitutional ambiguity or problem posed by the separation between the Governor-General (later the President after the adoption of the 1963 Republican Constitution) as an un-elected, ceremonial head of state and the Prime Minister, as an elected head of government, with executive powers.

3.62 The potential political crisis the separation could generate matured after the 1964 Federal Elections, the first to be held after independence. At issue was the exercise of the discretionary powers of the President to (a) appoint the Prime Minister [an issue, which had been raised after the 1959 Federal Elections, when the Governor-General invited Sir Abubakar Tafawa Balewa to become Prime Minister, although the final results were still uncertain and the political parties, especially the AG and the NCNC, were still actively

engaged in bargaining among themselves on the formation of a coalition government]; (b) the operational meaning of the President's position as Commander-in-Chief of the Armed Forces of the Federation; (c) and the President's powers over the Federal Electoral Commission.

3.63 The second source of institutional weakness we wish to identify is related to the administration and conduct of federal and regional elections, during this period. They were marked by a deadly violence and vicious earnestness that effectively served to flagrantly abuse, thwart and subvert the electoral process, by creating conditions under which the conduct of free and fair elections was impossible. This was true of the October 1964, which were boycotted effectively in the Eastern Region and partly in the Western Region; the March 1965 General Elections, held in constituencies where the boycott was total; and the Western Regional Elections of October 1965.

3.64 The controversy over these elections deepened the North/South cleavage dating back to the 1914 amalgamation and the structural imbalance between the North and South created by the preponderant geographical and population size of the North.

3.65 But it was also the high point of a number of deep divisions and gaping cracks in the federal structure and in federal and regional politics, which, reaching a crescendo between 1962 and 1964, just before these controversial elections, stretched the Nigerian federation to a breaking point, giving renewed force to the southern perceptions or fears of the consolidation of the hegemonic intentions and strategies of the Hausa/Fulani majority in the North, in spite of political

realignments, which threatened and which ultimately scuttled the NPC/NCNC coalition at the federal level.

3.66 The following events, which we mention only in passing, reflected these divisions and cracks in the federal structure and competitive party electoral process in the country between 1962 and 1965:

(a) the 19662/1963 population censuses, originally conducted in 1962 but cancelled on the objection of the government of the Eastern Region, and re-conducted in 1963, again rejected by the government of the Eastern Region;

(b) the Declaration of a State of Emergency in the Western Region in 1962 by the Federal Parliament, involving the removal of the Premier of the Region and the suspension of the legislature and the appointment of a Sole Administrator for the region;

(c) the Treasonable Felony Trials of 1962/1963, in which Chief Obafemi Awolowo and some of his colleagues, including Joseph Tarka and S.G. Ikoku were sentenced to serve term in prison for planning and attempting to overthrow the government of the country; and

(d) the constitutional crisis, already referred to, arising from the 1964/1965 federal elections.

#### **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS:**

##### **JANUARY 15, 1966 - JULY 29, 1966**

3.67 The period 15 January 1966 to 29 July 1966 coincided with the first military coup d'etat in the country on 15 January 1966 and the counter-coup of 29 July 1966.

3.68 The immediate or precipitating cause of the coup is to be found in the catalogue of the constitutional and political developments narrated in the preceding paragraphs:

- (a) the corrupt and parochial excesses of the political leadership;
- (b) the upsurge in anomic acts of civil disobedience and in violent ethno-communal riots, owing to the politicization of ethnicity in different parts of the country and the use of federal troops to quell them;
- (c) the controversies surrounding the population censuses of 1962/1963;
- (d) the electoral malpractices that surrounded federal elections of 1964/1965 and the October 1965 regional elections in the Western Region, and
- (e) the constitutional crisis created by the 1964/1965 federal elections.

3.69 It was not unlikely that the successful execution of military coups d'etat in other parts of Africa (e.g. in Egypt in 1952, in 1958 in the Sudan, in Togo in 1963, in June 1965 in Algeria) had a demonstration effect on the military officers who planned the January 15, 1966 coup d'etat in Nigeria.

3.70 Indeed, it has now come to light that, as far back as 1964, during the controversial federal elections, the idea of a coup was being discussed at "political meetings" by military officers, like Ademoyega, Adewale, Anuforo, Banjo, Chukwuka Ifeajuna, Nwobozi, Nzeogwu, Obienu, Okafor, and Onwuategwu.

3.71 For example, General Gowon has recounted how Banjo and Ojukwu had approached him during the 1964 federal elections with a

plan for a coup [see, West Africa, 13 January, 1968, p. 53]. A Special Branch Report issued in 1967 also claimed that sometime in August 1965, a small group of army officers, dissatisfied with political developments within the Federation, began to plot in collaboration with some civilians, the overthrow of what was then the Government of the Federation.

3.72 We do not wish to record the details of the coup d'etat here other than to observe that the fact that virtually all of the politicians killed in the coup (Sir Abubakar Tafawa Balewa, Prime Minister of the Federation, Sir Ahmadu Bello, the Sardauna of Sokoto and Premier of the Northern Region, Chief S.L. Akintola, Premier of the Western Region, and Chief Festus Okotie-Eboh, Federal Minister of Finance) as well the senior military officers who were also killed, with the exception of Colonel Unegbu, were non-Ibos.

3.73 Although the inner circle of the coup plotters was predominantly made up of Igbo officers, Major Nzegwu, one of the leaders of the coup accused the "Ibo majors in charge of the coup in Lagos...of tribalism in the one-sided way in which they carried out the coup." [Martin Dent, ""The Military and Politics: A Study of the Relation between the Army and Political Process in Nigeria," p. 125, in K.Kirkwood (ed), St Anthony's Papers, Number 21, African Affairs Number , London: Oxford University Press, 1969].

3.74 The rump of the federal government surrendered power to Major-General Aguiyi-Ironsi, as Head of State and Commander-in-Chief of the Armed Forces of the Federation, whose role in the coup remains unclear.

3.75 The Ironsi administration constituted a Constitutional Study Group in February 1966, with Chief F.R.A. Williams as chairman to review the 1960 Independence Constitution and the 1963 Republican Constitution and to propose a new constitutional structure or framework for the country. But the Study Group had hardly settled down to work than the Ironsi administration enacted Decree No. 34 of 24 May 1966, abolishing the federal structure of government in the country and declaring Nigeria a unitary state. This action alienated ethnic minority groups who had been clamouring for state creation since the administration assumed office.

3.76 The perception, rightly or wrongly of the ethnic pattern or “bias” of the execution of the 15 January 1966 coup d’etat was effectively underscored by the following:

- (a) the Ironsi administration’s choice such Igbo intellectuals like Dr Pius Okigbo, Christopher Okigbo, Dr Okechukwu Ikejiani, Francis Nwokedi and Gabriel Onyiuke as principal advisers;
- (b) the coincidence that 18 out of 21 officers promoted from the rank of Major to Lt Colonel in April 1966 were Igbos, at a time when the Supreme Military Council had imposed a moratorium on army promotions;
- (c) the dismissal, at the same time (in April 1966) of some air force officers of Northern Region origin, on “educational grounds”;
- (d) the administration’s prevarication in bringing the coup planners, seven of whom were allegedly promoted while in prison, to trial;

- (e) the administration's dithering in publishing the names of army officers killed in the coup, so that they could be given due ceremonial honours and funeral; and
- (f) the administration's unification Decree No. 34 of May 1966.

3.77 It was this perception that ignited reprisals against the Igbos later in the year (1966).

3.78 The reprisals, in the form of ethnic killings and pogroms in May and July 1966, mainly affecting the Igbos, preceded, indeed precipitated the counter-coup of July 29, 1966 in which General Ironsi, the Head of State and Colonel Fajuyi, the military governor of the Western Region and other military officers were killed.

3.79 The counter-coup saw the emergence of Lt-Colonel Yakubu Gowon, as the new Head of State and Commander-in-Chief of the Armed Forces.

## **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS:**

### **29 JULY 1966 - 29 JULY 1975**

3.80 The perception of the ethnic bias of the January 15 coup and the similarly ethnic coloration given to the chain of events leading to the counter-coup of July 29, 1966 began a long process of the erosion of professionalism in the Nigerian military.

3.81 In the words of Martin Dent, " ...the officers of a certain tribal group become the armed wing of a tribal group, fighting against a similar combination of tribal group politicians and officers of the opposing tribe." [Dent, "The Military and Politics," op.cit. p.114].

3.82 Ethnic fears are self-reinforcing and self-fulfilling. They create a sullied atmosphere of mutual distrust and acrimony. They undermine national unity and run counter to the nationalist tone of the country's national anthem.

3.83 The ethnic character of the coup of July 1966 and the massacres of Igbos that preceded and followed it renewed Igbo fears of Hausa/Fulani domination, even as there were rumours of reprisal massacres of Hausa/Fulani in the Eastern Region.

3.84 The exodus of Igbo-speaking peoples to the Igbo heartland in the Eastern Region from the North and other parts of the country began in the aftermath of the July 1966 coup.

3.85 In a broadcast on August 29, 1966, Lt-Col. Odumegwu Ojukwu, referring to the massacres of May 1966 and the coup of July 1966, and claiming that there was no longer any basis for unity in the country, set up a body for the resettlement of the Igbo returnees.

3.86 In his Budget Speech in April 1967, Ojukwu returned to the same separatist theme, when he made reference for the need for the country and for Nigerians "to drift apart a little bit."

3.87 A similar statement about the fragility of the country's unity and the desirability of dissolving the federation, which was allegedly included in Gowon's inaugural address in July 1966 to the nation, was, according to some sources, expunged on the advice of some federal permanent secretaries.

3.88 Xenophobia became commonplace. The implications of what was happening was not lost on the Yorubas who, renewing calls for an autonomous Yoruba State, resolved at a meeting of Yoruba Leaders of Thought in October 1966, to request the federal government to remove “Northern” troops, viewed as an “army of occupation,” from Yorubaland.

3.89 Thus began the long descent into secession by the Eastern Region and the civil war fought to prevent it.

3.90 Efforts to resolve the impasse failed. There were two such notable attempts. The first was the Ad Hoc Conference on Constitutional Proposals for Nigeria, during which political leaders from the four regions (East, Mid-West, North and West) met from September 2, 1966 to consider a new constitutional structure, in place of the unitary one, which had been abolished on 1 September 1966. The second was the meeting of the country’s Supreme Military Council held, under the auspices of government of Ghana, in January 1967 in Aburi, Ghana, to discuss a number of constitutional issues facing the country.

3.91 The Gowon administration, in a move to bolster its support, and preempt any secessionist move by the Eastern Regional government, created twelve states out of the existing four regions on 27 May 1967 as follows:

- (a) six from the Northern Region;
- (b) three from the Eastern Region;
- (c) one from the Colony Province of the Western Region and Lagos;
- (d) the rump of the Western Region;
- (e) the Mid-West Region to remain as it then was.

3.92 This deft political move was too late to stop the inevitable drift to secession, which was announced on 30 May 1967. The move was the last straw that pushed the Igbo leadership into secession, with the proclamation of the *Republic of Biafra*.

3.93 The division of the Eastern Region into three new states, with the oil rich areas of the region in the *Calabar-Ogoja-Rivers* minority ethnic areas being constituted into two new states, the *South-Eastern State* and the *Rivers State* and under non-Igbo control, was seen by the Igbo leadership as a further indication of a conspiracy to weaken the Igbo economically and politically in the federal structure.

3.94 With secession declared, the federal government viewed it as “an act of rebellion” which must be crushed by federal forces in what was initially characterized as a “police action.”

3.95 Threats of secession from Nigeria had been used or deployed as a strategic bargaining ploy at various times by ethno-regional leaders, on behalf of their ethnic groups or regions since the amalgamation of the country in 1914.

3.96 In the context of the national crises generated by the 1964/1965 federal and regional elections, the January and July 1966 coups d’etats and the failure of leadership and the bloodbath that ensued, it was perhaps inevitable that the country would go over the brink and the threat of secession carried out.

3.97 The Nigeria/Biafra War eventually broke out on 6 July 1967 and ended on 15 January 1970, covering almost two-and-a-half years.

3.98 As we will illustrate in another volume of this Report, the civil war involved gross violations of human rights on both sides.

3.99 The war itself was internationalized not only because of these violations but also because of a number of other important considerations, such as

- (a) control of and access to the oil rich Niger-Delta;
- (b) the competition of the great powers, Great Britain, France, Germany, USA and USA for influence in Nigeria; and
- (c) the conflict between self-determination, citizenship rights, equality and social justice on the one hand, and the inviolability of the national sovereignty inherited by African countries at independence in a multi-ethnic or multinational state, on the other hand.

3.100 With the end of the civil war in January 1970, the federal government put in place a programme of reconciliation, reconstruction and rehabilitation, under the slogan, “*No Victor, No Vanquished.*”

3.101 The success or failure of this programme is still a matter of controversy in Nigeria, as is reflected in the unresolved abandoned property issue, the vexed issue of amnesty or pardon for Biafran soldiers and of their reabsorption into the Nigerian army, the issue of pensions for Biafran soldiers and the problem of the ecological devastation caused by the war in the old Eastern Region.

3.102 There is no clearer illustration of the unsettled issues arising out of the civil war than the case for reparations for damages done to the Igbos during the civil war made before our Commission by Ohaneze, the pan-Igbo cultural organization.

3.103 The ambitious post-war economic reconstruction was given a fillip by the boom in the world price of crude petroleum.

However, as various critics of economic policy during the period between 1970 and 1975 have pointed out, policy in this area was characterized by mismanagement and corruption because of “easy oil money.”

3.104 The “oil boom” became an albatross, a national curse, becoming in due course “the oil doom.” The economy experienced neglect of agriculture and other sectors of the economy, indiscriminate, even reckless importation of consumer goods, huge import bill, production and service bottlenecks, scarcity and inflation, which was fuelled by the simplistic implementation of the Udoji salary awards in late 1974.

3.105 Little wonder that the penultimate years of the Gowon administration witnessed industrial unrest and strike action by labour unions and professional groups like medical doctors.

3.106 The problem on the economic front was compounded by the failure of the administration to put in place a political programme of transition to democratic civilian rule.

3.107 Shortly after the end of the civil war in 1970, General Gowon promised a return to democratic rule by 1972. This was later

shifted to 1976, with the administration's announcement of a six-year, nine-point programme, which included

- (a) "preparation and adoption of a new constitution";
- (b) "organization of 'genuinely national' political parties";
- (c) conduct of a national population census; and
- (d) "organization of elections of popularly elected government officials in the States and at the centre."

3.108 In 1974, the administration announced was amounted to an indefinite shift in the 1976 date, when it said that the 1976 date was "unrealistic," and that no hand-over would take place until *all* the economic, political and social problems of the country had been solved.

3.109 Other signals from regime apologists, such as talk of a one-party state and of diarchy, were interpreted to mean that the administration wanted to perpetuate itself in office.

3.110 The crisis of confidence generated by this prevarication on the administration's political programme as well as the general dissatisfaction with the economic health of the country, and with the corrupt and intransigent behaviour of many of the military governors, whose removal was openly demanded, even within the military, contributed to the overthrow of the Gowon administration in a "palace" coup on 25 July 1975, with Brigadier Murtala Muhammed emerging as the new Head of State and Commander-in-Chief of the Armed Forces of the Federation.

**CONSTITUTIONAL AND POLITICAL  
DEVELOPMENTS:**

**29TH JULY 1975 - 1ST OCTOBER 1979**

3.111 *Within a few months of its assumption of office, the Murtala Muhammed administration came out with a*

*five-stage, four-year transition programme. State-creation and constitution review panels were created, reform of the local government system was set in motion and a Federal Electoral Commission established.*

3.112 *The problem of corruption and general indiscipline in the country was tackled in earnest, with the controversial purge of the federal and state public services, the setting up panels to probe and audit public sector institutions, with emphasis on ethics and accountability in public life and on the prudent management of public funds.*

3.113 *In fact, in his inaugural address to the Constitution Drafting Committee (CDC), General Muhammed advised the CDC to consider including clauses stipulating the establishment of corrective or ombudsman institutions like the Corrupt Practices Tribunal and Public Complaints Bureau terms in the draft constitution.*

3.114 *The assassination of General Murtala Mohammed on 13 February 1976 threw the nation into shock and turned him into a national hero, since canonized as a yardstick for assessing administrations in the country.*

3.115 *General Olusegun Obasanjo succeeded General Mohammed as Head of State and Commander-in-Chief of the Armed Forces. The new Obasanjo administration faithfully stuck to and implemented the transition programme of what has come to be known as the Murtala Muhammed/Obasanjo regime.*

3.116 *A major constitutional and political development undertaken by the Murtala Mohammed/Obasanjo regime was the further creation of more states in February 1976, on the recommendation of the Justice Ayo Irikefe Panel on the Creation of More States and Boundary Adjustments in Nigeria.*

3.117 *This new exercise was intended to meet the incessant demand for the creation of new states after the 1967 exercise. The criticism of the 1967 exercise was based on the following grounds:*

- (a) *that the Western State and North-Eastern State were unduly large and that both of them should, therefore, be split into more states;*

- (b) *that some of the states contained ethnic groups who would rather not coexist in the same states, as in the case of the people of southern Zaria in the North-Central State, who wanted to be separated from the dominant Hausa/Fulani; and*
- (c) *that some ethnic groups were unnecessarily split between different states, as is the case with the Ijaw who were split between the Mid-Western State and Rivers State;*

3.118 *The 19 states created in February 1976 were Anambra, Bauchi, Bendel, Benue, Bornu, Cross River, Gongola, Imo, Kaduna, Kano, Kwara, Lagos, Niger, Ogun, Ondo, Oyo, Plateau, Rivers and Sokoto.*

3.119 *Another important constitutional and political development under the Murtala Mohammed/Obasanjo regime was the promulgation of the 1979 Constitution, based on the draft constitution submitted by the Constitution Drafting Committee, as amended by the Constituent Assembly and by the Supreme Military Council. Four features or provisions of the constitution are particularly noteworthy.*

3.120 *The first was the adoption of presidential government to obviate the constitutional ambiguity, about the relative powers and functions of a head of state and head of government, which created the constitutional crisis of 1965, under a parliamentary system of government. The choice of a single [presidential] executive was also justified on the ground that, unlike the division of powers between the head of state and the head of government under the 1960 and 1963 Constitutions, it would make for "more energy and dispatch than the disunity of many wills...[and for] effective leadership." [Federal Republic of Nigeria, Report of the Constitution Drafting Committee, containing the Draft Constitution, Vol 1, p. xxx, Lagos: Federal Ministry of Information, Printing Division, 1976].*

3.121 *The adoption of presidential government also introduced a more thorough-going doctrine of separation of powers and a system of checks and balances than was the case under previous constitutions in the country.*

3.122 *The second constitutional innovation, following upon the Local Government Reforms of 1976/1977 introduced by the administration, was the constitutional provision guaranteeing the local government as a third tier of government, thereby extending the home-rule principle to the*

*constitutional relationship between state governments and local government councils.*

3.123 *The third notable provision of the 1979 Constitution was the spread or double plurality requirement for the election of the President and the Governor, to ensure a broad-based mandate, cutting across regional or ethnic boundaries.*

3.124 *It was expected that this requirement would also prevent the emergence of purely ethnic-based political parties, in addition to the constitutional requirement that political associations seeking recognition and registration as political parties should have a membership and organizational structure indicating substantial presence in most states (i.e. in two-thirds of the nineteen states) of the federation.*

3.125 *The fourth notable provision was the constitutional elaboration, under the fundamental objectives and directive principles of state policy clauses, of human rights to include economic, cultural and social rights, in addition to the customary civil and political rights.*

*The ban on partisan politics, in place since January 15 1966, was lifted on 21 September 1978. By the deadline of 18 December 1978 set by the Federal Electoral Commission (FEDECO) for political associations to file papers for recognition and registration as political parties, about 53 such associations had been formed, although only 19 of them actually filed their papers.*

3.126 *The following 5 of the 19 political associations that applied to FEDECO were certified as having met the constitutional requirements for registration:*

- (a) Great Nigerian People's Party (GNPP);*
- (b) National Party of Nigeria (NPN);*
- (c) Nigerian People's Party (NPP);*
- (d) People's Redemption Party (PRP); and*
- (e) Unity Party of Nigeria (UPN).*

3.127 *For the first time since the controversial elections of 1964/1965, elections were conducted between 7 July 1979 and 11 August 1979, under the new 1979 Constitution, for President and members of the National*

*Assembly (at the federal level) and for Governor and members of House of Assembly (at the state level).*

3.128 *The presidential elections were not without controversy, however, especially with respect to the declaration of Alhaji Shehu Shagari, the NPN's presidential flag-bearer as the winner, having satisfied according to FEDECO, the spread or double plurality requirement for the election of the President. The Presidential candidate of the UPN, Chief Obafemi Awolowo appealed against the declaration of Shagari by FEDECO as the winner of the presidential elections.*

3.129 *The controversy persisted, despite the ruling, first by the Special Presidential Election Tribunal and later confirmed on appeal by the country's Supreme Court that the candidate declared the winner, Alhaji Shehu Shagari, had met the spread requirement and that there was, therefore, no need for a run-off between the two leading candidates.*

3.130 *The strength of the parties in the federal legislature was as follows: (a) Senate: NPN (36 seats); UPN (28); NPP (16); GNPP (8); PRP (7). House of Representatives: NPN (138 seats); UPN (111); NPP (78); PRP (49); GNPP (43).*

3.131 *On October 1, 1979 the Obasanjo military administration handed over power to democratically elected civilian administrations and legislatures at the state and federal levels, bringing to an end almost fourteen years of military rule in the country.*

### **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS:**

#### **1ST OCTOBER 1979 – 31ST DECEMBER 1983**

3.132 The return to democratic civilian rule on 1 October 1979 began against the backdrop of the controversy that trailed the Supreme Court decision on the presidential election.

3.133 It coloured attempts at forming national or coalition government at the federal level. It also influenced political realignments among the five political parties within the federal legislature, especially since the NPN, the President's party, would need

the support of other parties to carry through its legislative programme and for Senate confirmation of a number of executive branch appointments, like ministerial and ambassadorial ones.

3.134 It was not at the federal level alone that the party of the chief executive did not have an absolute majority in the legislature. A similar situation prevailed in Gongola State and in Kaduna State.

3.135 In Gongola State, the gubernatorial election was won by the GNPP. But each party's share of the seats in the state legislature was as follows: GNPP (25 seats); UPN (18); NPN (15); NPP (4); and PRP (1).

3.136 In Kaduna State, the PRP won the gubernatorial election but did not control the state legislature, as the following distribution of seats in the state legislature shows: NPN (64 seats); PRP (16); GNPP (10); NPP (6); and UPN (3).

3.137 In the case of the National Assembly, there was a working arrangement or "accord" between the NPN and NPP. The two parties held 52 of the 95 seats in the Senate, and 216 of the 449 seats in the House of Representatives.

3.138 While between them, the two parties had an absolute majority in the Senate, they still fell short of such a majority in the House of Representatives, necessitating further cross alignments with some of the three other parties to secure an absolute majority in the house for the President's legislative programmes. This situation gave room for political horse-trading and wheeling and dealing. The

NPN/NPP working arrangement broke down and was terminated in July 1981.

3.139 In Gongola State, the Governor's party, the GNPP enjoyed the support of the UPN in the state legislature, giving both of them combined a control of 43 of the 63 seats in the state legislature.

3.140 It was a different situation in Kaduna State where, with a comfortable control of 64 out of the 99 seats in the state legislature, the NPN legislators did not cooperate with the PRP Governor of the state, leading to legislative impasse and the eventual impeachment of the Governor.

3.141 By 1981, mid-way into the four-year tenure of the chief executive and the legislature at the federal and state levels, there were strong indications of disquiet and concern about the practice of federalism and presidential government in the country.

3.142 Factionalism had had its debilitating effect on the political parties, especially the GNPP and the PRP, with defections from both parties to the NPN, NPP and UPN. There were also defections from the NPP to the NPN.

3.143 The 9 UPN, GNPP and PRP Governors constituted themselves, through their regular meetings to forge a common opposition to the NPN-controlled federal government, into the Progressive Party Alliance (PPA) and refusing to recognize or work with President Liaison Officers (PLOs) sent to their states to represent federal interests.

3.144 In December 1981, after the termination of the NPN/NPP accord at the federal level, the 3 NPP governors joined the PPA. The expectation that the PPA would present a common front against the NPN at the 1983 federal and state elections was, however, dashed when it was announced in March 1983 that the alliance would field 2 presidential candidates.

3.145 The dismal performance of the economy was another source of disquiet. The N8 billion reserve and the budget surplus of N1461.6 million inherited from the Obasanjo regime in 1979, as well as the huge foreign exchange earnings from the sale of crude petroleum had been frittered away on the importation of food and luxurious goods or had been diverted to the corrupt enrichment of individuals.

3.146 For the 1983 elections, FEDECO recognized and registered one more party, the Nigerian Advance Party (NAP), in addition to the five it recognized and registered in 1979, GNPP, NPP, NPN, PRP and UPN.

3.147 The conduct of the 1983 elections at the state and federal levels was followed by serious allegations of widespread electoral fraud and political violence, and the use of the incumbency power in many cases to prevent a level playing field for a free and fair and competitive electoral process. In particular, the Nigeria Police Force played a partisan pro-NPN role, especially in states like Anambra, Bendel, and Ondo States, during the elections.

3.148 Like the 1964/1965 elections, the 1983 elections precipitated the military take-over of government from a civilian

administration on 31 December 1983, with General Muhammadu Buhari emerging as the new Head of State and Commander-in-Chief of the Armed Forces.

#### **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS:**

##### **31ST DECEMBER 1983 – 27TH AUGUST 1986**

*3.149 The new Buhari administration emphasized law and order and the revival and diversification of the Nigerian economy, through fiscal responsibility, prudent management of resources and emphasis on ethics and accountability in public life.*

3.150 The style of the administration was intolerant and puritanical, reflecting its preoccupation with law and order. To this end, the administration used the National Security Organization (NSO) as an instrument of repression.

3.151 Less concerned with a political programme of transition to democratic civilian rule, the administration enacted a series of draconian laws like Decree No.4 of 1984, some of which were given retroactive effect. Many of those caught in the web of these laws were detained, tried and imprisoned, without recourse to due process or without due regard to their inconsistencies with existing domestic laws or the country's obligation to comply with international law.

3.152 The Buhari administration was overthrown in a military coup, led by Major-General Ibrahim Babangida, on 27 August 1985.

#### **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS:**

##### **27TH AUGUST, 1985 – 26TH AUGUST 1993**

3.153 The direction or sketch of the Babangida administration's economic and political blueprint was set out in General Babangida's

Budget Speech of 31st December 1985. It included the framework of an economic recovery programme and of the political disengagement of the military from politics.

3.153 The administration inaugurated the 17-member *Political Bureau* on 13 January 1986 “to gather, collate and synthesize the contributions of Nigerians to the search for a new political programme...and to evaluate the various contributions and make proposals to government.”

3.154 The Report and Recommendations of *The Political Bureau*, submitted in March 1987 and the Government White Paper on it, provided the basis for the Transition Programme of the Administration, which was in July 1987 given legal backing through the promulgation of The Transition to Civil Rule (Political Programme) Decree 1987, otherwise known as Decree 19 of 1987.

3.155 *Decree No 26 of 1989, the Transition to Civil Rule (Political Programme) (Amendment) Decree 1989*, promulgated in December 1989, amended *Decree 19 of 1987*.

3.156 The Transition Programme was made up of the following components.

3.157 The first component was the establishment or reorganization and revitalization of a number of economic, legal, political and social institutions and agencies with vital role to play in the planned return to democratic civilian rule. For example, the following agencies were created or constituted between July 1987 and May 1988:

- (a) *the Directorate of Social Mobilization in July 1987;*
- (b) *the National Electoral Commission, in August 1987;*
- (c) *the Constitution Review Committee, in September 1987;*
- (d) *the Constituent Assembly in May 1988; and*
- (e) *the National Population Commission.*

3.158 As part of the revitalization programme, civil service reforms were undertaken in 1987/1988, and new states, two in 1987 and an additional 9 in 1991, were created.

3.159 The second component was the introduction of remedial or reconstructive policies and measures to address a number of persistent institutional or structural and process problems in the country's political economy and political culture. Highlights of this component included

- (a) the adoption and implementation of controversial structural adjustment policies;
- (b) the controversial banning and disqualification of certain categories of Nigerians from holding elective public offices during the transition, under *the Participation in Politics and Elections (Prohibition) Decree 1987 and the Participation in Politics and Elections (Prohibition) (Amendment) Decree of 1989;*
- (c) *the formation of allegedly grassroots- based two political parties, "one a little-to-the left," and the other, "a little-to-the right"; and*
- (d) political education.

3.160 The third component was the supervisory role of the Armed Forces Ruling Council in the transition programme, and the gradual disengagement of the Armed Forces from governance, in what can be described as *limited diarchy* during the transition period.

3.161 For all the elaborateness of the Transition Programme, there was much cynicism and skepticism about it, based on the assumption or suspicion that it was all a ruse. It was alleged that the various shifts in and amendments to the original Transition Programme were indicative of “a hidden agenda” by President Babangida to perpetuate himself in office, despite the promulgation of the 1989 Constitution, the successful conduct of elections not only to the local government councils in 1987 and 1989 but also of governors and legislators at the state level in 1991 and the National Assembly at the federal level in 1992.

3.161 The annulment of the hugely successful Presidential Elections of 12 June 1993 was a national embarrassment and catastrophe, which many Nigerians saw as a vindication of their long-held suspicion of President Babangida’s “hidden agenda.”

**CONSTITUTIONAL AND POLITICAL  
DEVELOPMENTS:**

**26TH AUGUST 1993 – 17TH NOVEMBER 1993**

3.162 President Babangida “stepped aside [from office] for national peace,” in the aftermath of the political crisis engendered by the annulment of the June 12 1993 presidential elections, handing over power on 26 August 1993 to Chief Ernest E. A. Shonekan, as civilian Head of the Interim National Government (ING).

3.163 The ING was unable to contain the festering and lingering political crisis. It prevaricated on a new political programme of transition, while also refusing to return to Chief M.K.O. Abiola, apparent winner of the 12 June 1993 presidential elections, his mandate.

3.164 A high Court judgment declared the ING illegal, creating a constitutional and political stalemate, which was complicated by the overthrow of the ING in a military coup led by the Minister of Defence, General Sani Abacha in November 1993.

## **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS:**

### **17TH NOVEMBER, 1993 – 8TH JUNE, 1998**

3.165 General Abacha assumed office at a time when the country's pro-democracy groups had mobilized popular public opinion for a restoration of the electoral mandate of 12 June 1993, which had been annulled by President Babangida. It was assumed, wrongly and naively as it turned out in retrospect that his assumption of power was to prepare the way for such a restoration.

3.166 As soon as he assumed power, General Abacha abolished or proscribed all democratic structures and institutions, like the two political parties, elected local government councils, federal and state legislatures and governors established or elected under the Babangida Transition Programme.

3.167 The electoral body, the Independent National Electoral Commission (INEC) was reconstituted, a constitution review panel was constituted, elections, boycotted in some parts of the country, were conducted to choose delegates or members to a Constitutional Conference to discuss a new constitution for the country, new political parties were recognized and registered by INEC, and new states were created.

3.168 Amidst all of these activities, pressures for decompression or political liberalization in the country went on unabated. The Constitutional Conference passed a resolution for the return to democratic civilian rule in 1996. Pro-democracy groups, principally the National Democratic Coalition, NADECO, stepped up campaign for the restoration of the June 12 1993 mandate, while there was

heightened radicalization of ethnic minorities, particularly in the Niger Delta, pressing for self-determination and resource control.

3.169 The reaction of the Abacha administration was to clamp down on the pro-democracy forces and other perceived enemies of the administration. Political assassinations, like those of Alfred Rewane and Alhaja Kudirat Abiola, among others, were allegedly state-sponsored, as was the death in prison of General Musa Yar'Adua.

3.170 Coup trials were conducted to try those, like General Obasanjo, General Yar'Adua, General Diya, among others, who were accused of and sentenced for conspiracy to overthrow the administration. The high-point of this state-sponsored violence was what many saw as the judicial murder of Ken Saro-Wiwa, turning the country into a pariah nation and precipitating the expulsion of Nigeria from the Commonwealth of Nations.

3.171 The more pressure for political liberalization, the more determined was the administration to push ahead with its transition programme, which was designed to ensure the self-succession of General Abacha as a civilianized head of state. The registered political parties apparently endorsed this self-succession plan, in that they appeared to have agreed, perhaps under pressure from the administration, to nominate General Abacha as their common or joint candidate for the presidential elections.

3.172 As part of the self-succession plan, prospective contenders for the presidency were harassed and physically attacked by regime apologists and functionaries, while state-contrived political rallies were

organized to mobilize public support for a planned Abacha candidacy for the presidency.

3.173 The Abacha administration was abruptly terminated by the mysterious death of General Abacha on 8 June 1998 and the emergence of General Abdulsalami Abubakar as the new Head of State and Commander-in-Chief of the Armed Forces of the Federation.

#### **CONSTITUTIONAL AND POLITICAL DEVELOPMENTS:**

##### **8TH JUNE, 1998 – 29TH MAY, 1999**

3.174 The administration of General Abdulsalami Abubakar released most political detainees and political prisoners immediately upon its assumption of office, the notable exception being Chief M.K.O. Abiola, the apparent winner of the annulled presidential elections of 12 June 1993, who died under mysterious circumstances in July 1998, during a meeting with a United States delegation sent to broker conditions for his release from detention. Among those released was General Olusegun Obasanjo

3.175 The administration set up a panel to review the draft of the new constitution produced under the late General Sani Abacha. In preparation for the transition to democratic civilian rule, the administration reconstituted the Independent National Electoral Commission, new political parties were recognized and registered and elections were conducted to local government councils and to elective public offices at the state (gubernatorial and legislative) and federal (presidential and legislative) levels early in 1999.

3.176 As was the case during the 1979 presidential elections, the outcome of the 1999 presidential elections was determined by the

Supreme Court, which upheld the declaration of Chief Obasanjo as the winner of the elections by the INEC.

3.178 General Abubakar handed over power to Chief Obasanjo on 29 May 1999, bringing to an end over 15 years of uninterrupted military rule in the country from 31 December 1983 to 29 May 1999.

**RESIDUAL POLITICAL ISSUES:  
HUMAN RIGHTS & MINORITY ETHNIC GROUPS**

3.179 Ethnic diversity is a fundamental feature of the Nigerian state. The ethnic profile of the country has been estimated to consist of between 56 and 400 ethnic groups, depending on the definition of an ethnic group and the classificatory schema (religion, language, culture, kinship) used in identifying an ethnic group.

3.180 This ethnic diversity has provided one of the major structuring principles of Nigerian federalism, as it has evolved over the years. What is meant by this is that the development of Nigerian federalism is best understood in terms of the assertion by ethnic groups of their collective (group) rights for home rule or self-government within the Nigerian federation, through the creation of their own autonomous states.

3.181 It was, indeed, in response to the insistent demand of minority ethnic groups for the creation of their own regions, before the country was granted independence, that the British government in 1957 set up *the Willink Commission to enquire into the fears of Minorities and the means of allaying them [Cmd.505/1957]*.

3.182 This demand was grounded on the fears of the minority ethnic groups that, unless their own autonomous regions were created before the departure of the British, they would continue to suffer

under the weight of the domination of the three major ethnic groups, in the sense that that their cultural values and heritage would be neglected, their areas would remain under-developed, and they would be denied access to the state, because the regional bureaucracy and the patronage networks flowing from it, were controlled by the majority ethnic groups.

3.183 These fears of the minority ethnic groups in each of the three regions in pre-independence Nigeria and their demand for self-government, through state creation, must be set against the ethno-cultural composition of each of the three regions. There was a dominant ethnic group, constituting more than 50% of the population in each of the three regions.

3.184 In the North, the Hausa/Fulani numbered about 55% of the population of the region; the Igbo about 65% of the population of the Eastern Region and the Yoruba about 76% of the population of the Western Region.

3.185 However, each of the three regions also contained other (i.e. minority) ethnic groups. For example, in the Northern Region, there were the Idoma, Igbirra, Kanuri, Tiv and Yoruba; in the Eastern Region, the Annang, Efik, Ibibio, Ijaw and Kalabari; and in the Western Region, the Edo, Igbo, Ishan, Ijaw, Itsekiri and Urhobo.

3.186 The demand by these minority ethnic groups for the creation of new states before independence included the following:

- (a) in the Northern Region, the minority ethnic groups in the Middle Belt had, as far back as 1945, demanded the creation of a 'Middle Belt State,' while the Yorubas of Ilorin and Kabba

Division of the region wanted to be transferred to the Western Region;

- (b) in the Eastern Region, the minority ethnic groups demanded the creation of a Calabar-Ogoja-Rivers Region; and
- (c) in the Western Region, the minority ethnic groups asked for the creation of a Mid-West Region.

3.187 *The Willink Commission* [Cmd.505/1957] rejected the demand of these minority ethnic groups for the creation of new regions out of each of the then existing three regions [East, North and West], arguing that,

*“[in each Region]—on its own merits—a separate state would not provide the remedy for the fears expressed; we were clear all the same that, even when allowance had been made for some exaggeration, there remained a body of genuine fears and that the future was regarded with real apprehension....In considering the problem within each region, we were impressed by the fact that it is seldom possible to draw a clean boundary which does not create a fresh minority....Some years ago, before the relations between the Federation and the Regions had crystallized, it was possible to conceive a large number of states with smaller powers, but a new state today would have to compete with the existing regions and the cost in overheads, not only financial but in resources, particularly of trained minds, would be high. This consideration, when combined with the difficulty of finding a clean boundary, was in each particular case to our minds decisive.”*

3.188 *The Willink Commission Report* did not put an end to the demand of the minority ethnic groups for their own regions. In fact, it did not stem the rising crescendo of pressures for the creation of new regions in the ethnic minority heartlands of the existing ones.

3.189 In some of the existing regions, the demand of the ethnic minority groups for state creation was politicized and intensified, fuelled by the majority ethnic groups for partisan party electoral advantage in other than their own regional heartlands.

3.190 For example, each of the major political parties (AG, NCNC and NPC), as part of their electoral strategy to make inroads into the regional strongholds of the other parties and to win the 1959 General Elections, promised, after the release of the *Willink Report*, to create new states in the regions where they were not in control of the regional governments.

3.191 Thus the AG promised to create states in the minority ethnic areas of the Northern Region (in the Middle Belt) and of the Eastern Region (the Calabar-Ogoja-Rivers area), while the NCNC supported the creation of more states out of the Northern Region and the Western Region.

3.192 On its part, the NPC realizing its vulnerability, owing to the potentially substantial erosion of its electoral strength in the minority ethnic areas of the North, particularly in the Middle Belt, launched its own counter-offensive to seek electoral inroads in the Eastern and Western Regions, by seeking alliance with the leadership of minority ethnic groups in both regions and by taking advantage of leadership fissures and intra-ethnic cleavages among the Yorubas in the Western Region, which enabled it, in cohort with the NCNC, its partner in the federal coalition government, to deploy federal patronage and federal constitutional powers to deepen the fissures and cleavages to its advantage, culminating in the declaration by the federal parliament of

a state of emergency in the region in mid-1962 and the creation of a Mid-West Region out of the region in 1963.

3.193 In short, the continued agitation for state creation in the first three years or so of independence, together with the conduct of controversial regional and federal elections between 1961 and 1965 escalated into a vicious cycle of political violence, political unrest and riots, carnage, political repression and victimization, especially in the Middle Belt in the Northern Region and in the Western Region, where the creation of the Mid-West Region in 1963 was seen as part of an orchestrated attempt by the NPC/NCNC federal coalition government to undermine the AG in its political heartland and as a reprisal for its strong support of the creation of new states in the minority ethnic areas of the Eastern and Northern Regions.

3.194 More regions/states have been created out of existing ones, since *Willink*. The country has moved from a federation of 3 regions to the present federation of 36 states and a federal capital territory. Indeed, state-creation has fragmented the country's majority ethnic groups (the Hausa/Fulani, Igbo and Yoruba) as well as the minority ethnic groups into competing sub-ethnic groups, as the *Willink Report* had predicted.

3.195 With 36 states, the Nigerian Federation has the third largest number of constituent units in modern federations, coming after the United States, which has 50 units, and the Russian Federation, with 80 units.

3.196 Other than the Mid-West Region, created in 1963, out of the Western Region, the other state creation exercises were carried out

under military rule in 1967, 1976, 1987, 1991, and 1996, under circumstances in which military, with the relevant constitutional provisions suspended, did not have to contend with tedious and complex constitutional requirements and procedures, which were designed more to discourage than to encourage state creation after independence.

3.197 While not recommending the creation of more states to assuage the fears of domination by the majority ethnic groups expressed by the minority ethnic groups, *Willink* had also asserted that those fears were well-founded—“...there remained a body of genuine fears and ...the future was regarded with apprehension [by the minority ethnic groups].”

3.198 To allay these fears, *Willink* recommended the establishment of *Minority Areas* and *Special Areas* as *development areas or growth points* for some of the minority ethnic groups, particularly those in the Niger/Delta.

3.199 *Willink* also recommended the entrenchment of a *Bill of Rights* in the 1960 Independence Constitution to protect the rights of ethnic minorities, although such rights were also to apply to all Nigerians.

3.200 The 1960 Independence Constitution contained provisions for what were essentially affirmative action-type policies like proportionality, quota or reverse discrimination, in favour of historically-disadvantaged ethnic groups and in the public interest, to redress inequalities and injustices arising out of deliberate state policies in the past.

3.201 For example, Section 27 of the 1960 Independence Constitution and later Section 28 of the 1963 Republican Constitution made provision for the fair representation of ethnic minorities in the public services of the then existing 3 regions. Moreover, during the First Republic (1960-1966), there was a convention regarding proportionality in cabinet appointments at the federal and regional levels, with ministers chosen to reflect the majority/minority ethnic mosaic in each region.

3.202 During the First Republic, practical policy effect was given to the recommendation of *Willink* for the establishment of *development areas* or *growth points* in minority ethnic group areas.

3.203 Thus compensatory measures like the establishment of the *Niger-Delta Development Board* and the *Niger-Delta [and other] Special Areas Scholarship Award* were introduced and implemented to promote the socioeconomic and cultural development of minority ethnic groups in the Niger-Delta and other minority areas of the country.

3.204 In a sense, the *Niger-Delta Development Board* was the precursor of later institutional efforts, like *OMPADEC* and *NNDC* to address the grievances of minority ethnic groups in the area.

3.205 However, *the 1979 Constitution, the 1989 Constitution and the 1999 Constitution* contained what have been referred to as “*the federal character clauses.*”

3.206 These clauses, intended to engineer ethnic accommodation of a *consociational* nature, were extended to apply to ethnic groups *as such* and not specifically to minority ethnic groups.

3.207 Thus *Section 14, sub-section 3 of the 1979 Constitution* stipulates, typically of relevant sections of the *1989 Constitution and 1999 Constitution* that

*“the composition of the Government of the Federation or any of agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or a few ethnic or other sectional groups in that government or any of its agencies.”*

3.208 Similar clauses, with appropriate modifications, were included as provisions in the *1979 Constitution, 1989 Constitution and 1999 Constitution*, dealing with the executive and legislative powers and functions of state governments.

3.209 *Section 277, sub-section 1 of the 1979 Constitution* defines “*federal character*” as *“the distinctive desire of the peoples of Nigeria to promote national unity foster national unity and give every Nigerian citizen a sense of belonging to the nation as expressed in section 14(3) and (4) of this Constitution.”*

3.210 Whereas the “*federal character*” clauses assume equal treatment for all ethnic groups, as opposed to special group preference for some “*disadvantaged*” or “*special*” ethnic groups, this has not been the case in practice.

3.211 This is because the proportionality principle, for example, has been converted through administrative action into special group preference, especially in admission to federal secondary schools, for some “*disadvantaged*” ethnic groups.

3.212 In effect, the implementation of the federal character clauses of the 1979 Constitution has fuelled and deepened the ethnic animosities they were designed to prevent, generating national controversy about how best they can be utilized as strategic policy measures to achieve the broader objective of “diversity in unity.” Those who support the clauses argue that they will promote even development and facilitate national integration, by compensating for and preventing the recurrence of the domination of federal and state governments by a few ethnic groups.

3.213 But those who oppose the clauses argue that they are unfair, will reward mediocrity and are inconsistent with the entrenched fundamental human rights provisions of Nigerian constitutions. They also argue that a person’s worth and the respect due to him/her as a person should not be defined in terms of his/her ethnic origins.

3.214 The misapplication of the federal character clauses and the fracture it has created in the design of Nigerian unity constituted a source of concern for the *Committee on Fundamental Rights and Directive Principles of State Policy and Press Freedom* of the 1994/95 Constitutional Conference.

3.215 Arising out of its examination of the application of the federal character clauses, the Committee advised that, “*Government should ensure that the Federal Character Principle is evenly applied...*”

3.216 In an attempt to prevent the abuse and flawed implementation of the federal character clauses, the 1999 Constitution established in Section 153 *the Federal Character Commission*, as a federal executive agency, whose membership, functions and powers are spelt out in the *Third Schedule, Part 1* of the Constitution. Section 8(1) of the Third Schedule empowers the Commission to:

- “(a) work out an equitable formula subject to the approval of the National Assembly for the distribution of posts in the public service of the Federation and of the States, the armed forces of the Federation, the Nigeria Police Force and other security agencies, government-owned companies and parastatals of the States;
- (b) promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government;
- (c) take such legal measures, including prosecution of the head or staff of any Ministry or government body or agency which fails to comply with any federal character principle or formula prescribed or adopted by the Commission.”

### **ETHNICITY AND RECURRENT ISSUES IN NIGERIAN POLITICS**

3.217 We now turn to two vexing issues, which, arising out of the assertion of minority ethnic rights and the general structural design of Nigerian federalism to reflect ethnic diversity, have been recurrent features of the country’s constitutional and political development.

3.218 These recurrent issues are (a) *political asymmetry* and (b) *the conflict between citizenship and indigeneship*.

3.219 These issues, whose seeds were sown, as we have tried to show, during colonial rule in the form in which amalgamation and indirect rule assumed, have been central to the form and outcomes of political conflict in the country.

3.220 Recent demand for the restructuring of the Nigerian federation and for the convocation of a (national) constitutional conference is a manifestation of the salience of these unsettled issues.

#### **POLITICAL ASYMMETRY**

3.221 By *political asymmetry*, we mean *the unequal power relations (a) within and among the states; and (b) between the states and the federal government*.

3.222 With respect to power relations within the states, the political inequality is due to the character of majority/minority ethnic group relations, as well as intra-majority ethnic group relations. The problem of political inequality or asymmetry, in this case, is due to the persistent demand of minority or marginalized ethnic groups within existing states for their own states within their own sub-national territories.

3.223 The demand itself, as we have had cause to explain earlier on in this chapter, is necessitated by the fear, entertained by minority ethnic groups, of domination by majority ethnic groups in the states.

3.224 Yet it is paradoxical that state creation exercises to satisfy the demand for home rule by minority ethnic groups has deepened political inequalities or asymmetries *within* some of the states, and between the states, since, in the latter case, some states are more endowed than others, which are more or less glorified local governments.

3.225 Nowhere is this more the case than in the oil-rich Niger Delta where, as we have pointed out earlier on, the demand for state creation, arising out of perceived marginalization and discriminatory practices against the indigenous peoples, goes back to the mid-1950s. 45 years after *Willink*, and in spite of the creation of six states in the Niger Delta area [*Akwa-Ibom, Bayelsa, Cross River, Delta, Edo and Rivers*], development has not filtered down.

3.226 Ecological devastation, poverty and neglect by successive federal and state governments and the oil companies have combined to create a typical situation of internal colonialism, as the case of the Ogonis, which we have examined in another Volume of this Report, typically illustrates.

3.227 *This is the background to the recurrent incendiary political violence and anomic political behaviour in the Niger-Delta area, expressed in:*

- (a) *separatist agitation and popular democratic struggles against state violence and the violations of the human rights of the peoples of the Niger-Delta by functionaries and agents of federal and state governments and the oil companies;*
- (b) *ethno-communal conflicts, fuelled by intra-Niger-Delta (inter-ethnic and intra-ethnic) historically-derived rivalries, animosities and*

*antagonisms, like the inter-ethnic ones between Ijaw and Itsekiri, Ogoni and Okrika, Ikwere and Ijaw, Itsekiri and Urhobo, and Andoni and Ogoni, and the intra-ethnic ones, like those between Nembe and Kalabari, Bassambiri and Ogbolomabiri, and Okpoma and Brass; and*

- (c) *the demand for the fundamental restructuring of the federation, including the adoption of new federal fiscal arrangements to give more autonomy to the states and to ensure that each constituent ethnic group receives a far greater share of the federal revenue derived from its sub-national territory.*

3.228 With respect to relations between the states and the federal government, political asymmetry has two dimensions.

The first dimension is a residual manifestation of the North/South divide created by amalgamation and the non-uniform application of indirect rule, as it has impacted on electoral politics at the federal level, based on the electoral advantage of the North, conferred on it [the North], presumably on the basis of contested population figures, by the constitutional arrangement under the *Macpherson Constitution of 1951*, which gave the North 50% of the seats in the central legislature, as opposed to the equal representation of each of the three regions, which was demanded by the Eastern and Western Region.

3.229 Political asymmetry in this case persists because of the southern fear of domination by the north in the context of party electoral competition for control of political power and, therefore, of the enormous fiscal resources and patronage deriving from it at the federal level.

3.230 Related to this is the persistent controversy over accurate population censuses in the country, on the basis of which constituency delimitation and allocation of federal legislative seats are allocated. In view of the first-past-the-post electoral system, inherited from the British, population counts, especially on the assumption of ethnic or regional bloc voting.

3.231 Current debate within the country on the necessity as well as the desirability of “*power shift*” at the federal level from the North to the South underscores the political salience of this aspect of political asymmetry in the federal structure of the country.

3.232 This is even more so, given the fact that, historically, of the eleven heads of government at the federal level between 1954 and the present time (March 2002), 8 were from the North. Of these eleven, two out of the three democratically elected heads of the federal government were from the North.

3.233 The controversy over the annulment of the June 12, 1993 presidential election, which was won by a southern, Chief M.K.O. Abiola must be seen in the perspective of this political asymmetry, as yet an indication of the desire of the leadership core of the Northern Hausa/Fulani ethnic group to retain control of the federal government at all costs.

3.234 It is remarkable that this fixation with the North/South political configuration in the country has survived several state creation exercises intended to diffuse power among the various ethnic groups. It is interesting also that it has persisted, despite the

recognition over time that neither the North, in particular, nor the south is a homogeneous entity.

3.235 It has also persisted, in spite of the attempts to engineer *national or coalition governments* at the federal level in 1959, 1964, 1979, 1983, and 1999; and in spite of the attempt to federalize or de-ethnicize the party system and competitive electoral politics.

3.236 The second dimension of the political asymmetry that exists between the states and the federal government is the shift in the balance of power from the states to the federal government.

3.237 The trend, over several years of military rule, towards *organic (centralized) federalism* in the country has generated deep concern; so much so that *statism* is now waxing strong, as in demand for a return to the so-called *true federalism* and for *resource control (fiscal federalism)* by the constituent states.

### **CONFRONTING THE CITIZENSHIP/INDIGENESHIP CONFLICT?**

3.238 The second enduring issue, which we wish to refer to, is the conflict between *citizenship rights and indigeneship rights*. The one is about individual rights, while the other is about collective group rights, the assertion of which may infringe on individual rights of the citizen. In other words, to what extent can the country accommodate ethnic diversity without undermining national loyalty and the sense of solidarity and unity among its citizens?

3.239 What price “diversity in unity”? What are the implications of the divided citizenship created by the coexistence within the country

of two levels of government, each of which has direct and apparently co-equal legislative and juristic impact on the country's citizens?

3.240 The conflict arises at the state level where, on the basis of the assertion and claim of collective ethnic group rights, public policy accords preferential treatment to indigenes of each state over non-indigenes resident in the state in appointments and promotions in the state public service, in admission to state educational institutions, in public contract and procurement awards and in real estate.

3.231 *Section 147(3) of the 1999 Constitution* recognizes indigeneship rights when it stipulates that, in appointing his/her cabinet *“the president shall appoint at least one Minister from each state, who shall be an indigene of such a state.”* Similar provisions apply to a number of executive branch appointments like permanent secretaries and Nigerian ambassadors to foreign countries.

3.232 While not defining or establishing criteria for asserting an indigeneship right, the nearest the 1999 Constitution comes to doing so is at Section 318(1), where it is stipulated that, *“belong to or its grammatical expression when used with reference to a person in a state refers to a person either of whose parents or any of whose grandparents was a member of a community indigenous to that State.”*

3.233 The assertion of indigeneship rights and the preferential treatment given to indigenes of a state over other Nigerians resident in the state is at variance with, for example, the following political objectives which the 1999 Constitution, at Sections 15(2)(3) and (4) directs the State to pursue:

*“[Section] 15(2)...national integration shall be actively encouraged whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited. (3) For the purpose of promoting national integration, it shall be the duty of the State to*

*(a) provide adequate facilities for and encourage free mobility of people, goods and services throughout the federation;*

*(b) secure full residence rights for every citizen in all parts of the federation.*

*(4) The State shall foster a feeling of belonging and of involvement among the various peoples of the federation, to the end that loyalty to the nation shall override sectional loyalties.”*

### **WHICH WAY FORWARD?**

3.234 Since the mid-1990's, there have been persistent calls for a new political order in the country, with emphasis on re-structuring the Nigerian federation on a scale that would tilt the balance of power in favour of the constituent units and under an arrangement which some describe as true federalism but which is really a euphemism for either peripheralized (i.e. highly) decentralized federalism or confederation.

3.235 Our experience under military rule, particularly between 1984 and 1999 was a traumatic one for our practice of federalism; so much so that many ethnic groups were forced to express strong reservations about the price of federalism, about whether they were not paying too high a cost to remain in the federation, in a way that indicated that secession could not be ruled out.

3.236 This is why, in a multiethnic or multinational country like ours, we need to sit down to debate and decide the future of federalism in the country, after several years of centralizing and totalizing military rule. This is necessary if we are to avoid what happened to the former Soviet Union, Yugoslavia and Czechoslovakia.

3.237 The Soviet Union survived for 70 years until the wind of disintegration blew the different ethnic nationalities apart, only to regroup in their various ethnic enclaves. Yugoslavia disintegrated into separate units after staying together for 45 years. In Africa, separatist forces have led to the disintegration of Somalia and Ethiopia, while in the Democratic Republic of the Congo and the Sudan, the state is fragile and national unity a mirage.

3.238 In Nigeria, there are disturbingly ominous signals already pointing towards disintegration, unless we begin to emphasize what bind and strengthen us as one, indivisible country, in a show of visionary statesmanship by our political leaders.

3.239 We need to begin to a process of moral reorientation and national re-birth, a process of national healing and reconciliation, anchored firmly on a common ground, where we accommodate and respect our ethno-cultural and regional diversities, without undermining our unity and solidarity as Nigerians.

3.240 The way forward for the country, therefore, is for the state to provide the facilitative and conducive environment for the faithful pursuit of the fundamental objectives and directive principles of state policy, of the citizenship rights and of the fundamental rights, which

are respectively entrenched in Chapters 11, 111 and 1V of the 1999 Constitution of the Federal Republic of Nigeria.

3.241 This requires coordinated and determinedly committed policy programmatic action along the following interrelated lines.

3.242 First, we must take advantage of the recent transition from military to democratic civil rule to strengthen democracy itself. In other words, we must anchor democracy and its institutions on a solid foundation of economic reform, poverty eradication, accountability, a responsible party system, an “efficient,” not “dignified” or complacently rubber-stamping legislature, a strong judiciary and an effective oversight of the three branches of government by quasi-judicial bodies and a robust and active civil society.

3.243 Secondly, we must restructure our federal system, so as to strengthen and make it a “more perfect union.” We can achieve this objective by building durable bridges, through constructively visionary leadership, across the yawning gap between citizenship rights and indigeneship rights in our practice of federalism.

3.244 Thirdly, we must address the problem of political asymmetry in our practice of federalism. More powers and functions, with the corresponding revenue base, must be given to state governments and local government councils, without weakening or immobilizing the national government. This can be achieved by revising the revenue allocation formula in such a way as to match the fiscal resources at the disposal of the state governments with their enhanced powers and functions.

## **VOLUME TWO**

### **INTERNATIONAL CONTEXT**

#### **CHAPTER ONE**

##### **INTRODUCTION**

1.1 In this volume, we place the work of the Commission within an international context. Six major themes constitute the division of the volume.

1.2 Chapter 2 describes the impact of human rights violations in the country by previous regimes on the country's image abroad and in its international relations with other countries during the period covered by this report.

1.3 In chapter 3 we examine Nigeria's compliance with international human rights standards during the same period, that is, between January 15, 1966 and May 28, 1999.

1.4 Chapter 4 looks at Nigeria's compliance with international humanitarian law standards during the country's civil war between July 1966 and January 1970.

1.5 Chapter 5 discusses Nigeria's domestic and international legal obligations to investigate human rights violations.

1.6 In chapter 6, we identify specific obstacles that have prevented the Nigerian state from fulfilling its legal obligations to promote human rights and to prevent their violations.

1.7 In the final chapter of the volume, chapter 7, we provide an overview of comparative regional experiences with the establishment of commissions with similar terms of reference and mandate as our own Human Rights Violations Investigation Commission. In this respect, our focus is on the process of institutionalizing such commissions, their role in promoting national reconciliation, how they approached the vexed question of granting immunity to past or serving heads of state, and what lessons Nigeria can or should learn from these regional experiences.

## **CHAPTER TWO**

### **IMPACT ABROAD**

#### **INTERNATIONAL STATURE OF NIGERIA**

2.1 Nigeria occupies a strategic economic, military and political position in Africa, as is captured by the reference to her as “The Giant of Africa”.

2.2 The geo-political importance of Nigeria is deep-rooted in history and has impacted variously, negatively and positively, on her relations with countries in Africa and the rest of the world.

2.3 Within Africa, Nigeria has defined her own political and socioeconomic security with that of the rest of Africa, playing a prominent and frontline role in African politics, in the establishment of the Organization of African Unity (OAU), and of its successor, The African Union (AU), and of the Economic Community of West African States (ECOWAS); in the formation of ECOMOG and in the liberation of Southern Africa.

2.4 Within the United Nations and in other multilateral international organizations, Nigeria has also been a foremost African country, earning respect for herself as a champion of African causes and contributing men and materiel to UN and other peacekeeping operations in various parts of the world.

2.5 Because of the international stature of the country, other countries and international organizations continue to show keen interest in her domestic politics and economic policies, including the protection and promotion of human rights.

## **CONSTITUTIONAL PROVISIONS FOR HUMAN RIGHTS**

2.6 In the area of human rights, the country's Independence Constitution of 1960 entrenched a bill of primarily civil and political rights. Although they applied to all Nigerians as individuals, as such, the rights were intended to guarantee minority ethnic rights and, therefore, not only to assuage their fears of discrimination but also to take the steam out of their demand for the creation of more states in the country before independence.

2.7 It was not until the 1979 Constitution that this bill of rights was expanded to include cultural and economic rights as well as collective ethnic group rights.

2.8 However, the conflict between rights, defined as individual rights belonging to the person as such, and rights as collective ethnic group rights, remains a sore point in the constitutional provisions of human rights, reflected in the tension between citizenship and indigeneship in the country.

## **EXTERNAL PERCEPTIONS**

### **THE JANUARY 15, 1966 COUP AND ITS AFTERMATH**

2.9 The first major dent in the international image of the country in the human rights area was provided by the military coup of January 15, 1966, during which the Prime Minister of the Federation of Nigeria, the Premiers of the Northern Region and the Western Region, the Federal Minister of Finance and a number of high-ranking military officers were assassinated. This was followed by the ethnic massacres of 1966 and 1967, especially of the Igbos, and the country's descent into civil war in mid-1967, with the declaration of the Republic of Biafra by dissident elements in the Igbo military and political leadership.

2.10 The international community was outraged by these apparently ethnic-motivated assassinations and massacres, which were also condemned within the country.

2.11 It needs to be underscored that a military coup by its nature is a fundamental breach of the inalienable rights of citizens to choose their rulers and to hold them accountable for their action in office. It is for this reason that, no matter the mitigating or extenuating circumstances, the international community usually condemns military rule.

### **EXTERNAL PERCEPTIONS:**

#### **THE CIVIL WAR, 1967-1970**

2.12 Another major dent in the country's human rights record was the prosecution of the civil war, with charges and counter-charges by both sides in the war and by their supporters of the use of starvation as a weapon of war, of the deliberate killing of civilians by the federal and Biafran troops and the ill-treatment of captured soldiers, "prisoners of war," by both sides.

2.14 The international community generally distinguished between the humanitarian and political dimensions of the war.

2.15 While many African countries and most of the rest of the world, particularly Great Britain, United States of America (USA), the Union of Soviet Socialist Republics (USSR), the Commonwealth of Nations and the United Nations, threw their support behind the federal government for economic and political reasons, they predicated the support on the need to exert a moderating influence on the conduct of the war by the federal government.

2.16 Reference was made above to the apparently ethnic - motivated assassinations that followed the military coup of 15 January 1966, and its denouement in the civil war.

2.17 Following upon the pogroms of May 1966 and of September to October 1966, there seemed to have been an initial groundswell of international support for the attempt to justify the secession of Biafra on the grounds of self-determination by, and the fear of genocidal extinction of the Igbo-speaking people.

2.18 However as the war progressed, the appeal of self-determination to justify secession waned among the international supporters of Biafra.

2.19 The minority ethnic groups in Biafra began to assert their own claim to self-determination, on the basis of their pre-independence demand for their own states and their fear of Igbo-domination, as established by the Willink Commission.

2.20 With the military success of the federal government virtually assured, the international supporters of Biafra took a pragmatic position by imploring the Biafran leadership to take a more flexible position, arguing that secession was not the only way to assert a claim to self-determination, and that, consequently the Biafran leadership should seek and negotiate other options compatible with self-determination for the Igbos with the federal government.

2.21 The use of the fear of genocide by the Biafran leadership to secure international support turned out to be counterproductive, as it became clear that Biafra was unable to substantiate the claim that federal troops were engaged in a military campaign to exterminate the Igbos, in the face of

the federal government's attempt, in deference to world opinion, to control the behaviour of its troops on the battlefield.

2.22 There were two important developments in this respect.

In a broadcast at the end of her visit to Nigeria and Biafra in September 1968, Dame Margery Perham of Oxford University, a foremost British authority on Nigeria and a leading supporter of Biafra in Great Britain, absolved the federal government of genocidal intentions and called on the Biafran leadership to surrender. More damning was the subtle point in her speech that the Biafran leadership was deliberately exposing its people to suffering in order to score political points and to gain international support and sympathy.

2.23 The other development was the report of the International Observer Team from Canada, Poland, Sweden and the United Kingdom, which was set up to investigate the conduct of federal troops.

2.24 The report of the team, on the basis of evidence on the ground and of its findings, absolved the federal government from charges of genocide.

#### **EXTERNAL PERCEPTIONS:**

#### **ANNULMENT OF 1993 PRESIDENTIAL ELECTIONS**

2.25 Another major dent in the international human rights record of the country was the annulment of the June 12, 1993 presidential elections, won by Chief M.K. Abiola, of the Social Democratic Party (SDP), by the federal military government, under General Ibrahim Babangida.

2.26 The annulment was condemned by the international community, which saw it as a preemptive coup d'état to deny Nigerians their basic right to choose their rulers in what was regarded as the freest and fairest presidential elections ever held in the country.

2.27 Pressures from domestic and international sources to de-annul the elections were mounted. Although not successful in achieving this objective, the pressures were partly responsible for the decision of President Babangida “to step aside,” in August 1993 and to hand-over power to the controversial Interim National Government (ING), under Chief Ernest Shonekan.

## **EXTERNAL PERCEPTIONS:**

### **THE ABACHA REGIME**

2.28 The unwholesomely negative international perception of the human rights situation in the country reached its nadir during the administration of the military ruler, General Sani Abacha.

2.29 Under Abacha’s regime, pro-democracy activists were hounded, sometimes into exile. Political assassinations of prominent pro-democracy activists like Pa Alfred Rewane and Alhaja Kudirat Abiola, wife of Chief M.K. Abiola, winner of the June 12 (1993) presidential elections, were allegedly instigated by the state. A virtual state of terror prevailed in the country.

2.30 The judicial murder in November 1995 of Ken Saro-Wiwa, leader of the Movement for the Survival of the Ogoni People (MOSOP) and of the Ethnic Minorities Rights Organization of Africa (EMIROAF) and eight others, in spite of appeals from the international community for the regime to spare their lives, triggered prompt punitive response from the international community.

2.31 The 15 member countries of the European Union, as well as the United States and South Africa recalled their high commissioners and ambassadors for consultations in protest. Nigeria, which applies the principle of reciprocity strictly, recalled its own high commissioners and ambassadors

from these countries. Trade sanctions were imposed on Nigeria and travel restrictions to some of these countries were imposed on functionaries of the Abacha regime.

2.32 The most drastic punitive response came from the Commonwealth of Nations, which suspended Nigeria from membership of the organization for two years, with South Africa's President Mandela playing a leading role in the decision.

2.33 Within Africa, relations between Nigeria and South Africa became chilly, as the moral weight of President Mandela was lent to the domestic and international critics of the human rights violations committed under the Abacha regime.

2.34 The African mood was reflected in the fact that the African Commission on Human and Peoples' Rights (ACHPR) used the occasion of its second extraordinary session to take the unusual step of condemning human rights violations in Nigeria.

## **CHAPTER THREE**

### **NIGERIA'S COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS STANDARDS - (JANUARY 1966-MAY 29, 2002)**

#### ***NIGERIA'S RATIFICATION OF INTERNATIONAL HUMAN RIGHTS CONVENTIONS***

3.1 Nigeria has been a party, since December 1993, to *the International Covenant on Civil and Political Rights (ICCPR)*, and *the International Covenant on Economic, Social and Cultural Rights (ICESCR)*.

3.2 Among other international covenants or agreements on human rights, which it has signed and ratified are the following: *the Convention on the Rights of the Child (CRC)*; *the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*; *the Convention on the Elimination of Forms of Racial Discrimination (CERD)*; *the Convention on the Prevention and Punishment of Genocide*; *the Slavery Convention of 1926*; *the Convention and the Protocol Relating to the Status of Refugees*.

3.3 Nigeria is a signatory, and not a ratifying member-state to the *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*.

3.4 In principle, states, which are party to these various instruments, are obliged to comply with their provisions.

#### ***NIGERIA'S RECORD OF COMPLIANCE***

3.5 In recent years, various United Nations Human Rights mechanisms, governments and Non-Governmental Organizations (NGOs), have alerted

the UN Human Rights Commission on the deteriorating situation of human rights in Nigeria.

3.6 In 1993, the UN Working Group on Arbitrary Detention adopted a decision [No.22/1993-Nigeria] stating that the detention of three prominent human rights activists, Chief Gani Fawehinmi, Dr Beko Ransome-Kuti and Femi Falana was arbitrary. The Working Group also deplored the military government's rule by emergency decrees without a formal declaration of a state of emergency in the country.

3.7 These three human rights activists had been arbitrarily arrested and repeatedly detained for days because of their progressive activities in defence of the promotion and protection of human rights.

3.8 On May 30, 1994, the UN Special Rapporteur on Torture, Inhuman or Degrading Treatment or Punishment transmitted an urgent appeal to the Government of Nigeria on behalf of Ken Saro-Wiwa, the leader of MOSOP who had been arrested, allegedly detained incommunicado, handcuffed and beaten under severe conditions since May 20, 1994, although he was said to be suffering from a serious heart condition.

3.9 The Report of the Special Rapporteur on Extra-Judicial, Summary and Arbitrary Executions to the 51<sup>st</sup> Session of the Commission on Human Rights in 1995 confirmed that extra-judicial, summary and arbitrary executions and kindred gross violations of the basic right to life by agents and functionaries of the state were occurring in Nigeria.

3.10 The Special Rapporteur called on the Nigerian government to take necessary steps to ensure that the security forces respect human rights and fully abide by the norms and regulations governing the use of force and to bring to justice those who violate them.

3.11 The UN Human Rights Commission expressed deep concern about the human rights situation in Nigeria, following the trial and execution of Ken Saro-Wiwa and the 8 MOSOP leaders.

3.12 The UN General Assembly at its 50<sup>th</sup> Session in December 1995 condemned the arbitrary execution of Saro-Wiwa and the 8 Ogoni leaders. Expressing concern about other gross violations of human rights, the resolution called upon the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions and the Working Group on Arbitrary Detention to investigate the human rights situation in Nigeria and to report their findings to the UN Human Rights Commission at its next session in March 1996.

3.13 The UN Human Rights Commission requested the Nigerian government to submit a report on the human rights situation in the country, with particular reference to the application, within the country, of Articles 6, 7, 9 and 14 of the ICCPR, for consideration at the Commission's 56<sup>th</sup> session in March/April 1996.

3.14 During the discussion that followed the submission of the report by the Nigerian government, the UN Human Rights Commission noted fundamental inconsistencies between the obligations undertaken by Nigeria under the covenant to respect, promote, protect and ensure rights guaranteed under the covenant and the implementation of those rights in Nigeria.

3.15 In particular, the Commission observed that the *incommunicado* detention for an indefinite period and the suppression of *habeas corpus* (violation of Article 9 of the covenant) and the establishment of decree of several types of special tribunals constituted violations of rights under articles 14, 6(1) and (2) of the covenant, resulting, as in the case of Saro-Wiwa and the 8 other MOSOP leaders, in the arbitrary deprivation of life.

3.16 The Commission recommended the abrogation of all decrees, which, either establishing special tribunals or ousting normal constitutional guarantees of fundamental human rights or the jurisdiction of the normal courts, violate some of the basic rights under ICCPR.

3.17 It also recommended that urgent steps be taken to ensure that persons facing trials are afforded all the guarantees of a fair trial, as provided in articles 14(1) (2) and (3) and to have their convictions and sentences reviewed by higher tribunals, in accordance with article 14(5) of the ICPR.

3.18 The Commission requested the Nigerian government to inform it of the steps it had taken to implement these recommendations, at the resumed sitting of the Commission in July 1966.

3.19 The Report of the Commission of Inquiry of the International Labour Organization (ILO), which visited Nigeria in August 1998, at the invitation of the Nigerian government, highlighted the profound improvement in the human rights situation in the country, since the inception of the administration of General Addulsalami Abubakar, that took over after the sudden death of General Sani Abacha in July 1998.

3.20 The ILO Report commended the Abulsalami Abubakar administration for the positive measures it had taken to promote, protect and enhance the enjoyment of human rights in the country, including the release of all political prisoners and detainees, the strengthening of the judiciary to enhance the rule of law, prison reform and the repeal or amendment of decrees that had infringed or derogated from fair trial guarantees, freedom of opinion and freedom of association.

## CHAPTER FOUR

### DOMESTIC IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS STANDARDS

4.1 Nigeria became a party to the *African Charter on Human and Peoples' Rights (ACHPR)* in 1983. The charter, which obliges member-states of the Organization of African Unity (OAU) to recognize the rights, duties and freedoms enshrined in it and to undertake to adopt legislative measures to give effect to them, became part of the laws of Nigeria by virtue of the *African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, cap.10 Laws of the Federation of Nigeria, 1990*.

4.2 Nigerian courts have since then been applying the charter in human rights cases.

4.3 In response to complaints it received on the deteriorating human rights situation in Nigeria, particularly since 1990, and in line with its mandate under the charter, the African Commission on Human and Peoples' Rights (ACHPR) has issued pronouncements, enjoining the Nigerian government to comply with its obligations under the charter.

4.4 The following examples underscore this concern of the ACHPR's concern with compliance with the charter by the Nigerian government.

4.5 In the wake of the political and constitutional crisis created by the annulment of the June 12 (1993) presidential elections, the ACHPR expressed grave concern at the development and called for the observance of human rights principles by the Nigerian government.

4.6 At its 17<sup>th</sup> ordinary session in Lome, Togo in March 1995, the ACPHR considered communication from the Civil Liberties Organization (CLO) of Nigeria complaining about various decrees of the Nigerian government, including Decree No. 107 of 1993, which suspended the Nigerian Constitution and ousted the jurisdiction of regular courts on matters for which the decrees had been promulgated.

4.7 Decree No. 107 of 1993, the Constitution (Suspension and Modification) Decree, which amends parts of Chapter IV of the 1979 Constitution of Nigeria, dealing with Human Rights, specifies that the constitution and other laws, including international treaties, were subordinate to executive decrees. Judicial review of the decrees was ruled out, in particular as to questions touching Chapter IV of the 1979 Nigerian Constitution.

4.8 In spite of judicial pronouncements to the contrary, these executive decrees continued to operate up to May 1999, in violation of the African Charter and international human rights standards.

4.9 In response to the communication from the CLO, the ACHPR declared that the act of the Nigerian government to nullify the domestic effect of the African Charter constituted an affront to the African Charter.

## **CHAPTER FIVE**

### **NIGERIA'S COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW STANDARDS:**

#### **CIVIL WAR PERIOD & BEYOND**

5.1 The level of actual implementation of *International Humanitarian Law (IHL)* in Nigeria is high.

5.2 During the country's civil war, 1967-1970, Nigeria demonstrated in practice her commitment to the implementation of IHL, particularly with the instructions given to federal Nigerian troops.

5.3 The Nigerian government has adopted the following national measures:

1. Incorporation of IHL in Nigerian domestic law: Nigeria has not only ratified the 1949 Geneva Convention and the additional protocols of 1977 but also transformed the convention into domestic law by enactment, namely in the form of the Geneva Conventions Act Cap. 162 Laws of the Federation, 1990. Furthermore, Nigeria has enacted the Nigerian Red Cross Act, cap. 324, Laws of the Federation, 1990, by incorporating the Nigerian Red Cross. The Federal Government issued an operational code of conduct to the Nigerian Armed Forces during the Nigerian Civil War, 1967-70. However, Nigeria is yet to enact into its domestic laws the 1977 Additional Protocols to the Geneva Convention which it ratified in 1988.
2. A programme of teaching and dissemination of IHL is presently being carried out in all the military educational institutions in Nigeria, with

the support of the International Committee of the Red Cross (ICRC) in Lagos.

3. A legal adviser has been appointed in the Armed Forces. The Directorate of Legal Services in the Nigerian Army is fully responsible for dissemination, education and advice on matters relating to IHL in the Nigerian Armed Forces. Presently, the Nigerian Army has produced a series of instructional manual on various aspects of IHL. Every member of the Nigerian Armed Forces has an identity card, which he/she must carry on him/her everywhere and at all times.
4. Some of the faculties of law in Nigerian universities have included the teaching of IHL in their curricula.

## **NIGERIAN OPINIO JURIS**

5.4 The first observation to be made regarding Nigerian *Opinio Juris* is that Nigerian state practice recognizes the distinction between a *combatant and a civilian*. Indeed, the *Opinio Juris of Nigeria* is that the principle of distinction between combatants and civilians is part of customary international law.

5.5 During the country's civil war, the federal Nigerian government issued an operational code of conduct, which distinguishes between combatants and non-combatants, to guide the Nigerian Armed Forces in their prosecution of the civil war on the battlefield.

5.6 A combatant is one who must be attacked because he/she is "engaged in hostility against federal government forces, and can be women or children or adult males."

5.7 The operational code further stipulated that the instructions in the code must be read in conjunction with the Geneva Convention. This

means that Nigeria recognizes the principle of distinction in the Geneva Convention.

5.8 The second observation we wish to make regarding Nigerian *Opinio Juris* is that, according to the Nigerian practice, civilians lose their protection when they are hostile to federal forces, although nowhere in the code is “hostile” defined or operationalized. The *Opinio Juris* of Nigeria, therefore, is that it is regarded as part of customary international law that civilians lose their civilian status and, therefore, the protection due to them in a war situation, when they engage in acts of hostility against federal troops.

5.9 Our third observation is that paragraphs (d) (f) and (g) of the code distinguishes the civilian objects from military objectives. In line with the Hague Rules, the Nigerian military subscribes to the view that military objectives are subject to attack.

5.10 For example, during the Nigerian civil war, the Nigerian Air Force discriminated between military and non-military targets. In their bombing raids against Biafran enclaves, they only bombed civilian targets and avoided civilian ones.

5.11 Nigeria’s *Opinio Juris* is, therefore, that the distinction between civilian objects and military objectives is part of customary international law.

5.12 Our fourth observation is that Nigerian *Opinio Juris* holds that the prohibition of direct attacks on civilian population as well as the abolition of indiscriminate attack is part of customary international law.

5.13 As a result, Nigerian practice forbids direct attacks on civilians. Paragraphs (a) (b) (c) and (d) of the code protect pregnant women, women

generally, school children and youths from attacks and molestation. Paragraphs (f) and (g) prohibit such indiscriminate attacks as the malicious destruction of property, building, churches and mosques.

5.14 Other aspects of Nigeria's *Opinio Juris* indicate that:

- (i) it prohibits disproportionate attacks;
- (ii) it requires mandatory warnings, if military exigencies permit and unless surprise attack is considered essential to success;
- (iii) it forbids the use of human shields;
- (iv) it stipulates that soldiers who surrender must not be killed but should be disarmed and treated as Prisoners of War (POWs);
- (v) it prohibits pillage;
- (vi) it recognizes the prohibition of the improper use of emblems;
- (vii) prohibits the tampering and molestation of hospitals, hospital staff and patients, including by implication military objects;
- (viii) it recognizes and accepts the need to protect civilian populations against starvation, thus reject starvation as a weapon of war;
- (ix) it accepts the protection of relief personnel as a part of customary international law;
- (x) it recognizes the protection of cultural and religious objects;
- (xi) it recognizes the requirement of IHL to search for and take care of the wounded, the sick and the shipwrecked;
- (xii) it recognizes the protection of persons in detention or otherwise in the power of the adversary, except for mercenaries who have no right of combat or of prisoners of war;
- (xiii) it accepts the practice of release and return of captured civilians to their respective towns, at the end of hostilities;
- (ixx) it recognizes the right to try individuals who violate international humanitarian law;
- (xx) it endorses the education of members of the armed forces in international humanitarian law;

(xxi) it recognizes the duty to disobey illegal orders or an order to commit a violation of international humanitarian law.

## **CHAPTER SIX**

### **NIGERIA'S INTERNATIONAL & DOMESTIC OBLIGATIONS TO INVESTIGATE HUMAN RIGHTS VIOLATIONS**

6.1 Nigeria's legal obligations to investigate and provide remedies for gross violations of human rights derive from the international treaties, which it has ratified or acceded to, from customary international law and from its own domestic law, to all of which references have been made in previous chapters.

#### **OBLIGATIONS UNDER INTERNATIONAL LAW: INTERNATIONAL TREATIES**

6.2 Under international treaties on human rights, there are, in principle, two ways to address the issue of violations of human rights.

6.3 The UN Declaration of Basic Principles of Justice for victims of crime and abuse of power proposes two definitions for such violations. The first definition characterizes them as "a violation of criminal laws operative within member-states, including those laws proscribing criminal abuse of power." Central to such violations is the individual or collective harm and suffering caused to persons, including physical or mental injury, through acts or omissions that can be imputed to the state. The second definition concerns those "acts and omissions, imputable to the state, that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights."

6.4 The international obligation of the Nigerian government to investigate human rights violations in the country is contained in the

international instruments relating to human rights, both in hard law and in soft law instruments.

6.5 Examples of the government's obligation in this respect are to be found in

- (i) Article 2(3) of the *International Convention on Civil and Political Rights (ICCPR)*;
- (ii) Article 12 of the *Convention Against Torture (CAT)*;
- (iii) Articles 11, 19(2), and implicitly Articles 33 to 36 of the *Convention on the Rights of the Child (CRC)*;
- (iv) Article 2(d) in connection with Article 4(a) (b) and (c) of the *International Convention on the Elimination of All Forms of Racial Discrimination (CERD)*;
- (v) Article 8 of the *Code of Conduct for Law Enforcement Officials (CCLEO)*;
- (vi) Article 22 of the *Basic Principles on the Use of Force and Firearms (BPUFF)*;
- (vii) Article 9 of the *Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*; and
- (viii) *The African Charter on Human and Peoples' Rights*.

6.6 Brief references to some of the provisions of these international covenants or instruments on human rights are made in the paragraphs that follow to underscore Nigeria's obligation under them.

6.7 Article 2(3) of the *International Convention on Civil and Political Rights* provides as follows

*"Each state party to the present covenant undertakes... to ensure that any person whose rights or freedoms as herein recognized are violated shall have effect or remedy, notwithstanding that the violation has been committed by persons acting in an official capacity..."*

6.8 Article 12 of the *Convention Against Torture* stipulates that

*“Each state party shall ensure that its competent authorities proceed to a prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture has been committed any territory under its jurisdiction.”*

6.9 Paragraph 9 of the *UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* provides that there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death.

#### **OBLIGATIONS UNDER CUSTOMARY INTERNATIONAL LAW**

6.10 To supplement the more general language of its human rights treaties, the United Nations has developed a large body of materials, including the *UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Execution (UN Principles)*, and the *UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (UN Manual)*.

6.11 These materials describe methods for combating immunity and addressing extra-legal, arbitrary and summary executions. According to them, the Nigerian state, for example, is responsible for providing thorough, prompt and impartial investigations of cases of extra-judicial, arbitrary and summary executions by competent investigators. Prosecutions, involving the families of the deceased and their lawyers, should follow the investigations.

6.12 The *UN Principles* prohibit the use of blanket immunity and the defence of superior orders. Furthermore, commanding officers and other

public officials may be held responsible for their subordinates' violations, where there is a reasonable opportunity to prevent such violations.

6.13 Although not binding on states, the materials are evidence of customary international law, providing authority to supplement the broader treaty terms that bind governments.

### **OBLIGATIONS UNDER DOMESTIC LAW**

6.14 Nigerian domestic law provides the authority for the legal obligation of the Nigerian state to investigate and prosecute the perpetrators of gross and other human rights violations in the country.

6.15 For example, the Nigerian Constitution in its Preamble urges the state and its functionaries to promote *“the good government and welfare of all persons in our country on the principles of Freedom, Equality and Justice...”*

6.16 More specifically, other sections of the constitution entrench the following principles: adherence to the rule of law and consistency with the supremacy clause of the constitution (Sections 1,4,5 and 6); the state's duty to promote and protect human rights and to provide effective remedies to victims of human rights violations (Sections 6(6), 13-20, and 33-46); independence of the judiciary and its capacity to enforce human rights (Sections 6, 46, 235, 241 and 272).

6.17 Section 5 of the National Human Rights Commission Decree No. 22 of 1995 also provides a legal basis for the obligation of the Nigerian state to investigate and prosecute cases of gross and other violations of human rights in the country.

6.18 The section empowers the National Human Rights Commission to deal with matters relating to the protection of human rights, including

monitoring and investigation of alleged cases of human rights violations in the country, as guaranteed by the Constitution of the Federal Republic of Nigeria, the African Charter on Human and Peoples' Rights, the UN Charter and the Universal Declaration of Human Rights, and other international treaties on human rights to which Nigeria is a party.

## **STATE RESPONSIBILITY UNDER INTERNATIONAL HUMAN RIGHTS LAW**

6.19 International Human Rights Law (IHL) creates legally binding obligations for states. It is that branch of public international law that deals with the protection of individuals and groups against violations by governments of their internationally guaranteed rights, and with the promotion of those rights.

6.20 The obligations of the state under international human rights law extend to all entities and persons acting on behalf of the state, including public officials. At the international level, therefore, the states themselves are accountable for the individual practices of their officials, as well as for the legislative and other actions of their governmental agencies.

6.21 As we pointed out in *Volume 1, Chapter 2* of this Report, it was not until the end of the Second World and the establishment of the United Nations that human rights were universalized as a new type of rights, denoting fundamental human rights, which belong to all peoples as such, by virtue of their humanity.

6.22 This new concept of human rights, as we have shown, has been variously elaborated, expanded and incorporated into national legal systems and domestic laws by international agreements and treaties.

6.23 As most breaches of human rights are caused by the state acting against those in its jurisdiction, much of international human rights law

operates beyond the national legal system, in order to provide redress for those whose human rights have been infringed upon or violated; and to provide an international yardstick by which the state's compliance with human rights standards can be objectively adjudged.

6.24 As we have pointed out in *Volume 1, Chapter 2*, if the promotion and protection of human rights is to be meaningful in international law, then the traditional international law of state-based jurisdictional exclusivity must give way, making it difficult for states and regimes to claim a *domain reserve*, which excludes the investigation of their human rights practices by the international community.

6.25 There are, of course, various ways of calling states to account at the international level for their decisions and practices in relation to human rights.

6.26 The exact procedures by which states can be held accountable for human rights violations are spelt out in all sources of law, including the decisions of international and regional courts, the resolutions of the UN General Assembly and in specialized human rights instruments.

### **CORPORATE RESPONSIBILITY FOR HUMAN RIGHTS VIOLATIONS**

6.27 In recent years, it has been generally acknowledged that companies in general and multinational corporations in particular, often controlling budgets bigger than those their host states in developing countries, and which, as a result, have a significant power and influence, have a social responsibility to actively and positively promote and protect human rights in their areas of operation.

6.28 To take one example: the dominant position of the oil companies in Nigeria's political economy should bring with it a special responsibility to monitor and promote respect for human rights.

6.29 But the oil companies also have specific social responsibility in respect of the human rights violations connected with their field operations, seen or viewed against the context of their oil exploration and production in the country. They have a duty to avoid both complicity in and deriving advantage from human rights abuses in the country generally and specifically in their area of operations and explorations, mainly in the Niger-Delta.

6.30 Nigerian laws require oil companies to respect and maintain high environmental standards in order to prevent and remedy pollution; to protect inhabited areas from oil flaring and other dangerous aspects of oil production and to provide fair and adequate compensation for buildings, crops, fishing rights or other property adversely affected by their operations.

6.31 Nigerian laws incorporate the principle of strict liability for damage caused by oil spills, so that it is not necessary to prove negligence by the operator, although if spillage is due to sabotage, the strict rule does not apply and negligence must be established.

6.32 However, the Federal Environmental Protection Agency (FEPA) and the Department of Petroleum Resources, the governmental agencies charged with the responsibility of enforcing these laws, suffer from a dearth of technical expertise and resources, which coupled with problems caused by overlapping mandates and corruption, prevent effective policing of environmental standards. As a result, the oil companies fall short of their obligations to maintain environmental standards.

6.33 For example, investigations carried out by Human Rights Watch, an international human rights NGO, have clearly shown that oil companies operating in Nigeria have generally not followed or complied with environmental standards and that they have failed to provide compensation for damage and oil spillage from oil exploration and production.

6.34 The case of Ogoniland is illustrative of the corporate irresponsibility of the oil companies in the area of environmental protection.

6.35 It has been shown by various studies that oil exploration activities in Ogoniland since 1958 have not only caused serious economic hardship to the Ogonis but have also led to environmental devastation and degradation on an indescribable monumental scale in the area.

6.36 Of the harmful ecological impact of the activities of the oil companies in Ogoniland and in other communities in the Niger-Delta (Akwa Ibom, Cross Rivers, Delta, Edo, Imo, Ondo and Rivers states), Eghosa Osaghae has observed that,

*“gas flaring...has unleashed a permanent scorched-earth regime. Spillages from oil-pipelines which are laid bare across farmlands have destroyed farmlands and marine life.”*

6.37 This harmful impact was directly responsible for the high profile mass action against the oil companies, particularly Shell and Chevron, and the Nigerian government, which the Ogoni, for example, so effectively and vigorously embarked upon locally and internationally in 1990. The mass action drew attention of Nigeria and the wider world to the plight of the Ogoni and, by extension, that of the other communities in the oil-rich Niger-Delta.

6.38 The Ogoni presented a Bill of Rights to the Nigerian government and to the United Nations sub-committee of Human Rights on the Prevention of Discrimination against and Protection of Minorities, to the African Human Rights Commission, to environmental protection groups and to other NGOS in Europe and North America.

6.39 In reaction to the complaint it received from the Ogoni, the Rain Forest Action Group and the Green Peace Organization wrote to Shell International in respect of the Ogoni claims about such specific aspects of environmental degradation as oil spillages and leakages.

6.40 The Ogoni case was also presented in 1992 to the tenth session of the Working Group on Indigenous Populations in Geneva and in 1993 to the General Assembly of the Unrepresented Nations and Peoples Organization at the Hague.

6.41 Summarized, the core of the Ogoni case was the demand for the right to self-determination, for the payment of arrears of rents, royalties and reparation for past ecological degradation and improvement in standards of living.

6.42 In a letter to Shell, Chevron and the Nigerian National Petroleum Corporation (NNPC) in December 1992, the Movement for the Survival of the Ogoni People (MOSOP) made the following demands, giving the oil companies an ultimatum to meet the demands within 30 days, failing which they (the Ogoni) would embark on mass action to disrupt their operations in Ogoniland: (a) "payment of US\$6 billion for accumulated rents and royalties for oil exploration since 1958"; (b) "payment of US\$4 billion for damages and compensation for environmental pollution, devastation and ecological degradation"; (c) immediate stoppage of environmental degradation and in particular gas flaring in Yorla, Korokoro and Bomu"; (d) "immediate

covering of all exposed high pressure oil pipelines”; and (e) “initiation of negotiations with Ogoni people with a view to reaching meaningful and acceptable terms for further and continued exploration and exploitation of oil from Ogoniland and to agree on workable and effective plans for environmental protection of Ogoni people.”

6.43 The reaction of the Nigerian government and of the oil companies to these demands was to tighten security at the oil installations, with the federal government dispatching troops to protect them. The government issued a decree, which declared disturbances at oil installations to be acts of treason punishable by death.

6.44 The Ogoni case took a different and more tragic dimension when violent and murderous conflicts broke out between the Ogoni and their neighbours, the Andonis, another oil producing community, between July and September 1993, and with the Okrikas in Port Harcourt in December 1993.

6.45 Over ten Ogoni villages were destroyed, about 1,000 Ogonis killed and 30,000 rendered homeless, during the conflicts.

6.46 The Ogonis and their sympathizers attributed these conflicts to instigation and funding by *agents provocateurs* in the pay of the oil companies, to counter and undermine Ogoni militancy.

6.47 To conclude this section, we must observe that the Ogoni case illustrates too poignantly the on-going crisis of confidence in the oil producing communities of the Niger-Delta; a crisis which is symptomatic of the more general and pervasive issue of corporate responsibility and accountability to these communities who continue to suffer neglect and the gross violations

of their rights, on account of oil exploration and exploitation in their communities.

6.48 The Ogoni case also raises long-standing and simmering fundamental issues of the right to ethnic self-determination and revenue allocation in the Nigerian federation.

### **NATIONAL REMEDIES FOR VICTIMS OF HUMAN RIGHTS VIOLATIONS: GENERAL OBSERVATIONS**

6.49 In purpose and scope, criminal law is normally more concerned with the perpetrator than with the victims of crime. In Nigeria, a court has no power to award compensation to the victim in a criminal trial. Compensation as well as redress for victims of crime quite often becomes the object of subsequent civil litigation, for recovery of damages.

6.50 Yet, victims of gross violations of their human rights deserve particular attention, for the very fact that the violations in question may have been, and are generally committed by the state, through its agents.

6.51 For this reason, too, special attention should be paid to gross violations of human rights. Indeed, if agents of the state commit the violations, this fact is likely, in the long run, to erode confidence in public institutions and in the government, with citizens seeing the state as enemy. In such a circumstance, the social trust that should glue and bind society and state together on the basis of reciprocity and mutuality will necessarily be weakened.

6.52 In addition to civil proceedings, victims of human rights violations have other ways of seeking remedies at the national level. It is only when they have exhausted domestic remedies that victims (of human rights violations) can seek redress at the international level, although there are

some exceptions to this requirement of exhaustion of domestic remedies, as when the application of the remedies is unreasonably long or the existing domestic remedy mechanisms are inadequate.

6.53 International human rights instruments like the *Convention on the Elimination of All Forms of Racial Discrimination (CERD)* in its Article 14(2) sometimes make provision for the establishment of human rights complaint mechanisms at the national level.

6.54 Two types of such complaint mechanisms have generally been established in many countries: the *National Ombudsman or Public Complaints Commission*, and *National Human Rights Commission*.

6.55 The effectiveness of these mechanisms varies from country to country, depending on such factors as the commitment of national governments to the promotion and protection of human rights, the existence of countervailing forces in each country to limit arbitrary rule and ensure accountability, the resources, particularly human and material, made available to strengthen and empower the mechanisms, and a citizenry conscious of and ready to defend human rights.

## **NATIONAL REMEDIES:**

### **PUBLIC COMPLAINTS COMMISSIONS**

6.56 Public Complaints Commissions or similar institutions, under different names, have been established in many countries, usually through legislative act, with the primary functions of protecting the rights of individuals who claim to be victims of unjust action by public functionaries.

6.57 But these commissions are not always restricted to acting upon complaints. They are sometimes empowered to initiate investigations on their own.

6.58 While public complaints commissions are not exactly the same, in terms of their structure and powers, they typically follow the same procedure in performing their functions.

## **NATIONAL REMEDIES:**

### **NATIONAL HUMAN RIGHTS COMMISSIONS**

6.59 Human Rights Commissions, which typically function independently of other organs of government, are concerned primarily with the protection of citizens against discrimination and with the protection of their human rights. They are typically empowered to receive and investigate complaints from individuals and, occasionally, from groups, alleging human rights abuses committed in violation of existing national law.

6.60 Some human rights commissions concern themselves with alleged violations of any rights recognized in national constitutions, while others can consider cases of discrimination on a broad range of grounds, including race, colour, religion, sex, national or ethnic origin, disability, social condition, sexual orientation, political convictions and ancestry.

6.61 The Nigerian National Human Rights Commission was established by Decree No. 20 of 1995, with the primary promotional, protective and advisory or recommendatory functions and powers, among others, as spelt out in Section 5 of its enabling law, to:

- “(i) Deal with all matters resulting to the protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria, the African Charter on Human and Peoples’ Rights, the UN Charter and the Universal Declaration of Human Rights, and other International Treaties on Human Rights to which Nigeria is a party;
- (ii) Monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal

Government for the prosecution and such other actions as it may deem expedient in each circumstance;

- (iii) Assist victims of human rights violation and seek appropriate redress and remedies on their behalf;
- (iv) Undertake studies on all matters pertaining to human rights and assist the Federal Government in the formulation of appropriate policies on the guarantee of human rights...”

## **SYNOPTIC COMPENDIUM OF DECISIONS BY INTERNATIONAL ORGANIZATIONS ON HUMAN RIGHTS CASES BROUGHT AGAINST NIGERIA**

6.62. We provide below in tabular form a number of decisions and observations on decisions by international human rights organizations and similar bodies on cases involving human rights violations in Nigeria. The list, while comprehensive, is not exhaustive. As the tabulation indicates, what is provide is the following in respect of each case: the name of the case, the nature of the alleged violation and the result/decision.

Table of decisions on Nigeria by the African Commission on Human and Peoples Rights (Taken from the 10<sup>th</sup> through the 14<sup>th</sup> Annual Activity Reports)

### **Name of Case Violation Result**

\* There were no cases against Nigeria reported in either the 10<sup>th</sup> or 11<sup>th</sup> Annual Activity Reports.

140/94, 141/94, 145/95

Constitutional Rights Project, Civil Liberties Organisation and Media Rights Agenda (15 November 1999)

Alleged violation of Articles 5,6,7, 9, and 14 of the African Charter:

- Decrees issued by Nigerian military government proscribed the circulation on various newspapers

- Unlawful arrest and detention of six activists without charges; destruction of their property; detention in conditions that contributed to the decline of their health

Nullification of lawsuits in progress against government violates Art 7(1)(a)2.

- Decree prohibiting publishing of certain newspapers without remedy violates Art 9(1)3.

Suspension of free expression obligations in the African Charter during emergency violates Art 9(2)4.

Government's sending of armed gangs to attack journalists and activists violates Art 55. Arbitrary detention of journalists and activists violates Art 66.

Destruction of newspaper offices, journalists' and activists' homes violates Art 14.

143/95, 150/96 Constitutional Rights Project and Civil Liberties Organisation (15 November 1999).

Alleged violation of Articles 5, 6, 7 and 26 of the African Charter:

- Decree of military government prohibiting courts from issuing writs of *habeas corpus* for production of person

- Decree was used to detain aid workers, activists, and opposition politicians in appalling conditions without access to legal advice and healthcare, contact with family, and subject to torture and vigorous interrogations

1. Detention in degrading conditions without charge or trial violates Arts 6 & 7(1)(a) and (d)

2. Deprivation of *habeas corpus* alone does not violate Art. 6, though where *habeas* is such an important way of safeguarding against widespread abuse of Art. 6, the suspension of *habeas* may be characterised as a violation of Arts. 6 & 7(1)(a) and (d).

3. Prohibiting access to counsel violates Art. 7(1)(c)4.

Prohibiting access to family violates Art. 185.

Executive's failure to recognise grant of bail issued by judiciary erodes judicial independence violating Art. 26.

148/96 Constitutional Rights Project (15 November 1999).

Alleged violation of Article 6 of the African Charter:

- 11 soldiers continue to be detained after two separate trials acquitting each of them as well as subsequent (and legally unnecessary) state pardons

1. Unlawful detention is a clear violation of Art 6.

151/96 Civil Liberties Organisation (15 November 1999).

Alleged violation of Articles 5, 7(1)(a), (c) and (d) and 26 of the African Charter:

- 13 people sentenced to life imprisonment, reduced to fifteen years, in connection with an alleged plot to overthrow the military government

- Those sentenced were subjected to secret tribunals following procedure of court-martial with no access to legal defence and no knowledge of charges until trial. Detention is in military detention centres and not in regular prisons; complainants have no access to family, health care, or sufficient food or medicines.

1. Because of removal of widespread areas of the law from the jurisdiction of ordinary courts as well as the composition and procedure of the special tribunals, these special tribunals violate Arts. 7(1)(d) & 26

2. That the decisions of the special tribunals are not subject to appeal, but are subject to executive confirmation violates Art. 7(1)(a).

3. Lack of access to counsel, even after trial and conviction, violates 7(1)(c).

4. Military detention camp is not per se inhuman or degrading, but there is an obvious danger that normal safeguards on the treatment of prisoners will be lacking. Conditions of detention (no access

to family, lack of light, insufficient food, lack of medicine and health care) do violate Art. 5.

153/96 Civil Liberties Organisation (15 November 1999).

Alleged violation of Articles 6 and 7 of the African Charter:▪

5 people accused of serious crimes ranging from robbery to kidnapping have been detained for over two years without charge for investigative purposes under authority of a military government's decree.

1. Because the committee that reviews continued detention is too much under the influence of the executive, as well as that detention is automatically renewed unless the committee says otherwise violate Art.

6.2. Detainees' lack of right to appeal and failure to be tried within a reasonable length of time violates Art. 7(1)(a) and 7(1)(d). 3.

206/97 Centre For Free Speech (15 November 1999).

Alleged violation of Articles 6, 7 and 26 of the African Charter and Principle 5 of the U. N. Basic Principles on the Independence of the Judiciary:▪

Journalists were arrested and tried by a secret military tribunal whose decision was final. 1.

Trial by secret military tribunal whose decision was final, as well as lack of choice in representation or access to legal advice constitutes a violation of Arts. 6 and 7(1)(c). 2.

Composition of military tribunals (lack of independent, professional, and competent judges) constituted a violation of Art. 26.

215/98 Rights International (15 November 1999).

Alleged violation of Articles 5, 6, 7 (1)(c) and 12 (1) and (2) of the African Charter:▪ Ogoni student was arrested by armed soldiers, held for 8

days at a military detention camp in a cell with 45 other detainees and subjected to repeated whippings and other torture▪

The student was given no access to legal advice, no explanation of charges or information regarding the reason for detention, and no access to relatives.

▪ Student was eventually charged with an unlawful

assembly meeting that took place after his arrest while he was in detention, and the student was granted bail.

1. The student's torture violates Art. 5.
2. Illegal arrest and detention violate Art. 6.
3. Non-disclosure of reasons for detention and lack of access to counsel constitute violation of Art. 7(1)(c).
4. The student's flight to Benin and a subsequent grant of refugee status is illustrative of a violation of Art 12.

205/97 Kazeem Aminu (11 May 2000). Alleged violation of Articles 3(2), 4, 6 and 10(1) of the African Charter:

- Nigerian man was subject to repeated arbitrary arrests and short detentions. He alleged torture and inhuman treatment, but no specific allegation was made and the Commission declined to make a finding on this account.

- The man is currently in hiding for fear of his life.

1. The repeated arbitrary arrests and detentions violated Art. 3(2).

2. In the absence of specific information on the nature of the alleged inhuman and degrading acts complained of, there is no violation of Art. 5.

3. Driving someone into hiding for fear of losing one's life is a deprivation of the right to life, as contained in Art. 4.

4. Repeated arrests and failure to provide charges or reasons for treatment constitute a violation of Art. 6.

5. Failure to allow man to congregate with whom he wishes as long as he remains within the bounds of the law violates the free association right in Art. 10(1).

224/98 Media Rights Agenda (6 November 2000)

Alleged violation of Articles 6, 7, 9 and 26 of the African Charter:

- Editor was arrested for his views toward certain leaders in the military government. There were no charges or arrest warrant for his arrest, during which time he had no access to his family, a doctor, or a lawyer of his choice. Two months after his arrest he was accused of involvement in a coup attempt and was sentenced to life imprisonment by a military tribunal consisting of hand-picked members of the military government.

- Editor was chained to the floor by hand and foot day and night, and was not allowed to take a bath for 147 days.

1. Failure to advise the editor of the charges against him is a violation of Art. 7.

2. Failure to allow an appeal to a civil court is a violation of Art. 7(1)(a).

3. The military government's efforts at pre-trial publicity to persuade public of the editor's guilt violates Art 7(1)(b).

4. That the proceedings were closed violated Art 7(1)(c).

5. The tribunal was made up of military officials chosen by the executive and was not impartial because many members of the tribunal were members of the government leadership that was the victim of the alleged plot; this lack of impartiality violates Art 7(1)(d).

6. The tribunal's military officers were not qualified or trained in law, violating Principle 10 of the UN Basic Principles on the Independence of the Judiciary and Arts. 7 & 26.

7. The editor's views toward certain leaders in the military government led to his arrest, contrary to the principle of free expression in Art. 9.

8. The conditions of the editor's imprisonment (having his arms and legs chained to the floor day and night, not being allowed to take a bath for 147 days) constituted cruel and degrading treatment, a violation of Art. 5.

9. Editor's arrest and detention for two months prior to the disclosure of his charges at trial constituted arbitrary detention, a violation of Art. 6.

225/98 Huri-Laws (6 November 2000)

Alleged violation of Articles 6, 7, 9, 10, 14 and 26 of the African Charter:

- Founder of Huri-Laws, a Nigerian NGO was arrested at airport upon return to the country and later taken to NGO offices in an effort by the military government to collect incriminating evidence. No charges were made against the founder, and no arrest or search warrants were used to justify the treatment afforded the founder or the NGO. Officers destroyed the offices, and confiscated computers, diskettes, and file cabinets.

- The NGO alleges it was targeted as several other staff members have been arrested and interrogated. Some have been subjected to mandatory daily reporting to the State Security Service (SSS) Office. The NGO's staff counsel was arrested by National Drug Law Enforcement Agency officers and detained by SSS without charges.

- During the detentions of the founder and the lawyer, both were denied access to family, medical attention, and legal advice.

1. Degrading conditions of detention for the founder and attorney constitute violates of Art 5. (Additionally, mental anguish from uncertainty regarding arrest and detention added to the Art. 5 violation.)

2. Arbitrary arrest and detention of the NGO staff without disclosing the reasons for the arrest to the detainees aware constituted a violation of Art 6.

3. Due to the suspension of *habeas corpus* claims and the lack of appeal, those arrested had no recourse to challenge the legality of their detention, a violation of Art. 7(1)(a) and (d). No recourse to civilian courts existed, a violation of Art. 26.

4. The failure of the government to bring those detained before a judicial body for charging constituted a violation of Arts. 7 and 26.

5. That the NGO was targeted because of the expression of opinions of its members and its collective mission constituted a violation of Arts. 9 & 10. 6. That NGO counsel and founder were arrested at entry points to Nigeria constitute infringement on their freedom of movement, a violation of Art 12(1) & (2). 7. The seizure of NGO property without justification constituted a breach of Art. 14.

218/98 Civil Liberties Organisation, Legal Defence Centre, Legal Defence and Assistance Project (7 May 2001).

Alleged violation of Articles 4, 5, 6, 7 and 26 of the African Charter:

- Special military tribunal tried 27 people, six of whom were sentenced to death for roles in a coup plot. The tribunal included some sitting judges, but was chaired by a Provisional Ruling Council (PRC) member, a high-level part of the executive. No appeal was possible from the hearing, and sentence was subject to confirmation of the PCR, an exclusively military group of executives.

1. The trial of the military officers and the involved civilian before a military tribunal itself does not constitute a per se violation of human rights norms. The civilian was part of the common conspiracy and it is reasonable that he would be charged with his military co-accused in the same judicial process. However, it is important that Art. 7 be kept inviolable as it provides the minimum of protection to civilians and military alike, especially in unaccountable and non-democratic regimes. The critical factor is that judicial processes must be fair, just, and impartial. Trial of the civilian before a military tribunal, given these circumstances, was not a violation of Art. 7(1)(d).

2. Even in cases where a military tribunal hearing is legitimate, the automatic assignment of military officers as defence counsel over the objections of the accused in light of the likelihood of military collusion and or bias and lack of attorney/client privilege violates Art. 7(1)(c). The

accused should have been able to choose their own counsel, particularly in this case because of the seriousness of the sanctions (death).

3. The foreclosure of the avenue of appeal to a competent higher court, particularly given the seriousness of the crime and sentence, constitutes a violation of Art. 7(1)(a). This also violates 6 of the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty & Art. 6(4) of the ICCPR.

4. The military tribunal was convened in secret, and since Nigeria has offered no evidence that it allowed the accused to mount a defence involving the testimony of witnesses and other indicia of a fair and open trial, there exists a violation of Art. 7(1)(a).

5. The military tribunal was not an independent judicial body because of its ties to the PCR, a violation of Art. 7(1)(d).

6. In absence of specific details of allegations of violations of Arts 5 and 6, the Commission cannot find violations of these Articles.

102/93 Constitutional Rights Project and Civil Liberties Organisation (5 May 1999).

Alleged violation of Articles 6 and 13 of the African Charter:

- The annulment of the election results and announcement of an interim government, coupled with the removal of jurisdiction from the courts to hear election disputes (this legislative power to remove jurisdiction from the courts has subsequently been rejected by the Court of Appeal in the case Chief Gani Fawehinmi v General Sani Abacha (12 December 1996), but the Commission found that Nigerians continue to face legal obstacles in challenging new law).

- Includes the arrest and detention of election protestors and activists; targeting and proscription of certain specific media organisations:

1. The criteria for what constitutes free and fair elections are internationally agreed upon. It would be contrary to the logic of international law of a national government with a vested interest in the outcome could

act as final arbiter of whether the election took place in accordance with international standards. The right to participate freely in the government through freely chosen representatives entails the right to vote for representatives. Annulment of election results which international observers have demonstrated reflect the clear choice of the voters, is a violation of Art. 13.1. 2.

Arrest and detention of individuals without charges being filed after a three year period, even where those individuals have subsequently been released, constitutes as violation of Art. 6.

3. *Ad hominem* legislation targeting specific newspapers and magazines by name raises the possibility of discrimination and lack of equal treatment before the law, a violation of Arts. 2 and 3. The freedom of individuals to receive, express, and disseminate opinions was curtailed by governmental targeting of the media, a violation of Art. 9.

105/93, 128/94, 130/94, 152/96 Media Rights Agenda, Constitutional Rights Project, Media Rights Agenda and Constitutional Rights Project (5 May 1999).

Alleged violation of Articles 6, 7, 9, 14 and 16 of the African Charter:

- Government decrees banned the publication of two magazines and 10 newspapers; operators were not publicly accused of any wrongdoing nor given an opportunity to challenge the ban in court;
- Government decree gave sole discretion to Newspapers Registration Board for the licensing of all newspapers with no procedure for challenging a negative decision; decree punished with stiff fine and imprisonment any failure to register within a short three-week period, as well as required a large registration fee and an even larger security deposit to meet penalties and damages levied against the operator;

▪ Editor in Chief of popular weekly critical of the government was arrested and detained without charge, as well as denied access to his family, legal counsel, or medical attention despite deterioration of his health.

1. Payment of a registration fee and pre-registration deposit for payment of penalties and damages are not per se violations of freedom of expression enshrined in Art. 9. However, the amount of the registration fee should be no more than necessary to ensure administrative expenses are covered; the pre-registration deposit should be no larger than necessary to secure against the owner. Excessively high fees restrict the media. The fees here of a N100.000 registration fee and a N250.000 deposit are not so clearly excessive that they constitute a serious restriction or a violation of Art. 9.

2. Total discretion and finality of decision of the Newspaper Registration Board gives government total power of unreviewable censorship, a violation of Art. 9.1.3.

The retroactivity of the newspaper registration decree, even where no identifiable infliction of punishment has taken place, undermines certainty in the rule of law, a violation of Art. 7.2.4. In that the newspaper decree was declared null by domestic courts with no effect, Nigeria shows shocking disrespect for court judgments, a violation of Art. 7.1.5.

Dissemination of opinions may be restricted by law, but all limitations must conform to Art. 27.2 of the Charter, which requires that all limitations be exercised with due regard to the rights of others, collective security, morality, or the common interest. All justifications for limitations must be founded on legitimate state interests, strictly proportionate with and absolutely necessary. No limitation may result in a right becoming illusory. Targeting of specific newspaper was not for a legitimate Charter reason, a violation of Art. 9.2.6.

Criticism of the government may not be assumed to constitute an attack on the personal reputation of the head of state as highly visible public persons must face a higher degree of criticism than private citizens. Libel actions are more appropriate to seizure of an entire edition of a magazine prior to publication when a governmental official is allegedly insulted. Seizure and sealing of newspaper premises is a violation of Arts. 9.2 and 14. 7.

The nature of military regimes is not a valid defense of decrees ousting courts from wide areas of jurisdiction, such as the examination of government actions. The widespread removal of jurisdiction from courts is a clear violation of Art. 7.1.8.

The denial of access to legal advice for an Editor in Chief who was arrested and detained without charge violates Arts. 7.1(c) and 6 while the denial of access to medical care while the detainee's health is deteriorating violates Art. 16.

137/94, 139/94, 154/96 and 161/97 International PEN, Constitutional Rights Project, Interights on behalf of Ken Saro-Wiwa Jr. and Civil Liberties Organisation (5 May 1999).

Alleged violation of Articles 1, 4,5, 7, 9, 10, 11, 16, and 26 of the African Charter:

- Government arrested Saro-Wiwa, president of the Movement for the Survival of the Ogoni People (MOSOP), and many other MOSOP members
- Those detained were subjected to severe beatings, unjustified restraint in manacles, leg irons and handcuffs, and poor conditions of detention including denial of access to family, medical attention, and legal counsel. Those detained were held approximately eight months before charges were filed giving the reasons for the arrest.
- Before and during trial, defendants not allowed to meet with counsel, nor was any information given to the defense about the charges. Defense

counsel was subjected to severe harassment, such that two separate teams, including one directly appointed by the tribunal, withdrew from the case leaving the defendants without any legal counsel. Prior to withdrawal, a military officer was present at confidential meetings between defendants and counsel. There was additionally evidence of witness bribery, as well as evidence of bias by tribunal members.

- Following trial, Saro-Wiwa and 8 others were sentenced to death. Provisional Ruling Council should have reviewed the sentencing tribunal's record before confirming the sentence of death, but no records were seen before the PRC confirmed the sentence.

- The executions were carried out while case was pending before the Commission but before the Commission could discuss the case with Nigerian authorities.

1. The subjection of defendants to beatings, their detention in airless and dirty cells while being forced to wear manacles, leg irons, and handcuffs all constitute violations of Art. 5. Refusing blood pressure medication was also a denial of Art. 5.

2. Government decree authorising up to a three month detention without charge prima facie violates the right not to be arbitrarily arrested or detained; therefore the government has violated Art. 6.

3. Special tribunals composed at the discretion of the executive are not impartial, regardless of the qualifications of the individuals chosen for a particular tribunal. The defendants in question were therefore denied the right to a fair trial, a violation of Art. 7.1(d).

4. The lack of appeal possibility to any independent court or impartial tribunal constitutes a violation of Arts. 7.1(a) and 26.

5. He defendants were not presumed innocent, a violation of Art. 7.1(b).

6. Harassment of defense counsel resulted in the withdrawal of two separate teams of attorneys (the second of which had been assigned by the tribunal). Court proceedings were then continued without the defendants having any access to counsel, a violation of Art. 7.1(c).

7. Trial itself violates Art. 7, therefore the executions arbitrarily deprived those sentenced to death the right to life, a violation of Art. 4. 8.

Denial of blood pressure medication seriously endangered the life of one defendant, a second violation of Art. 4.9. The defendants' alleged culpability was based on their organisation and participation in a public rally and their work in an organisation. This logic adversely affects the right to assemble as well as constitutes government prejudice toward certain opinions, a violation of Arts. 11 and 10.1, as well as 9.2. 10.

Responsibility of government is heightened when an individual is in its custody. Denial of medical attention to a defendant who was allowed to deteriorate to the point of his life being endangered was a violation of Art. 16.

11. To say that Nigeria violated the Charter in blatantly ignoring the Commission's request to stay the executions until the Commission could consider the pending case is a clear understatement. A legally bound state must abide by the Charter. In failing to do so, Nigeria has violated Art.

The following conclusions are summarized from reports of international bodies overseeing various international treaties such as the CCPR and the CDESCR concern Nigeria (collected at <http://www.unhchr.ch/TBS/doc.nsf>)

**Committee on Economic, Social and Cultural Rights**E/1990/5/Add.31State Party Report, Initial report, at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ffc817a2e433eb18c1256381004f1e44?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ffc817a2e433eb18c1256381004f1e44?Opendocument)The **National Primary Health Care Development Agency** (NPHCDA) was established in 1992 with the following fundamental goals and objectives:

With respect to Health:

1. Reducing the infant mortality rate through the minimization of occurrence of childhood diseases in general.
2. Promoting safe motherhood through the improvement and expansion of existing material and child health care facilities and services; development

and/or adoption of technologies aimed at the protection of the health of mothers and children.

3. Reducing the incidence and prevalence of disability; providing adequately for the rehabilitation of the disabled.
  4. Providing an ever-widening sphere of basic immunization coverage.
  5. Reduction of measles deaths by 95 per cent (compared with pre-immunization levels).
  6. Achieve a cumulative immunization coverage level of 80 per cent against diseases such as diphtheria, pertussis, tetanus, poliomyelitis, tuberculosis.
  7. Immunization coverage level of 90 per cent against measles for “under-ones”, and tetanus toxiod for women of child-bearing age.
  8. Incorporation of yellow fever and hepatitis B vaccines into the Expanded Programme on Immunization (EPI) scheme
  9. Promoting the Household Food Security Programme.
  10. Combating HIV and other STD’s through establishing condom supply systems, and sponsoring and promoting health education such as adult health literacy programs
- With respect to education:
1. Increasing access to primary schools for school aged children, reducing drop-out rates.
  2. Eliminating gender disparity in enrolment
  3. Reviewing curricula to make it female friendly.
  4. Promoting adult literacy and adult education programs
- Continuous training of teachers.

E/C.12/1/Add.23 Concluding observations of the **Committee on Economic, Social and Cultural Rights**, at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/dae3f1565f6d74f98025662c004f26c7?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/dae3f1565f6d74f98025662c004f26c7?Opendocument).

1. Institute rule of law and strengthen judiciary; eliminate rule by military decree.
2. Restore academic freedoms and respect for trade unions (including the immediate release of all union members who are being held without charge).

3. Provide redress for indignities visited upon the Ogoni people, as well as other ethnic minorities
4. Enact legislation to reduce homelessness, drop-outs, child labour, child malnutrition, and to end discrimination against children born out of wedlock; Abolish the practice of female genital mutilation; retract legal provisions which permit the beating (“chastisement”) of women by their husbands; reduce polygamy rate.
5. Enact legislation to accomplish its goals under “Education for All by the year 2000” and greater enforcement compulsory free primary education
6. Case the massive and arbitrary evictions and take such measures as are necessary in order to alleviate the plight of those who are subject to arbitrary evictions or are too poor to afford a decent accommodation; this includes the allocation of adequate financial resources.

**Committee on the Elimination of Discrimination Against Women**

A/53/38/Rev.1, paras.138-174 Concluding Observations of the **Committee on the Elimination of Discrimination Against Women**, at [http://www.unhcr.ch/tbs/doc/nsf/\(Symbol\)/e24a4ea73704b14e8025666500559974?OpenDocument](http://www.unhcr.ch/tbs/doc/nsf/(Symbol)/e24a4ea73704b14e8025666500559974?OpenDocument)

1. Nigeria should reply to all questions in periodic reports concerning the state of implementation of CEDAW.
2. Work to reduce religious and customary laws and practices that violate CEDAW; including forbidding women to travel without a male relative, polygamy, one-sided repudiation, and unequal subsistence rights and shares.
3. Collect statistical data on domestic violence, prostitution, women’s labour, including in the informal sector, and women’s and children’s health to ensure compliance with CEDAW; all statistical information should be disaggregated by sex in all areas of importance in the lives of women.

4. Implement special measures to install additional women in the judiciary (through temporary special measures in accordance with article 4, paragraph 1, of CEDAW).
5. Implement legislation, programs, and policies regarding domestic violence; including the establishment of shelters for victims and measures to ensure that women are protected from reprisal for reporting victimization
6. Implement a specific program to reduce illiteracy among women, particularly in rural areas, and promote access by girls to free secondary education.
7. Increase efforts to guarantee access to medical services and hospital medical facilities, particularly in the context of women's health needs; including family planning, maternal education, sexual education, and the collection of statistical data on these areas.
8. Strengthen socio-economic programs so as to ensure equal access to credit by women, including rural women.

### **Committee on the Elimination of Racial Discrimination**

A/48/18, paras.306-329

Concluding observations of the Committee on the ***Elimination of Racial Discrimination***, at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/1bd4e2fb0e7ec004c1256b5000581199?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/1bd4e2fb0e7ec004c1256b5000581199?Opendocument).

1. Enact legislation defining racial discrimination according to the Convention, prohibiting racist organizations and propaganda activities that incite racial discrimination, promote effective protection and remedial processes to redress for acts of racial discrimination (including acts by State parties).
2. Collect better data on the racial and ethnic composition of Nigerian society.

A/50/18, paras.598-636 Concluding observations of the ***Committee on the Elimination of All Forms of Racial Discrimination***, at <http://>

www.unhcr.ch/tbs/doc.nsf/(Symbol)/e05ed5f12981bce480256560005513b0?Opendocument.

1. Review the effectiveness of the protection current legislation provides against racial discrimination and the enjoyment of civil, political, economic, social and cultural rights.
2. Review and take remedial measures against situations of ethnic disorder and its causes including the immediate protection of ethnic minorities and access to remedial measures such as judicial review.

**Committee on the Rights of the Child**CRC/C/15/Add.61Concluding observations of the **Committee on the Rights of the Child**, at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/9e0fac74300c69edc12563ef0046b3a7?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/9e0fac74300c69edc12563ef0046b3a7?Opendocument).

1. Consider and adopt a children's decree, drafted in conformity with the principles and provisions of the Convention on the Rights of the Child.
2. Undertake a comprehensive review of all national legislation to ensure its conformity with the Convention on the Rights of the Child.
3. Review measures to ensure maximum allocation of resources to ensure the implementation of the economic, social and cultural rights of the child.
4. Implement and extend a child's rights awareness program to all those adults and professionals working with or for children.
5. Develop mechanisms to collect statistical data and indicators disaggregated by gender, rural/urban division, and ethnic origin as the bases for designing programmes for children.
6. Integrate "best-interests of the child" into policy formulation and discussion.
7. Address harmful practices such as early marriage, child betrothals, female genital mutilation, familial child abuse; with respect to female genital mutilation, all eradication measures must be taken on a priority basis; with respect to public awareness and information campaigns, these must support

education and advice on other family matters, including equal parental responsibilities and family planning in order to foster good family practices.

8. Ensure equal access to quality health care

9. Harmonize formal and informal education systems in an effort to apply a national curriculum, and implement measures to improve school enrolment and school retention, especially for girls.

10. Harmonize criminal legislation with the Convention on Rights of the Child, including the setting the age limit for criminal responsibility at 18; including safeguarding fair trial procedures for juveniles.

11. Reduce the detention and institutionalisation of children in an effort to eliminate child abuse and homelessness through the development of alternatives; establishment of an independent system for monitoring the situation of such children to illustrate elimination of the problem.

12. Enact legislative measures to combat child exploitation, both economically and sexually.

CRC/C/8/Add.26

State Party Report, Initial Reports of States parties due in 1993, at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/f5c4157cf6f755abc125635d005157e2?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/f5c4157cf6f755abc125635d005157e2?Opendocument)

This report includes Nigeria's specific plans and methods to implement the CRC by the year 2000. It might be helpful, but is too detailed and covers too much ground to be effectively summarized.

### **Human Rights Committee**

CCPR/C/79/Add.64 Concluding observations of the Human Rights Committee: Nigeria, at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/837fe395750a6520c12563dc00513807?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/837fe395750a6520c12563dc00513807?Opendocument)

1. Revocation of all military tribunals and "ouster" clauses, ensuring fair trials and access higher tribunals for conviction and sentence review

The following conclusions come from reports of Charter-based bodies that concern Nigeria (collected at <http://www.unhchr.ch/huridocda/huridoca.nsf>)

E/CN.4/RES/1997/53

**Situation of human rights in Nigeria**, ECOSOC Commission on Human Rights Resolution 1997/53, at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/740e4df108c5b850802566480057972f?Opendocument>

1. To release all political prisoners, trade union leaders, human rights advocates and journalists currently detained; to improve detention conditions
2. To ensure that all trials are held fairly and promptly and in strict conformity with international human rights standards;
3. To ensure the independence of a National Human Rights Commission and to cooperate fully with this Commission and its mechanisms.

E/CN.4/RES/1998/64 Situation of human rights in Nigeria, ECOSOC Commission on Human Rights resolution 1998/64, at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/ba4214dc929b1de08025666c00376f0b?Opendocument>

1. To repeal all relevant decrees which oust the jurisdiction of the courts and to ensure that court orders are promptly and fully implemented
2. To ensure that all trials are held fairly and promptly and in strict conformity with international human rights standards.
3. To ensure that the treatment of prisoners and their conditions of detention are in accordance with recognized international standards

E/CN.4/1997/62/ Add.1

Report of Special Rapporteurs on the situation of human rights in Nigeria, Report of the Special Rapporteur on extra-judicial, summary or arbitrary executions, Mr. Bacre W. N'diaye, and the Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, at <http://>

[www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/a65d4f9daf5e2123802566c9005e6d29?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/a65d4f9daf5e2123802566c9005e6d29?Opendocument)

1. Recognize and strengthen judicial independence
2. De-marginalize the Bar Association of Nigeria
3. Consider the abolition of the death penalty; at the very least eliminating public executions, and reserving execution for only the “most serious crimes”
4. Those who have been convicted and sentenced by special tribunals in which there have been violations of the right to a fair trial, such as those convicted by the Special Military Tribunal in the so-called coup plotters’ trial, should be pardoned and immediately released from detention. Further, these victims should be compensated for the injuries they have suffered as a result of these violations.
5. Investigate allegations brought against law enforcement officials in order to bring before the courts those suspected of having committed or participated in crimes, punish them if found guilty and provide compensation to victims or to their families.
6. Reduce overcrowding of prisons, by overcoming delays in the trial process, by considering alternative forms of punishment, by allowing the release on bail of non-violent pre-trial detainees, and by increasing the number of prison places.
7. Allow Detainees should be allowed visits by family members and their attorneys and be granted access to adequate medical care.

A/53/366

Report by the **Special Rapporteur of the Commission on Human Rights on the situation of human rights in Nigeria**, Interim report on the situation of human rights in Nigeria, prepared by the Special Rapporteur of the Commission on Human Rights, at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/eda3335b2fa15a00802566be00580144?Opendocument>

1. Strive to ensure electoral fairness and create the Independent National Electoral Commission.
2. Fully respect the rights to freedom of opinion, expression and association, freedom of the press, and the right to peaceful assembly, as set out in the International Covenant on Civil and Political Rights.
3. Immediately release all political prisoners, trade union leaders, human rights advocates and journalists currently being detained without charge or trial.
4. All decrees which oust the jurisdiction of courts in matters involving life and liberty of the person should be repealed.
5. All legal proceedings must be conducted in public before independent courts whose proceedings conform to international norms of due process.
6. Put a moratorium on executions, with a view to completely abolishing the death penalty. Alternatively, impose the death penalty only in strict compliance with article 6 of the International Covenant on Civil and Political Rights, and never on persons under 18 years of age.
7. Improve prison conditions.
8. Repeal laws contrary to the equal rights of women.
9. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

E/CN.4/1999/36

Report of the Special Rapporteur on the situation of human rights in Nigeria, Report submitted by the Special Rapporteur of the Commission on Human Rights, Mr. Soli Jehangir Sorabjee, at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/6e56e4aeeb8d8f118025673700450453?Opendocument>

1. Repeal determination of rights by military and other special tribunals.
2. Repeal All repressive decrees which infringe freedom of expression and freedom of the press, freedom of assembly and association.

3. Modify the provisions of the Failed Bank Decree relating to bail to enable courts to award bail in genuine and exceptional circumstances, eliminate provision that allows liability to be attached to another when the primary offender absconds, expeditiously try offenders of this Act, if necessary by establishing additional courts.
4. Put in place immediate measures to eliminate the causes leading to delays in trials and to ensure prompt trial of persons in jail for long periods awaiting trial even if it means that additional courts, sufficiently staffed need to be established.
5. Formulate immediate measures to ensure that the conditions of detention fully comply with article 10 of the International Covenant on Civil and Political Rights, the Standard Minimum Rules for the Treatment of Prisoners, and the Basic Principles for the Treatment of Prisoners: including allowing visits by family and access to reading material and other basic amenities, access to lawyers and doctors of the detainees' choice should never be denied
6. Promptly compensate those whose human rights have been violated.
7. Increase budgetary funding of the health sector including the provision of aid to health institutions to enable them to procure modern medical equipment

A/50/960

Report of the fact-finding mission of the SG to Nigeria, Letter dated 23 May 1996 from the Secretary-General addressed to the President of the General Assembly, at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/8fe00949a4149d9380256727003ac8e8?Opendocument>

1. Creation of a committee comprised of representatives of the Ogoni community and other minority groups to be chaired by a retired judge of the High Court for the purpose of introducing improvements in the socio-economic conditions of these communities, including enhancing employment opportunities, health, education and welfare services and to act as

ombudsman in any complaint/allegations of harassment at the hands of the authorities

2. Lift existing restrictions in law, in fact, and in practice as well as refrain from imposing other restrictions on political and professional associations and labour unions, in accordance with the national and international norms on freedom of association.

3. Remove restrictions on the right of freedom of expression of the press, release journalists and refrain from harassing the media

E/CN.4/1998/62

Report of the Special Rapporteur on the situation of human rights in Nigeria, Report submitted by the Special Rapporteur of the Commission on Human Rights, Mr. Soli Jehangir Sorabjee, at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/a55c3d667425f3cfc125660f004afbcf?Opendocument>

1. Immediately release all political prisoners, trade union leaders, human rights advocates, and journalists currently being detained without charge or trial.

2. Immediately repeal all decrees which suspend the human rights provisions in the Constitution, including all decrees which oust the jurisdiction of courts in matters involving life and liberty of the people should be repealed.

3. Abolish practice of using secretive and special military tribunals; the determination of rights and obligations including any criminal charges should be made by regular courts of law; alternatively, the composition of all special tribunals should be made independent and perceived to be so by the community at large. Those sentenced by less than fair measures should be immediately released.

4. Eliminate the involvement of the Provisional Ruling Council in confirmation or reversal of conviction and sentence.

5. Nigeria should abolish the death penalty. In the alternative, imposition of the death penalty should occur only in strict compliance with article 6 of the ICCPR, and in no circumstances should death sentences be carried out on persons under the age of 18 years;
6. Prompt compensation should be paid to persons whose human rights have admittedly been violated.
7. Prison conditions should be redressed as a matter of urgency. Immediate measures should be adopted to ensure that the conditions of detention fully comply with article 10 of ICCPR, the Standards Minimum Rules for the Treatment of Prisoners and other relevant international instruments. Solitary confinement should only be in rare cases of security risk where specific reasons for solitary confinement are recorded in writing. Those detained should be afforded periodic visits by family and should not be denied reading material and other basic amenities; they should also be given access to lawyers and doctors of their choice.
8. Repeal restrictions on the freedom of expression and freedom of the press; Cease practice of impounding passports without notice and without grounds should immediately terminate including providing a right of appeal against the impoundment to a judicial body.
9. Laws contrary to the equal rights of women should be repealed to bring compliance with CEDAW, including the adoption of urgent measures to curtail the practices of female genital mutilation and forced marriage.
10. Immediate measures should be initiated to strengthen safeguards for children in detention in respect of their recovery and rehabilitation.
11. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
12. An international observer team should be given observer status and permitted attendance at criminal trials for alleged crimes of treason and other crimes involving the death penalty or long-term imprisonment

## **CHAPTER 7**

### **OBSTACLES TO NIGERIA'S HUMAN RIGHTS LEGAL OBLIGATIONS**

7.1 The failure of the state in Nigeria to comply with its international and domestic legal duties to investigate and provide effective remedies in cases of gross violations of human rights has cumulatively, over the years, encouraged and, indeed, given rise to a culture of impunity, whereby agents of the state, public functionaries and others generally need not fear punishment or the application of sanctions for violating the human rights of other citizens.

7.2 The major obstacles in Nigeria preventing investigation and the application of effective remedies in case of gross violations of human rights in Nigeria are:

- (i) the long period of military rule, which engendered a culture of disrespect for the rule of law;
- (ii) the menace of impunity and law enforcement agents;  
and
- (iii) non-observance of the due process of law.

### **MILITARY REGIMES' DISRESPECT FOR THE RULE OF LAW**

7.3 The rule of law, by which is generally meant that *laws and not men should govern*, is an important principle of *limited or constitutional government*, which by and large, and in general terms, came under assault during Nigeria's long experience with military rule.

7.4 One critical aspect of this disrespect for the rule of law under military rule in the country was rule by military decree, in spite of the country's constitution. Successive military governments in the country shrouded their illegitimacy and unconstitutional rule in the constitution by suspending it only in part upon seizing power by force.

7.5 They modified the principle of separation of powers by proscribing and abolishing the legislature, whose functions and powers are *fused* with those of the executive branch, while retaining the judiciary. However, the judiciary is hamstrung through decrees enacted to oust the judicial review of certain legislative action, in the form of enacted decrees and edicts by the executive branch.

7.6 The result is what may be described as legislative supremacy. This is a fundamental derogation from the *principles of separation of powers and judicial review, which define a federal system of government.*

7.7 But it is similar to what obtains in countries with no written constitutions or with supreme parliaments, although with the difference that, unlike what obtains in a military dictatorship, the legislature, in a democratic country such as Great Britain, where Parliament is supreme, the legislature represents the symbolic expression of the popular will, determined through the participatory democratic choice of the electorate in periodic competitive elections, conducted under universal adult suffrage, which not only ensure the accountability of members of parliament but also strengthen the legal tradition of the rule of law, due process and the democratic ethos of the imposition of limits and checks on rulers, on which the political system is anchored.

7.8 The constitutional or legal status of military rule and military regimes has been a major bone of contention in Nigerian constitutional law. In **Lakanmi and Anor. v. A.G. of Western State**, the issue of the status of the military regime was raised, namely whether the enabling statute for the regime was the take-over decree or the 1963 Republican Constitution. The Supreme Court ruled in the case that the 1963 Constitution was the enabling statute.

7.9 In reaction to the decision of the Supreme Court in the *Lakanmi case*, the Supreme Military Council enacted a corrective law, *The Federal Military Government (Supremacy and Enforcement of Powers) Decree No. 28 of 1970*, asserting the nature of the change of government brought about by military take-over of government, and affirming that the 1963 Nigerian Constitution was not the legal basis for the new government. An important implication of the decree was that the 1963 Constitution and other constitutions in force whenever the military illegally seizes power remain in effect only to the extent that decrees enacted by military regimes in the country allow.

7.10 Another constitutional issue pertains to the status of the constitutional provisions and existing laws, which decrees enacted by military regimes do not expressly suspend.

7.11 In **State v. Nwoga and Okoye, and in Jackson v. Gowon & Ors.**, the courts upheld constitutional supremacy over military enacted decrees. However, in a number of later cases, e.g. **Ogunlesi & Ors. v. A.G. of the Federation**, and in **Ojokolobo & Ors. v. Alanu & Anor.**, the courts have upheld the legislative supremacy of military enacted decrees over all existing laws, including the unsuspended provisions of the Nigerian Constitution, in force when the military seized power. The Court of Appeal had, indeed, argued in **Lahanmi and Anor. v. A.G. of Western State**, that

*“Once a decree is made, as provided in Decree No. 1 of 1966, even the provision of the Constitution can derogate therefrom. Section 1...clearly establishes the supremacy of a Decree over the constitution itself and one may say that Decrees become the magic of the Federal Military Government...”*

7.12 If military rule is inherently subversive of constitutional or limited government and of the rule of law, Nigerian courts have tried to limit its arbitrary excesses and to force it to act in conformity with the laws it had enacted, in other words to respect due process and the rule of law, in respect of the decrees, which it had promulgated.

7.13 This was the decision of the court in **Chief Davis & Ors. v. Chief Abey and Ors.**, where it was held that,

*“It is axiomatic that when an executive action is mala fide, then the authority who purportedly [seeks] to exercise the action cannot be heard to parade before the court an ouster clause...ouster clauses anticipate lawful acts taken according to the enabling law...Unless so, the executive can, with deliberate impunity, flout the law and hide under a well phrased ouster clause...”*

7.14 The debate over due process and the rule of law under military rule has, therefore, revolved around whether military regimes can lawfully exercise governmental powers inconsistently with the ground norm laid down by them after seizing power.

7.15 In a more recent case under the administration of General Babangida, the Supreme Court in its ruling reminded the military that it could abolish the judiciary as it has done with the legislative branch, if it [the military] was not prepared to obey court rulings and court orders.

7.16 However, Section 2(b)(i) of Decree No. 12 of 1994 asserted that,  
*“No civil proceedings shall lie or be instituted in any court for or on account or in respect of any act, matter or thing done or purported to be done under or pursuant to any Decree or Edict and if such proceedings are instituted before, or after the*

*commencement of this Decree the proceedings shall abate, be discharged and made void.”*

7.17 This provision effectively ousted the competence and jurisdiction of the courts from enquiring into the validity of decrees made by the military government. Similar provisions are contained in almost all decrees affecting human rights proclaimed by the military since 1994

7.18 Most courts cited the provision as a basis for declining jurisdiction, especially in cases involving violations of human rights by the military authorities.

7.19 Further illustration of the problem posed for the rule of law and for the promotion and protection of human rights under military rule is provided by the combined effect of the following features of military enacted decrees: *retroactivity; ouster clauses; legislative judgment; and prohibition of judicial appeal.*

7.20 *Retroactivity of decrees:* Sometimes decrees enacted by military regimes are backdated to legitimize illegalities or to make certain persons guilty of specific offences, which did not constitute offences at the time they were carried out. Retroactive decrees are not limited to the deprivation of individual liberty. The following examples are illustrative of the nature of retroactive decrees, namely that they were used by military regimes not only in criminal cases, where they were considered most harmful but also in other circumstances to take away rights previously granted by contract or public appointment, or to invalidate decisions of public agents or public functionaries, which had been validly made:

- (a) In 1984, the military regime enacted the *Special Tribunal (Miscellaneous Offences) Decree*, providing the death penalty for a wide range of offences,

including arson, tampering with oil pipelines or electric or telephone cables, importation of mineral oil, dealing in cocaine, etc. Three suspects, Messrs Owoh, Ogedengbe and Ojuolope were charged retroactively, under the *Special Tribunal (Miscellaneous Offences) Decree*, with having dealt in cocaine before the decree was enacted. They were tried by a Special Military Tribunal, which found them guilty. They were sentenced to death and were subsequently publicly executed.

- (b) *The Satellite Town (Title Vesting and Validation) Decree No. 5 of 1991*, signed into law on 16 January 1991 but backdated to have retroactive effect from 18 September 1975, affected the property rights of land owners in a suburb of metropolitan Lagos, known as Satellite Town, by annulling all court orders and judgments on land-ownership in the area, which were passed before or after the commencement of the decree.

Although the application of retroactive or ex post facto laws is prohibited under Article 15(1) of the International Covenant on Civil and Political Rights (ICCPR), and by the 1979 Constitution of the Federal Republic of Nigeria, there was no legal remedy against them [retroactive decrees] in Nigeria under military rule because, as we pointed out previously, judicial review of decrees for violating Chapter 4 of the 1979 Constitution of the Federal Republic of Nigeria, containing provisions on Fundamental Human Rights had been revoked by another decree.

7.21 **Ouster Clauses:** Another feature of decrees enacted by military regimes in Nigeria is that they sometimes contained ouster clauses, which

typically remove (“oust”) the jurisdiction of civil courts in matters regulated by the decrees. But under Article 14 of the International Covenant on Civil and Political Rights (ICCPR), everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. This right is also guaranteed by the 1979 Constitution of the Federal Republic of Nigeria, which, at Section 236(1) grants the High Court

*“unlimited jurisdiction to hear and determine any civil proceedings in which [the] existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is an issue or to hear and determine any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person.”*

We have discussed above [Sections 12-18 of this chapter] the attempt of the courts in Nigeria to come to terms with ouster clauses. As the Honourable Justice Niki Tobi has put it,

*“The courts have also insisted that executive actions purportedly exercised under an enabling Decree or Edict must strictly comply with the procedure laid down by the Decree or Edict.”*

[Niki Tobi, Hon. Justice. “The Legislative Competence of the Armed Forces Ruling Council,” in Justice: A Journal of Contemporary Legal Problems, Vol 1, No.4, August 1990, p.39]

7.22 **Legislative Judgment**: This is another feature, which sometimes characterizes decrees enacted by military regimes in Nigeria. Legislation is conceived as a system of general and uniform rules. To single out a person for individualized treatment by legislation is arbitrary and discriminatory

and it can lead to oppression. It amounts to legislative judgment, which can be used to influence the outcome of judicial proceedings. This type of legislative judgment was routinely used by military regimes in Nigeria. Decrees passed judgments, in the form of legislative judgments, aimed at specific individuals or situations. An example is *The Reporter (Proscription and Prohibition from Circulation) Decree of 1993*, which barred the publication of The Reporter, a daily newspaper. Another example is offered by decrees, which create special tribunals for the adjudication of specific situations and persons, as in the trial of Ken Saro-Wiwa and 8 others in November 1995.

7.23 ***Prohibition of Judicial Appeal:*** A feature of decrees setting up military tribunals, enacted by military regimes in Nigeria, is that they do not provide for appeals to the regular courts. Occasionally, the only appeal allowed is to the executive power, the head of state. This feature contravenes the provision of Article 14(4) of the *International Covenant on Civil and Political Rights (ICCPR)*, which stipulates that “everyone has the right to his conviction and sentence being reviewed by a higher tribunal according to law...”

## **THE MENACE OF IMPUNITY AND LAW ENFORCEMENT AGENTS**

7.24 A second major obstacle to the prevention, investigation and application of effective remedies of gross violations of human rights in Nigeria under military rule has been the menace of impunity and law enforcements agents.

7.25 The nature of state responsibility for violations of human rights is different from that of violators within the private domain. This is because the official capacity within which a public functionary operates gives him a higher degree of responsibility and public trust.

7.26 His/her liability is even greater for violating this public trust and responsibility, especially when he/ she has sworn to faithfully carry out such a responsibility. A breach of this responsibility and trust, as well as the failure of the state to apply sanction to redress or punish the breach, as we have pointed out earlier in this chapter, is likely in the long run, to weaken the social fabric, encourage disloyalty and erode general confidence in the state and the legal process.

7.27 Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR) and Section 32 of the 1979 Constitution of the Federal Republic of Nigeria guarantee the right to liberty and security of person and, to this end, provide for the protection of the right to personal liberty, except in the execution of a lawful order of a court or on reasonable suspicion that an offence has been committed by a suspect.

7.28 For example, by virtue of Section 10(1) of the Criminal Procedure Act and Section 24 of the Police Act, the Police are empowered to arrest suspects, without a warrant, under certain circumstances.

7.29 The Nigerian experience has been that the right to liberty is regularly breached or violated by agents of the state.

7.30 The Police in many cases had gone beyond their power to arrest suspects and have arrested innocent citizens. They are known to have arrested relatives or friends of suspects, holding them as hostages, if suspects were not available.

7.31 Military regimes in Nigeria promulgated several decrees that infringed the right to liberty. The most infamous of such decrees is the *State Security (Detention of Persons) Decree*, which empowered the Inspector-General of Police or the Chief of General Staff to detain persons for up to

three months without trial, for example, upon suspicion of their being involved in actions prejudicial to state security, either for economic, political or other reasons. No writ of *habeas corpus* or an order of prerogative or any other order of a court may be issued for the production of a person detained under the decree.

7.32 *The State Security (Detention of Persons) Decree* was amended in 1993 by the administration of General Abacha to make it more stringent. Law enforcement personnel were given a *carte blanche* to detain opponents of the regime at will. Thus journalists, politicians, human rights activists, labour union leaders, students and other pro-democracy advocates, who were critical of the regime, were detained under the decree. As long as the government produced evidence in court that a person was being detained under the decree, regular courts were precluded from examining the legality of detention orders issued under the decree.

7.33 Another example of the menace of impunity and law enforcement agents by military regimes is provided by the incidence of extra-judicial killings, in contravention of Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and Article 4 of the African Charter, both of which stipulate that the right to life is non-derogatory and cannot be suspended under any circumstances.

7.34 The *United Nations Special Rapporteur on Extra-Judicial or Summary Executions* has defined executions as being arbitrary and summary when life is deprived as a result of a sentence imposed by a procedure in which the minimum principles of due process as spelt out in Articles 6 and 14 of *the International Covenant on Civil and Political Rights (ICCPR)* have been neglected.

7.35 In the last ten years of military rule in Nigeria, i.e. between 1989 and 1999, there were widespread allegations of extra-judicial killings by agents of the state. For example, it was alleged that were “missing” from police custody; indeed allegations of police killings in the country were generally not investigated.

7.36 The general impression was that police authorities, reacting with apathy and sometimes setting up inquiries, were more anxious to cover any abuses and violations of human rights by policemen and policewomen than to investigate and punish erring police officers.

7.37 In the aftermath of the annulled presidential elections of June 12, 1993, there were reports that over a hundred unarmed civilians were killed, allegedly shot by the army and police, during protests against the annulment.

7.38 The Special Security Task Force, established to deal with armed robbery, was generally believed to be in the habit of abusing its powers, by carrying out extra-judicial killings, summary executions, arson, looting, arrest, detention, torture, rape and extortion, especially in Ogoniland and other parts of the Niger-Delta, where the Force was deployed to subdue popular uprisings.

### **NON-OBSERVANCE OF DUE PROCESS**

7.39 The third obstacle to the investigation of, and the application of effective remedies for gross human rights violations in Nigeria during military rule is the non-observance of due process.

Due process of law means a course of legal proceedings in accordance with the rules and principles established for the enforcement and protection of rights, including all the guarantees necessary to ensure that proceedings

are fair, just and equitable. It implies that the powers of government must be exercised within the limits of the law.

7.40 The last seven years of military rule in Nigeria between 1992 and 1999, witnessed a number of prominent cases in which due process was not observed.

7.41 The coup trials of 1995 are typical of such cases. A brief examination the respect in which these coup trials violate due process follows.

7.42 On March 10, 1995, the military government of General; Abacha announced the discovery of a plot to overthrow the government.

7.43 Initially, 29 persons, mainly serving and retired military officers, were arrested and detained. The list of suspects had grown considerably by the time their trial by the Special Tribunal (The Treason and Other Offences Special Military Tribunal) started in June 1995. The Tribunal, which was empowered to try any person including non-military personnel, was composed entirely of military personnel. It was presided over by a member of the Provisional Ruling Council, Brigadier-General Patrick Aziza.

7.44 At the end of the trials 41 persons were convicted and were given sentences ranging from long imprisonment to the death penalty.

7.45 Fourteen accused persons, including General Yar'adua and Colonel Fadile, were found guilty of treason and received death sentences. General Obasanjo and three other accused persons received life sentences; while 14 others, including the pro-democracy advocate, Dr Beko Ransome-Kuti and the journalists Mrs Chris Anyanwu, George Mbah and Kunle Ajibade were each sentenced to 25 years imprisonment.

7.46 Although appeals against the convictions could only be made to the Provisional Ruling Council, the death sentences were commuted to life and some of the other sentences were reduced by a few years, after international and national outcry against them.

7.47 Prominent among the suspects on trial were former Head of State and Government, General Olusegun Obasanjo and his Deputy, the Chief of General Staff, General Shehu Musa Yar'Adua.

7.48 The trials fell short of the requirement of due process in the following respect.

7.49 First, the trials, by their structure and rules of procedure and proceedings, violated provisions of UN Human Rights Commission that civilians should only be tried by military courts under very exceptional circumstances; and that in such exceptional circumstances, such courts must afford all guarantees set out in Article 14 of the *International Covenant on Civil and Political Rights (ICCPR)*.

7.50 Secondly, the *Special Tribunal* sat in secret. Journalists were not allowed to cover its proceedings. The defendants were not allowed to have their own lawyers and were, instead, given military lawyers to defend them. These military lawyers were answerable only to the tribunal and most of the documents needed by the defence were not made available to them.

## **CHAPTER 8**

### **OVERVIEW OF COMPARATIVE REGIONAL EXPERIENCES**

#### **SIGNIFICANCE OF TRUTH AND RECONCILIATION COMMISSIONS**

8.1 As the twentieth century dawned, many deeply-divided or “plural” societies were struggling to overcome a heritage of collective violence and gross violations of human rights in their societies.

8.2 The twentieth century is, perhaps, best remembered for its legacy of gross violations of human rights, characterized by mass atrocities, violent conflicts, massacres and the oppression of one ethnic or religious or other sectarian group by another group; and tearing apart the social fabric of countries in every part of the world at the seams.

8.3 The killing fields of Cambodia, South Africa’s brutal apartheid system, genocide in Nazi Germany, and in Rwanda and Burundi, ethnic cleansing in the former Yugoslavia, brutal ethno-religious wars in India, Pakistan, Ireland, Spain and the Middle East are typical examples of the collective brutality and carnage that the world experienced in the twentieth century.

8.4 But the twentieth century also witnessed concerted efforts at the national and international level to combat the scourge of ethnic chauvinism, political intolerance and economic devastation that detract or diminish from the worth of the person as such and to make the world safe and conducive for the promotion and protection of human rights and world development.

8.5 To this must be added the growing national and international concern that to move beyond the ugly past of collective violence, it would be necessary to engage in some form of healing process and reconciliation in

countries that had experienced violent conflicts and gross violations of human rights.

8.6 It in the context of achieving such a healing process and reconciliation that at least nineteen countries in the world [as at 2001], including Argentina, Chile, El Salvador, Guatemala, Nigeria and South Africa established *Truth Commissions or similar commissions or panels*, as temporary bodies, with official status and sometimes quasi-judicial truth-finding functions and powers, to investigate past histories of human rights abuses and violations in the various countries in which they were set up.

8.7 The establishment of these truth commissions was based on the assumption that they were necessary for countries in transition to democratic rule, and that are determined to heal wounds inflicted by particularly brutal autocratic and military regimes, as a precondition to moving forward in a spirit of national unity and reconciliation.

8.8 It was this consideration, in the case of South Africa, for example, that led to the rejection of the suggestion of a Nuremberg-type tribunal to prosecute apartheid-era perpetrators of crime against humanity.

### **EXPECTED POSITIVE IMPACT OF TRUTH COMMISSIONS**

8.9 Truth commissions are expected to impact in a number of positive ways on the countries, which have established them. In fact, it is the expectation of this positive impact that usually provides the justification for their establishment.

8.10 The following summarizes some of the expected positive impact of truth commissions.

8.11 First, truth commissions force countries, which established them to confront their tortuous past squarely. To ignore such a past can lead to collective amnesia, pent up anger, agony, hatred, resentment and revenge, all ready to burst and consume the nation in yet more traumatic decimating explosion.

8.12 Secondly, truth commissions offer victims of gross human rights violations legitimate for a to reclaim their human worth and dignity. At the same perpetrators of these violations are offered the opportunity to expiate their guilt.

8.13 Thirdly, truth commissions can facilitate a national catharsis. In this way, future generations would be served by the knowledge that the record of past abuses was as complete as it could have been. It would also expectedly ensure the avoidance of gross violations of human rights in the future and facilitate the development of a culture of respect for human rights.

8.14 Fourthly, truth commissions can satisfy the retribution impulse. The naming of perpetrators and the exposure of their violations constitutes punishment through public stigma, shaming and humiliation.

### **LIMITATIONS OF TRUTH COMMISSIONS**

8.15 While truth commissions is expected to lay the foundation for a shared future by coming to terms with the past, it is often difficult, however, to prosecute architects, instigators and perpetrators of human rights abuses and violations, especially when the number of such perpetrators is huge.

8.16 Given the scale of collective violence in places like Bosnia, Cambodia, Ethiopia and Rwanda, it is not feasible to prosecute all alleged offenders, and to attempt to do so will lead to thousands of suspected persons

languishing in jail. In the case of Nazi war crimes, for example, fewer than 6,500 of the 90,000 cases brought to court resulted in convictions.

8.17 Few countries in transition to democracy have strong legal institutions and resources that are required for successful domestic prosecution. Critical records and evidence are likely to be missing or to have been destroyed. Indeed, the systematic suppression or destruction of incriminating evidence is a common problem.

8.18 In Guatemala, records from a secret military archive on the fate of 200 victims of human rights abuses who “disappeared” while under custody of the Guatemala military were made available to the American Association for the Advancement of Science (AAAS) and other human rights associations after the publication of the report of the Guatemalan Truth Commission, but not to the commission itself.

8.19 In South Africa, the apartheid regime routinely purged the archives of huge volumes of sensitive data, and in the penultimate years of the regime, South African security forces undertook a more systematic and vigorous destruction of state records.

8.20 South Africa’s unsuccessful effort to prosecute General Magnus Malan, Army Chief and Minister of Defence in apartheid South Africa, for authorizing the assassination squad responsible for numerous extra-judicial executions, shows how difficult it can be to gather evidence to successfully prosecute alleged perpetrators.

8.21 Another problem that faces truth commissions is that what constitutes “*the truth*” may be more subjective than objective, a matter of perception than of fact, resulting in serious contention. Determining and

sieving “*the truth*” from complex social events and situations is difficult under the best of circumstances.

8.22 *Facts* are far from being self-explanatory and waiting to be discovered. Thus, truth commissions operate all over the world in politically and emotionally charged situations in which there are necessarily conflicting versions of what transpired in the past.

8.23 What this suggests is that the documentation and interpretation of “*the truth*” is more complex than many proponents of truth commissions tend to assume. Social, technical and methodological constraints, as well as epistemological limitations on what can be known or what constitutes the truth, all affect a truth commission’s ability to produce an authoritative account of a contested, contentious and controversial past.

8.24 Producing such an authoritative account, in an objective and systematic manner consistent with the canons of historical and social science research, requires more than the accumulation of anecdotal evidence to support widely held views about what happened and who were responsible.

8.25 The experience of South Africa with its truth and reconciliation commission has shown that if the process and proceedings of truth commissions are not managed well, it may degenerate into a witch-hunt, opening old wounds as well as fresh ones, and aborting the healing and reconciliation process, as well.

8.26 Indeed critics of South Africa’s truth and reconciliation commission have asserted that perpetrators of gross human rights violations under the apartheid regime virtually got away with murder, and that the commission sacrificed justice for the search for truth.

8.27 Another limitation that emerges from comparative experience in the work of truth commissions is that, generally, their reports fail to address the vexed issue of international involvement in sponsoring or tacitly, if not overtly supporting human rights violations. It was common during the cold war for the great powers to turn deaf ears and blind eyes to such violations by their surrogates in the third world.

8.28 In a number of cases, the great powers even encouraged political assassinations of democratically elected leaders who toed an independent line, sometimes engineering the staging of coup d'états against them, and the installation of military dictatorships to replace them.

8.29 However, the Chad Commission is an exception, insofar as it investigated and reported on the international financial support given to the Chadian regime, including the extent of intelligence training provided by foreign governments.

The Chilean Commission's report included a section on international reaction to the Chilean regime, briefly outlining relations between it and the United States, without going further than that.

### **SETTING THE TERMS OF TRUTH COMMISSIONS AND RELATED ISSUES**

8.30 It is now appropriate to look at what comparative experience indicates about the terms of reference of truth commissions.

8.31 An important issue in establishing truth commissions is their duration or life span. The general opinion is that their duration should be limited but long enough to ensure efficacy and timeous completion of the task. Experience shows that the terms of reference should allow a truth commission some time and provide adequate resources to enable it lay the administrative and logistical foundations, without which it would lose precious time out of its limited life span.

8.32 Thus, it would have considerably helped the truth commissions in Argentina, Chile and El Salvador if they had had more than the nine months each of them was given to complete its assignment, given the enormous workload and the administrative and logistical problems it had to cope with.

8.33 At the other extreme is the Ugandan Commission of Inquiry into Violation of Human Rights, established in 1986, whose duration is not limited by statute and is yet to report.

Comparative experience shows that truth commissions should be given broad mandates that will allow them to interpret their functions and powers in a flexible manner.

8.34 In El Salvador, the truth commission 's mandate was broad enough to allow it investigate what it considered to be serious acts of violence and human rights violations. In South Africa, the mandate of the truth commission was broad enough to allow the members of the commission considerable latitude and discretion, especially in respect of the definition of "gross violations."

8.35 The success of the truth commissions in Argentina and Chile shows the centrality of an operational and well-resourced commission's bureaucracy to the work of truth commissions. This was particularly true of El Salvador's truth commission, which was able to carry out in-depth investigations, on account of its broad mandate, sufficient funding and international staff.

8.36 On the other hand, in Uganda the work of the Commission of Inquiry into Violations of Human Rights was adversely affected by an initial deficiency of staff, and financial and logistical resources. Its poor staffing and financial resources were only partially alleviated by a grant from the Ford Foundation.

8.37 The staffing of commissions has varied. Whereas Latin American truth commissions have enjoyed relatively large staffing, African truth commissions have been much less endowed.

8.38 The general comparative pattern has, therefore, been that truth commissions that were well-funded and staffed have been more successful in depicting the overall picture of human rights abuses and violations and in contributing to the achievement of national reconciliation.

8.39 The South African truth and reconciliation was the first truth commission to be given the power to subpoena witnesses. This power also gave it the power to offer amnesty in exchange for the truth. It is this offer, some have argued, that has enabled South Africans to know a lot more about the past than would have otherwise been possible.

8.40 Some have argued that the goal of a truth commission should be to identify institutions, parties, ideologies and structures that encouraged gross violations of human rights. According to this view, truth commissions should only secondarily be concerned with identifying particular individuals who played roles in, or who contributed to the abuses.

8.41 It has also been argued that the findings of a truth commission, made through public hearings or other public processes must be unequivocal, based on the best scientific methodologies and practices. The findings should be victim-centered, telling the story from their point of view and validating their experiences, while also narrating the story as told by the perpetrators.

8.42 It is for this reason that it is absolutely important for truth commissions to conduct their own investigation, in order to create as complete a picture as possible of human rights abuses in their countries.

They need to do this to complement the testimony of victims and perpetrators and on records compiled by governments or non-governmental organizations, which, for political and other reasons, may be biased, inaccurate or slanted.

8.43 At the very least, a truth commission should present a narrative that becomes the central component in the debate about the past and the future, which it has helped to create and shape.



## **VOLUME THREE**

### **RESEARCH REPORTS**

#### **INTRODUCTION**

In pursuit of its main mandate of investigating human rights violations in Nigeria, and as a supplement to its major task of addressing the petitions it received and the public hearings it conducted with regard to these, the Human Rights Violations Investigation Commission commissioned extensive research and studies on the range, extent, magnitude and ramifications of human rights violations in Nigeria between January 15, 1966 and May 29, 1999, which is the period covered by its revised terms of reference. The main objective of this major undertaking is to document for posterity details of human rights violations in this particular, significant period in the development of Nigeria. It is also to help to unveil the nature, character and dynamics of human rights violations that might have occurred in each of the geopolitical zones, as well as provide details about the involvement of key agencies of the state, such as the Police, the Prisons, the military and other security agencies, in the violations of the rights of Nigerians. Also, it was decided that women's rights violations should be thoroughly investigated and documented in order to come to terms with the gender dimensions of rights violations in Nigeria.

Thus, in April 2000, the Commission selected and appointed reputable research Centres and other experts drawn from equally reputable civil society organizations and the academia to undertake this task on its behalf. A methodology workshop for the researchers was held in April 2001, during which an acceptable framework and modality for the

conduct of the research was fashioned out. The fieldwork and the writing of the research reports were done within a period of nine months.

The end-product of this undertaking is an extensive documentation of virtually all the variegated and ramified dimensions of human rights violations in Nigeria in that sad period of the country's national history as a post-colonial entity ravaged by unbridled and reckless misrule under a succession of military regimes, which presided over a profoundly prebendal and patrimonial state. The research reports provide essential details of a range of violations of individual as well as group/communal rights, some of which are often not factored into current discourses of rights violations in Nigeria, and many of which have not found their way to the Commission in form of petitions and pleas for intervention. The documentation would certainly serve as a constant reminder to citizens about what has been wrong and how. But it will be especially helpful to generations to come, to better position and equip them to draw the appropriate lessons and safeguard the future from such crude manifestations of trampling of people's fundamental rights.

This volume condenses and presents, in a simple and accessible manner, the dense and rich findings contained in the several research reports submitted to the Commission by the commissioned researchers. Part I contains the summary of the six zonal reports, one on each of the six geopolitical zones. Part II presents findings, with regard to the roles of Prisons, the Police, the Military and other security agencies in human rights violations in Nigeria, as well as reports on the gender perspective of the dimensions of human rights violations.

## **RE-CONCEPTUALIZING HUMAN RIGHTS VIOLATIONS**

One of the most noteworthy contributions of the commissioned research reports is the lucid articulation of the need to redefine the prevailing notions and perspectives of what constitute human rights violations in Nigeria, given the profound nature of the evidence which suggests a disturbing tendency to showcase certain categories of violations while relegating others to insignificance and virtual irrelevance. These prevailing perspectives, which have evolved in the context of the emergence and growing activism of the human rights NGOs against brutally suppressive military regimes in Nigeria's recent history, have tended to narrow down and restrict an understanding and appreciation of the complex character and dimensions of what actually constitute human rights and their violations in the post-colonial Nigerian polity. They have tended to focus upon the more visible, and elite-driven notions, especially freedom of speech, association, and so on. The significance and range of social, cultural and economic rights and their violations are only rarely and even then only selectively and in an off-tangent way, focused upon.

Yet, the reality of the situation is that human rights violations in contemporary Nigeria have a wider historical, social and cultural contexts and dimensions, as well as complex configurations, and situational and contextual attributes. As has been aptly observed, human rights abuses are "products of particular processes in the economic, social, cultural, and political systems of the country" (ASCHR, October 2001:2); and a clearer and deeper understanding of these goes a long way to facilitate informed analyses and recommendations on how best to address these. Similarly, understanding these contexts and dynamics is crucial to

understanding the state of human rights in Nigeria today, and the ranges of violations that have occurred over time.

The Abdullahi Smith Centre of Historical Research (ASCHR), a private non-governmental research centre based in Zaria, has extensively and parsimoniously addressed these issues in the report it submitted to the Commission. The Centre's submission reviewed the Nigerian intellectual and socio-political landscape and identified four prevailing perspectives on human rights and their violations in Nigeria.

The first is what can be termed as the "Head of State-Centred perspective." This attributes violations of rights to the character of the individual civilian or military ruler in power, and assumes that, for example, when rulers are God-fearing, human rights are upheld, and when they are bad or evil, human rights are violated. Also, this perspective assumes that good rulers can be surrounded by bad lieutenants and advisers who will repress and assault the liberties of citizens and trample on their rights to serve their regime's interests.

The second perspective is the "Military Ruler perspective," which holds that military rule is by its very nature dictatorial and hence authoritarian, repressive and intimidating. Thus, according to this perspective, violations of human rights commence from the very act of the military's illegitimate overthrow of an elected government, and ruling without the consent of the ruled, using military decrees to subordinate the fundamental human rights of citizens enshrined in the constitution.

The third perspective ascribes human rights violations in Nigeria to "Northern Domination." It holds that rights violations are associated

with, or as a result of, attempts by successive civilian and military regimes, which were led by Northerners, to impose and maintain Northern dominance on other parts of the country, and that in the process, human rights are violated, using the Military, the Police and state policies.

The fourth perspective attributes human rights violations in Nigeria to low levels of education and training, lack of equipment, corruption, poor orientation of law-enforcement agencies and gross shortcomings of the Nigerian judiciary. From this perspective, human rights are violated due to the inadequacies of law enforcement agencies which define the parameters within which a given regime operates.

Although each of the four listed perspectives help to explain human rights violations in some cases, some of the time, they do not provide a holistic picture, and fail to provide an adequate framework for analyzing, understanding and explaining the complex nature of rights violations in neocolonial Nigeria. As plausible and feasible as some of these explanations may seem, they only provide a limited explanatory framework, which substantively reduces our ability to formulate effective measures to forestall and prevent, or at least minimize future rights violations in Nigeria.

For example, ASCHR's submission argues that these perspectives fail to take into account the abundant evidence of human rights violations in the history of Nigerian political development, which are clearly attributable to, or associated with, political dynamics in pressure groups, and political parties that engage in electoral contest for power. But, even more significantly, they fail to take into account the fact that systematic denial of opportunities for the nurturing of civilian

structures and processes for electoral contestation has helped to create the political and administrative contexts in which violations of rights are maximized. For such civilian structures and processes go a long way to condition the necessary public service organs to uphold the rule of law and supremacy of the constitution, which are essential requirements for promoting human rights and preventing their abuse.

Hence, implicitly, it is important to use as a framework a more integrated perspective which recognizes that human rights exist and are exercised or violated within definite social, political and administrative contexts. And that the appropriate contexts for their protection and promotion, or prevention of abuse, are based on the existence of credible organizations, institutions, networks and links in the civil society that are capable of contesting with one another and controlling the state organs. It ought to be recognized that the organs of the state, including the judiciary, the Police and the Military, are incapable of protecting human rights unless they are conditioned and influenced by civilian political structures and processes, which exercise political hegemony and control over them to ensure that they protect these rights. The task of assuring better guarantees of rights, and prevention of violations, therefore, requires the institutionalization of a culture of democratic conduct based on strong and effective political structures and processes that ensure legitimate civil control of the organs, structures and agencies of the state.

Finally, it is significant to also note that the most visible expressions of rights violations, as deplorable as they are and as significant as it is to address them, are not necessarily the most damaging in their impact and consequences on the life of the nation, on its people, especially the poor masses, and on the national social, economic and

political fabric. Violations of social, cultural and economic rights are likely to be more long-lasting in effect and consequences, given certain situations and contexts. For example, such violations as relate to dispossession of farmlands and uprooting and relocation of peasant communities without careful planning, and compensation, or worse, systematic despoiling and degradation of a peoples' environment all have grave psychological and socioeconomic consequences, which can only at best be imagined, and which can hardly ever be adequately compensated. It is Nigeria's unfortunate lot that it has had a fair share of all ranges of these, in addition to clumping of freedom of expression, of the press, of association and even crude violations of the fundamental right to life. In the light of the foregoing, we shall now proceed to give a précis of the zonal reports and some select state institutions spotlighted in this volume.

## **REPORT ON THE SIX GEO-POLITICAL ZONES AND SELECT INSTITUTIONS: A SUMMARY**

1. In the bid to enhance adequate understanding of the dynamics of the socio-cultural, economic and the political context that underscore rights violations in the country, the Commission assembled an expert group of intellectuals, scholars and academics to conduct extensive research into the state of human rights in the six geo-political zones of the country and a select number of state institutions. The volume is presented in two parts: Part I focuses on the zones, while Part II examines the select institutions. The six geo-political zones are North-West, South-South, North-Central, North-East, South-West, and South-East, while the institutions are The Nigeria Prisons, The Nigeria Police....

2. In order to ensure a quality debate on rights violations, the Commission stressed the need for a research and report orientation that would be exhaustive and inclusive, one whose methodology will be cognisant of, and sensitive to, the diversity and plurality of the Nigerian polity, and will endeavour to maximise the potential welter of information made possible through governmental and non-governmental agencies, research institutions, the media, journals, articles and publications, books and interviews.
3. Some basic cross-cutting themes that emerged in all the reports include power relations, access to resources and appreciation of diversity in the context of personal and group dynamics. The fact of prolonged military rule and the entronement of a culture of abuse of rights was particularly highlighted, beside a military attitude to power that was a negation of the national *public sphere*, in an environment where the disbursement of resources was totally centralised.
4. Of similar concern to the different presentations was the process by which the military threw overboard federalism as a character of the national constitution, imposed a unitarist state (*de facto*), and paved the way for subsequent central governments to decimate opposition and pressure groups including trade unions, the students' movement, professional bodies and opposition parties during the mandate period.
5. In a broad outline, evidence of military pressure on the *public sphere* were noted in the subsequent wanton violation of rights through arbitrary arrest and detention, detention without trial, torture, indiscriminate killing, abduction and kidnapping, military attack, fanning of ethnic and religious embers, as general brutality against the public psyche became commonplace.

6. **North-West:** The report gives a historical background of the political and administrative formation of the Emirate system, whose socio-economic structure was feudal-type, rent-seeking and generally tribute-exacting on the lower classes, composed in the main by the Hausa (Habe) peasantry.
7. It further notes that the colonial government did not alter the political structure it inherited in Hausa land; rather, the traditional system was put in the service of the Indirect Rule system. The specific regime of rights identified as violated includes Community and Land Rights, and the Right to Life.
8. **South-South:** The politics of oil foregrounds the historical narration of rights violations in Nigeria's Niger Delta (South-South), the standard practice being the use of maximum force against the people of this region by an alliance of Trans National oil Corporations, the state and the indigenous elite. The main types of violations investigated are: right to life and liberty, property, human dignity, social and economic, cultural and linguistic, and access to justice. Many of these violations are subsumed in the despoliation of the environment and atrocities committed against civilians during the civil war, both by the federal and Biafran troops.
9. **North-Central:** As a bridgehead between the core north and south, the North-Central zone underscores its claims on perceived emasculation of identity reflected in exclusion to political and economic resources. The report highlights the broad framework of rights violations as evinced in: Widespread cases of arbitrary suspension, termination and dismissal of employees by government agencies; Non-payment of gratuities, pensions and other benefits by government; Selection and manipulation of traditional rulers; Compulsory acquisition of land/property without due compensation

by government and powerful individuals; Extra-judicial killings and unlawful detention by the police.

10. **North-East:** The report notes the neglect and acute marginalization of the zone in terms of infrastructural facilities. This absence of state presence is often compounded by state violation of land rights in the name of agricultural development project. Added to this are numerous cases of violation of community rights and individual and group rights to life. Other categories of rights violation include extra-judicial killings—especially in the guise of quelling protests occasioned by Muslim fundamentalists as well as armed robbers.
11. **The Nigeria Prisons:** The chapter is sub-divided into three broad sections: Background information on the history, functions and administrative structures of the Nigeria Prisons Service; Critical problems and issues relating to human rights violations; and, Recommendations.
12. **The Nigeria Police:** The report details the origin of the police in Nigeria; The impact of military rule on the police; Patterns of human rights abuse by the police which include Illegal arrest, detention without trial, Torture, and Extra-judicial killing. For the reversal of this trend, the chapter recommends a number of measures which include structural reform for institutional reorientation, human resource training, and democratisation of the polity.
13. **Conclusion:** While all the reports made specific recommendations on the need for structural reform, they were all underlined by the quest for the enthronement of a liberal political space that will be inclusive in word and practice.

## **CHAPTER ONE**

### **NORTH-WEST ZONE**

#### **INTRODUCTION**

1.1 The North-West geopolitical zone comprises seven states, namely Jigawa, Kebbi, Kaduna, Katsina, Kano, Sokoto and Zamfara States. These states constitute what is referred to as the “Core North” in contemporary Nigerian journalistic and political terminology. They are located in the dry, relatively arid and Sahel Savannah region, characterized by a short-duration rainy season and low rainfall, except in some parts of Kaduna state, whose southern provinces fall within the relatively better climate and ecological zone of the Guinea Savannah.

1.2 These states also comprise most of the area that used to be under the Sokoto Caliphate in pre-colonial Nigeria. The Caliphate was the centralized, theocratic state system established by Shehu Usmanu Danfodio, a Fulani Islamic cleric, who led a *jihad*, an Islamic ‘holy war’, against the Hausa (Habe) rulers of the area in the first decade of the 19th century. His stated objective was to come out with a reform and a return to Islamic principles and practices of governance from which the Habe rulers had deviated. Not long thereafter, however, his descendants also substantially deviated from those principles and practices he sought to establish. They established powerful, hereditary, ruling houses, and an *Emirate* system of government based on feudal-type rent-seeking activities, such as taxation, exaction of tributes from the peasantry and other commoners, and predatory activities, such as slave-raiding, which devastated neighbouring non-Muslim communities.

1.3 After the British conquest of the area, the political machinery and administrative structures of the emirate system were put to good use by the British colonialists until independence was attained on October 1, 1960. Emirs, who presided over the former caliphate's emirates, retained their positions, power and authority, but under the control of the British through the indirect rule method which the colonialists had perfected. Partly as a result of this, the Emirs and their allies in the Northern Nigerian segment of the emergent Nigerian political class were positioned to play subtle but significant roles in colonial and post-colonial dispensations of politics and governance, roles which have gone a long way to fuel the North-South political divide, which was carefully nurtured and manipulated by the British to counter nationalist agitation for independence and avoid a hasty departure from a lucrative colonial possession. In the post-colonial period, the political fortunes of these traditional rulers waxed stronger, especially under successive military regimes, which were led by Northern military officers, which found their influence very useful, and which sought to use them for popular mobilization to lend some semblance of legitimacy to their otherwise illegitimate rule. Increasingly, therefore, they came to be perceived, in the wider Nigerian political configuration, as the symbols of Hausa-Fulani domination of the Nigerian political scene. And, within the zone, they came to symbolize the traditional power base, which props up the modern state, and enables its functionaries and other emergent elite to use state power to dispossess poor peasants of their land holdings.

1.4 The political and social landscape of this geopolitical zone, therefore, has some unique characteristics and attributes in contrast to what obtains in other zones, especially the Southern zones, which

help to contextualize the pattern, nature, character and dimensions of human rights violations in the zone.

1.5 The research report pertaining to the North-West geopolitical zone was conducted by CEDDERT, an autonomous research centre based in Zaria. The primary methodology used for data collection was a compilation of facts and relevant materials from documentary sources, especially reports of commissions of inquiry, the public complaints commission, court records, official government publications, and other such relevant sources. In some cases, especially for purposes of verification and elaboration of details, some interviews were also used. Research assistants were engaged in the research for the data gathering exercise covering each of the states in the zone. The research project commenced in July 2000, and progress report made in September 2000. The final report made up of three volumes was submitted in December 2000.

1.6 The research report indicates that the major features of the human rights violations in the zone include the following:

1. compulsory acquisition of landed property from individual peasants and communities, by government and other powerful people connected with the government, without due compensation;
2. Unlawful arrests and detentions, and extra-judicial killings by the Police and other security agencies of the state;
3. Arbitrary dismissals/retirement of workers by employers, notably government, without payment of due entitlements, such as pension and gratuity;
4. Extortion activities of traditional title holders, which violate the rights of peasant commoners, especially with regard to farmland; and

5. Discrimination against those considered to be “non-indigenes” by states and local authorities.

## **VIOLATIONS OF COMMUNAL AND LAND RIGHTS**

1.7 Violations of communal and land rights can be said to be one of the foremost of violations identified in this zone. The peasant and agrarian nature of the landscape makes activities revolving on village communities and on farmlands the major preoccupation of most of the people in the area. Many cases of violations of land rights are recorded in the North-West zone. These can be grouped into two broad categories: individual and group/communal violations. The latter usually relates to relocation of whole village communities in order to give way to state-sponsored projects, such as dam construction, while the former mostly occurs in relation to attempts made by powerful notables, as well as the state, to expropriate individual peasant farmlands for their large-scale agricultural enterprises, or for the purposes of land speculation, or for sitting offices, and so on.

1.8 In the decades of the 1970s and 1980s, many large scale irrigation projects were conceived and executed first in this geopolitical zone and then subsequently throughout the country. Ostensibly, this was done in order to provide for better conservation and usage of the scarce water resources for increased agricultural production in the region. Thus, river basin development authorities were established and massive dams and large-scale irrigation projects constructed in virtually every state in the zone. For example, in Kano State, the Tiga Dam was constructed, and the Kano river irrigation project initiated; the Hadejia-Jama'are River Basin Development Authority was established to facilitate round the year agricultural production in the

area which was hitherto predominantly characterized by rain-fed agriculture. In Sokoto State, in addition to state dams, two massive dam projects were executed by the federal government, namely the Bakolori and the Goronyo dams and irrigation projects. In Katsina State, the Dutsin-ma Dam and the Jibiya irrigation projects were also constructed by the federal government.

1.9 While executing these projects, entire village communities were relocated, and in the process, dislocated from their traditional socioeconomic activities without fair and adequate compensation. Then, in most cases, only the powerful and well-connected became the key beneficiaries of these state-sponsored undertakings. Majority of the peasant farmers in these project areas lost their farmlands and means of livelihood and became essentially dispossessed agricultural labourers. Paradoxically, projects commenced with lofty goals of helping the poor farmers invariably turned out to alienate, dispossess and disempower the poor people. Quite often, the projects' original objectives were more or less abandoned, with the result that dams were constructed, rivers drained and yet the complementary irrigation projects left uncompleted. In subsequent years, the dams have become serious threats to lives and properties of surrounding communities, characterized by periodic and/or annual overflowing and flooding, with attendant destruction of crops, livestock and houses.

1.10 The following are examples of these project-related violations of community rights to farmlands and productive agricultural activities documented by the researchers:

1. Destruction of farmland and farm produce in villages of Goronyo LGA of Sokoto State by the Sokoto-Rima Basin Development Authority in 1990. The evidence was the Petition

of 23/10/2000 signed on behalf of the communities by Alhaji Isa Mai-Alewa, Goronyo.

2. Destruction of farmland and farm produce in the villages of Wammako LGA of Sokoto State by the Sokoto–Rima Basin Development Authority in 1996 – 1998. Available evidence was the Petition of 17/10/2000 signed on behalf of the communities by M. Suleiman Mohammed Kalambaina.
3. Destruction of farmland and farm produce in villages of the Kware and Sokoto North LGAs of Sokoto State by the Sokoto–Rima Basin Development Authority in 1993 – 1998. A proof of this was the Petition of 25/10/2000 signed on behalf of the communities by M. Hali Ubandawaki.
4. Destruction of farmland and farm produce in villages of the Suru LGA of Kebbi State by the Sokoto–Rima Basin Development Authority in 1990 – 1999. Evidence was the Petition of 25/10/2000 signed on behalf of the communities by M. Balan Rika Suru.
5. The resettlement and deprivation of Maradun Town in the Maradun local government of Zamfara State in 1997 – 1999. A proof of this was the Memoranda from the Nagarta Youth Educational Foundation, Maradun, of 26/10/2000.

1.11 There are also several cases of dispossession of individuals of their land rights due to appropriation of land for state projects not necessarily related to dams or irrigation projects. For example, sometimes, individual farmlands were taken over without due

consultation or compensation for building of government offices, or such other projects. In some cases, local notables, such as village heads, use the cover of these state-sponsored projects to expropriate peasants' land for their own selfish ends. Either they connive with state officials to defraud peasants in payment of compensation, or they appropriate peasants' land and refuse to return it even when the state no longer need the land for a public purpose. The following examples from Sokoto state illustrate this phenomenon:

- Seizure of farmland in 1967 by Magajin Amanawa Moyi, Amanawa Village, Dange-Shuni LGA, Sokoto State. The state wanted the land to build a leprosiarium, earmarked an extensive area, but subsequently only used only a portion of it. The village-head simply appropriated the rest, in spite of the complaints of the villagers who wanted their land back since it was not used for the said project.

Evidences of the seizure include:

- (i) Petition of 26/10/2000.
- (ii) Letter of complaints of 4/3/1998 to the Public Complaints Commissioner, Sokoto State, from Abubakar Danjuma.
- (iii) Report of 10/4/2000 of the Sokoto State Public Complaints Commission on the Amanawa Land Dispute.

1.12 The following additional cases from Kaduna State also further illustrate this phenomenon:

1. The seizure of land from Hamisu Usman by the Ministry of Defence at Basawa, Sabon Gari LGA, Kaduna State, in 1974. Witnesses to this seizure are: The receipt of purchase of the plots, dated 2/12/72 and 4/12/72 and the extract from The Report of the Land Investigation Commission, Kaduna State,

Vol. XV, Pp. 25 – 28, Zaria LGA. This extract brings out the general problems that arose at Basawa, following the acquisition of land for the setting up of the army barracks in 1974.

2. The seizure of land by the Ministry of Defence from Thomas Gajere at Basawa, Sabon Gari LGA, Kaduna State. The receipt of purchase of the plot dated 10th April 1972 is an affirmation of this seizure.
3. The seizure of land by the Ministry of Science and Technology from Saidu Umaru and 300 others at Basawa, Sabon Gari LGA, Kaduna State. There are many evidences to prove this seizure and include among others the following:
  - (i) Extract from the Kaduna State Land Investigation Commission Report, Vol. XV, Pp. 23 – 25.
  - (ii) Receipts for the payment of CRA to Kaduna State Government from 1977 – 97.
  - (iii) Letters to the Committee Investigating the Non-Payment of Compensation at Basawa dated 25/2/87 with appendices.
  - (iv) Letter to Military Governor of Kaduna State by Basawa Village Youth Association dated 15/6/1987.
  - (v) Letter to the Governor of Kaduna State by Basawa Students Association dated 6/1/1989.
  - (vi) Letter to the Hon. Commissioner, Public Complaints Commission, Kaduna State to the Director-General, Dept. of Lands and Survey Kaduna State, dated 14/2/1992.

- (vii) Letter to the Military Governor of Kaduna State by Basawa Farmland Compensation Committee dated 29/7/1994.
  - (viii) Letter to the Chairman, Kaduna State Farmland Investigation Committee, by the Basawa Farmland Compensation Committee, dated 28/10/1999 and many others.
4. The seizure of land by the Ministry of Defence from Yakubu Sule and others, of Bomo village, Sabon Gari LGA, Kaduna State, in 1977. Proofs of this seizure include: the letter of 19th April 1985, addressed to the Commandant, Basawa Barracks, by members of Maganda Centre, Bomo, asking for compensation. Letter of 25th September 1979 addressed to the Chairman, Land Panel, Kaduna State by Yusufu Zaria and four others.
  5. The seizure of land from Gidado Usman by the Ministry of Defence at Basawa, Sabon Gari LGA, Kaduna State, 1978. An evidence of this seizure is the receipt for the purchase of the plot dated 2/4/1978.
  6. The seizure of land from Ado Yakubu by NEPA at Hanwa, Sabon Gari LGA, Kaduna State, in 1978. To prove this, there is the letter to the Human Rights Violations Investigation Commission dated 27/9/2000, pictures of Ado Yakubu at the plot seized by NEPA, Kaduna State Land Revenue Receipt dated 1/11/1989 and an Upper Area Court Zaria Judgement, dated 26/6/1981.

7. The seizure of land from Idris Musa by the Ministry of Defence at Basawa, Sabon Gari LGA, Kaduna State, in 1978. Available is the receipt for the purchase of the two plots dated 2nd June, 1978 as evidence.
  
8. The seizure of land by the Ministry of Defence from Barau Abdullahi and others at Basawa, Sabon Gari LGA, Kaduna State, in 1974. The following are evidences of the seizure:
  - (i) Petition to the Public Complaints Commission, Kaduna State, dated 18/2/1990.
  - (ii) Letter to the Secretary to the Kaduna State government by Barau and 3 others dated 8/1/1987.
  - (iii) Letter to the Military Governor of Kaduna State by Barau and 3 others dated 4/5/1988.
  - (iv) Petition to the Military Governor of Kaduna State by Barau Abdullahi dated 6/1/1990.
  - (v) Upper Area Court judgment in a case between Alhaji Barau and Alhaji Ango dated 15/10/1984.
  - (vi) Receipts for the purchase of plots by Barau Abdullahi at Samaru and Basawa, dated 26/7/1973, 18/11/1974 and 9/8/1984.
  
9. The seizure of land from Muhammad Haruna by the Ministry of Defence at Sabon Gari LGA, Kaduna State, 1978. Evidences include the receipt for the purchase of the plot at Samaru and extract from The Report of the Lands Investigation Commission, Vol. XV, Zaria LGA, Kaduna State, pp. 32 – 33.

1.13 There are many other indigenes of Kaduna State whom the Ministry of Defence seized their land in Basawa, Sabon Gari LGA of the state, and whose receipts for the purchase of the plots are available as evidence. Below is a table with their particulars:-

<b>S/NO.</b>	<b>N A M E</b>	<b>DATE OF SEIZURE</b>	<b>RECEIPT(S) DATE</b>
10.	Ibrahim M. Danfulani	1979	29th November 1979
11.	Hauwa Yusuf	1980	22nd August 1980
12.	Shehu Sadi	1980	28th November 1980
13.	Inuwa Kwoi	1983	30th April 1983
14.	Shehu U. Ibrahim	1983	10/6/1983, 12/1/1983 & 11/11983
15.	Sa'idu Mohammed	1984	21/7/1984 & 22/7/1984
16.	Abubakar Mohammed	1985 (7 plots)	14/2/78, 2/3/82, 1/2/83, 23/12/83 & 2/3/82
17.	Lawal Shika	1985	4th January 1985
18.	David Abuto	1985	7th April 1983
19.	Usman Muhammadu	1985	12th December 1984

1. The seizure of land from the Late Umaru Tela, at Zaria City, by Zaria LGA, Kaduna State in 1980. Evidences are: Extract from the Report of the Lands Investigation Commission Kaduna State, Letter to the Human Rights Violations Investigation Commission by two sons of Umaru Tela dated 19/9/2000 and Site Plan of the plot.
  
2. The seizure of land from the Gobirawa Kudingi family, the village head of Biye Malam Tanimu, Giwa LGA, Kaduna State, in 1989. Proofs include:
  - (i) Letter to the Human Rights Violation Commission dated 4/10/2000.
  - (ii) Letter to the Governor of Kaduna State by 15 members of the Gobirawa family dated 19/4/1989.
  - (iii) Letter to the Chairman, Kaduna State House of Assembly Committee on Land Dispute Investigation dated 28/10/1989.
  - (iv) Letter to the Chairman, Giwa LGA dated 4/11/1999.
  - (v) Letter to the Speaker, Kaduna State House of Assembly dated 8/11/1999.
  
3. The seizure of land from Aliyu Abubakar by Zaria LGA at Danmagaji in 1989. Evidences of the seizure include:
  - (i) Petition to the Human Rights Violations Commission dated 24/9/2000.
  - (ii) Certificate of LG Rights of Occupancy No. ZAR/A/02656 dated 12/4/1989.
  - (iii) Site Plan for Aliyu Abubakar dated March 1989.

4. The seizure of land from Aminu Musa Ringim and 23 others by Ringim Emirate Council, at Ringim town, Ringim LGA, Jigawa State, 1992. Evidences are:
  - (i) Letter to the Special Adviser to the Governor of Jigawa State on Land Matters dated 3/8/2000.
  - (ii) Letter to the Chairman, Ringim LG Land Use Committee dated 16/3/1998.
  
5. The seizure of land from J.S. Yusuf and seven others by a Chinese Company, CCECC, working for the Nigerian Railway Corporation (NRC) at Kufena, Zaria LGA, Kaduna State, in 1997. Available evidences include:
  - (i) Letter to the Human Rights Violation Investigation Commission dated 26/9/2000.
  - (ii) Letter to the Public Complaints Commission, Kaduna State by the lawyers to the Chinese Company dated 20/11/1999.
  - (iii) Estimate of compensation dated February 1998 by J.S. Yusuf and S. Yunusa.
  - (iv) Pictures of J.S. Yusuf on the land seized.

## **VIOLATIONS OF THE RIGHT TO LIFE**

1.14 Volume I of the research report submitted by CEDDERT documented several cases of violations of right to life in this zone, with the most notable cases dating back to the January 15, 1966 coup in which many leading civilian and military personalities from this zone lost their lives. The report noted that the violations of the right to life of these personalities “had a most traumatic and profound impact on the politicians, civil servants, military officers and soldiers, and significant sections of the population, of the states of the North-West

and North-East zones, which resonates up to today.” This is essentially because of the peculiar nature and distinguishing characteristic of the manner in which the violence was meted out: For the first time in Nigeria’s history, there was a “premeditated, planned and deliberate killing of particular individuals, holding particular official positions, in order to attain specific political goals.” Notable examples of these are as follows:

1. The killings of Alhaji Sir Ahmadu Bello, Hajiya Hafsatu Ahmadu Bello (his senior wife), Baba Zarumi and Ahmed Ben Musa on 15th January, 1966 at Arewa House, Kaduna. Proven evidences are given by: The foreword, the preface and pages 105 – 124 of the book *Hafsatu Ahmadu Bello: The Unsung Heroine*, by Ladi S. Adama, Adams Books, Kaduna: 1995. The preface and pages 74 – 78, 82 – 89 of *Nigeria’s Five Majors: Coup D’Etat of 15th January 1966, First Inside Account*, by Ben Gbulie, Africana Educational Publishers, Onitsha. There are also various individual accounts of how these killings were executed. Such accounts include those of Abubakar Umar (Principal Private Secretary to the Sardauna), Jabbo Sallama of Rabah (an old man of 86, the sole male survivor of the Premier’s immediate entourage when the murder was committed), Amina, Larai Fatima Ali, Mohammed Sani and Ali Sarkin Mota.
  
2. The killings of Alhaji Sir Abubakar Tafawa Balewa, Brigadier Zakariya Maimalari, Colonel Kur Mohammed, and Lt.-Colonel Yakubu Pam on 15th January 1966.

1.16 The effect of these killings was to transform the psychological and political contexts of the right to life in Nigeria, as

many who later came to hold important positions in Nigeria had their attitudes shaped by the traumatic experiences associated with these. Subsequent developments just built up upon these initial fundamental transformations of the social and political contexts of the violations of the right to life.

1.17 Yet other violations of the right to life, which relate to, and followed in the wake of, the January 15th killings, the turmoil which led to the civil war, are as follows:

1. The killing of Eastern Nigerians at Kano, Zaria, Kaduna and Bakuru in September – October 1966. This is affirmed by the account on pages 13 – 20 of the booklet *Nigerian Pogrom: The Organised Massacre of Eastern Nigerians*, Enugu: Publicity Division, Ministry of Information, 1966. Reports by surviving victims of the pogrom also provide evidences, for example: Mr. J.P. Onani of Obubra, a clerk in Kano; Mrs. Charity Nwosu of Ibeku, wife of a trader at Jos; Mr. Isaac A. Ogbonnaya of Arochukwu, a catering clerk at ABU Zaria; Mr. Mathias Anyaogu, a staff of the Fire Brigade at Kano; Nathaniel Okewa and Mr. Goergewill I. Dede of Okrika, a train guard in the Nigerian Railway Corporation, Kano.
  
2. The killing of Nigerian Prisoner-of-war, Captain Abdu Bugaje of Kofar Kaura, Katsina LGA, Katsina, allegedly on the orders of Odumegwu Ojukwu in July 1967. The statement by Alhaji Mainasara Bugaje (his junior brother) on 27th September 2000 is an attestation to this killing.

1.18 In this zone, there were also the infamous killings of peasant farming families that happened under the Shagari regime,

which have neither been thoroughly investigated, nor adequately compensated. In April 1980, hundreds of men, women and children were killed by Mobile Police in the villages around the Bakolori Dam in the present Zamfara State, when they protested the seizure of their farmland and the damage to their crops without compensation.

1.19 In the decades of the 1980s and 1990s, cases of violations of right to life include:

1. the killing of demonstrating university students in Zaria by armed soldiers and mobile police in 1978 and 1986;
2. the extra-judicial killing of so-called Islamic fundamentalists in Kano by Police in the mid-1990s;
3. the extra-judicial killing of suspected armed robbers by the police in many states in the zone under what appeared to be a carefully calculated scheme to terrorize robbers and reduce the spate of armed robberies.

1.20 Apart from killings, other cases of violations include the celebrated cases of deportation of foreign academics who were accused of teaching what they were not paid to teach. In 1987, Dr. Patrick Wilmot, a Sociology Lecturer at ABU, Zaria, was abducted and arbitrarily deported.

## **SUMMARY AND CONCLUSION**

1.21 The research reports listing of the ranges and extent of rights violations in the zones is hardly exhaustive, but it illustrates the major patterns of these violations, especially with regard to land and communal rights, and the right to life. A couple of recommendations, which flow from these, include:

1. the need to thoroughly investigate the cases and establish exactly who played what role; and
2. the need to either return peasant lands to them, or pay them adequate compensation for expropriation and damages.

## **CHAPTER TWO**

### **SOUTH-SOUTH ZONE**

#### **INTRODUCTION**

2.1 The research report of the South-South Zone covers the six states historically referred to as the Niger Delta. These states are Akwa Ibom, Bayelsa, Cross-River, Delta, Rivers and Edo. It is an area inhabited by about 12 million people with different cultures, languages and histories who, united by their historical status in Nigeria, now share a common identity as southern minorities. Historically, the peoples of the area were at the forefront of minority agitation in the colonial and the immediate post-independence periods. Their situation has not changed as their demands and position in the Nigerian federation remain unaltered despite the different commissions that have been set up by successive administrations to look at the question of the minorities. What has exacerbated the problem of the Niger Delta is the question of oil. Oil, which is the mainstay of the Nigerian economy, contributing about 90% of the nation's foreign exchange earnings and revenue, is produced in the region. However, the Niger Delta region remains grossly underdeveloped, pauperized, marginalized, and largely a poverty zone. The basic facilities and infrastructure of a modern society like potable water, electricity, health care facilities, good roads, cottage industries and employment are lacking in the area. It is this paradox and apparent tragedy of poverty in the midst of wealth of the Niger Delta people that forms the political economy of human rights violations in the area. This issue shall be dealt with in greater detail in the subsequent section of the report that deals with the background and context of human rights violations in the Niger Delta region.

2.2 The nature of human rights violations investigated in the area covers three main categories. These are personal deprivations that include right to life and liberty, right to property, right to human dignity, social and economic rights, cultural and linguistic rights, and access to justice. The second category of rights is the community/group deprivations, which include social, political, economic, cultural and linguistic rights and access to justice. The third category of rights is the systemic deprivations. These are violations that arise from the structure/belief systems/values of the community or of the Nigerian nation. In terms of specific details investigated, the report is structured into the following format:

1. Violations of human rights in the civil war.
2. Abandoned property as a violation of human rights.
3. Violations of human rights of communities.
4. Violations of human rights of individuals.
5. Violations of environmental rights.
6. Culture-based violations of rights.
7. A supplementary report on the Ogoni case.

2.3 The special brief given on the Ogoni case is not because the situation in the other areas is less deserving, but that the Ogoni case is the most dramatized and pathetic story of human rights violations in the Niger Delta region. It is a representative sample of the brutality, inhuman treatment and savagery, which the Niger Delta people are subjected to.

2.4 The conception of human rights that guides the report derives from the international and national instruments and legal codes on human rights. These include the United Nations Charter on

the Universal Declaration of Human Rights, the African Charter on Human and Peoples Rights, and the Nigerian Constitution.

## **METHODOLOGY OF RESEARCH REPORT**

2.5 In undertaking the research report, twelve researchers were commissioned to do detailed studies in all the six states in the zone. Two researchers were to work on each state. The research itself was preceded by a methodology workshop organized by the Centre for Advanced Social Sciences (CASS) in Port Harcourt. At the workshop, researchers were briefed of the objectives, framework, methodology and time frame for the research. Members of each research team were encouraged to share their field tasks in such a way as to cover as wide a range of human rights abuses as possible. The methods adopted for the research include interviews, questionnaires, and focused group discussions, as well as library search. As such, the preparation of the report from this zone was based on field research, post-field debriefings, and library sources.

2.6 However, there were certain constraints confronted in the process of the research report. These include inadequate time in conducting the research, which made the reconfirmation of data or information given difficult in some cases, and the attitude of some respondents. Some victims of human rights violations were not keen to cooperate with the researchers. While some of the victims were afraid of reprisals from perpetrators of the abuse that are still alive, others did not think that bringing back the past was in their best interest. Some also claimed that they had forgotten the perpetrators and would prefer to “let bygone be bygone.” The researchers in such cases exercised discretion. Another constraint in the process of preparing the research report relates to the difficulties confronted in

government bureaucracies, which made the task of getting information from government organs and agencies nearly impossible. The response in government departments was either the “officer in charge is not around” or “there is need to get clearance from the top to disclose information or grant interview.” This often took weeks to be done. The last constraint has to do with inadequate information on two special human rights violation cases. These are on some significant episodes of environmental rights abuses and the post-civil war issue of abandoned properties. The sensitivity and emotive nature of these issues made respondents to be quite cautious. However, with extra efforts of time, energy and resources, the researchers were able to elicit some information on environmental rights abuses in the Niger Delta. With regard to abandoned properties, the researchers could not access government documents especially of the Rivers State government. A government official who was privy to the various initiatives, discussions and policy implementations on abandoned property jointly undertaken by the Rivers State government, the federal government, and the eastern states governments during the second republic, and who promised to help with information and the necessary documents, suddenly fell ill, and was flown abroad for medical treatment. However, this report presents an overview of the problem of abandoned property in the Niger Delta area, especially the reactions of the different stakeholders on the issue.

## **THE BACKGROUND AND CONTEXT OF HUMAN RIGHTS VIOLATIONS IN THE NIGER DELTA**

2.7 Apart from the issues of the civil war and abandoned property, the *raison d'être* of human rights violations in the Niger Delta region has to do with the political economy of oil. As earlier noted, oil, which forms the live wire of the Nigerian economy, is largely

produced in the Niger Delta. This issue of oil is also linked to the minority question and the perceived injustices that those groups and communities suffer in the Nigerian federation. The wealth derived from oil by the Nigerian federation is not reflected in the socio-economic life of the oil-producing communities and their standards of living. The Nigerian state does not have a coherent, consistent and just formula of recycling some parts of the oil wealth it accumulates back into the communities from which oil is produced.

2.8           The period during which oil became the mainstay of the Nigerian economy coincided with the emergence of military rule with its logic of power centralization and economic control. The rise of the military in power after the civil war saw a de-emphasis on the principle of derivation as a revenue sharing formula to other factors like population, need and even development. The implication of this is that what oil-producing states got from the federation account was increasingly not commensurate with their contribution and sacrifices in producing it, since the bulk of the revenue was derived from the extraction of oil beneath their land.

2.9           Apart from the increasing marginalization of the oil producing areas in revenue allocation in the federation, there is also the problem of ecological disaster and environmental degradation that oil exploration, hazards of oil spillage and gas flaring engender in those communities. Oil exploration and its poor management, as manifested in oil spillage, dislocates the economic life of the people as farming and fishing, the main occupation of the people in the area, are decimated, their environment polluted, and their water poisoned. On the environmental impact of oil exploration in the Niger Delta, the Civil

Liberties Organization (CLO), a prominent human rights group in Nigeria, has this to say:

*Today, the entire Niger Delta and coastal wetlands of Nigeria producing the nation's oil wealth is well known to be one of the most fragile ecosystems in the World. It has also been labelled the most endangered delta in the World.*

*Demand for land is high being a densely populated region.<sup>1</sup>*

2.10 While their environment and means of livelihood are undermined, little effort is made to recompense the Niger delta people with basic infrastructure of electricity, roads, schools, potable water, cottage industry and employment. As such, wanton neglect and deepening poverty characterize the Niger Delta communities.

2.11 A broad section of the elite in the Niger Delta believes that the injustices their people suffer is due to the fact that they are minorities in the Nigerian federation. They accuse the major ethnic groups who control political power at the federal level of using oil wealth derived from the oil-producing region to develop their areas at the expense of the area from where the oil is gotten.<sup>2</sup> Two actors are accused as being primarily responsible for the deplorable condition of the Niger-Delta people. First is the Nigerian State, which seems not to have protected the rights of the minorities in the Niger-Delta and abandoned its primary responsibility of facilitating socio-economic development in the area. The second of the actors accused are the oil multinational companies engaged in oil exploitation in those communities. The allegations levelled against the oil companies are basically three. First is that they mostly operate below internationally acceptable minimum standards as their activities regularly promote oil spillage, gas flaring and other heinous side-effects that incapacitate

the environment and affect the health and livelihood of the people. The second accusation is that the oil companies care less about the welfare of the local people from where they drill oil. They only give a token to the communities, which do not improve their standards of living. The third allegation is that oil companies often employ divide and rule tactics to cause disaffection and conflict among and within communities through a divisive strategy of compensation payment. The oil companies are quite selective in terms of who they give “informal compensation or gratis.” They may give to the traditional rulers in order to face-off the youths in a community, or to one community as against the other.

2.12 The social injustice, neglect and poverty that constitute the lot of the Niger Delta people produced a series of contradictions. It led to the rise of ethnic and minority rights groups that demand for justice and fairness for their communities. From 1990 to 1999, there were no less than 24 of these minority rights pressure groups.<sup>3</sup> The groups include the Movement for the Survival of the Ogoni People (MOSOP), Ijaw Youth Congress (IYC), Movement for Reparation to Ogbia (MORETO), Ijaw National Congress (INC), Egi National Congress (ENG), and Isoko National Youth Movement (INYM). Some of these groups have made various declarations and demands in order to call attention to the plight of their communities, and redirect public policy in order to promote fairness, justice and their fundamental rights and human dignity in the Nigerian federation. These declarations include the Ogoni Bill of Rights, the Kaiama Declaration, Aklaka Declaration of the Egi people, The Oron Bill of Rights, the Warri Accord, and the Resolutions of the First Urhobo Economic Summit.<sup>4</sup> The reaction of the Nigerian State to those activities has been largely to unleash repression on the leaders of these groups and their communities.

These ranged from the militarization of those areas through military or police occupation, harsh laws to ban their activities, arrest and detention of activists, and harassment and intimidation of the people. Also, the state play communities against each other through its policies, like the creation of local governments and the siting of local government headquarters or secretariat. It is believed that the state is not alone in some of those activities. The complicity of the oil multinational corporations is also alleged.

2.13 The above is the background and context of human rights violations in the Niger Delta. These violations have become perhaps the most dramatized and publicized among human rights violations in Nigeria.

#### **VIOLATIONS OF HUMAN RIGHTS IN THE CIVIL WAR**

2.14 The civil war situation was characterized by some degree of lawlessness in which human rights violations were rampant, especially as the region was part of the theatre of war. Human rights violations occurred on both sides of the divide by federal and Biafran troops. From the reports collated, there were violations of rights, which showed a total disregard for the rules of treatment of civilians and prisoners of war during the civil war. Those rights violations include:

1. Killings.
2. Maiming.
3. Rape.
4. Torture and beatings.
5. Abduction of wives and children.
6. Seizure of property.
7. Use of civilians as human shields.
8. Destruction of property.

9. Conscription of civilians into the army.
10. Abduction of prominent persons.

2.15 These rights violations occurred in virtually all the six states that constitute the Niger Delta region. As earlier noted, both the Biafran and federal soldiers were involved in such human rights abuses. The violations that occurred were both communal and individual in nature. A few of those violations will be cited.

### **EXAMPLES OF BIAFRAN WAR ATROCITIES**

2.16 Biafran soldiers, just like their federal counterparts, committed various war atrocities and human rights violations as enumerated above. Civilians were generally casualties of those war crimes. Communities and individuals that were considered not to serve their interests or suspected to have sympathy with the federal side were treated as saboteurs and ruthlessly dealt with. Some of these cases will be cited.

2.17 In Akwa Ibom State, several human rights violations and war crimes were committed by the Biafran soldiers. For instance, in Ikot Ibok community in Etinan Local Government Area, seven prominent leaders of the community were abducted and killed, ten houses burnt and domestic animals looted. In Etinan town, thirty-nine persons were killed and buried in a pit in one Chief Jackson's compound by the Biafran soldiers. Ikot Antia community in Ibiono local government area lost about 450 people in one day to the brutality of the Biafran soldiers. In Nung Udoe in Ibesikpo Asutan local government area, seventeen houses were burnt and fifty people killed by Biafran soldiers.

2.18 The same scenario recurred in Bayelsa state. For example, in Twon Brass, ten persons were tortured and another ten killed by Biafran soldiers who accused them of being saboteurs or having Hausa tribal marks. In the same community, the Biafran soldiers seized the landed property of three prominent citizens. In Koluama, Ekeremo local government area, about one hundred people were abducted for writing to the federal troops to liberate them. Only three returned after the war. Fifteen persons forcibly recruited into the Biafran Army never returned. Also at the same locality, two persons - Mr. Emmanuel Ebifia and Mr. Lawrence Ebifia - were tortured to death by a Biafran officer, Major Ogidi Malu. He was said to have instructions to deal with any "suspect" in the area from where Major Adaka Boro started his rebellion. In Sagbama, Biafran soldiers caught and killed domestic animals belonging to the people. Anyone who questioned them was tortured severely.

2.19 The situations in Cross River, Delta and Rivers States were no less appalling as regards human rights violations committed by Biafran soldiers during the war. In Ikom in Cross River state, Biafran soldiers were alleged to have shot the following men: Eyam Akpasat, Azom Eyam, Ozanza Ekum, Nzan Okpa, and Ekum Edium. Also, in Okanga village in the same local government area, Ikom, the houses of some people were destroyed, which include Mr. Ntan Eбайi, Odiga Eyam, and Nzam Nyam. There were other reported cases of inhuman treatment by Biafran troops in the state. In Delta and Rivers States, reported cases include: in Koko in Delta State some inhabitants - late Thomas Nanna, Edward Nanna, Balance Nanna, and Shadrack Atoma were arrested and detained for a long time having being suspected to be "spies" for the Nigerian government. They were only released after the community pleaded for their lives. In Rivers State, a prominent

businessman based in Port Harcourt was abducted by the Biafran soldiers he never returned after the war. In Bakana, a nearby Island to Port Harcourt, the inhabitants were evacuated and sent to towns and villages in the Igbo hinterland. The evacuation, which occurred on February 21, 1968, was spontaneous, as it was not planned for by the people nor were they earlier informed. They could therefore not get back their property and belongings. While in the hinterland, the people suffered various deprivations and inhuman treatment including being sometimes used as human shield against the assault of the federal troops. Apart from this, after the war, when the people returned back to their homes, their houses had been looted.

### **CASES OF WAR ATROCITIES BY FEDERAL TROOPS**

2.20 In virtually all the states in the Niger Delta region, federal troops also committed various forms of atrocities during the civil war. These ranged from extra-judicial killings, rape, torture, assassination, forced marriages, and harassment of the local people. A few examples would be cited. In Cross River State, when the federal troops took over Nung Udoe in Ibesikpo local government area, about twenty prominent local people were killed for allegedly supporting Biafra. Also, the federal soldiers allegedly executed Mr. Gabriel Ukpoko on the allegation that he had sympathies for the Biafran soldiers when they were in control of Uyo and Ikot Abasi. The federal troops seized the man's car and refused to release his slain body to his family for burial.

2.21 In Cross River State the mayhem unleashed by federal troops was enormous. Communities suspected of aiding, or sympathising with, the Biafran cause were ruthlessly dealt with. A few examples illustrate this. In Adim, twenty-three persons were

executed and one hundred and twenty houses set ablaze by the Nigerian soldiers with the suspicion that the community was harbouring Biafran soldiers. There was a pogrom against Igbo civilians who could not flee Calabar when the federal troops took over the city in October 1968. The mass killing of the Igbos took place at the cenotaph called 11/11. One of the victims, an unnamed clergyman was reported to have been shouting "One Nigeria" when he was captured and shot. Also, at Ikom, fleeing Igbos were captured and killed when the federal troops took over the area. In Ugep, the soldiers of the 36 battalion of the Nigerian army killed seventeen persons. The killings were a response to popular resistance to the decisions of the soldiers to harvest crops from the people and to abduct their wives and daughters. There were also rampant cases of sexual abuse, rape and forced marriages by federal soldiers in Cross River state during the war.

2.23 In Delta state, federal troops unleashed terror on the people. In Ogidigbon, Escaravos, many Igbo traders were executed when the Nigerian soldiers captured the area. Similarly, in Koko, Sapele, Oghara, Warri, Ughelli and Forcados, many Igbo residents who could not escape were executed by the federal troops when they took over those areas. The victims were mostly men. In Asaba, the last town to be captured by the federal soldiers, there were mass killings of civilians. For suspecting that the people supported Biafra, Nigerian soldiers gathered no less than one thousand men together at Ogbe Sowo and massacred them. Some families were totally wiped out. One late Mr. Nwanuka of Umu Aji quarters lost all of his three sons. Also, in Asaba, many women were raped and forcefully "married" by Nigerian soldiers.

2.24 In Rivers State, when the federal troops captured Bonny, many people were allegedly killed because they could only speak the Igbo language, and were by implication regarded as Igbos. People who could not speak the local language of Igbani were considered to be Igbos and summarily executed. Some prominent citizens of the area had to go into hiding for fear of being classified as Biafran sympathizers and dealt with as such.

2.25 On the whole, human rights violations were very rife during the Nigerian civil war. Both the federal soldiers and the Biafran troops were engaged in it, and the nature, scale and magnitude were almost the same.

### **ABANDONED PROPERTY AS A VIOLATION OF HUMAN RIGHTS**

2.26 The issue of abandoned property one of the most controversial issues that arose after the Nigerian civil war. After the end of the civil war, people from Eastern Nigeria alleged that their properties which were abandoned during the war in other parts of the country were taken over by the government or people of those localities. This abandoned property issue has featured prominently in the discussions of post-war reconciliation, marginalization, and national integration. The abandoned property issue within the context of the current discourse on human rights has assumed the dimension of property and citizens rights.

2.27 In the case of the Niger Delta region, the issue of abandoned property resonates in Port Harcourt, Rivers State. There are claims from some Igbos who were living in Port Harcourt before the war that their property was taken over by the government and people of the present Rivers State, and not returned back to them after the

war. Claims and counter-claims have ensued on the abandoned property issue between Rivers State and the South-East States. Offensive and defensive postures dominate the style of public discussion on the issue that a dispassionate and objective view of the issue is hardly presented to the public.

2.28            While the issue remains quite controversial and emotive, the data gathered from the field were very disappointing as many people were unprepared to comment on the issue. Both the alleged victims and state officials were cautious and refused to discuss the issue in public.

2.29            However, the salient issues in the discourse about abandoned property between Rivers and the South-East States are as follows:

1. The people of Rivers state believe that the whole issue of abandoned property amounts to blaming the victim. The argument is made that the Igbo-dominated Eastern government discriminated against the Rivers people in giving out loans and mortgages. This placed the Igbo who had access to mortgage at advantage. They were able to acquire most of the land in Port Harcourt and developed property. Consequently, Port Harcourt increasingly appeared to be an Igbo town. The civil war only gave the Rivers people the opportunity to reclaim their land that was unjustly acquired.
2. Rivers State is not the only state where the Igbo abandoned their property at the outbreak of the civil war. They also did so in other parts of the country. However, little mention has been made of such.

3. The people of Rivers State and others also “abandoned” their property in Igbo areas. They did not recover them because the Igbo destroyed the houses and built new structures over them.
4. There have been concerted efforts by the Rivers State government, East Central State and the Federal Government to settle the matter. Most of the houses which were occupied by individuals were returned to their owners. Those whose properties could not be released because they were being used by government were compensated. All these were gazetted.
5. Soon after the war, Commander Albert Diete Spiff, military administrator of Rivers State, had said that since Rivers State was a one-city state, government needed the property. Thus, priority was given to compensating the owners of property which had been converted to public use while returning those occupied by private persons to their owners.
6. Rivers people did not benefit as they were made to pay monthly rents for the houses. Those who could not pay were ejected.

2.30 Mr. Iyelakeme Bruce Edwards, former secretary to the Property Administration Unit, the agency that took over from the Abandoned Property Authority, supported the above submissions.<sup>5</sup>

2.31 Three things can be inferred from the foregoing on the issue of abandoned property. The first is that the issue is a very complex one, and not as straightforward as it appears. Second is that the issue is rooted in the historical relationship between the Igbo community and the indigenous people in Rivers State, in which the latter raises claims of marginalization and domination by the former in the area. The third is that resolving the issue of abandoned property, which is an important human rights issue, should take a national

dimension in which the Nigerian state will play an active role in order to ensure justice and fairness to those involved.

### **VIOLATIONS OF HUMAN RIGHTS OF COMMUNITIES**

2.32 Most human rights violations in the south-south zone are those which involve communities. This is against the background of what was earlier noted as the marginalization, domination and injustices that the area suffer in the Nigerian federation. The dimensions of rights violation range from land and resource alienation, destabilization of the social system, and violent repression of community protests by security agents. The following are the sources and nature of the rights violations that the communities suffer in the Niger Delta:

1. Incidences of neglect and unfair treatment by the oil-producing multi-national corporations of their host communities.
2. Inhuman treatment, violence and repression meted out to communities when they protest against environmental degradation, and neglect of their area by the Nigerian state and the oil-producing companies. The violence, which is usually effected by the police or the military, may be at the instance of the state or the oil multinational corporations. The latter often prefer inviting the security agencies whenever their operations are threatened by the local people, rather than engaging them in genuine dialogue.
3. Oil multinational corporations often use divide and rule tactics among the communities especially with regard to giving token compensation that they sometimes give to their host community. In the process, the oil multinational corporations play communities, groups and even youth elements or organizations against each other in order to promote their interest. The result is usually violent conflicts amongst communities and groups.

4. The Nigerian state also uses divide and rule tactics to prevent a unity of action by the oil-producing communities and maintain control in the area. This is done through various public policies and political decisions by the state. The most potent of these are the creation of local governments and the citing of local government secretariat.
5. The general atmosphere of militarization that characterize the Niger Delta region. In virtually all parts of the Niger-Delta, an army of occupation is stationed by the federal government to “keep peace” and facilitate the oil exploitation by the oil companies. These fierce-looking military officers largely deny the rights of the citizens to free movement, association and speech. In several instances, those forces unleash terror on the local people. They kill, maim, rape and destroy properties in those communities in the real tradition of an army of occupation.
6. The last dimension of human rights violations is the social effect of the activities of oil multinational corporations in the area. Due to the lopsided wage structure in which the oil workers in the area earn “abnormal salaries” that do fit into the wage structure or income levels of the community, social vices like prostitution become rife among the local inhabitants who provide sexual services to the rich oil workers.

2.33        The following are illustrations of the categories of human rights violations in the Delta region identified in the preceding discussion.

**EXAMPLES OF COMMUNITY DEPRIVATIONS, NEGLECT AND UNFAIR TREATMENT BY OIL TRANS-NATIONAL CORPORATIONS**

- a. The people of Eket, Esit Eket, Onna and Ibeno local government areas of Akwa Ibom state accuse Mobil Producing Nigeria Unlimited, which started oil exploration in the area in 1969, of denying them of their resources and opportunities for peaceful development. They said Mobil did not pay for the land and has not recognized their rights to their property. Mobil denies their sons and daughters of employment opportunities. The people also allege that during the January 1999 Edip oil spillage, they were not adequately compensated. Mobil is also accused of complicity in communal clashes in the area. The Ekid people of Esit Urua claim that Mobil supported Ibeno with logistics and arms during the Ibeno-Esit Urua clashes in 1993.
- b. In Ekot Abasi (Akwa-Ibom State), Aluminum Smelter Company Nigeria Plc. (ALSCON) has been accused of violating the rights of the people of the area to their property. The company displaced the people of Ete-Ibekwe without adequate compensation and has not rehabilitated the displaced people. The people also allege that ALSCON discriminates against them in employment and award of contracts. Furthermore, they claim that the location of ALSCON in the area has disrupted the socioeconomic system and led to destitution, prostitution and massive unemployment. The same complaints were levelled against STRABAG and other service companies in Akwa Ibom State.
- c. Oguluhala, otherwise known as Old Forcados, is an Ijaw town in Delta state where oil has been extracted since 1968. The community perches on the mouth of the estuary of the River Forcados in the Delta region. By the first half of 1999 Oguluhala had over 27 oil locations/installations and the largest export terminal. In 1968 Shell had to relocate this community in order to have unhindered access to oil and gas. However, the community

continues to suffer neglect and deprivation. The pains of the community were highlighted by the tour of the area by a Ministerial Fact-Finding Team (MFFT) of the Abacha government on Saturday, January 29, 1994. This visit undertaken by high calibre state officials, was led by the Minister for Petroleum Resources, Don Etiebet, with other Ministers like Alex Ibru (Internal Affairs), Milford Okilo (Commerce and Tourism), and other relevant Delta State government officials, Nigerian National Petroleum Corporation (NNPC), and oil companies in the team. While the mission saw the neglect and deprivation that the Oguluhala people suffer without basic infrastructure like schools, hospitals, and roads, the visit did not prompt any positive action from the state or the oil multinational corporations. The area still suffers utter neglect and poverty.

- d. In Oporoma, Bayelsa State, a road construction by Shell blocked a stream. A Shell sand dump further blocked the stream. Consequently, whenever it is rainy season, the area is flooded, forcing the people to move out only to return in the dry season to renovate their houses. Some have finally abandoned their houses completely and are squatting with relations because they could no longer afford the financial burden of renovating their houses every year. Four children drowned in the area in 1997. About 16 houses were affected and all efforts to get Shell to rework the road and also pay compensation to the victims have been completely ignored by the company.

**OF INTER-COMMUNAL OR GROUP CONFLICTS INSPIRED  
(COVERTLY OR OTHERWISE) BY THE STATE OR THE OIL MNCs**

- a) In 1996, there was the Bassambiri-Ogbolomabiri crisis in Balyesa state. This crisis which started over the Chieftaincy stool was later compounded by the politics of the creation of Nembe local government area by the federal government. When the local government was created, its headquarters was initially sited at Bassambiri but later moved to Ogbolomabiri. The people of Ogbolomabiri felt aggrieved and protested against it, but to no avail. This later led to full-scale communal war between the two communities. The clashes continued intermittently until the Balyesa State government created a separate local government for Bassambiri in December 1999. Thus, there are now Nembe and Brass local governments with headquarters at Bassambiri and Twon Brass respectively. The death toll and property destroyed were estimated at 1,580 persons and N486 million respectively.
- b) A violence of immense proportion flared up in Warri in 1997 over the siting of local government headquarters by the federal government. The immediate cause of the crisis was the decision of the federal government to relocate the headquarters of a local government area from Ogbe-Ijaw, an Ijaw community, to Ogidigben, an Itsekiri community. This was, however, the latest twist of the attempts by government and the oil companies to divide and rule the people.
- c) In 1998, there was the Okpomo-Brass conflict caused by the oil exploration activities of Nigeria Agip Oil Company (NAOC). Brass is a major oil export outlet. Okpomo town claimed that the site of the terminal, along with its environs, belongs to them and the people of Twon Brass are their tenants. They argued that they initially leased the land to Tenneco Oil Company (TOCN) in 1953 and collected royalties until the civil war, when Tenneco was alleged to be supporting Biafra. For fear of reprisal, TOCN sold the land to

NAOC. Okpomo community petitioned NAOC of its ownership of the land but to no avail. Instead, the people of Brass reacted by “blocking” Okpomo from benefiting directly from NAOC. In retaliation, Okpomo community intercepted NAOC vehicles and boats, and this culminated in a strained relationship between the two communities, and posed a threat to peace and security in the area. Aware of the build up of tension in the area, NAOC invited military personnel against the Okpomo with the motive of protecting its oil installations. The result was that a full scale war ensued between Okpomo and Brass communities. Eleven houses were burnt in the Okpomo community. The Okpomo people also burnt down Mbikiri fishing settlement in Brass. The land dispute is in court in Yenagoa.

- d) There is a conflict between Emadike and Epebu communities that has been directly linked to the activities of NAOC. Although NAOC, pipeline passes through Emadike and Epebu, the field staff reside at Emadike and as such NAOC did not extend its amenities to Epebu. The people of Epebu wrote NAOC on several occasions requesting that the company should provide some social amenities and development projects in the area. There was no positive response from NAOC. In the process, the Emadike community felt that the Epebu were unreasonable in their demands and warned the Epebu community to desist from interfering with their tenants. The Epebu youths reacted and this resulted in a violent communal clash. NAOC then invited military personnel and mobile police and without hesitation they burnt down the two communities. Ten persons were killed from Emadike and Epebu villages. The military personnel denied responsibility and the families of the deceased youths were not compensated.

e) The claims over land ownership and compensation where oil exploitation is being conducted by Shell is also the issue of conflict between the Tungbo and Sagbama communities in Balyesa State. Shell started its operations (exploration and exploitation) in Akpetere bush in Tungbo in 1969. The company used to pay compensation to some families for damages to their farmlands, crops, trees as well as for the construction of access roads to their locations or facilities. There are records that payments were made on the following dates: 8/7/76; 27/5/77; 10/2/79; 2/12/93. These payments were an obvious acknowledgement of the fact that the land belonged to some families in Tungbo. However, nothing was paid to the community itself. With the insistence of the community for payment, Shell promised to pay. But just at that point, the Sagbama community suddenly made claims to the land. In the midst of this counter-claims and confusion, Shell refused to make any further payment to the families until the matter was resolved. There is a strong suspicion that the counter claim by the Sagbama community was inspired or sponsored by Shell in order not to pay the families or the Tungbo community that was making a claim for it. Shell later informed the Tungbo community that it had deposited £708 with the Accountant-General of the then Rivers State for compensation to the community pending the settlement or resolution of the conflicting claims. Curiously, the community has not received any information on this from the office of the Accountant- General.

## **INCIDENCES OF BARE-FACED REPRESSION**

- a. On October 30/31 1990, youths from Umuechem in Ikwerre local government area of Rivers State protested at a shell facility. On November 1, police, in a bid to stop the demonstrations, invaded the community. Eight persons were killed and about 495 houses destroyed. The commission of inquiry set up to investigate the incident blamed the police for rashness and recommended compensation. There are still grievances in the community that they were not adequately compensated.
- b. In Gbaran oil field (Rivers State), villagers who were protesting were killed and maimed while seeking to stop Wilbros, a Shell contractor, from constructing a causeway in 1999. The causeway usually resulted in blocking of rivers, and flooding, which deprive the people of their sources of livelihood.<sup>6</sup>
- c. In June 1998, three oil companies - Elf, Saipem and Ponticelli - in collaboration with Mr. Joseph Wehabe, project manager of Ponticelli, commander of Rivers State Internal Security Task Force and Commanding Officer of Mobile 19 Squad, moved against protesters in their host communities in Egiland. Some of those who were arrested , tortured and detained include (1) Mr. Nnandi Igila (2) Mr. Gideon Amadi (3) Romeo Ordu (4) Chidi Joshua (5) Princewill Obulor (6) Gospel Ogbuikwu (7) Confidence Igwe (8) Uche Victor (9) Bright Uchendu (10) Prince Ugo (11) John Ejah. All of them were arrested for protesting against the neglect and exploitation of their area. Mr. Ozuruke was stabbed to death by a mobile police officer. His crime was that he confronted the officers who indecently dispersed protesting Egi women.
- d. The resistance of the Ogoni people under the auspices of the Movement for the Survival of the Ogoni People (MOSOP) to exploitative relations with the federal and state governments and multinational corporations attracted state repression. In the

aftermath of the murder of 4 Ogoni leaders in 1994, the state government set up the State Internal Security Task Force. The leader of the force, Major Paul Okuntimo, was reported to have told the media that they had only used 9 out of the several ways of killing people in Ogoniland. The communities in Ogoniland experienced several raids aimed at fishing out the Ogoni activists. In the process, several people lost their lives and property. Many Ogoni people had to go into exile during the Abacha period after the murder of Ken Saro Wiwa by the junta. Several Ogoni activists like Ledum Mitee, Bariara Kpalap, Batom Mitee, Patrick Kpalap, Deacon Nwiedoo and many others have on various occasions been arrested. In the heat of this repression, violent clashes suspected to have been instigated by the state security erupted between the Ogoni and their neighbours such as the Andoni, Okrika and Afam. The death toll of the clashes, which is enormous, is yet to be ascertained.

- e. Ijaw youths in Balyesa State have also been victims of heavy state repression in the Niger Delta. The genesis of the crisis has to do with neglect and deprivation. After several fruitless demands for amenities, employment, and development projects from NAOC, Shell, Texaco and Chevron since 1958, when crude oil was first exported from Oloibiri, 500 representative Ijaw (Izon) youths from 5,000 communities in the Niger Delta gathered at Kaiama on December 11, 1998 and made specific pronouncements known as the “Kaiama Declaration.” The thrust of the declaration is resource control. The Ijaw youths gave the federal government and the oil companies a deadline of December 31, 1998 to stop further exploration/exploitation in Ijawland. As there was no discussion or negotiation by that date, some Ijaw youths, known as the *Egbesu* youths went on peaceful rally at Yenagoa. The federal government

reacted by deploying over 2000 soldiers to the area. No less than 150 people were killed in the process. The incident spilled over to Kaiama town, and the rampaging soldiers killed another 250 youths. The government sent in soldiers and mobile policemen who conducted searches for members of the Egbesu. Often, persons who have tribal marks on their bodies were accused of being members of “Egbesu cult.” Many innocent people have been killed in the process. In addition, there is restriction of movement of persons and social activities and associations in the area.

### **VIOLATIONS OF HUMAN RIGHTS OF INDIVIDUALS**

2.34 There were gross violations of the rights of individuals in the Niger Delta region either by the state, fellow citizens or those who hold the levers of power in the area or the state. Those violations include intimidation, arrests, torture, detention, dispossession of property improper dismissal from service and extra judicial killings. A few of these cases will be reviewed below.

a. Mr. Ndarake Ekanem, a 53 year old businessman in Uyo, Akwa Ibom State was arrested and detained for about one year on the orders of the state government. He is one of the contractors of Akwa-Ibom State who came together to form a loose association following the refusal of the state government to pay them their outstanding entitlements. During the administration of Navy Captain Joseph Adelusi, the association of contractors took their case to the press by placing public paid announcements in the newspapers to call for justice. Mr. Ekanem was not only arrested, but the government owned media made several unprintable comments on him. Government impounded his lorry and car for the period he was in detention. His wife who was a civil servant was transferred out of Uyo as a punitive measure. When he was

eventually released after the administrator left office, no charges were levied against him.

- b. Mr. Patrick Naagbanton of the Rivers Coalition and Civil Liberties Organisation (CLO) and Mr. Uche Okwukwu of the Niger Delta Human and Environmental Rescue Organisation (ND-HERO) were arrested and detained from November 7-17, 1996 for distributing leaflets calling on students in Uyo to commemorate the killing of the Ogoni nine.<sup>7</sup>
- c. Drs. Edwin and Bene Madunagu and Mr. Bassey Ekpo Bassey were summarily dismissed from the public service in 1978. This followed their being implicated in the nation-wide Ali-Must-Go students uprising that rocked the country in 1978.
- d. A policeman shot Mr. Kingsley M. Anam on May 7, 1999 in Cross River State. The policeman, Corporal Harrison, framed the deceased as an armed robber. The fact was that he had a misunderstanding with the deceased over a girl, Miss. Theresa Sabat who preferred friendship with the deceased to marriage to Harrison.
- e. Miss. Egbeinde Ogini and Miss. Mary Alagoa, both about 15 years old, went to Emakalakala, a neighbourhood village on April 2, 1999 (night of Good Friday) for a wake-keeping. On their way back in the early hours of Saturday morning, April 3, 1999, around 4.30 a.m., a group of boys from Oloibiri attacked, assaulted and raped them at gunpoint. Those who perpetrated the act were identified as Arikpawabia Igbe alias Egbuda, counselor-elect, Oloibiri ward, and Sunday Nyingifa, alias Ozuzu. The Opume community promptly lodged a complaint with the police at Ogbia town. The DPO took the statements of the victims without arresting any of the accused persons. Miss Alagoa later collapsed and was rushed to a private clinic in Ogbia town. This development was reported to the DPO by the Opume community, which insisted on the arrest of the

suspects. The DPO was alleged to have treated the issue with levity and told them that it was the Opume community that could carry out the arrest of the suspects and not the police. The complications which arose from Miss Alagoa's condition eventually resulted in her death on April 6, 1999. The second victim also became ill and was admitted for medical treatment. The two suspects were later arrested but escaped from police custody a day after appearing in court for a hearing.

- f. In Rivers State, Mr. Christian Akani, a student activist was arrested on May 22, 1991 at his residence in Port Harcourt. By the time he was released on August 22, 1991 after being moved from different detention camps, he had lost his mother who died out of the shock of his arrest.
- g. Some activists like Mr. Anyakwee Nsirimovu, Mr. Azibaola Roberts, Isaac Osuoka, and Felix Tuodolo have at various times been arrested and detained for leading popular resistance in the Niger Delta. The offices of Environmental Rights Action, Institute of Human Rights and Humanitarian Law, and the residence of Dr. Moffat Akobo, chairman of the Southern Minorities Commission, have at various times been invaded and ransacked by the SSS.<sup>8</sup>

## **VIOLATIONS OF ENVIRONMENTAL RIGHTS**

2.35 The violation of environmental rights has to do with the destruction of the environment which the Niger Delta region suffers from the effects of oil exploration/exploitation and gas flaring in the area. The violation of this right is as old as the oil industry in Nigeria, of which two principal actors are responsible. These are the Nigerian state and the oil multinational corporations (MNCs). While the former provides the fertile legislation and cruel strong arm tactics in dealing with the oil communities via structural violence, the latter, the oil

MNCs driven primarily by profit motive, often ride on the back of the federal 'tiger' cognizant that it would never be devoured or made accountable for its activities because the federal government owned majority equity shares through Joint Venture Partnership. The following are the major oil companies in the Niger Delta: Shell, Agip, Elf, Pan Ocean, and the Nigerian Petroleum Development Company.

2.36 The Environmental Rights Action (ERA) in a publication entitled "Shell in Urhobo Land" in 1998 documents the environmental problems associated with oil/gas exploration. These are:

1. Destruction of flora and fauna.
2. Destruction of food and cash crops.
3. Destruction of medicinal herbs.
4. Destruction of other forest resources which are of interest to science.
5. Destruction of wild life.
6. Unplanned canalization.
7. Despoliation of wetlands and forest vegetation.
8. Loss of aquatic life.
9. Impact of oil spillage and pollution of land and water.
10. Ecological change.

2.37 The above environmental rights abuses manifest in the following consequences:

1. Devastation of the environment.
2. Acid rain that fall on the communities.
3. Diseases caused by gas flaring.
4. Erosion caused by oil exploration and production.

5. Pollution of water bodies in rivers, creeks, streams, lakes, wetlands caused by pollution arising from process upsets like spills.
6. Degradation of the environment.
7. Pollution of the environment.
8. Destruction of aquatic life, vegetation and farmlands.
9. Continuous day and light heat and noise and emissions from gas flaring.
10. Damage of sacred and ancestral lands and waters.

2.38 The statistics provided by the Department of Petroleum Resources (DPR) give a good picture of the extent of damage to the environment by the activities of the oil MNCs in the Niger Delta. According to it between 1976 and 1996, about 4,835 incidents resulted in the spillage of 2,446, 322 barrels of oil into the Niger Delta environment.<sup>9</sup> In the largest spill in the country in 1980, 200,000 barrels of oil polluted the creeks of the Niger-Delta. Virtually all the oil-producing communities in the Niger-Delta have experienced one form of environmental rights abuse or the other, of which the effects on their lives have been quite devastating.

2.39 Some incidences of oil spillage and other forms of environmental rights abuses would be analysed below:

- a. On January 12, 1998, a spill of more than 40 barrels of crude oil leaked from the pipeline linking Mobil's Idoho platform with its Qua Iboe Onshore Terminal in Akwa-Ibom State. About 20 communities with an estimated population of one million located at the mouth of the Pennington River were worst hit through the spill spread hundreds of kilometers.<sup>10</sup>

b. There was oil spillage in Olugbobiri, Bayelsa State, in 1986, 1987, 1988, for which AGIP, the company responsible for it, did not pay any form of compensation. According to Chief Benson Feneyefah, the Sibiri of Akpuekeme and Chairman of the Health and Sanitation Committee, in 1996 there was an oil spillage. Instead of paying the community the N80 million being claimed for damages, the oil company, AGIP, insisted that it was sabotage. The company alleged that some prominent people in the community were involved in the sabotage by drilling a hole in the pipe that caused the sabotage. These people include Mr. Benson, the General Secretary of Olugbobiri community, and His Royal Highness Chief N.S. Orianze, the clan head of Olodiana, A. A.D. Peter and K. Vincent. Consequently, they were taken to Yenagoa where they were threatened, intimidated and detained for some days before being released. The community of Olugbobiri employed the services of some consultants to evaluate the damages that oil spillage has done their environment over the years. They put the estimated damage at about N50 million. AGIP initially offered a paltry sum of N20,000 and later raised it to a mere N50,000. At this point, the community decided to refer the matter to the (then) Rivers State Governor, Rufus Ada George. This was done through the special adviser on petroleum matters. The governor advised that the matter should be settled out of court. AGIP and the community could not arrive at any agreement until 1998 when AGIP agreed to pay N12 million, which it did and also bought two speedboats for the community. The 12 million was paid to the community for environmental damage. However, claims by individuals for damages to their fishing, equipment, farmlands, crops, etc. were completely ignored by AGIP till date.

- c. Four communities in Ekeremor local government area of Bayelsa State, - Sokebelo, Obotobo, Ofogbene and Ekeremor, sued Shell Petroleum Development Company (SPDC) over a spill that occurred in 1983. It was in 1997 (i.e. 14 years after the spill) that the Ughelli High Court ruled in favour of the communities and awarded them N30,298,681. Instead of paying the amount, SPDC decided to appeal against the court decision. Having experienced Shell's antics of influencing judges in delaying cases affecting them, and afraid that the case may drag on for another 20 years, the people gave Shell an ultimatum to either pay the award or move out of their land. Instead, of resolving the matter, SDPC reverted to its characteristic threat of military invasion of the type which the people of Ogoni in Rivers State were subjected.
- d. At Koko Creek Flow station owned by Shell, an oil spill occurred in July 1997. Shell alleged that the spill was caused by sabotage. The spill was cleaned up by depositing contaminated soil in pits. One year later, during the rainy season, the oil was released into the water.<sup>11</sup>
- e. In Aleibiri (Bayelsa State), an oil spill occurred in August 1997. The spill was not cleaned up until a year later as Shell, which initially attributed it to sabotage, said consultations with various interests groups and the conflict in Warri delayed the cleaning up process.<sup>12</sup>
- f. The incident that happened at Jesse on August 17, 1998 is perhaps the most horrific of the dangerous impact of oil spillage in the environment and life of a local community. Oil was discovered at Jesse in 1956 by Shell. Thus, the company has operated in the area drilling oil and causing various forms of environmental hazards. However, a debilitating dimension entered the process when in August 1998 a pipeline that traverses Jesse at Atiwor that had a leakage eventually caught fire killing over 1,000 people and injuring

over 1,500. The actual cause of the burst of the pipeline has remained very controversial. Whether the pipeline developed a mechanical fault or was vandalized by some people with nefarious intention is yet unknown. However, it is doubtful whether the Jesse people could have connived overnight to break the precision-engineered pipeline, and unleash the sea of petrol that flowed in all directions for days, which the people then seized the opportunity to fetch from. It is true that most of the pipelines used by the many of the oil MNCs in Nigeria are rusty, old and not well serviced. As such, they are prone to leakage and easy vandalisation by aggrieved youths. Two points must be underscored in the Jesse incident. First, is the high level of poverty that ravages the area. The fact that local inhabitants could be very happy to take advantage of a burst pipe to scoop petrol in order to augment their income shows very clearly that the level of poverty in the area is unimaginable. Indeed, the local people were not oblivious of the possible dangers of their action, but this became imperative in the midst of abject poverty. Second, the incident shows the negligence and poor information network of Shell in its operations in the area. Ordinarily, it would have been expected that any burst pipe could have been easily detected through the information and technology network of the company. Unfortunately, this was not the case. The leakage went on for days, with the people scooping for petrol from it, until it turned into a carnage for the people. In its characteristic manner of a defence of the oil MNCs, the Nigerian Government absolved Shell of any blame in the incident. The government, in a reckless manner, blamed the victims for their "irresponsibility," thus preventing itself or Shell from paying any compensation for the incident or attending to the needs of the people as a result of the incident.

- g. On March 27, 1998, there was an oil spill at Shell's Jones Creek Flow Station in Delta State. Twenty thousand barrels of oil flowed into the water killing fishes and other aquatic animals.
- h. At Abiteye on the Escravos River, Chevron has for years pumped hot untreated water formation into the mangrove rivers.
- i. In Orhoakpor community (Delta State) was a very sad incident of how two children, Stephen and Omote Anigboro Idoghor, died in a Shell company waste pit at Orhoakpor in Urhoboland in 1993. The waste pit was negligently abandoned by Shell after using it for its operations. The pit became a death trap for the community. Indeed, the agony, pains, shock and injury imposed on the parents of the children and the community at large is enormous. However, Shell remains insensitive to this problem as the waste pit is yet to be covered in spite of the incident.
- j. In Eleme, Rivers State there is environmental pollution caused by gas flaring from the petrochemical complex, the Eleme flow station as well as the Port Harcourt Refinery complex.
- k. In Ogoniland, there have been several claims and incidences of oil spillage, one of which is the oil spill in Yorla in 1994.

### **CULTURALLY-BASED VIOLATIONS OF RIGHTS**

2.40 The patriarchal culture that subsists in most parts of Nigeria including the Niger Delta region continues to promote various forms of human rights abuses especially against women. Women are generally denied equal rights with men and treated like second class citizens in the community. Also, cultural values and practices are sometimes harsh to other categories like youth and children. Two examples will be cited of rights violations based on culture in Cross River State.

- a. Master Effiom Edem, 13, who was accused of stealing money from a neighbour's house in Odukpani was asked to dip his hand into a boiling pot of palm oil in order to prove his innocence. The right hand of the boy has since been deformed for life.
- b. Madam Ene Awan Ekpeyong lost her life after taking the poisonous *esere* beans administered on her by the clan head of Etomkpe, Akpabuyo. This was done in order to prove that she was not a witch and was not responsible for the death of her six children. Sadly, an NGO later discovered that the children died of sickle cell anaemia.

### **SUPPLEMENTARY REPORT ON THE OGONI CASE**

2.41 The experience of the Ogoni is the most dramatized and perhaps one of the most sordid cases of human rights violations in the Niger Delta. Their plight has attracted attention and sympathy worldwide. The Ogoni is a minority ethnic group in South-South Nigeria. The problem of the Ogoni began in the late 1960s when oil was struck in Ogoniland in commercial quantity, and the subsequent incursion of the oil companies into the area for oil exploration and exploitation. The company that secured oil mining leases for the area was Shell. Oil exploration succeeded in disrupting the socioeconomic and cultural life of the Ogoni. For over thirty years, the people of Ogoni protested against the seizure of their land and the degradation of their environment. Nineteen hundred and ninety was a turning point in the history of the struggle of the Ogoni. The Ogoni adopted a Bill of Rights, which was presented to the president of the Federal Republic of Nigeria. The Ogoni Bill of Rights, *inter alia*, demanded the right to self-determination for the Ogoni as a distinct people of the Nigerian federation; adequate representation of Ogoni in all national institutions; the right to use a fair share of the economic resources of

Ogoniland for the benefit of Ogoni people, and the right to control their environment.

2.42 The two years that followed the adoption of the Ogoni Bill of Rights were one of intense mobilization of the people. By 1992, the Ogoni were poised to stop exploitation. On November 3rd of the year, a thirty-day ultimatum was issued to the oil companies to pay royalties to the Ogoni people. The federal government and the oil companies ignored this demand. Consequently, on January 4, 1993, the Ogoni joined and celebrated the United Nations Year of the World's Indigenous Populations. The catalyst of these changes in Ogoniland was the formation of the Movement for the Survival of the Ogoni People (MOSOP), an umbrella organization of all community, gender, and professional groups in Ogoni.

2.43 In 1993, MOSOP mobilised the people to boycott the presidential elections of June 12. This act and other efforts by the Ogoni to hold oil companies responsible for environmental degradation in their area and insist on the restructuring of the Nigerian federation that would allow local areas to control their resources elicited sharp reactions from the state. The tendency by the Nigerian state was to criminalize the struggle of the Ogoni people as an attempt to "secede" from the Nigerian federation, block its source of revenue (i.e. oil) and also create a precedent for the other oil-producing communities to follow in resisting the federal government and the oil companies in the exploitation of their environment. The Nigerian state could not tolerate this. Various tactics were therefore deployed to contain the Ogoni "uprising." These include, the deployment of an Internal Security Task Force to the area made up of military personnel, and the promotion of divide and rule tactics amongst the communities and leaders of the

Ogoni movement. The murder of four prominent Ogoni leaders on May 21, 1994 in a mayhem in Giokoo, Gokana provided ample opportunity for the state to round up some other Ogoni leaders who were active in the organization, including Ken Saro Wiwa. They were alleged to have inspired the killing of the four Ogoni leaders. However, the Nigerian state, under a vicious military dictatorship led by General Sani Abacha, subjected those arrested nine Ogoni leaders including Ken Saro Wiwa to an unfair trial process, sentenced them to death, and speedily carried out the order. The act of sentencing those nine Ogoni leaders and eventually executing them was widely condemned globally as extra-judicial murder by the state. It is this singular act that led to the suspension of Nigeria from the Commonwealth of Nations, as such conduct was considered to be uncivilized and barbaric.

2.44 Various local groups and international organizations, including the United Nations, have sought to investigate the plight of the Ogoni as the area elicited international attention especially after the murder of Ken Saro Wiwa and the Ogoni 8. Organizations like the Human Rights Watch, Civil Liberties Organization, the World Council of Churches, the Rapporteur for the Commission on Human Rights, and a U.N. Mission to Nigeria in 1996, have all done extensive reports detailing the level of human rights violations in Ogoniland. Apart from the problem of environmental degradation, the Ogoni people have suffered immensely from killings, torture, arbitrary arrests and detention, rape, destruction of property, and a general atmosphere of siege and militarism by state security forces. Attached is an appendix of the list of some people who were victims of human rights abuses.

## **CONCLUSION**

2.45 The crisis in the Niger Delta region and the extent of human rights violations in the area go beyond a legal and judicial issue, and touches on the moral conscience of the Nigerian state and society. Successive regimes in Nigeria, especially military regimes have displayed high-handed treatment, insensitivity and poor judgment in dealing with the problems of the Niger-Delta region or the South-South zone. While the region remains the live wire of the nation's economy through the oil resources that it spins, the activities of the state have been characterized by neglect, deprivation, violence and repression against the people of the area. The activities of the oil multinational corporations complement that of the state. Those oil MNCs, which through their activities; considered to be largely below international acceptable minimum standards, destroy the ecology and social system of the oil-producing communities and the basis of material livelihood of the people. The unabashed arrogance and insensitivity of many of those oil companies is premised on its collaborative alliance with the Nigerian State. To summarize, life in the Niger Delta is nasty, short and brutish.

## **OBSERVATIONS AND RECOMMENDATIONS**

1. This research report in terms of its scope does not cover all the human rights abuses that occurred in the South-South geopolitical zone of Nigeria. It is simply a sample survey of those violations. There may be need to undertake a more comprehensive investigation in the future in which the core human rights problems of the area can be further analyzed and appropriate modes of remedial action, medium and long-term arrived at.
2. The arguments and strong feelings, which the abandoned property issue continues to elicit, even till today, suggest that there is need

to open up an informed debate about the value of Nigerian citizenship. Citizenship rights (e.g. rights to residence, employment, trade, education, etc anywhere in the country) need to be properly specified and popularized, especially now that micro-nationalism of ethnic and theocratic varieties are on the increase.

3. Individuals, families and villages that were victims of gross human rights abuses during the civil war in the South-South zone should be revisited with a view of recommending state apology and some form of compensation.
4. Individuals who were unjustly dismissed from work during the period covered by the investigation should be reinstated and subjected to due retirement process.
5. Pro-democracy and environmental rights activists in the South-South zone who suffered unjust punishment (including death) in the hands of the authoritarian state should be compensated and honoured as some of the true heroes of Nigeria's democratic struggles.
6. The remains of Ken Saro-Wiwa and other members of the Ogoni 9 should be released to their families.
7. Communities' anxieties and instances of excessive use of force by the state which abound in this report indicate that there is an urgent need to demilitarize the zone.
8. The report indicates that there is need to reorient the police force in its relationship with the local communities. The posture of an occupation force in the area does not suggest that the people are in a free society in the area.
9. The report indicates that the Nigerian state and the oil MNCs in the oil and gas industry do not sufficiently appreciate environmental rights as important aspects of human rights of the people and communities. It is therefore recommended that a review of existing

legal framework regulating the exploration and production of oil and gas should be undertaken in order to ensure accountability to the people with respect to their right to live in a safe and healthy environment. In other words, the oil MNCs must be made to operate according to internationally acceptable minimum standards as they do in the developed or their home countries. Companies that do not observe this rule should be appropriately sanctioned.

10. The composition of the state environmental protection agencies should include democratically elected representatives of the oil and gas producing communities in order to ensure that the agencies perform their tasks with responsibility and integrity at all times.

11. The Nigerian state should evolve a comprehensive and holistic plan that would include the local oil communities in its formulation for the development of the Niger Delta region. This development plan must go beyond the previous tokenism often given to the Niger Delta region. It should be a detailed and inclusive plan that addresses the issues of social amenities, employment and general development of the area; a process that should be locally driven rather than the state thinking for and acting on behalf of Niger Delta people.

## **CHAPTER THREE**

### **NORTH-CENTRAL ZONE**

#### **INTRODUCTION**

3.1 The North-Central zone comprises the six states of Benue, Kogi, Kwara, Nasarawa, Niger and Plateau that historically formed the core of the Middle Belt that was the bastion of ethnic (and religious) minority nationalism within the old Northern region. It has continued to be a hotbed of dissenting and opposition politics, as is evident in the efforts to reassert Middle Belt identity by, for example, insisting on calling the zone by its old name rather than North-Central. But partly arising from contestations over power, privileges and resources among the numerous ethnic and sub-ethnic groups encapsulated within the states, and partly due to the excesses of prolonged undemocratic rule, especially by the military, the zone has also been host to riots, protracted internal conflicts, and insecurity of lives and property. This state of affairs has been conducive to human rights abuses and violations at the individual and group levels.

3.2 The human rights violations investigated in the zone and discussed in this report – defined as acts that violate the range of human rights implicit in and guaranteed by Nigeria’s constitution(s) and statutes in operation at the time of violations – cover a broad spectrum and fall into two broad categories: those of individual rights and those of group or collective rights. The individual rights that were most problematic in the zone included the right to life, right to property and adequate compensation in the event of acquisition by the state, right to fair hearing, right to equal citizenship and equality of treatment, access and opportunities, right to just and humane

conditions of work, protection from discrimination and illegal and unlawful arrest and detention, as well as torture or inhuman and degrading treatment.

3.3 Rights belonging to the group and collectivity (ethnic group, religious group, women), which are not as explicitly stated as those in the category of individual rights enshrined in the constitution and are therefore mostly implied, include those of language, religion, culture, participation, non-discrimination, development, equality of access and opportunity, justice, and self-determination. Violations of collective rights, as we shall see, generally have to do with systemic (local level, state level and federal level) deprivations and discriminatory practices. Many of these are embedded in histories of unequal relations between groups, which have been perpetuated over the years by authoritarian regimes of colonialism and military rule.

3.4 Investigations in the North-Central zone showed that the following were the most important sources of human rights problems, violations and abuses in the area:

- Contestations over traditional institutions and practices
- Systemic deprivation and discrimination
- Perceptions of varying levels of marginalization and neglect
- Labour-related violations
- Excesses and lack of respect for human rights by the security and law enforcement agencies
- Abuse of office and partisanship of highly placed public officials

The specific abuses and violations based on the report for the zone will be highlighted and discussed under these broad themes, after a brief discussion first, of the methodology of

report and, second, of the background and context of human rights violations in the sections which follow.

## **METHODOLOGY OF RESEARCH REPORT**

3.5 The African Centre for Democratic Governance (AFRIGOV) was commissioned to investigate and document the extent, types, patterns, victims and perpetrators of human rights abuses and violations in the North-Central zone between 15 January 1966 and 28 May 1999. The Centre had a team of seven researchers, comprising one coordinator and six researchers each of who covered one state. Data for the report were collected from primary and secondary sources. Primary data was obtained through interviews and questionnaire administration. The questionnaire sought to elicit responses on the nature of violation, which was operationally defined as deprivations – personal deprivations (of right to life, right to human dignity, women’s rights, etc.), community/group deprivations (of cultural, political, social and economic rights) and systemic deprivations (resulting from neglect and exclusion, including environmental neglect).

3.6 Secondary data was collected from scrutinizing reports of panels and commissions of enquiry, government white papers on the reports, published and unpublished documents and records of various levels of government, newspapers and magazines, publications and annual reports of civil liberties/human rights organizations, annual reports of state branches of the Public Complaints Commission, documentation of human rights abuses and injustices, including petition files, by the National Orientation Agency, and petitions by individuals, communities and organized groups. Most of the documents from these sources were compiled into volumes of

appendices, which form the basis for much of what is contained in the present report. The methodology encouraged a fair balance between official-governmental and non-governmental perspectives, which tend to tell different, and often opposing stories. In this regard, the annual reports of the Public Complaints Commission, a body which is often forgotten and not accorded its rightful place in human rights matters in the country, proved to be a goldmine of valuable data. One of the major recommendations to be made at the end of this report is that there is need to encourage and strengthen the good work of the commission, which has done remarkably well at the grassroots. The commission will certainly be critical to the institutionalisation of human rights investigation.

### **BACKGROUND AND CONTEXT OF VIOLATIONS**

3.7 Human rights regimes are shaped by a constellation of specific historical, social, political, economic and cultural factors. To place analysis of human rights abuses and violations in the North-Central zone in perspective, therefore, we need to identify the factors that made certain violations more prevalent than others in the zone. Ordinarily, this would appear to be a difficult task in a zone where there are six different states, but the states have a lot of common and shared experiences, which have given the entire zone something of a distinct identity in many areas including, in this case, human rights.

3.8 As has already been pointed out, they all belong to the historical Middle Belt region, and together demanded the creation of a separate state of that name from the old Northern region on the grounds of what was perceived to be systemic deprivation and discrimination. Although the Middle Belt state was not created, the states in the zone share similar pedigrees in terms of states creation.

Thus, Benue, Nasarawa, Plateau, and parts of Kogi state were part of the Benue-Plateau state that was created in 1967 and split into Benue and Plateau in 1976. A part of Benue was joined to parts of Kwara to form Kogi state that was created in 1991, while Nasarawa was carved out of Plateau state in 1996. Kwara state is also a first-generation state that was created in 1967, and from which a part was joined to Niger state created in 1976, and Kogi state in 1991. It should be noted that this multiplication of states was largely the product of allegations of systemic deprivation, injustice, oppression and discrimination within existing states by aggrieved ethnic groups.

3.9 The shared but contested political and administrative experiences are reinforced by other historical and cultural commonalities in the zone that have implications for human rights. The first of these is that the Middle Belt, especially the outlying areas of the Niger-Benue confluence, has witnessed massive population movements, migrations and displacements. This explains the rather high-tension ethnic mixes and endemic conflicts among groups in the region, which have long histories of contestations over boundaries, ownership of territory for farming and other economic purposes, over who is “indigenous” and “stranger” or “foreigner”, and over which groups are “superior”, “core” “marginal” and “peripheral”. Another important strand of this history involved the administrative and territorial reorganizations undertaken by the colonial authorities. This was done as a matter of administrative expediency and to facilitate indirect rule, but the reorganizations had lasting and mostly negative consequences for inter-group relations.

3.10 For some groups, reorganisation marked the end of autonomy and “self-determination” as they were placed within larger

administrative units and under more powerful traditional authorities, typically the Emirates. Other problems created by reorganization included the imposition of village and district heads on seemingly “powerless” groups, and the splitting of groups into different administrative units, including the present states. Many of the present-day conflicts and agitation over appointment of indigenous village and district heads and creation of separate chiefdoms, local government areas and even states, in the name of autonomy and self-determination, have their origins in these historical dynamics.

3.11 The second commonality relates to the complex composition of the states in the zone, beginning with the large number of closely related minority ethnic and sub-ethnic groups, some of which have only minor linguistic or dialect differences<sup>1</sup>. Many of these groups and sub-groups are found in more than one state and local government area, which is not surprising given the fluid nature of migrations and settlements referred to earlier. For example, the Alago of Doma in Nasarawa state claim to be the kith and kin of the Jukun of Wukari (Taraba state), the Igala of Kogi state, and the Goemai of Plateau state, who together with other groups of the same stock, constituted the famous Kwararafa empire. Similarly, the Etulo of Benue state have linguistic affinity with the Idoma, Alago and Jukun. Although one or a few ethnic groups are dominant in their respective states – Tiv in Benue, Igala, Ebira and Yoruba in Kogi, Nupe, Gwari, Hausa and Kambari in Niger, etc. – each state is made up of several ethnic and sub-ethnic groups, which belong to the category of minority groups within the overall context of Nigerian politics. The Yoruba of Kogi and Kwara states as well as the Hausa/Fulani who are scattered all over the zone may be the exception in this regard, because their kith and kin in other parts of the country belong to the

category of major groups, but they have also been major actors in the “minority politics” of the Middle Belt.

3.12 Closely related to the complex ethnic diversity is the religious pluralism or mixes of the states, ethnic and sub-ethnic groups. Several families and communities in the zone have adherents of Christianity, Islam and traditional religions, though this has not rendered religion any less politically consequential. By popular acclaim and the extent to which they are implied or cited in political conflict, Christianity and Islam appear to be the more popular religions, but attachments to traditional religion are very deep, and have also had serious consequences for inter-group relations. The attachments resonate in rituals, festivals, taboos, masquerades, cults, and strong beliefs in the potency and power of “juju”, all of which are jealously guarded as icons and boundary-setting identity markers.

3.13 The importance attached to the institution of traditional rulers who are regarded as symbols of group identity, cohesion and group worth – group worth being measured by the rank and status of the traditional ruler – is also explained within the foregoing context. Thus, traditional symbolisms and attachments have been important elements in the struggle for supremacy among the various groups, and were conducive to a variety of systemic deprivations and human rights abuses, ranging from tradition-oriented discrimination against women to violations of social, political and economic rights of groups. In some instances, traditional beliefs were a constraining factor in human rights consciousness. As the Report of the Judicial Commission of Enquiry into the Kabba Disturbances of September 1994 noted, there were a number of “sensitive” issues aggrieved

families in the area did not want to go into because of their belief in “mysticism” and the fear of possible fetish repercussions.

3.14 In terms of more recent realities, the zone, like other zones in the country was subjected to prolonged authoritarian rule, especially by the military. However, one of the distinctive characteristics of the zone in the latter part of the period covered by the report (mid-1980s to the 1990s) was the relative absence or underdevelopment of militant and populist civil society organizations with pro-democracy and civil liberties/human rights agenda, that spearheaded opposition to military authoritarian rule and served as human rights watchdogs and defenders in other parts of the country. Local branches of the Academic Staff Union of Nigerian Universities (ASUU) and students unions may be regarded as exceptions in this regard, but these organisations were primarily interested in the interests and welfare of their members.

3.15 The direct consequence of the dearth of militant civil society organisations was that, in comparison to some other parts of the country, especially the South-West and South-South zones under the ultra-authoritarian military administrations of General Babangida and General Abacha, cases of state repression involving assassinations and judicial killings of civil society opponents were not rampant. As is fairly well known, under authoritarian regimes, opposition activities tend to invite repressive and brutal state responses. It may however be noted that partly due to the preponderance of people from states in the zone in the officer corps and rank and file of the military, the zone has had more than a fair share of state terrorism of a non-civil society type in the high number

of military officers and civilians from the zone that have been executed by various military governments for allegedly plotting coups.

3.16 The foregoing provides the necessary background and context for understanding the human rights problems in the North-Central zone. We now turn to the categories of abuses and violations investigated and documented in the report by AFRIGOV.

## **HUMAN RIGHTS VIOLATIONS**

### **CONTESTATIONS OVER TRADITIONAL INSTITUTIONS AND PRACTICES**

3.17 The depth of attachments to traditional institutions and practices in the day-to-day lives of communities in the zone resonates in the contestations over traditional institutions and practices, which were attended by violent riots, conflicts and low intensity communal wars in many cases. Indeed, conflicts of contested traditional terrains were widespread in the region and constituted one of the most important sources of feelings of deprivation and violations of rights of individuals and groups. The contestations took different forms, which can be classified into four: those involving succession and appointment to vacant positions of traditional ruler/village head/district head; those involving festivals, rituals and shrines; those arising from contested claims to land and resources; and disputes of a historical nature, mostly involving long-standing disputes, rivalries and rejection of 'imposed' chiefs or village heads.

## **SUCCESSION AND APPOINTMENT CONFLICTS**

3.18 Contests over succession involved ruling families, houses and clans from among which the traditional ruler, village head or district head was normally selected, usually based on a system of rotation. Typically, problems arose when one ruling house or clan insisted that it had exclusive rights to the position, when an individual or group felt it had been unjustly bypassed or denied its turn, or when there was a perception that higher authorities which played crucial roles in the selection or appointment process – local government, state government, or Emir – were partisan in favour of the wrong but powerful group. In Many cases, especially those in which the contests led to riots and violent conflicts, panels and commissions were instituted, but such interventions very rarely solved the problems. This was because the reports of the enquiries and government white paper on them were either not published or, where they were, the recommendations were not implemented. Such sloppiness tended to cast doubts on the neutrality and credibility of state governments and officials among members of the aggrieved groups. To illustrate the nature of the contests and the deprivations and violations they involved, we shall elaborate on a few cases.

### **Ohiomata of Odumi (Kogi State)**

3.19 The Aroke (Anitekene) family claimed that, following the seniority order of ruling families and clans it was the turn of the family to produce the Ohiomata, which fell due to the Adoto clan. The Ametuo family of the Iyaho clan, which produced the last Ohiomata however refused to hand in the horsetail of the late Ohiomata, symbolising succession, as was customary. Not even a ruling by the Okene Area Court 1 in favour of the Aroke family, and the support of the Ohinoyi of Ebiraland, the paramount ruler of the area, could get

the family to have a change of mind. Instead, they encouraged the Ohuoje-eba family, the next in rank to the Aroke in Adoto clan to lay claim to the position, and proceeded to illegally install the family's candidate in violation of the court ruling. The Aroke responded by installing their own Ohiomata, backed by the law, Ohinoyi of Ebiraland and the elders of Odumi. However, in the struggle for recognition, which involved violent conflicts that inevitably followed, the illegal Ohiomata was confirmed by the chairman of the local government council in 1994, due to what the Aroke family alleges to be the determination of a "mafia" made up of "influential, highly placed unscrupulous sacred cows from our clan who are hell bent on perpetual suppression of our inalienable rights" (a retired Navy Rear Admiral, an ex-Accountant-General, ex-commissioner and serving Director-General were identified as the sacred cows). The situation did not change even after the Aroke family secured further rulings in their favour at the Okene Area Upper Court and the High Court, which upheld the earlier ruling by the Area court.

### **District Head of Emekutu (Kogi state)**

3.20 The case of the District Head of Emekutu, although a lot more complicated, is similar to that of Odumi. When the district was created in 1991, it was agreed by members of the four ruling houses of the Emekutu dynasty that the incumbent Onu (beaded chief) who doubled as the "Gago" (head of village area) should be the District Head as was the practice in other parts of Igala land. This position was communicated to the Eje of Ankpa traditional council. In spite of this, one Alhaji Adamu Sule, son of the immediate past Onu of Emekutu, who claimed to have won majority support in a plebiscite organized by the Ankpa Area Traditional Council (AATC), was appointed to the position. His appointment was seen as an imposition

by the AATC, which was accused of meddling in the internal affairs of the Emekutu community. Several petitions were sent to the Chairman of Ankpa local government council, the Director General of Chieftaincy Affairs, and the panel on the appointment of district heads and creation of new clans instituted by the Kogi state government, to protest against the appointment of Alhaji Sule, on the grounds that he was not chosen by the four ruling houses, that he did not meet the stipulated minimum educational qualification of primary six leaving certificate, that he was antagonistic to the overall development of Emekutu district, and that his appointment violated the right of the Emekutu to self-determination and the right of Mallam Mohamadu Odoma Agi, the incumbent Onu Enekutu, to be appointed District Head. However, a panel was later set up in 1997 by the chairman of Ankpa local government area to investigate the facts of the appointment of Emekutu District Head. By this time, however, the four ruling houses resolved that Mr Moses Momo Omale should be appointed District Head and communicated this to the panel. But, surprisingly, the appointment of Alhaji Sule was upheld against the wish of the four ruling houses and majority of the Emekutu community.

### **Osagye/Osuka of Obi Chiedom (Nasarawa state)**

3.21 The third disputed case, that of the Osagye and Osuka of Obi chieftom, also followed the creation of the chieftom in 1982. The five autonomous communities that made up the new chieftom – Adudu, Agwatashi, Assakio, Deddere, Obi and Riri – agreed to stay together on the basis of equality, cohesion and power sharing. Thus, the position of Osagye, the paramount chief in the chieftom was to be rotated among the ruling houses of the five constituent communities. The rotation began with Ibrahim Atanyi, the Osuko or village head of

Obi village area, who was installed Osagye in 1983. At the time Atanyi was made paramount chief, an appropriate title/designation had not been established for that position – in fact, the title of Osagye was adopted only in 1989 on the recommendation of an administrative panel headed by Halilu Bala Usman. The delay in naming an appropriate title had two unfortunate consequences: (1) it led many members of the Obi village community to assume that the paramount head of the chiefdom was their exclusive right; and (2) it created an anomaly whereby Ibrahim Atanyi doubled as Osuko and paramount chief, even though M Yusuf A.A. Madaki had been selected to replace him as village head in 1985. The latter created problems of succession after Atanyi's death in 1994 as a significant segment of the Obi community, allegedly backed by the Emir of Lafia (who had presided over selection of Madaki in 1985 but turned around in 1994 to declare that his purported election was cancelled) and a clique of powerful civil servants, opposed the ascension of Madaki to the stool of Osuko. This polarized the Obi community and precipitated violent conflicts in 1996 between supporters of Madaki who forcibly moved into the Osuka's palace in 1994 and allegedly unleashed a reign of terror on his enemies, and those opposed to his being made Osuka. The latter insisted that the new Osuka had to be competed for by the four ruling Obi houses, and in various petitions to the chairman of Obi local government council and the Plateau state government, under which Obi was before the creation of Nasarawa state in 1996, threatened to stop paying taxes as long as Madaki was village head. The violent conflicts claimed lives and property, including Madaki's houses. With the advent of party politics in 1998, the bitter rivalry assumed a new and dangerous dimension, with supporters of Madaki joining the PDP and the opposition camp the APP. Finally, following fresh riots in February 1999, the Obi chiefdom was disbanded, Madaki was

affirmed village head, the stool of Osuko was declared vacant and, finally, a judicial commission was set up to investigate the chieftaincy problems in Obi.

### **The Andoma of Doma (Nasarawa State)**

3.23 Dispute was precipitated by the confusion created by constant changes to the mode of selection of new Andoma and manipulation of the process. When the stool became vacant, the traditional procedure was for the four traditional electors (kingmakers), namely the Owuse, Oshata, Okuba and Ogbole, to select a candidate from one of the ruling houses of Obushugu, Ayigogah, Ayigogye, Inumogah, and Inumakwe. However, Andoma Ari increased the number of kingmakers by appointing the Waziri, Tafida and Pakachi, who were not traditional chiefs with designated roles, to join the original four in 1968. He also changed the titles of the other chiefs to Hausa: Owuse became Madaki, Oshata Madauchi, Okuba Galadima, and Ogbole Makwangiji. Furthermore, the selectors were themselves now eligible for appointment as Andoma. Despite protests from the Doma people, the new procedure was approved by the then Plateau state government and used to select Andoma Angara in 1972 and Andoma Onawo after him. However, following the report of a judicial commission of enquiry appointed in 1993, the 1972 order was repealed, and the procedure reverted to the status quo ante. The confusion created by these changes most probably affected the election of Alhaji Yahaya Ari Doma as Andoma following the death of Onawo. Alhaji Doma claimed that his election was conformed with laid down traditional procedure, yet it was challenged by those he alleged were neither indigenes nor princes of Doma. This was sufficient for the Plateau state government to cancel his installation as Andoma in November 1993. Alhaji Doma in his 1998 petition to the then Chief of

General Staff alleged that the state's Attorney-General was counsel to the respondents in the case he filed, which was before the Supreme Court, and feared that he would be denied justice.

### **The Obaro of Kabba (Kwara state)**

3.24 Kabba has witnessed a number of internecine conflicts over the years, the most recent being those of 1987 and July and September 1994. Underlying these conflicts have been deep animosities among the four Owe-Yoruba sub-groups of Kabba: Kabba, Odolu, Katu and Idamori. The fourteen indigenous families that make up the subgroups are further grouped into three families: Akumejila, Ilajo and Idamori or Omodo. Of these, the Idamori are looked down upon by members of the other families, and have consequently suffered systemic deprivation and discrimination over the years. They claim to have been denied access to land and to have been marginalised in the distribution of political and bureaucratic appointments allocated to Kabba. The Idamoris have however fought discrimination in several ways, including rising up against discriminatory deity worship and festivals (see below) and a legal battle with the Kwara state Printing and Publishing Corporation in 1981, over a defamatory article which referred to them as 'strangers'. But perhaps the most fundamental form of discrimination, on which most others hinge, is the exclusion of the Idamori from the stool of Obaro, the paramount ruler of the Owe-Yoruba, to which only the Akumejila and Ilajo can aspire. The Idamori however play a crucial role in the succession to the stool when it becomes vacant: they are responsible for divining and announcing the next incumbent. This places them in a precarious position vis-à-vis the Ilajo who claim the Obaro stool as a birthright, having monopolised it until 1957 when the Akumejila challenged them for the first time, and the Akumejila

who insist the stool should rotate between the two families. The bitter contests had necessitated the setting up of panels of inquiry in the past, notably, the Ekundayo panel on chieftaincy declaration and review (1978), Justice Olagunju's commission on the Obaro chieftaincy stool (1983) and the Justice Gbadeyan's Kabba disturbances tribunal of enquiry (1987), yet no lasting solution could be found. Indeed, the Judicial Commission of Inquiry on the Disturbances of September 1994 found that the tussle over the Obaro stool was one of the remote causes of the 1994 disturbances, with the Akumajila alleging that Mr M.F. Olobayo was imposed on them by the government and also that he "bought" Idomari support by promising them traditional titles and participation in Eborá worship. In the search for lasting peace, the Report of the Judicial Commission recommended that the principle of rotation between the Ilajo and Akumajila should guide succession to vacant Obaro stool as well as ascension to the two Ololu titles of Obajemu and Obadofin, which belong to all three family groups; and that to reduce if not eliminate discrimination against the Idamori, there should be legislation recognising them as the fourth group and fourteenth family of the Owe-Yoruba.

### **CONTESTATIONS INVOLVING FESTIVALS AND RITUALS**

3.25 These contestations also proved to be crucial to human rights violations, not only because they were exclusionary and discriminatory in ways which people were sometimes afraid to talk about, but also because they provoked violent riots and conflicts. The major cases from investigations carried out in the zone were those over the Egungun and Eborá in Kabba and over festivals in Ebiraland.

### **Contestations in Kabba**

3.26 We have already described how the Idamori of Kabba suffer systemic deprivation and discrimination in the hands of the Akumejila and Ilajo families. In addition to being excluded from aspiring to the throne of Obaro, the paramount ruler of the Owe-Yoruba as we saw above, the Idamori and other “non-initiates” were excluded from the worship of Eborá, the deity worshipped by the other subgroups, and forbidden from participating in the Eborá festival. This exclusion reinforced the discrimination against the Idamori, though the Idamori on their part worship the Egungun and celebrate the Oro festival. The differences in deity worship and festivals became ready instruments for continuing the animosities between the Idamori and the other subgroups. This was the case in July 1994 when the disruption of the Eborá festival supposedly by “stubborn” Idamoris who refused exclusion led to widespread rioting, and provided a smokescreen for the September riots when the Egungun worshippers were supposed to hold the Oro festival. Not surprisingly, the Idamori who believed that deep-rooted hatred for them by members of the other sub-groups was the main factor for the riots bore the brunt of losses and destruction wreaked by the riots. While 24 houses belonging to Idamoris were destroyed and 63 partially destroyed, only 8 houses belonging to members of the other groups were destroyed. The report of the judicial commission of inquiry into the Kabba disturbances of September 1994 found that the entry of the National Union of Road Transport Workers and negligence on the part of the police who simply refused to act promptly worsened the situation, but still found it necessary to recommend that celebration of the Eborá festival be restricted to the hills or groves and that of Oro to the shrine, to minimize contact and disruptions between rival worshippers.

### **Contestations in Ebira land**

3.27 The celebration of festivals in Ebira land was a constant source of violent conflicts. This was due to a number of conflict-generating factors: (i) the existence of rival festivals and masquerades – Ikede/Aahe, Ekuechi and Echeanne festivals; (ii) discrimination against women who were forbidden from seeing masquerades while they were dressing, except they were recognised Onoku or Epahi (titled women); (iii) discrimination against non-Ebira who were forbidden from being custodians of masquerades; (iv) the use of songs, banners and flags by masquerades to insult and provoke rival masquerades and groups, and the use of whips to flog victims; and (v) the production of charms and lethal weapons by herbalists and blacksmiths for use by rival groups during festivals. These factors were affirmed by the report of the Peace Committee on the Peaceful Celebration of Traditional Festivals in Ebira land, which was instituted in March 1996. The Government White paper on the report accepted most of the recommendations of the committee. These included the stipulation of rules for masquerade accreditation, which included indigeneity, registration with traditional council, payment of registration fees, and police permit; establishment of a code of conduct for masquerades, which restricted the use of whips, charms, lethal weapons and hate songs; the holding of all festivals in Ebira land simultaneously over three days and the restriction of masquerades to their wards and to daytime displays to reduce clashes and revenge attacks; and the stipulation of punishment for offenders, which was however discriminatory against women: while fines and jail terms were prescribed for male offenders, female offenders – who sighted the Ekuechichi masquerade or impersonated Onoku/Epahi was to be punished “traditionally”.

### **CONTESTATION OVER LAND AND RESOURCES**

3.28 The case that exemplified this form of contestation was between the Kwenev and Ayande Uvir of Benue state over the ownership of a fishpond in Agbaka village. The Kwenev obtained judgments at the Gbajimba Grade 1 Area Court and the High Court in Makurdi in 1996, which declared them rightful owners of the pond, and gave them the writ of possession. But notwithstanding, they were violently prevented from taking possession of the pond by the Ayande Uvir who subjected them to various forms of intimidation and physical attack. These were allegedly done with the backing of the police and senior officials of the state government. The Kwenev alleged that the state government planned to take over the pond as a subterfuge for giving it to the Ayande Uvir, and that none of their petitions to the police, local government and state government was responded to. They believed that only a full execution of the court ruling could solve the problem.

### **CONTESTATIONS OF A HISTORICAL NATURE**

3.29 These were long-standing disputes over the sanctity of traditional rule involving groups, which claimed to have been displaced or overthrown by “alien” rulers, and demanded restitution of old historical order and traditional self-rule. Most of the cases in this category came from Kwara state where the Yoruba who claim to be descendants of Afonja, the old ruler of Ilorin, demanded the establishment of an alternative ruling House to that of the Ilorin Emirate, which was regarded as ‘alien’. Other Yoruba subgroups such as the Afon and Moro also demand the creation of autonomous Emirates or traditional councils in each local government area and the removal of “foreign” district heads allegedly appointed by the Emir of Ilorin.

### **Afonja Descendants Vs. Fulani Ruling House in Ilorin**

3.30 According to Afonja descendants, Ilorin was a Yoruba town founded by the legendary Ladein, who established a ruling dynasty. The Yoruba however lost control of Ilorin under Afonja who was betrayed and treacherously murdered by Mallam Alimi, an itinerant Fulani Muslim leader, whose descendants subsequently usurped power and established the Fulani ruling house. As was the pattern in most parts of the north, the colonial regime supported and reinforced the system of “internal colonialism”. Since then, the descendants of Afonja struggled to reassert themselves and reclaim what they regarded as their rightful heritage. They demanded the establishment of an alternative Yoruba (Afonja) ruling house through the restoration of the chieftaincy tradition that existed before the imposition of Fulani rule, as was done in Offa where the Olugbense and Anibelerin were established as alternative ruling houses in 1972.

3.31 The case of the other Yoruba subgroups who alleged that non-indigenous district and village heads were imposed on them and that their traditional rulers were not recognised or, where they were, were made to play second fiddle to the Emir, was articulated in the proposal for the establishment of an Emirate or traditional rulers council for each local government area presented by Hon. Wole Oke to the Kwara State House of Assembly in 1982. Oke argued that every traditional ruler was as important as the other, and that it was unjust for communities to be represented by traditional rulers and district heads with whom they had no traditional or historical connection, as was the case in Moro, Orere, Asa, Owode and Osin local government areas where non-indigenes held sway. He then proposed the establishment of traditional councils for each local government area

as a way of ensuring the autonomy and self-determination of the various groups. Although the proposal was described as a threat to the “cultural unity” of the state by the state government-owned *Nigerian Herald*, it represented the views and demands of most Yoruba subgroups in the state, as articulated by the Afon Youth Progressive Union and various Asa and Moro ‘nationalist’ groups (it is instructive that Asa and Moro local government areas used to be part of the Ilorin Emirate).

### **SYSTEMIC DEPRIVATIONS AND DISCRIMINATION**

3.32 There were basically two forms of systemic deprivation in the North-Central zone: those that derived from the discrimination between indigenes and non-indigenes, and those based on perceptions of systemic marginalization, neglect and discrimination.

### **INDIGENES AND NON-INDIGENES**

3.33 One of the endemic sources of systemic deprivation and human rights violations in Nigeria is the distinction often made between indigenes and non-indigenes of communities. It involves denying so-called non-indigenes (also called ‘strangers’, ‘visitors’) access to political representation, participation, land and other economic resources, and subjecting them to discriminatory treatment in matters like admission of children to school, notwithstanding their length of stay or residency and the fact that they pay tax and perform other obligatory citizenship duties. Discrimination against non-indigenes has been reinforced by official and legal provisions (the constitution for instance) and practices (such as different school fees for indigenes and non-indigenes), which privilege indigenes. Regionalism, statism and localism represent critical stages in the contemporary consolidation of this form of discrimination, but at the

local level, the indigene/non-indigene cleavages are embedded in contested histories of migration, settlement and territoriality. This is most clearly dramatized in the North-Central zone, which has been a centre of massive migrations, population displacements, and resettlements. The following cases show the nature of human rights problems that have arisen from this situation.

### **The Plight of the Eggon Peoples**

3.34 The Eggon people are strewn across most local government areas of Nasarawa state, but are most preponderant in Nasarawa-Eggon, Lafia, Keffi, Obi, Doma, Keana, Karu, Kokona, Akwanga and Awe. With exception of Nasarawa-Eggon local government where they form the majority, (Eggons believed the local government was so named to create the impression that all Eggon are from there – they wanted it named Akun), the Eggon are treated as non-indigenes in the other local government areas. Furthermore, they allege that the creation of village areas and districts was manipulated to deny Eggon communities autonomous units, thereby subordinating them to alien rule, and denying them (communal) voting rights, political participation and access to education, land, employment and other economic resources.

3.35 For instance, Eggons who were redeployed to their ‘local governments of origin’ (in this case Keffi) following the abrogation of the local government unified staff policy were either rejected or had their jobs terminated on the grounds of being non-indigenes, even where they had certificates of indigeneity or had sworn affidavits that they were indigenes of Keffi. Eggon children in schools also suffered discrimination as non-indigenes. In the Alagye district area of Doma local government area, the “indigenes” of Rwan Baka and Ungwan

Kalana protested the sale and allocation of farmland to Eggons who they regarded as “strangers” who “just came to look for rice land to farm”. To share land with them, the indigenes argued in petitions to the local government authorities and the police, amounted to “depriving them of their birthright”.

3.36 These various acts of discrimination and deprivation were regarded as acts of ‘ethnic cleansing’ on the part of the state and local governments, which were accused of deliberately keeping the Eggon oppressed, excluded and marginalized from political and bureaucratic power at the federal, state and local levels. Comparing their case to those of the indigenous Gbagyi in Kaduna and Niger states, Kataf in Kaduna, Bassa in Nasarawa and Seyawa and other minorities in Bauchi, the Eggon further alleged that there was a grand design to perpetuate the age-long domination of indigenous groups by powerful external forces in the north. To redress these injustices, which underlay the Agyaragu riots by frustrated Eggon youths in April 2001 who were protesting against the imposition of a village head by the Emir of Lafia (the brutal repression of the youths was cited as another instance of ethnic cleansing), Eggon elders and leaders of thought demanded reinstatement of all Eggon whose jobs were terminated by the Lafia, Keffi and Awe local government councils on the grounds that they were non-indigenes; creation of Eggon village areas and districts in all the local governments where they live; fair and equitable representation of Eggon in government at all levels; and end to ethnic cleansing through denial of indigeneity to Eggons in several local government areas, systematic removal of Eggons from positions in the public service, and brutal repression of Eggon youth.

### **The Case of the Bassa**

3.37 The Bassa people of Nasarawa state have a long-standing battle for supremacy with the Egbura, whose claim to superiority and overlordship they dispute based on historical evidence that the two groups had autonomous kingdoms before colonial rule. Although conversion to Islam gave the Egbura an advantage over the “pagan” Bassa in the Northern regional system that privileged Islam, the Bassa hoped that the emergence of secular administration would liberate them. That opportunity came when the government of the then Plateau state decided to resuscitate traditional institutions, create/upgrade chiefdoms, village areas and districts. But while the chief (Chimeze Panda) of Egbura was restored as a third class chief, the Bassa were denied restoration, thus reinforcing the Egbura claim to being overlords.

3.38 Furthermore, the Bassa felt cheated in the power configuration of the proposed village areas and district councils in Toto local government area where they were in majority – of the 74 village areas and 17 districts respectively in Toto local government area, only 12 and 2 could be headed by Bassa. In various petitions to the governments of first Benue-Plateau and later Plateau and Nasarawa states, Toto and Nasarawa local government councils, and Emir of Nasarawa, representatives of the Bassa community demanded the restoration of Bassa traditional and chieftaincy rights and the equitable sharing of village and district heads; protested against the elevation of Toto district, which had large Bassa population, to a chiefdom headed by another Egbura traditional ruler – Ohinoyi Ogye; protested against the use of Egbura officials for evaluation and payment of community tax to the exclusion of Bassa chiefs; protested against appointment of Egbura as village and district heads in areas

dominated by the Bassa, and the suspension of the salaries of Bassa village heads; etc. The Bassa also refused to pay taxes, levies, rates and donations to Egbura heads.

3.39 In response to the long-standing 'Bassa problem', several panels and commissions of inquiry were set up, but their reports either did not see the light of day or were not implemented. This heightened the tension that imploded in incessant riots and violent clashes between the Bassa and Egbura communities. Those of 1997 and 1998 in the Toro local government area were particularly devastating for the Bassa, who had over 93,000 displaced people that fled to the Federal Capital Territory and neighbouring states, and lost an estimated 3000 people who died in the clashes. Finally, in 1998, the search for lasting peace, which included the setting up of a reconciliation committee of traditional rulers, led the Nasarawa state government to create the autonomous Bassa chieftdom of Turunku in Toto local government area, headed by paramount Bassa ruler, the Aguma Bassa, a third class chief.

### **The Case of the Etulo**

3.40 The Etulo of Benue state are a minority group who claim to have once lived together under the centralized authority of the Otse Etulo, but were strewn across several clans, districts and local government areas by administrative reorganizations since colonial times, thereby transforming them into 'micro-minorities'. This made it possible for their interests to be subordinated to those of the more educated Tiv who constituted the majority in the districts and local government areas, and to be submerged in Benue state where they, alongside the Tiv, Idoma and Igede, constitute the major ethnic groups. Indeed, the Tiv were accused of treating them as "visitors" and

second-class citizens and of depriving them of access to land and employment in the local and state governments, and location of amenities provided by government. For instance, because the Otse Etulo was not a member of the state traditional council (the Etulo needed to have their own local government area for this to happen), he had a lower status than the chiefs of other ethnic groups in the state. The discrimination went on, allegedly with the connivance of the local government, police and area courts, in spite of court rulings. To reduce constant friction with the Tiv who regarded them as “visitors” (such as the violent clashes over land between the Mbagen and Etulo in 1985) and satisfy their yearning for self-determination, sense of belonging, and political empowerment, the Etulo demanded reunification of the Etulo in Gboko with those in the homeland of Katsina Ala. The guidelines for the 1976 local government reforms, which recognized the need to preserve the organic unity of extant local units, were clearly supportive of their demand. In fact, the Nuhu Bayero panel on the creation of more local government councils in 1976 actually recommended the merger, which the Benue state government white paper only “noted”. Later, when village areas and districts were being reorganized, the Etulo in Gboko, who claimed to have the requisite population contrary (17,398 which they counted themselves), demanded that the Etulo district be split into two Etulo districts to maximize benefits accruing from administrative spread.

### **The Case of the Abakwa**

3.41 The Abakwa and Etulo peoples have lived together and inter-married for a long time, having been merged together in the Utur clan, now called Etulo clan, in the colonial period. Nevertheless, the groups remain culturally distinct, and the Abakwa claim to have suffered deprivation, discrimination and oppression in the hands of

the majority Etulo, who ridicule them as “strangers” and “slaves”. They were deprived of farmland; government projects (post office, health centre, electricity, community secondary school) were concentrated in Adi-Etulo; and were shut out of headship of the clan, which was made the exclusive preserve of the Etulo. For the sake of justice and equity, and to be liberated from Etulo oppression, they demanded a separate Abakwa clan.

### **The Case of Rev O. of UMCA**

3.42 This case clearly shows the deprivation and injustice that go with being a non-indigene. Rev O. was born in Afon in Asa local government area of Kwara state. His father was from Igbeti in Oyo state, while his mother was from Ilorin. He had lived all his life in Ilorin and Jebba, and his children were born and bred in Ilorin. They were however denied certificate of indigeneity by the Ilorin local government area, which asked them to go to Afon – where they had no blood relations – for that purpose. The children were therefore denied the right to gain admission into Kwara state schools as indigenes of Kwara state. Rev O. believed that he and his children were discriminated against because they were Christians in a local government area which promoted Islam.

### **PERCEPTIONS OF MARGINALISATION AND NEGLECT**

3.43 The other form of systemic deprivation and discrimination derives from perceptions of deliberate acts of marginalisation and neglect on the part of the state – federal government, state government or local government, as the case may be. Although such perceptions are pervasive, as should have been clear from the several cases considered above, there were a number of cases where systemic neglect and marginalization and consequently violation of rights were

alleged. Two of these cases involved the Kakanda district of the then Kwara state and the Kogi state government.

### **The Kakanda Case**

3.44 Kakanda, one of the six districts that made up the former Kogi Division, was home to the Kakanda people whose paramount chief was the Aganchu of Budon. The people alleged that after the district was relocated from the old Koton Karfe Division in the 1950s, there was no further development in the Kakande area. The police post that used to serve the district was closed, the only dispensary and primary school in the area were run down, and government failed to provide electricity and to construct roads and bridges linking the district. The people accused the then Kwara state government and the local authorities of systemic neglect and discrimination against the Kakande group.

### **The Case of Kogi State Government**

3.45 In its memorandum to the National Reconciliation Committee entitled National Integration and Patriotism in Nigeria: Kogi State Perspective, the Kogi state government alleged systemic neglect and marginalisation in the federation in terms of (i) the dearth of federal social, educational, health and industrial facilities; (ii) underdevelopment of road, rail and air transport in spite of strategic location of the state in serving as a link between the north and the south; (iii) discrimination against staff and students from the state in university appointments and admissions respectively, even in those universities for which Kogi state was part of the catchment area; (iv) neglect of the Ajaokuta Steel Company, the largest federal concern in the state; (v) failure to resettle Kogi people displaced by the Ajaokuta project, Itakpe iron ore mining project, and the Okaba coal mining

project; (vi) lack of electricity and potable water in most parts of the state; (vii) retardation of the cultural development of ethnic groups in the state due to the preference given to dominant ethnic groups in the country; and (viii) lack of compensation for deprivations of farmland suffered as a result of the damming of the River Niger at Jebba and Kainji. The state government attributed these acts of discrimination to the fact that Kogi was a state of minorities and rejected the clamour for so-called true federalism by certain elements of the dominant ethnic groups, which it argues, “is borne out of the desire to keep other Nigerians from sharing from the development and benefits generated by a long tradition of lopsided allocation of resources in their favour”. To remedy the injustices, the memorandum proposed, among others, the establishment of ten-year federal equalization development plan to redress imbalances caused by neglect, and the establishment of a development agency to address the problems of states affected by the damming of the river Niger (Kwara, Kogi and Niger). The memorandum however missed out the essential point of the rights of states in a federation, which includes the right to (self) development.

### **LABOUR-RELATED VIOLATIONS**

3.46 Labour related violations were rampant in the North-Central zone, as reflected by the fact that most of the human rights cases investigated by the Public Complaints Commission (PCC) and covered in the annual reports of state branches were labour cases. They ranged from wrongful termination of appointment to unjust work and retirement conditions. The commission found that the problems partly emanated from lack of familiarity with the labour code and working conditions and partly from the inefficient machinery for processing pension papers. Another case, which highlights fairly

different dimensions of labour problems and therefore deserves separate treatment, was that of the Academic Staff Union (ASUU) of the University of Ilorin, which accused the university authorities of contravening laid down rules on the appointment, promotion and welfare of academic staff, thereby violating the rights of staff inherent in those rules.

### **EXAMPLES OF CASES OF UNJUST CONDITIONS/TERMINATION/RETIREMENT**

3.47 We shall treat these in two categories: those which the PCC intervened in and was able to resolve in favour of the complainants for the most part, and others which did not go to the PCC.

#### ***Examples of Cases Investigated by the PCC***

3.47 In a good number of the cases investigated by the PCC, the workers who alleged wrongful termination of appointment and/or unjust treatment by employers were found to be at fault. The case of Mr A., an employee of the federal ministry of labour in Minna who alleged maltreatment and suppression by the chief labour officer is typical. Mr A. claimed that his salary was stopped after he had an accident in the course of official duty and was hospitalized, and that his appointment was eventually terminated. Upon investigation, the Commission found him to be dubious and roguish and concluded that his employers acted rightly. There was also the case of Mr O., teacher in the employ of the Kwara Local Schools Management Board, who alleged wrongful retirement and downgrading of salary from grade level 05 to 04. The Commission found that retirement on grounds of poor record of performance was justified, but ensured that his old salary was restored. Also, a worker in Minna who complained that his employer had refused to pay him half salary after placing him on

suspension was found to have stopped coming to work after he stole the company's property worth N3189.50 and was arrested by the police. The other case that bears highlighting is that of Mrs J.O.A. female worker with the Ilorin Agricultural Development Project who alleged wrongful termination of appointment because she refused advances from her boss and male colleagues and also that the statutory one month salary due to her in lieu of notice was not paid. The commission found the allegation of sexual harassment to be baseless and termination justified, but got employer to pay the one-month salary. There is no need to go any further into these cases because they were not genuine. The examples listed below are those in which wrongful termination was proven and the commission took steps to ensure redress.

1. A female worker with the Kwara Transport Corporation had her job as bus conductor terminated because she got pregnant after marriage, even though when she was employed there were no clear conditions of service. The Corporation agreed that there were no conditions of service at the time she was employed, but that she was not married at the time of employment, that there was no way she could effectively carry out her duties while pregnant and even afterwards, and that the corporation did not want the other 22 female bus conductors in its employ to be encouraged to do the same. The Commission found these reasonable, but advised the corporation to expeditiously formulate a policy on pregnancy.
2. The PCC intervened to ensure the reinstatement of Mr Bala Adamu Kuta who alleged politically motivated termination of appointment with the Niger State Broadcasting Corporation. Mr Kuta was alleged to have campaigned for the Nigerian People's Party in the 1983 election, but this was not proven.

The military sacking of the Second Republic helped his reinstatement.

3. Mr P., a staff of the Minna branch of an insurance company alleged that his employers stopped paying his salary for no just cause for 8 months. Investigations by the PCC showed that his salary was reduced (not stopped) due to declining productivity on his part. The company was persuaded to pay Mr P. all outstanding entitlements after deducting the money he owed the company.
4. The PCC intervened to ensure the payment of contract gratuity to Mr E.A. Olaniyan by the Niger state ministry of education which had withheld it for over 5 years, during which time Mr Olaniyan made fruitless long journeys from Akure to Minna.
5. A night watch man who worked with a private company in Minna for 11 years and was forced to leave by reason of illness complained of non-payment of gratuity. Investigations showed that employee was not entitled to gratuity under the company's rules because he had not reached the age of 50 and/or had not worked for 20 years. This was clearly a case of ignorance, for which the commission could not do anything.
6. A worker with the Minna branch of a leading company complained that the company stopped his salary for the period October 1981-February 1982, while he was sick and on admission at the Ahmadu Bello University Teaching Hospital, in spite of the fact that he obtained the company's permission. The company claimed to have placed the worker on leave without pay since he had no official sick note. Commission however drew the attention of the management to the labour code, and the company then agreed to pay the complainant N277.28k.

7. Mr RMS, an employee of NEPA, Ilorin, complained that he was down graded from salary grade level 12 to level 10 on the basis of malicious allegation of theft of the sum of N560. After one year when he expected restoration to his former salary grade, as was the normal practice, he was compulsorily retired with only 14 days left for him to qualify for the payment of pension. His appeals to the management of NEPA for restoration to level 12 and payment of gratuity and pension yielded no results. The PCC succeeded in getting NEPA to pay him his entitlements.

3.48           The foregoing examples show that the PCC played an important role in the defence of workers rights. Its readiness to take up cases and investigate them, sometimes by getting employers and aggrieved workers to talk things over, made it a valuable institution for workers seeking redress, especially those who lacked the means to seek redress in court.

***Alleged Unjust Termination/Retirement: Non-PCC Cases***

1. Mrs Umaru, Mustapha Galadima, Joseph Inarigu and Mrs. Ashatu Mohammed were acting Permanent Secretaries in the Nasarawa state civil service. In 1999, they were compulsorily retired on the grounds of “restructuring of civil service from top to bottom” and public interest, even though none of them had reached the mandatory retirement age of 60 or 35 years of service, or been found guilty of any offence or wrongdoing, and without regard to relevant civil service rules. Since the post of acting permanent secretary was not an establishment post, on which post were they retired? The affected senior civil servants challenged their retirement on these grounds.

2. Mr E.E. Loko, a staff of First Bank Bukuru branch, had his job terminated over fraudulent withdrawal from the account of the Christian Health Association of Nigeria. This was in spite of Mr Loko's several petitions to the management of the bank pleading his innocence, explaining that he acted in conformity with standard banking procedure, and asking for reconsideration of his case in the light of (i) a voluntary confessional statement by one of fraudsters, which showed that Mr Loko was not party to it; and (ii) his discharge and acquittal by the court which tried the matter for three years.
3. In violation of the freedom of the press and freedom of expression, one Mr Olaniyan was sacked as editor of the Kwara state government owned Sunday Herald for publishing an editorial that supported the principle of rotational presidency. This was considered too pro-south and inimical to the interests of the north, which the paper was supposed to protect. Olaniyan had earlier been accused of portraying the revered Emir of Ilorin in bad light.

3.49 Unlike cases handled by the PCC, there is no evidence that these workers got the redress they sought.

### **THE CASE OF ASUU-UNIVERSITY OF ILORIN**

3.50 The ASUU of the University of Ilorin engaged the university authorities on a variety of issues with serious human rights implications. The issues fell into two categories: retrenchment of academic staff, and appointments, promotion and welfare issues. The human rights dimensions of these issues, as we shall see below, had largely to do with the extent to which the actions of the university conformed to laid down statutes and procedure (as set out in the

University of Ilorin Act) or were otherwise arbitrary, vindictive and discriminatory.

### ***Retrenchment of Academic Staff***

3.51 ASUU objected to the retrenchment of 65 academic staff (of which 56 were dismissals) in 1998 on a number of grounds: (i) it was based on Decree 17 of 1984 which was a violation of the autonomy of the university council as set out in the University Act – that in fact, competent courts had decided in cases involving Professor Itse Sagay and Dr Festus Iyayi of the University of Benin and Professors Toye Olorode and Idowu Awopetu of Obafemi Awolowo University that Decree 17 cannot legally be applied to academic staff; (ii) that the retrenchment violated the principles of justice, fairness and due process in that staff who never had any disciplinary case, those who had, but whose cases were yet to be decided, and those who already retired, had previously been reprimanded or had their appointments terminated by council, were among the retrenched, leading to what was described as “double jeopardy”; and (iii) that the retrenched list included those who were dismissed for being away without leave or failing to return at expiration of leave.

3.52 ASUU further accused the authorities of differential treatment and arbitrary application of the rules: while some had their salaries stopped or appointments terminated, others had their cases taken to the Appointments and Promotions Committee (AP&C) or to council, and while some on unapproved leave were given only 48 hours within which to return to work, others were given one month. These violations of rules were attributed to the deliberate victimisation of union leaders and activists, the application of obnoxious rules (such as that limiting the proportion of staff on sabbatical leave to 5

per cent) without consultation with senate and workers unions, and the illegal take-over of functions of the staff disciplinary committee by the AP&C. For instance, while Dr Abdul Rasheed Na'Allah who had enjoyed a three-year leave during which he obtained a doctorate degree and two promotions was given 8 weeks within which to resume duties after his application for a two-year leave extension was turned down, Dr Alana who was on a post-doctoral fellowship in South Africa was asked to return within 48 hours after the vice chancellor refused to give executive approval to his application for leave.

3.53 Although the contrasting treatment in this example illustrates the point ASUU was making, it also points to one feature that was common to most of the cases cited as victimisation: the fact that the staff concerned were away without approved leave. ASUU argued that their applications were supported by the relevant departmental and faculty committees and that this provided “sufficient confidence” and “reasonable excuse” to go on leave, especially as the AP&C, which normally gives final approval for leave, could not meet at the time. But what happens when the AP&C finally meets and turns down the application or in a situation where the vice chancellor, allegedly for reasons of victimisation, failed to grant the executive approval that is normally used to fill the gap, which was what happened in many cases? This question is without prejudice to the critical issues raised by ASUU, but there was obviously need for a thorough investigation to separate issues of due process from those of externally directed retrenchment based on the obnoxious Decree 17. ASUU itself made the point that objection to retrenchment did not also imply objection to disciplinary procedure.

### ***Appointments, Promotions and Welfare***

3.54 The authorities were accused of unilaterally changing the rules governing promotions, such as increasing the minimum period for promotion from two to three years; rejection of professional certificates as a criterion for promotion (how do you employ staff on the basis of such qualifications and turn around to reject them for promotion?); turning applications in for initial screening by the registry, which contradicted the rule that allowed a lecturer to put himself or herself up for promotion and carried the danger of possible discrimination; rejection of promotion cases from some faculties on the grounds of late submission; and take-over of the responsibility for determination of quality of journals and assessment of papers, which belonged to the faculties by the AP&C. There was also the strange decision that there would be no promotions to positions whose incumbents had died, even if as happened in two cases, the promotions had not been completed before death. On welfare, ASUU alleged, among others, undue delays in the disbursement of car and housing loans and refunds of service charge that had been paid by staff living in university quarters.

3.55 The problems and issues raised by ASUU and the problems it had with the authorities of the University of Ilorin show how difficult it is to run a university in a manner that suggests arbitrariness or excessive use of power, which seemed to have been the vogue in most Nigerian universities under military rule. ASUU accused the authorities of explaining things away, forgetting that logic, rationality and institutional order are at the core of university organisation. In particular, a university abhors “zealous attempts to impose policies that deprive academic staff in particular of their rights, privileges and entitlements”.

## **VIOLATIONS OF INDIVIDUAL RIGHTS**

3.56 Several cases of violation of individual rights were reported in the North-Central zone. The milieu of endemic conflicts and riots, abuse of office, excessive use of power (of which the most rampant was the flouting of court orders) and basic lack of respect for fundamental human rights and rule of law by overzealous law enforcement and security agencies, and authoritarian military rule were major underlying and reinforcing factors in this regard. These violations took the form of unlawful arrests and detention, torture, terrorism and intimidation. Another category of human rights violation involved the non-payment of adequate compensation to individuals, families and groups whose landed properties were compulsorily acquired by the state.

## **UNLAWFUL ARRESTS, DETENTION AND DEPRIVATION OF LIBERTY**

3.57 The police were the major culprits and perpetrators here, as the selected examples below show. But, in addition, excessive show of power by overzealous public officials was also a problem. Most of the problems staff and students had with the University of Ilorin authorities, for example, emanated from a perception that the vice chancellor was high-handed and overzealous. This was similar to the University of Agriculture, Makurdi whose vice chancellor had an agenda of suppressing members of other groups to favour his Tiv people. But there were more direct cases of excessive and overzealous show of power. For example, Lt. Col. Rasheed Shekoni, military administrator of Kwara state ordered the arrest and detention of 27 school children for jubilating over the death of General Sani Abacha in June 1998. The administrator before Shekoni had ordered the closure of three Christian schools in Ilorin, which were protesting the imposed

teaching of Islamic studies barely 48 hours to the junior secondary school certificate examinations in 1996. In another case, it was abuse of power and bias on the part of the police and public officers that were problematic. An area court judge in Minna ordered the arrest and detention of a father and his five sons who were alleged to have maltreated their daughter/sister, without hearing from the offenders and not minding that the children were under-aged – in fact, the judge had to go out of his way to persuade the prison authorities to admit them. The order was made on the basis of an allegation by the girl's aunt who was said to be very close to the judge, and had threatened to use her 'connections to deal with the father. The following cases highlight some of the more serious and dramatic instances of the deprivation of individual rights.

1. Mike Jukwe was arrested by the police in Gboko, Benue state, on June 15 1995 without warrant. He was held in detention without being told what his offence was for over one month, and was finally arraigned before the chief magistrate court in Makurdi for conspiracy and armed robbery on July 18 1995. The facts of the case were however that citizen Jukwe was unlawfully arrested, detained and refused bail at the instance of the Managing Director of the Benue Cement Company, Gboko, who alleged that his life and those of senior managers of the company had been threatened in an anonymous letter suspected to have been written by Jukwe. The police linked Jukwe with various acts of sabotage and destruction that subsequently took place in the company (three giant generators were set on fire, oil was drained from the kiln ostensibly with a view to destroying the production system, etc.), and the robbery and assassination of Mr Olaleye, a manager with the company. Mr Jukwe filed a suit of Habeas Corpus seeking release from detention or bail in the

high court of justice at Makurdi. In his judgement, the state chief judge, Hon. Justice A. Idoko observed that arrest on mere suspicion “collides violently with the basic human right of liberty” and that clamping a suspect in detention for the purpose of subjecting him to scrutiny was a violation of the intention of the law. He declared Mr Jukwe’s detention grossly unlawful because the police failed to observe the requirement of prompt arraignment, but had to dismiss the case because robbery was an offence for which bail could not be granted.

2. Ioguma Kpev, Tyonongu Mbachilin and Kunya Iornem, members of the same family at Uchem, Usamba in Makurdi local government area of Benue state, were arrested by a detachment of the police force that invaded their family compound on March 24, 2000. They were subsequently clamped in detention at the CID headquarters in Makurdi, without being told what their offence was. They claimed to have been underfed, tortured and dehumanized in detention.
3. Lovina Okwara was employed as a typist by one William Ndulue, a timber merchant in Makurdi. Ndulue had forced sexual intercourse with her, as a result of which she became pregnant. He then forced her to have an abortion and subsequently subjected her to dehumanizing and harrowing experiences, including being forced to eat the liver of an unknown animal administered by a herbalist, being detained for two weeks in a sick state in Ndulue’s house where his houseboy was detailed to keep watch over her, and being unlawfully arrested and detained for six days at the Railway police station on the orders of Ndulue. Lovina’s petition to the Benue state police commissioner yielded some dividend as Ndulue was ordered to pay her medical bills at the Federal Medical Centre in Makurdi. But shortly after,

Ndulue, with the assistance of his houseboy, sales manager and messenger, tied Lovina up and forcibly administered (sprayed) substance believed to be acid on her private parts. While on admission in hospital, Ndulue reported to police that Lovina had poured acid on him in an attempt to kill him, and caused this to be broadcast on Radio Benue. Upon discharge from hospital, Lovina was arrested by the police, detained for four days in her sick state, and subsequently arraigned for culpable homicide, although no statement had been taken from her. It took the intervention of the Inspector General of Police to whom she appealed after being rebuffed by the state commissioner of police and the AIG zone 4, pleading innocence, for the police to withdraw the case and for her to be discharged in court. But the acid attack had left Lovina deformed and incapacitated. She then filed a suit against William Ndulue and three others for trespass, assault, mischief, grievous bodily harm, and loss of opportunity to get suitable man for marriage. The police clearly aided and abetted the deprivation suffered by Lovina Okwara.

4. Kulugh Selah and eight others, all members of one family, were beaten, wounded and arrested by men of "Operation Scorpion", a special police anti-crime squad, on August 27 1998, at Tse Agarnor, Taraku, in Benue state. Although they were not told what offence they had committed, they were taken into indefinite detention at Makurdi, and refused bail.
5. In Rafi local government area of Niger state, one Bala katako was arrested and detained on the orders of the Divisional Police Officer (DPO) for plucking mangos in the DPO's residence. All efforts to secure bail, including a plea by the Emir of Kagara, failed. Finally, when Katako was arraigned in court for trespass and theft, and remanded in prison custody, there was rioting by

the youth who were fed up with the excesses of the DPO and the police.

6. 102 students of the University of Agriculture, Makurdi, alleged that their expulsion or rustication for acts of misconduct in the illegal demonstration by students of the university in January 1999 was unconstitutional and illegal, especially as the criminal charges of rape, arson, willful damage and theft leveled against them were not proved beyond reasonable doubt. They further alleged that they had been denied the right to fair hearing and justice because the vice chancellor and members of the senate who determined their cases were biased, having been victims of the violent demonstrations, and that they faced the senate panel as witnesses and not accused persons.
7. Students of the University of Ilorin and a group called the Campaign Against Victimization and for Independent Student Unionism, which claimed to be an “offshoot of NANS solidarity group struggling to reinstate victimized student activists accused the vice chancellor of high-handedness, insensitivity and various acts of oppression and repression including: (i) the arrest and detention for 37 days of 11 student activists for protesting an ‘unjustifiable’ increase in school fees; (ii) the indefinite suspension of two of the students without having been found guilty of any offence; (iii) the emasculation of student unionism, stifling of freedom of speech, and use of the university security to “witch-hunt” and “brutalize” antagonistic staff and students, especially those that opposed the government of General Sani Abacha; (iv) the withholding of the results and NYSC call-up letters of final year students with disciplinary cases in violation of court injunction; and (v) the degenerate and unacceptable state of amenities in student hostels.

## **CASES HANDLED BY THE PUBLIC COMPLAINTS COMMISSION (PCC)**

3.58 Although most of the cases handled by the PCC had to do with payment of compensation for land acquired by the state and the economic trees and other resources on them, the commission also dealt with a few cases involving the police. The significant thing about the latter cases was not so much that they further confirmed excessive, arbitrary and unlawful use of power by the police (and soldiers in one case at least), but that such excesses could be checked and redressed if oversight and regulatory agencies worked effectively. In many cases, the commission succeeded in getting apologies and reassurances on behalf of those whose rights were brutalized. In one case, the commission got the Kwara state commissioner of police and the Divisional Police Officer (DPO) at Offa to agree to deal with a policeman who beat his co-tenant (who was hospitalized) in a naked show of power. Similarly, following complaints of brutality by soldiers posted to keep the peace during the sale of 'essential commodities' (there was the case of Mrs O. who was mercilessly beaten by three soldiers for no just cause), the commission received an apology from the commander of the armoured brigade in Ilorin and a reassurance that adequate steps had been taken to avoid reoccurrence of such ugly incidents. The importance of the commission's work in seeking redress for victims of excessive use of power by law enforcement agents cannot be overemphasized, especially when one takes into consideration the impunity with which court orders were habitually disobeyed by government and its agencies in the period under review.

3.59 As we have indicated however, most of the violations of individual rights handled by the PCC had to do with the payment of compensation for land and economic resources on land acquired by

the state government for barracks, housing estates, hospitals, educational institutions, and infrastructure like roads. The commission also dealt with a few cases of contractors who were shortchanged and those whose payments were unduly delayed, as well as non-payment of insurance claims, but we shall focus on problems of compensation by government. Many of the demands for compensation were made after the promulgation of the Land Use Decree 33 of 1976 – some long forgotten cases were resurrected in the erroneous belief that fresh compensation was to be paid. In a few other cases, the claims were found to be frivolous, even fraudulent. For example, one complainant alleged that NEPA had not compensated him for the destruction of the economic trees on his land that it acquired for a project. Investigations by the PCC however showed that he had been paid a compensation of N236, which he admitted.

3.60 But where the cases were genuine, the commission helped the complainants to get compensation or some response from the appropriate authorities as shown by the following selected examples.

1. A family whose land was cut in half by construction work on the Minna-Kakaki road sought compensation for the whole land because it was dangerous to continue to live on the remaining half of the road which was too close to the new road. The family complained that the construction company hired soldiers to harass them each time they demanded for compensation. Through the intervention of the PCC, the federal ministry of works recommended payment of compensation for the entire land, which was made.
2. Alhaji A.O.'s land was compulsorily acquired by the Kwara state government in 1976 and later returned to him because the state had no further need of it. He was however

denied compensation for the economic trees and crops already destroyed in the land. The PCC persuaded the government to reconsider the matter.

3. A family in Ilorin complained that its land was acquired in 1976 by the Kwara state government, but were denied compensation even after the industrialist to whom the land was allocated had paid some money to government with which to settle compensation. The PCC successfully retrieved the compensation in 1988, 12 years after the land was acquired.
4. A fairly different kind of compensation was that demanded by victims of the Cameroun dam flood in 1994 and 1996 in Benue state for the loss of houses, farmland, crops, and other resources. The victims claimed that the federal government had released money for this purpose and that victims in other states – Borno, Taraba, and Cross River – had been paid, and that their petitions to the Tor Tiv, the environmental protection agency, Benue state government and federal government were not responded to. Investigations by the PCC revealed that the federal government had not responded to several enquiries and reminders by the state government, but received assurances that victims would be settled once money was received from the federal government.

3.61 In a few cases however, compensation could not be paid because the complainants were at fault. One such case involved Mr B.I. who demanded compensation for economic crops destroyed on his land acquired by the Kwara state government in 1988. It was found that Mr B.I. failed to heed government's announcement on radio and television advising owners of the land to be acquired stop farming after the 1987 planting season. So he was not entitled to compensation.

3.62 Once again, the foregoing examples show the important role played by the PCC in defending the rights of common people. This was in spite of the fact that it did not always enjoy the cooperation of the relevant authorities. In one case where the then Kogi local government council of Kwara state government failed to honour its agreement to compensate Alhaji W. of Lokoja for the land acquired in 1976, and the economic trees on it, the commission was forced to remind the state government that such actions were a threat to the credibility of the role of the commission as a defender of people's rights.

### **CONCLUSIONS AND RECOMMENDATIONS**

3.63 Having discussed the highlights of human rights abuses in the North-Central zone based on the report submitted by AFRIGOV, what can be said by way of conclusion? First is that by the very nature of the complex ethnic composition of the zone and a history of migrations and displacements, which are still on-going, it was an area of endemic conflicts. Secondly, tradition was a very strong component of human rights deprivations. Third, the excesses of the police, military and security agencies, as well as the excesses of overzealous and highly partisan state officials, which were facilitated by military authoritarian rule, were the major sources of human rights violations.

The following recommendations flow from the report.

1. The rights of citizens resident in areas and communities other than their own – so-called non-indigenes – should be guaranteed

and vigorously promoted. Discrimination of this form should be punished as appropriate.

2. Steps should be taken to study the nature, history and dynamics of ethnic groups and inter-group relations, for an adequate understanding of the conflicts among the groups, with a view to promoting interethnic harmony.
3. As much as possible, demands of groups for local political autonomy – chieftdom, district, village area, recognition of traditional ruler, etc. – in the name of asserting the right to self-determination should be responded to promptly. In this regard, the findings of the various panels and committees that have investigated the crises at different times, and the government white papers on them should be published and made accessible to all.
4. There is need for an intensive re-orientation of the police, military, security forces, intelligence agencies and other law enforcement agencies with a view to making them more human rights and rule of law friendly. At the same time, there is need for public enlightenment campaigns and human rights education for all segments of people, especially those in the rural areas
5. The need for government at all levels to be fair, unbiased and credible cannot be overemphasized. In this regard, overzealous and excessive public officials, especially judges and those who flout court orders, should be promptly checked, and victims encouraged to make maximum use of judicial channels of redress. As this report has shown, the PCC has proven to be a very useful agency in the defence of the rights of aggrieved

ordinary people. This commission and, indeed, all other such bodies should be strengthened as institutions for strengthening and consolidating democracy and human rights.

#### **END NOTE**

1. For the complexity of the ethnic composition of the zone, see Mvendaga Jibo, Antonia T. Simbine, and Habu S. Galadima, Ethnic Groups and Conflicts in Nigeria, vol 4: The North-Central Zone (Ibadan: Programme on Ethnic and Federal Studies, University of Ibadan, 2001

## **CHAPTER FOUR**

### **NORTH-EAST ZONE**

#### **INTRODUCTION**

4.1 This zone comprises six states, namely Borno, Adamawa, Yobe, Taraba, Gombe and Bauchi States, located in the north-eastern part of Nigeria. Its climatic conditions traverse the northern arid zone and the upper Benue valley, which is a rich agricultural area. It is also characterized by a complex mix of ethnic and religious groups. Some of the states, such as Adamawa, Gombe and Bauchi, were part of the pre-colonial Sokoto Caliphate, although with significant populations of diverse non-muslim nationalities. Although Borno and Yobe were independent of the Caliphate under the pre-colonial Bornu Empire, they have closer religious and socio-cultural affinity to the north-west zone. Many of the characteristic features of these areas are, thus, in many respects similar to those of the north-west zone.

4.2 In the sense that a significant portion of the zone shares many socio-cultural and historical political characteristics with the northwest zone, the pattern of human rights violations are also similar. These can be discussed under the following categories:

1. violations of land rights
2. violations of community rights
3. violations of right to life.

#### **VIOLATIONS OF LAND RIGHTS**

4.3 Cases of the violations of land rights of peasant farmers who constitute the majority of the population of this part of Nigeria mean the violation of their means of life and the basis of their survival.

Once deprived of this important means of livelihood, their lives are degraded, they are disempowered and marginalized.

4.4 Many of these cases of dispossession are related to activities of agricultural development projects, which, like the river basin authorities, have been very active state agencies of intervention in the agriculture-based areas of Nigeria, especially the rural segments. Below are some cases of violations of land rights in the North-East Zone:

1. The seizure of land from Muhammadu Lawan Kwando and 17 others by the Gombe State Agricultural Development Project (GSAP) at Kwando village, Yamaltu-Deba LGA, Gombe State. Their 6,000 hectare land was taken on loan by the Gombe Agricultural Development Project in 1975 for seedling multiplication and distribution to farmers. However, no seedlings were multiplied rather Officials of the project converted the land into their personal uses. The rightful owners demand for a return of their land was ignored by the officials, even though the agreement they signed with the ADP was for only five years. Hence, Malam Kwando petitioned the HRVIC for assistance to get back their land. Two letters affirm this seizure, the letter to the Human Rights Violations Investigation Commission dated 7/11/2000 and a letter to Muhammadu Lawan and 17 others by the Programme Manager, Gombe State Agricultural Development Project, dated 8th May 2000.
2. The seizure of land from Audu and Umaru Sarkin Karofi at Gombe by Gombe Local Government, Gombe State 1977. Their land was forcefully acquired without any compensation

and all their entreaties for a return of their land fell on deaf ears, until they decided to petition the HRVIC. This seizure was witnessed to by a letter to the Human Rights Violations Investigation Commission dated 10/10/2000.

3. The land seized from Babadidi Bolari at Gombe, by Gombe Local Government, Gombe State, 1977. He claims that the local authorities compulsorily took over his land and sold it. He wrote to the Human Rights Investigation Commission, on 10/10/2000 seeking redress.
4. The seizure of land from Hajiya Ya Fanta by Alhaji Mala Kachalla, at Nganaram village, Maiduguri, Borno State in 1977. Four evidences prove this seizure. The letter to Alhaji Mala Kachalla by Hajiya Ya Fanta's lawyers dated 21st May 1997; the letter to the Permanent Secretary, Ministry of Land and Survey, Borno State, by Ya Fanta's lawyers dated 11th February 2000; extracts from the judgment of the High Court of Justice, Maiduguri and a letter to the Attorney-General, Borno State, by Ya Fanta's lawyers dated 15th August, 2000.

## **VIOLATIONS OF COMMUNITY RIGHTS**

4.5 Cases of the violations of community rights clearly overlap with land rights. CEDDERT documented 30 cases of these violations committed essentially by government agencies and even arms of government established to ensure the development of these communities. Few cases below are on record in the North-East:

1. The seizure of farmland in June 1997 from the Tiv community of Mayo-Kam, Bali LGA, Taraba State. Two witness cases lend credence to this seizure. The report against Yakubu (Serkin

Dawa) of 18th July, 1997 by Mr. James Wakili Imetsugh and nine others. And the letter No. BLG/S40/Vol.I of 21st July 1997 from the Chairman Bali LGA to Mr. Wakili Jame, Imetsugh.

2. Violent attacks on the Zudai cattle rearers of Bali LGA of Taraba State in February 1999. Two letters support these attacks. A letter of Appeal of 3rd March 1999 to the Military Administrator of Taraba State by the Zudai village pastoralists signed on their behalf by Alhaji Manu Bature. The other letter is the one of 14th April, 1999 to the National Chairman, Miyetti Allah Cattle Breeders Association by Alhaji Manu Bature.

#### **VIOLATIONS OF THE RIGHT TO LIFE**

4.6 The cases of the violations of the right to life in Nigeria in general and the North-East, in particular, became overt following the events of Saturday, January 15, 1966 when the country witnessed the first military coup in which prominent civilian and military public office – holders were killed in coldblood. Other modes of violations also occurred from 1966 to 1999. Below are some examples of the said violations:

- i. The disappearance of Nigerian soldier Mahmudu Alkali Na'Biyu from Yola South LGA, Adamawa State, in 1968 following the outbreak of the Nigerian civil war is one case held as a violation of the right to life. The petition of 20th October 2000 by Mohammed Bello, Abubakar M. Malabu and Aishatu M. Alkali is an attestation to this.

- ii. The killing of Alhaji Saidu Gomna by military and police personnel in Operation Damisa at Hausari ward, Maiduguri, Borno State on 15th January 1991. Letters written by Balarabe Saidu Saleh on 20th May 1996, 15th October 1996, 21st October, 1996, 25th August, 1998 and 11th February 1999 to the Chairman, National Reconciliation Committee, the Brigade Commander, 21 Army Brigade Maiduguri, the Civil Liberties Organisation, North-East Zone, Maiduguri, the Secretary, Human Rights Commission Abuja and the Commission for Public Complaints, Maiduguri, respectively, are witnesses to this killing. Other evidences include a letter, No. PCC/BOS/2/99/17, of 1st March 1999 from Commissioner of Public Complaints, Borno State, to the Brigade Commander 21 Army Brigade, Maiduguri.
  
- iii. The killings of Sheikh Hassana Abdullahi and Bulama Buba on Wednesday, 20th May 1998 on the Bidelli – Ambuliya Road, Kala, Balge LGA, Borno State, is another case. There are four proofs to this killings. The Caroner’s Reports of 8th June 1998 on Sheikh Hassana Abdullahi and Bulama Buba by Dr. J.C. Amala Obi, Principal Medical Officer i/c General Hospital, Ngala Borno state. The other two proofs are the petition of 22nd July 1999 from Abdullahi Hassan to the Chief Judge of Borno State and the letter of 10th September, 2000 from Barrister Abdullahi Hassan to the Attorney General of Borno State.

**OTHER CATEGORIES OF VIOLATIONS**

4.7 In 1980, there was a celebrated case of an attempt to deport an opposition party stalwart, Alhaji Shugaba Darman of Borno

State. The then Minister of Internal Affairs of the ruling party under the second republic, in a naked display of power and its abuse, used the resources at his disposal, especially the immigration and the police, to deport Alhaji Shugaba to Chad on very flimsy grounds. It took a scandalous public uproar and strong opposition, plus the intervention of the courts, to save Shugaba from deportation.

4.8 In the 1990s, most of the cases of violations relate to infringements on citizens' rights by overzealous police and security operatives, especially arbitrary arrests, detention and harassment. Indeed, there were a few reported cases of extra-judicial killings by the police, especially pertaining to attempts to clamp down on increased militancy of Muslim fundamentalist groups, the Maitasine type millenarian groups, as well as alleged armed robbers.

## **CONCLUSION**

4.9 Again, like the case of the north-west zone, the reported cases of violations probably barely scratch the surface. There is a lack of vibrant civil society groups, which can monitor and document such violations; there is little if any media outlets for reporting and agitating against these violations; and victims hardly ever try to seek redress in courts. Consequently, many cases just do not get recorded or reported.

4.10 In any case, it is important to ensure that citizens become enlightened and mobilized to protect and defend their rights from especially violations by the state and its agents or agencies. Those violations of community and land rights need to be thoroughly investigated and where necessary reprieve granted to the victims.

## **CHAPTER FIVE**

### **SOUTH-WEST ZONE**

#### **INTRODUCTION**

5.1 The report presents the findings from the investigation of human rights violations in South-Western Nigeria from 1966- May 1999. A total of 568 cases of human rights violations that occurred in the region for this period were reviewed. The cases are divided into seven categories. These are extra-judicial killings, political assassinations and attempted assassinations; unlawful arrests and detention; violation of human dignity as reflected in inhuman treatment, torture, extortion and other forms of brutality; freedom of expression and Press freedom; Political and Citizenship rights; social and economic rights including violation of property rights; and academic freedom and state of University. These categorisations of rights violation do not follow any strict pattern, but designed only to capture the various dimensions which rights violations assumed in South-Western Nigeria.

5.2 The report takes a global view of the issue of human rights drawing from a broad range of perceptions and understanding of it and relies on legal instruments, both local and international as basis for its pursuit and legitimate claims. Essentially, human rights is viewed in more liberal terms as the demands and claims that individuals and groups make on society and protected by the law or considered as aspirations to be attained by society. The legal sources of these rights include the Nigerian constitution, African Charter on Human and Peoples Rights, and the Universal Declaration of Human

Rights. The range of rights dwelt upon are; civil and political rights that include right to life, freedom of speech, movement, and association, religion, freedom from torture and inhuman treatment, right to liberty and security, right to fair trial, right from slavery and forced labour, right to marry and own a family, and right to participate in one's government either directly or indirectly through freely elected representatives and the right to nationality and equality before the law.

5.3 The second category of rights are Economic, Social and Cultural Rights, which include right to work, right to fair remuneration, adequate standard of living, right to organise and join trade unions, right to collective bargaining, right to equal pay for equal work, right to social security, right to property, right to education, and right to participate in cultural life and enjoy scientific progress.

5.4 Some of these rights are fundamental human rights and are protected by most statutes. These are mainly the civil and political rights that include right to life, freedom of expression, association, religion, freedom from torture and inhuman treatment and fair trial. However, most of the social and economic rights constitute mere aspirations and are non-justiceable. That is, they are not rights that can be claimed in a court of law. This is the case in Nigeria. Successive Nigerian constitutions classify the economic and social rights like right to employment, shelter, education, and social security as part of the "Fundamental Principles of State Policy," which the state aspires to achieve. They are therefore non-justiceable rights.

5.5 While human rights were violated under first civilian regime (1960-1966), the high points of human rights violations started

with the military incursion into politics in 1966. A significant part of that process was the civil war period when flagrant violations of human rights occurred in a war situation. The trajectory of human rights violations peaked under the Abacha regime, with cases of alleged state sponsored assassinations, extra-judicial killings, arbitrary arrests and detentions, and general high handedness by the state. As such, most of the human rights violations recorded herein occurred under military regimes.

## **METHODOLOGY AND SCOPE OF REPORT**

5.6 The terms of reference of the report indicates that the report was to cover the following areas:

- The effect of the 1966 coup and its impact on governance in Nigeria.
- The after-effect of the Nigerian civil war on the concept of unity in Nigeria.
- The solution to abandoned property problems.
- Military rule and democracy.
- Human rights violations consequent on i-iv and
- Any other related issues.

5.7 The methodology adopted to unravel human rights violations by the report was to classify it into five main categories hitherto identified. These are:

- Right to life and Respect for human dignity
- Freedom of expression and press freedom.
- Political and citizen rights.
- Social and economic rights.
- Right to own property.

5.8 The report relies essentially on secondary sources as the basis of its data. Data sources include newspapers and magazines, annual reports of government and non-governmental organizations, and informal discussions held with officials of some human rights organizations in the region. For each case, information was obtained about the name and age of individuals involved, the date and place(s) where it occurred, the number of persons involved, the official/institutions involved, and a brief details of the incident. A table is presented to give a graphic illustration of nature, type and extent of those human rights violations. The documentation sources relied upon include the annual publication and reports of organizations like the Civil Liberties Organization (CLO), Committee for the Defence of Human Rights (CDHR), Empowerment and Action Research Centre (EMPARC), and the Constitutional Rights Project (CRP).

### **EXTRA-JUDICIAL KILLINGS AND POLITICALLY MOTIVATED ASSASSINATIONS**

5.9 In the period of military rule especially between 1984-1999 there were rampant cases of extra-judicial killings and political motivated assassinations. Reported cases of extra-judicial killings in south-western Nigeria was eighty-five (85). There are two patterns to this. First are those perpetrated by security agencies of the police, soldiers and other security forces against the citizens either in the course of their duty through acts of negligence and force or in informal contexts. The second category is the politically inspired murders and assassinations, which are perpetrated against political figures in the society, with wide speculation and belief that there was the complicity of the state in such cases. A few of these cases will be mentioned. On February 11, 1995, a hapless citizen, Idris Adeleke Ilumoka was shot and killed at Alhaji Masha Roundabout, Surulere, Lagos, by some

soldiers led by Staff Sergeant Williams of the Internal Security Platoon of the Army School of Ordinance. Ilumoka was shot while he was returning from a social function at Aguda, Surulere in the early morning of February 11, 1995. He was shot in his car together with five persons two of who were seriously wounded when he was shot.<sup>1</sup> Similarly on August 5, 1996, a citizen, Salawa Ayinla, was shot by a policeman at Mangoro Bus stop, Ikeja, while returning from work. The next day, August 6, 1996, the victim died as a result of wounds sustained from the shooting at the Ikeja General Hospital where he was taken to by the police<sup>2</sup>.

5.10 With regard to political assassination and murder, some prominent political figures opposed to military rule were gunned down by unknown assailants in questionable circumstances. These include Alfred Rewane, who was murdered in cold blood at his GRA residence in Lagos in October 1995. He was then a leading member of the opposition, the National Democratic Coalition (NADECO) engaged in the struggle against military rule and the revalidation of the annulled June 12, 1993 presidential election. Alhaja Kudirat Abiola, the wife of the detained politician and winner of the annulled June 12, 1993 presidential election was assassinated on June 4, 1996 at Ikeja on her way to the Canadian High Commission, Victoria Island. A curious thing about her murder is the role played by some soldiers who arrived the scene, upon being alerted at the nearby security post, as reported. One of them, it was said by eye witness accounts, felt Kudirat's pulse and upon discovering that she was still alive, chased away the sympathisers who were beginning to gather. Another one of them was said to have commandeered a minibus with which Kudirat, her injured driver and Dr. Olufemi Adesina, her personal assistant, were conveyed to the EKO hospital, Ikeja.<sup>3</sup> Another case of such

assassination was that of Alhaja Suliat Adedeji who was gunned down at her GRA residence, Iyanganku in Ibadan on November 14, 1996 by unknown assailants. On November 1996, Dr. Shola Omoshola and his cousin Nelson Kazeem were killed along Airport Road in Lagos in a bomb blast planned by unknown persons.

### **ATTEMPTED ASSASSINATIONS**

5.11 During the military era, especially under the Abacha regime, apart from cases of what appeared to be politically motivated murders, there were attempted assassinations of prominent political figures in the country. Examples of some of these would suffice. On June 14, 1997, unknown gunmen attempted to assassinate Senator Abraham Adesanya at ELF filling station near Sura Market on Lagos Island, about 200 meters to his law chambers at 12 Simpson Street, Lagos. Eight bullets were shot into his Mercedes Benz car. He however escaped being killed in the attack. Alex Ibru, the publisher of the Guardian Newspaper, was also attacked on February 3, 1995 with the intent of being killed by unknown assailants in Lagos. While he narrowly escaped death, one of his eyes was badly affected by the attack. He had to be flown abroad for medical treatment.

### **UNLAWFUL ARREST AND DETENTION**

5.12 Unlawful arrest and detention was a hallmark of military rule in Nigeria as military decrees often empower the state and its security agencies to detain citizens without trial in violation of their fundamental human rights. While all military regimes in Nigeria share this characteristic, the most bizarre of such was under the Abacha regime. Three hundred and eighty-nine (389) cases of such rights violations were recorded from 1966 to May 1999 in South-western Nigeria, a list which is by no means exhaustive. Some of it was

politically motivated, while others were based on the reckless and arbitrary powers often exercised by security officers in the country especially the police, the army and the state security service. A few examples will be cited. On May 1, 1998, the United Action for Democracy (UAD), a pro-democracy organization organized a rally in Ibadan, Oyo State, to commemorate the May Day for the year. Security operatives stormed the venue of the rally and arrested twenty-three people who were mostly civil society and political activists. The list of those arrested and detained includes Bola Ige, Lam Adesina, Ola Oni, Segun Mayegun, Ayo Opadokun, and Femi Adeoti.<sup>4</sup> On May 25, 1995, Chief Michael Ajasin and forty other leaders of Afenifere, a socio-political organisation representing the interests of the Yoruba ethnic group, and which was then involved in the pro-democracy crusade especially to de-annul the June 12 presidential election won by a Yoruba man, Chief M.K.O. Abiola, were arrested and detained at the Owo home of Chief Ajasin while they were having a meeting of the group. The names of those arrested include Olu Falae, Ayo Fasanmi, Abraham Adesanya, Ganiyu Dawodu, Ade Adefarati, Abudulazeez Afolabi, M.A. Baruwa, Ayo Adebajo and Rafiu Jafojo. Chief Ajasin, who was 89 years old was released after a day in detention, while the others were released ten days after, June 5, 1995.<sup>5</sup>

## **INHUMAN TREATMENT, TORTURE, EXTORTION, AND OTHER FORMS OF BRUTALITY**

5.13 Incidents of torture, inhuman and degrading treatment, extortion and various forms of brutality in all its ramifications persisted in South-Western Nigeria in the period studied. Torture as a method of investigation was very rife in the police and other security agencies. Those security forces often employed the use of electric shocks, whips, cigarette burns, manacles and other means of torture.

Extortion of citizens by force is another way through which the security agencies especially the police violate the rights of the citizens. There were no less than 28 reported cases of inhuman treatment and degradation and five reported cases of extortion in South Western Nigeria between 1966- May 1999. A few examples of this will be cited. On April 7, 1995, Mr. Lekan Ogeroju was attacked and beaten up by two military officers in Ibadan over a complaint that there was no diesel to generate electricity in the government house in the event of power failure. The man pleaded that he should be allowed to contact his subordinates in order to make arrangement to provide the diesel but this fell on deaf ears as the soldiers maltreated him by kicking him with boots and fists until he started bleeding from his nose.<sup>6</sup>

5.14 There were situations in which the brutality and torture of the police on suspects resulted in the death of the detainees. Two cases of this will be cited. The first is that of Mr Fakayode, a student who was arrested at home by two plain-cloth, policemen from Onimode police station in Ondo State on December 5, 1991. He was accused of having participated in a robbery incident and charged to court. But he was released on bail the following day. However, on December 9, 1991, he was re-arrested. Two days later he was admitted to the state hospital unconscious and with bruises on over his body. He died a few hours later. Detainees at the police station confirmed that the suspect was severely beaten by the police during interrogation.<sup>7</sup> The second example of inhuman torture leading to death of detainees is that of Mr. Elechi Larry Igwe, a businessman who was killed in police custody at the Surulere Police Station in Lagos State on December 20, 1990. He was arrested on December 19, 1990. The official police account is that Mr. Igwe was killed with other occupants of his car who were suspected to be armed robbers in a gun

battle with the police. However, the car taken into custody, as the Civil Liberties Organization documents allege, had no bullet holes.<sup>8</sup>

5.15 Apart from incidences of detained persons, the police in South-Western Nigeria also subjected law-abiding citizens to inhuman treatment and extortion. Policemen at check points usually take the law into their hands as they accost citizens at random demanding to search their bags. Those who dare refuse are mercilessly beaten or threatened with being shot. A case will suffice in this regard. In 1997, a citizen, Mrs Kemi Pedro was accosted at Cele Bus Stop on Apapa-Oshodi expressway in Lagos by the “Operation Sweep” men, a special anti-crime patrol team in Lagos. One of the soldiers in the team demanded for her bag to be searched, but she refused. For daring to refuse, the woman was flogged all over her body with horsewhip and the contents of her bag confiscated. The confiscated items include her one-month’s salary, international passport, bracelets, and other personal effects. Mrs Pedro petitioned the National Human Rights Commission to cause an investigation to be conducted on the matter. She demanded for a public hearing for all victims of “Operation Sweep” misdemeanour in view of the large-scale abuse of citizens’ rights, which they undertake in a regular basis. Her petition was never treated.<sup>11</sup>

## **VIOLATIONS OF FREEDOM OF EXPRESSION AND PRESS FREEDOM**

5.16 An area of human rights that came under serious attack in South-Western Nigeria particularly in the era of military rule was freedom of expression and the rights of the press. Military regimes in Nigeria were notorious for promulgating obnoxious decrees meant to curtail freedom of expression and the right of the press to inform and

investigate public issues. Such was the passage of Decree 4 of 1984 under the Buhari regime under which two journalists, Tunde Thompson and Nduka Irabor, were jailed. Since there is a large concentration of the print media, particularly private ones in South-Western Nigeria, the region came under severe pressure from the military in this regard. The media in South-Western Nigeria, often referred to as the “Lagos-Ibadan Axis press,” is often dreaded by military regimes given the critical stance of some of these media organizations on public issues.

5.17 Methods adopted to curtail press freedom and freedom of expression include, arrest and detention of media practitioners, their arraignment before the court/tribunal on spurious charges, proscription of newspapers, invasion and occupation of media houses, arson attack on media houses, confiscation of newspapers and magazines, and intimidation and harassment of journalists and their families. Indeed, some of the media houses had to go underground in order to continue publishing in what was then generally referred to as ‘guerrilla journalism’.

5.18 There were fourteen reported cases of violations of press freedom between 1966 - May 1999. A few examples will be cited. On July 15, 1995, Lekan Otunfodunrin and Babafemi Ojudu, editors of *The News*, and *AM News* respectively, and Sesan Ekisola of Ray Power, a private radio station in Lagos, were arrested by the men of the Lagos State Police Command. Their arrest followed a report by their newspapers and radio that a Nigerian resident in the United States was killed and his foreign currency stolen by the men of the Makinde Police Station, Oshodi, Lagos. While Messrs Otunfodunrin and Ekisola

were released days after their arrest, Mr Babafemi Ojodu was released only after two weeks in detention.<sup>12</sup>

5.19 In terms of the closure of media houses, several media houses were closed in South-Western Nigeria especially under the Babangida and Abacha regimes mostly as aftermath of the June 12, 1993 presidential election crisis. These include *The Guardian*, the *Punch*, and *Concord* Newspapers on December 12, 1994 by the state security service personnel. The closure of those papers had to do with their consistent position on the June 12, 1993 election. Anti-riot policemen were stationed at the gates of those media houses to prevent both staff and customers from entering the premises of the organization. The media houses were closed for about six months. The government in flagrant violation of the law disobeyed court orders issued with respect to the suit instituted by the management of *The Guardian* newspaper to challenge the closure.

Similarly, the Broadcasting Corporation of Oyo State was closed on February 8, 1995 on the orders of the Oyo State Military Governor, Colonel Ike Nwosu. In addition, Nwosu ordered the suspension of fifty workers of the corporation. The Governor's action was a reprisal against a strike action embarked upon by the workers over management problems.<sup>13</sup>

5.20 Another dimension in the intimidation of the press in south western Nigeria was the use of arson against media houses. Some media houses were set ablaze by unknown arsonists. These include *The Guardian* Newspaper in December 16, 1995 and *The News* publishing house in December 31, 1995. Some print media also suffer heavy economic losses due to the confiscation of their newspapers and

magazines by state security agents. Whenever newspapers and magazines carry editorials or stories that are considered uncomplimentary by the state, security agents are let loose to either confiscate that edition of the paper or harass their the editors of those newspapers. For example, on December 17, 1995 security operatives raided the premises of the Academy Press in Lagos and seized 55,000 of the week's edition of the *Tell* magazine captioned "Abiola's Freedom: The World Waits for Abacha." The same feat was repeated the following week when the December 23, 1995 edition captioned "Abacha is Adamant, Terrorises the Opposition" was confiscated from vendors and magazine sellers. No less than 50, 000 copies were seized.<sup>14</sup>

5.21 The political environment was generally inhospitable for press freedom and freedom of expression under military rule, particularly under the Babangida and Abacha regimes. Some civil society and political activists were hounded into self-exile by the state during this period when there was apparent threat to their lives given the critical views that they hold on national issues. A large number of those individuals were from the south western Nigeria that include Wole Soyinka, the Nobel laureate for literature, Lt.General (rtd.) Alani Akinrinade, Anthony Enahoro, Tokunbo Afikuyomi, and Ahmed Bola Tinubu.

#### **VIOLATIONS OF POLITICAL AND CITIZENS RIGHTS**

5.22 There were gross violations of citizens and political rights in south western Nigeria and the nation generally in the period 1966-May 1999. This was more pronounced in the era of military-authored political transition programmes, especially under the Babangida and Abacha regimes. With regard to political rights, it was rampant to

disqualify some politicians from standing for elective office, denying citizens the right to form their own political parties through foisting parties on the people, and annulling election results. The agenda for those regimes was to perpetuate themselves in power through manipulating the political process. In the Babangida transition programme, several politicians were banned from contesting for elections, and those considered by the regime to be 'radicals' were also disqualified for 'security reasons'.

5.23 The most criticised of such political rights violation was the annulment of the June 12 1993 presidential election, which was won by Chief M.K.O. Abiola, a businessman from Ogun State, south western Nigeria. The violations of Chief Abiola's right was not restricted to his political rights to claim his electoral mandate, he was also detained between 1994 and 1998. Abiola died in very mysterious circumstances in the custody of the state. Recent revelations point to the fact that there was the complicity of the state in his death.

### **VIOLATIONS OF SOCIAL AND ECONOMIC RIGHTS**

5.24 Social and economic rights encompass those rights designed to protect the social and economic advancement and dignity of the citizens, especially the underprivileged in society. Some of these rights include the rights of workers' (rights of association, collective bargaining, discrimination in employment, and freedom from forced labour), right to education, especially basic primary education, shelter and decent living. Although most of these rights are advocated and by international conventions and declarations, they do not form part of the enforceable legal rights of the citizens in many countries including Nigeria.

5.25 The violation of social and economic rights in south western Nigeria took various forms. These include the denial of workers' rights to unionise and undertake strike actions, illegal dismissal of workers, arbitrary increase in school fees which imposed greater burden on students and parents, the destruction of the houses and shelter of helpless citizens in the society and a general deteriorating living condition for the people arising from the policies of the state.

5.26 Between 1966- May 1999, there were fourteen reported cases of the violation of workers' rights. A few of those violations would be cited. In 1995, Colonel Ahmed Usman, the military Administrator of Oyo state dismissed 68 primary and secondary school teachers in an attempt to break a strike declared by the state's Association of Classroom Teachers. The striking teachers were demanding the payment of the arrears of their salaries and leave bonus for a period of three years and the implementation of increases in emoluments granted by the federal government since October 1994.<sup>15</sup> Between October 1991 and May 1994, there were disagreements between the workers' union of the Nigerian Security Printing and Minting Corporation and the management over the upward review of salaries of workers, a situation which provoked high-handedness by the management leading to the dismissal of 1,000 workers in the corporation, the dissolution of the union of the workers, and the arrest and detention of some workers.<sup>16</sup>

5.27 With regard to the rights to basic education, the minimum core components of that right were not protected. These include right to free and compulsory primary education, adequate and effective provision of secondary and tertiary education, equal enjoyment of and

access to educational facilities, academic freedom and freedom from inhuman treatment in schools. Over the years, successive Nigerian governments, especially military regimes, have largely reprioritized education such that conditions for learning in the schools have, deteriorated. This significantly which has adversely affected the standard of education in the country. In many primary and secondary schools in south western Nigeria, children had to buy and carry their own desks and chairs to school daily, and basic instructional materials like chalk, blackboards, and pencils are hardly available or grossly inadequate. Yet, the level of school enrolment continues to increase.

5.28 In spite of this harsh learning condition, in many states in south western Nigeria school fees were either introduced or increased at a time when the economic crisis was more excruciating from 1985 to 1999. A few examples will suffice. In 1995 in Oyo state, a N100 levy was imposed on primary school pupils and primary school pupils seeking admission to secondary school were to pay a levy of N1,500. The excuse given was that the state could no longer bear the burden of financing primary and secondary education alone. Also, in Osun State in 1995, the military administrator, Commander Anthony Udofia, announced a fee of N150 per student in all public secondary schools. He claimed that the fee became necessary in order to improve the quality of education as the government can no longer singularly fund education. This fee imposition was quite significant, as the minimum wage at this period was only N250.<sup>17</sup>

5.29 Another instance of socioeconomic rights violation is in the area of housing and shelter. Under military rule, many citizens living in slums were dispossessed of their abode under the pretence that

such structures were either illegal or that the state wanted to undertake reconstruction work in those places. In most cases, the dispossessed was neither resettled by being given alternative accommodation nor were they given compensation for their demolished structures. For example in July 1990, over 300,000 people were forcefully evicted and displaced from Maroko, a sprawling slum community in Lagos by the Lagos state government. Following the forced eviction, many of the victims who could not afford to rent an accommodation in Lagos took refuge in uncompleted buildings, and abandoned government housing projects, while others had to leave for their villages, thereby disrupting their social life including the education of their children. While the Lagos State Government gave a very nebulous excuse for the demolition, that the location was unsafe for habitation and therefore needed to be taken over by the state, the area has since been re-developed and parcelled out to the rich and influential in the society, including retired military officers, civil servants, businessmen and politicians.

## **VIOLATIONS OF ACADEMIC FREEDOM AND THE STATE OF THE UNIVERSITY**

5.30 Tertiary institutions and particularly the university constitute an area which came under siege during military rule. The rights of scholars, both academic staff and students, to associate and exchange ideas, make demands as regards their interests and constituency and air their views and protest on public policy were flagrantly violated by the state or authorities of tertiary institutions, or both in collaboration. The attack by the state on this social category was due to the fact that the group constitutes one of the most vocal and critical voices in the civil society against military rule. At different times, academic staff union, and students' associations were banned,

their leaders arrested, dismissed or rusticated, and policemen placed at the gates of the universities in order to curtail or prevent any demonstration or agitation against the state. The law enforcement agents sometimes display extreme use of force during students' demonstration which in some cases led to students being killed, maimed or injured by those security forces. In virtually all these cases, the students never got justice as most investigation panels instituted by the state to unravel those incidents either do not see the light of the day, in terms of their reports being released or made public, or a verdict of 'not guilty' is passed by those commissions on the state and its agencies in their reports.

5.31 There are several cases in which students have been victims of the high, handedness of the state or its security agencies in tertiary institutions in south western Nigeria. A few of this would suffice. On February 1, 1971 at the University of Ibadan, a student Kunle Adepeju, a student of the Faculty of Agriculture was shot dead by the police inside the University. The conflict arose as a result of demonstration by students over feeding arrangements in one of the halls of residence, Nnamdi Azikwe Hall. Although the students wrote a petition to the Vice Chancellor on this issue insisting that the manageress of the Hall cafeteria should be removed for alleged corruption, inefficiency, poor productivity, and poor public relations, the school authorities appeared to have been insensitive to their demands, a situation which later led to demonstration by the students. To curb the students protest, the Vice Chancellor invited the police, who handled the issue with extreme force using live ammunition against defenceless students. A similar scenario recurred during General Olusegun Obasanjo regime in 1978 when the popular "Ali Most Go" uprising by students was brutally suppressed. In that

crisis, students from tertiary institutions in Nigeria were protesting over the hike in the cost of accommodation and feeding by the government. While the students first undertook a boycott of lectures for about one week in April 1978, they later resorted to public demonstrations when the government did not heed their demands. In the process, many students were killed, injured, arrested and detained by the police. One of those who lost their lives was Akintunde Ojo at the University of Lagos.

5.32 The 1978 crisis provided ample opportunity for the state to unleash repression and victimisation against academic staff of universities affected by that crisis. Government alleged that some academic staffers were behind the incitement of the students. Consequently, some lecturers were dismissed from the University of Ibadan by the state. Those dismissed include Drs. Bade Onimode, Wale Adeniran, Ola Oni, Akin Ojo and Omafume Onoge.

5.33 During the Structural Adjustment Programme (SAP) period of the Babangida regime, the Nigerian state was very vicious in its dealings with the students and their organisation, the National Association of Nigerian Students (NANS). The students and their organisation were viewed as one of those restive forces in the civil society that wanted to derail the implementation of the Structural Adjustment Programme of the regime.<sup>18</sup> The fact that SAP adversely affected the educational sector as statutory allocation to tertiary institutions declined in real terms and the galloping rate of inflation in the country negatively affected the students as most of them could not eke out a decent living, forced the students to rise up against SAP. From 1988 to 1991, students' demonstration mostly against the economic policies of the Babangida regime became an annual event. It

is either the protest is directed against increase in prices of petroleum products, the excruciating effects of SAP or the deteriorating condition in the educational sector. At a point, the students began to make explicit political demands insisting that military rule be terminated in the country. The students' organization began to work in tandem with other civil society groups to promote the cause of democracy in the country. The reaction of the state to this action of the students was to unleash repression on them and their organisation. Their organization was banned, their leaders frequently arrested, tortured and detained many of them were rusticated, killed or maimed by the security agencies. Between 1986 and 1994, at least no less than 1,000 students were arrested and detained by the state, while over 600 were rusticated or suspended. The peak of this state repression was in 1992, when Olusegun Maiyegun, the NANS president was arraigned together with some pro-democracy activists before an Abuja magistrate court on charges of treason after being kidnapped and detained for 19 days. Maiyegun's offence, which was classified as treason, was that he was distributing leaflets calling for the return of the country to civil democratic rule.<sup>19</sup>

5.34 The Academic Staff Union of Universities was also a victim of human rights violations by the state as the organisation was banned, salaries of academic staff stopped when they exercise their labour right of a strike action, and their leaders intimidated, harassed and detained.<sup>20</sup> In July 1988, the Academic Staff Union of Universities (ASUU) went on strike over salary matters. The introduction of an Elongated Salary Structure (ESS) by the state in the public service meant that in practical terms the higher pay enjoyed by academic staff over the civil service structure had been undermined without any intention by government to review the salary of academic staff

upwards. This situation compelled the lecturers to go on strike. The response of the government was to proscribe the union, eject lecturers from their quarters, and harass the officials of the union. Some of the union leaders, like its president Dr. Festus Iyayi were illegally dismissed from their jobs. It took a protracted court process before Festus Iyayi regained his position back in the university.

5.35 In 1992 at the Lagos State University, the university authorities illegally dismissed some academic staff and students for their critical views in the management of the school. Those dismissed were mainly union leaders of the academic staff union and the students' association. Both the chairman and secretary of the local branch of ASUU in the university, (Dapo Asaju and O.A.K. Noah were among those illegally dismissed from the university). This situation precipitated a prolonged crisis in the university as the academic staff of the university went on strike enunciating the principle of "sack one, sack all," while the students embarked on incessant demonstration to protest the rustication of their colleagues. The consequence was the closure of the school for about one year. Those demonstrations led to confrontation between the police and the students, as policemen were stationed at the gates of the school. In the fracas, stray bullets killed a student, Kunle Sonowo.

5.36 In all these cases of the violations of rights of staff and students, the government remained quite unrepentant, and virtually all the committees and commissions set up by the government passed a verdict of guilty on the state even in cases where life ammunition was used against the students. In cases in this did not happen, the government white paper on such panels or commissions usually

absolves the government of any blame and sometimes justify the use of firearms against defenceless students.

## **OBSERVATIONS AND ANALYSIS**

5.37 The scope of human rights violations covered by this study is not exhaustive as there are many cases of human rights violations that are not reported, either due to the factors of poverty, ignorance, general apathy, complacency or fear of further reprisals. It is only those cases that caught the public glare through media coverage and reportage or in which the victims cry out that are documented. Even all the documentary sources of human rights violations in south western Nigeria cannot be covered. What has therefore been presented in this report is a sketch of the nature, types, and trends of human rights violations in the region.

5.38 The following are the main features and trends of human rights violations in south western Nigeria between 1966 - May 1999:

1. The level of human rights violations in Nigeria tended to be higher under military regime especially under more vicious and repressive military administrations as witnessed under the Buhari, Babangida and Abacha regimes.
2. Almost all the cases of human rights violations covered by the study involved government agents directly or indirectly.
3. The right to life and respect for human dignity was the most widely violated aspect of human rights in south western Nigeria. For instance out, of a total of 568 cases covered by the study, those that constitute a violation of the right to life and human dignity were 513. The next to it is the social and economic rights including

the right to property (35) followed by violations of press freedom (14), while the violation of political and citizenship rights was 6.

4. Out of the 513 cases of violations of right to life and respect for human dignity, 389 fall into the sub-category of unlawful arrest and detention. There are widespread stories and reports about how the rights of suspects and detainees were flagrantly violated by the police. Particularly disturbing are stories about the violation of the right and dignity of women through allegations of gang- raping of women suspects and torture of detainees. There are even stories, which suggest that men of the underworld might have infiltrated being police units. There are stories of killings and bodies of the dead been disposed off to interested searchers from the underworld. Although the study could not establish the veracity of these stories, however, there is need for serious and systematic investigation to be conducted into such alleged activities of the police force.
5. While the study covered cases of human rights violations in south western Nigeria, it did not cover follow up actions or activities to those violations. It did not unravel the details as to in which cases redress was sought and obtained, and cases, which were not.

## **RECOMMENDATIONS**

5.39 The nature of governance or type of government has a direct relationship with the observance and respect for human rights of the citizens in any political community or society. Governments and regimes that have little or no respect for the rule of law and the constitution of the country are more likely to have less respect for the rights of the citizens. As such, democratic governance in which the participation of the citizens in the political process is elicited and the

rule of law upheld is more likely to respect and protect the rights of citizens than military ones. This has been well explicated in the study of south western Nigeria. This does not mean that democratic regimes do not violate the rights of citizens. However, the possibility of redress is present in a democratic order.

5.40 The following are the recommendations proposed in order to promote a new culture of respect for the rights of the citizens in Nigeria.

1. (a). There is need for systematic, sustained, and multi-faceted approach to promote civic and political education. Indeed, the curricula of Nigeria's educational system from the primary to tertiary level should provide for the teaching of human and citizens' rights.
- (b). At the secondary school level, human rights and the constitution of Nigeria should be integrated into the syllabi of subjects like Government, History, and Social Sciences.
- (c) There is need for public enlightenment campaign through the media for the purpose of sensitising the public on the issue of human right and in particular their rights as citizens. Established state institutions and departments like the National Orientation Agency, and the Ministry of Information may need to be involved in the campaign.
- (d). The institution of Ombudsman should be reactivated so that the people can have an avenue to complain and redress their grievances without having to go through a tedious court process.

2. At the tertiary institutions, multidisciplinary research on human and citizens rights should be encouraged in order to promote greater understanding, knowledge and awareness on those issues.
3. There is need for rebuilding and reorienting national institutions and agencies like the Nigerian police, the state security service etc. to make them people - friendly and serve the interest of society rather than those of the ruling regime or government. There is need to inculcate human rights values in those institutions and for them to appreciate that national security transcends the security of individual regimes. National security imperative should include the security of the people.
4. The National Assembly and the executive should expedite action in ensuring that all obnoxious laws are repealed, and the law reform process in the country is carried out with thoroughness.
5. The state should ensure that victims of human rights violations are recompensed either through public apology or tangible compensation. In cases where state officials were involved and victims lost their lives or suffered heavy losses, detailed investigations should be carried out and the officials involved, if found guilty, should face the full wrath of the law.

## **CHAPTER SIX**

### **SOUTH-EAST ZONE**

#### **INTRODUCTION**

6.1 The southeast zone is one of the relatively more homogeneous geo-political zones in Nigeria. It is home to the Igbo (Ibo, Ndigbo), one of the three most populous and dominant ethnic groups in the country – official estimates put the Igbo population at about 13.5 million, but unofficial sources, which are believed to be less politicized, put it at 40 million. Although the five states of the South-East – Abia, Anambra, Ebonyi, Enugu, and Imo – are the main homeland of the Igbo, Igbo subgroups are also found in Delta, Rivers, Akwa Ibom and Cross River states. Historically, the zone was the core of the old Eastern region, which it shared with the ethnic minorities of present-day Akwa-Ibom, Bayelsa, Cross River, and Rivers states. Following the abrogation of the erstwhile regions and the reorganization of the country into 12 states in 1967, the Igbo core of the former Eastern region was restructured into a single unit, the East Central state. It was from this state that the five states that now make up the zone were created: first in 1976, it was split into Anambra and Imo, from which two other states, Abia and Enugu were created in 1991 and, finally, in 1996, Ebonyi state was created.

6.2 By far the single most important event that has shaped political relations between the Igbo and other groups in the country, and which has also had serious and enduring implications for human rights in the zone is the civil war, which was fought between 1967 and 1970. The immediate cause of the war was the attempt by the Igbo-led Eastern region, which declared itself the Republic of Biafra, to secede

from the federation. The war consequently had the southeast as the main battlefield, and was ostensibly fought to keep the country one. Although the federal authorities declared at the end of the war that there was no 'victor' and no 'vanquished', most Igbo believe they were the vanquished, and attribute the problems they have suffered in the country since then, including what is perceived to be systemic marginalization and transmutation from a major group to a minority group, to deliberate efforts to punish them for the 'sins' of the war. Indeed, the war, which was preceded by a pogrom of genocidal proportions against Igbo and Easterners in different parts of the then Northern region, was seen as the height of a history of hatred and persecution against the Igbo.

6.3 It is in terms of the foregoing that the civil war has served as backdrop for analyzing abuses and violations of human rights in the southeast, which are defined as contraventions of relevant human rights statutes, mainly those embodied in the constitution(s) of the Federal Republic of Nigeria, Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, and other human rights statutes and conventions to which Nigeria is signatory. The tendency has been to treat most violations, including those of the rights of individuals, as variants of group persecution. The inescapable question this raises is whether the rights of individual Igbos were violated simply because they were Igbo. While the structural discrimination suffered by Ndigbo who live outside their home states (as 'non-indigenes'), as well as the bitter experiences of victims of the pogrom, civil war and (anti-Igbo) riots in the northern parts of the country may suggest that this was the case, they have to be balanced with the deprivations and violations suffered by individual Ndigbo in the southeast and elsewhere as a result of

police brutality, military authoritarianism, and other systemic factors. For example, the unlawful arrest and detention of activist Ndigbo involved in the long-drawn battle against military dictatorship by pro-democracy and human rights movements had little to do with the fact that the activists were Igbo.

6.4 To this extent, and without ruling out the possibility of individual violations being instances of targetted group persecution, human rights violations in the southeast fell into two major categories: violations of individual rights and violations of group rights. The latter basically had to do with equity and justice, and the rights that accrue to Ndigbo as (majority) members of the Nigerian federation, which were violated by what were perceived to be systemic deprivations, neglect, marginalization and discrimination against Ndigbo in the post-civil war power configuration and competition for scarce national resources. The major sources of violations of individual rights, on the other hand, included systemic discrimination against 'non-indigenes' by 'indigenes', prolonged authoritarian military rule, occasioned by repression, excessive use and abuse of power, and lack of respect for human rights by security and law enforcement agencies.

6.5 The remainder of this review report is structured as follows. In the next section, we critically discuss the methodology of the investigations of human rights violations in the South-East zone. This is followed by an analysis of the background and context of violations and then a detailed examination of the causes, nature and categories of gross violations. The final section presents the conclusion and recommendations.

## **METHODOLOGY OF RESEARCH REPORT**

6.6 Dr Arthur Agwuncha Nwankwo was commissioned by the Human Rights Violations Investigation Commission to ascertain or establish the causes, nature and extent of all gross violations of human rights committed in the southeast zone between January 15 1966 and May 28 1999. Dr Nwankwo's investigations and findings are contained in a two-volume report: volume one covers the period between 1966 and 1980, while volume two covers that between 1980 and 1999. The report relies heavily on secondary data on the Igbo and its relations with the rest of Nigeria from colonial records, anthropological accounts by Simon Ottenberg, Daryle Forde and G.I. Jones, extant works on Nigeria's political history, especially those by Alexander Madiebo, and Emma Okocha on the civil war, accounts of contemporary political events in British and Nigerian newspapers and magazines, the Report of the GCM Onyuike Panel of Enquiry into the Massacre of the Ndigbo in Northern Nigeria, 1966, Report of the International Commission of Jurists and the Report of the International Commission on Genocide in Biafra, and annual reports and other publications of the Civil Liberties Organization (CLO), Committee for the Defence of Human Rights (CDHR) and the Constitution Rights Project(CRP). Primary data was obtained from interviews with various categories of Ndigbo, personal accounts of those who witnessed and/or were victims of the 1966 pogrom, civil war, and riots in which the Igbo were major targets, and the qualitative analytical insights of the author, who is himself a notable human rights activist and Ndigbo leader, public affairs commentator, and publisher.

6.7 What is immediately striking about the sources of secondary data employed in the report is the slant in favour of works

by Ndigbo – in fact, with the exception of a few references to works by British journalists and commentators, the publications cited are exclusively by Ndigbo. Although this slant has the obvious advantage of presenting and strengthening a more “authentic” and sympathetic Ndigbo story, as it were, the use of works by other Nigerians and foreign authors would certainly have provided a more rounded picture of the plight of the Ndigbo.

6.8 The other methodological limitation derives from the conception (or misconception) of Ndigbo as a homogeneous group, and the Nigeria-wide context within which the investigations were conducted. These conceptions engender the essentially globalist view of human rights that draws examples of human rights violations heavily from the north and southwest rather than the southeast. Again, while this approach makes it easier to prove systemic discrimination against Ndigbo in Nigeria, it underplays the violations in the Igbo homeland itself, which (from the few cases in the report) suggest that at the level of individual rights at least, Ndigbo are subject to the same threats and violations of human rights as Nigerians elsewhere. A corollary of this is that the report is thin on critical details about the southeast zone. We are, for example, unable to see the specific complexion of human rights problems in the zone and also whatever varieties might exist among its constituent states. Moreover, no consideration is given to sub-group diversity and conflicts, such as that between the north and south, and between the Wawa and others in the old Anambra state in the Second Republic, which gave rise to the allegations and perceptions of marginalization and domination that underlay demands for more states and local government areas in the zone.

## **BACKGROUND AND CONTEXT OF VIOLATIONS**

6.9 The southeast zone, as has already been indicated, is home to the core Igbo of the old Eastern region. The relevant background therefore lies, first, in understanding Ndigbo social formations and the nature and consequences of the relations between Ndigbo and the other groups in Nigeria and, second, in the nature of the emergence of the Nigerian state. Ndigbo have been described as self-confident, aggressive, enterprising and competitive people with a strong commercial bent – the last factor explains the large numbers of Ndigbo traders, artisans, contractors, and so on, found all over the country. Finally, as several anthropological and sociological accounts have it, the Igbo were perhaps the most receptive of all Nigerian groups to socio-cultural change ((Western) education, urbanization, Christianity, labour migration and mobility, etc.) brought about by contact with Western civilization.

6.10 These defining elements of contemporary Igbo social formations had important consequences for their relations with other groups in the country, as we shall see shortly, but two related factors were particularly critical. These were high population densities in Igbo settlements, which gave rise to what is usually referred to as land hunger, on the one hand, and the high level of emigration from Igbo land to other parts of the country, on the other. An elaboration of the latter point has it that Ndigbo are in the habit of making wherever they find themselves home (and expect non-Igbo who settle in Igbo land to do the same), but it is precisely this orientation, in combination with the aggressiveness, enterprise and commercial bent referred to earlier, that often set Ndigbo on collision course with their host communities. For instance, the presence of over 1.5 million Ndigbo ‘emigrants’, many of who ran successful commercial, medical, educational and

hospitality enterprises, in various parts of the then Northern region was often seen as symbolic of Igbo aggrandizement, and provoked hostility from their hosts. The anti-Igbo sentiments expressed by some members on the floor of the Northern regional House of Assembly between February and March 1964, to the effect that title deeds to land and hotel licences belonging to Ndigbo should be revoked, were instructive. Indeed, such sentiments and hostility were constant remote factors in riots targetted against Ndigbo – the 1945 riots in Jos, 1953 riots in Kano, the 1966 pogrom, and the Bauchi, Kaduna, Zaria and Kano riots of the 1980s and 1990s.

6.11 The other critical background factor had to do with the origins of the Nigerian state and the role of the Igbo as one of the three dominant ethnic groups and first-order claimants to power in the country. As far as Ndigbo are concerned, the state inherited from the British colonizers was flawed not only on the ground that it was imposed, but also that it was designed to privilege the conservative Northern dominant classes as power holders, as evidenced by the alleged manipulation of the 1952 census exercise to give the Northern region the politically decisive population edge (the region had 55.3 per cent of the country's total population), and of the 1959 general elections in favour of the region's political party. The manipulation of population figures, involving the under-counting of Ndigbo and Southern populations, which continued in 1973 and 1991 when fresh census exercises were conducted, amounted to a violation of human rights because (i) groups and persons are thereby reduced to a status of non-existence; and (ii) it constituted the basis for Ndigbo marginalization and partly explains the under-representation of Ndigbo in federal establishments, why the south east continually had the least number of local government units of the 6 geo-political zones,

and why Ndigbo states and localities received relatively low allocations of revenue from the federal government. The Igbo found themselves having to confront these forms of structural lopsidedness and disempowerment in the power game of the post-independence order.

6.12 But Ndigbo had another problem: arising from the championing of the militant strand of nationalism by its more nationally oriented political leadership, they were treated with a great deal of suspicion by the other major groups in the country, especially the dominant classes of the north. As the forces of regionalism triumphed, the ethno-regional leadership in the north and to a lesser extent the west found playing on popular fears of Igbo 'domination' and attacks on Ndigbo (for reasons of the nature of Ndigbo settlements outside the Eastern region referred to earlier) expedient instruments for mobilizing political support. The Western regional government, for instance, published photographs of shops and stores run by Igbo merchants in 1964, which suggested that Igbo 'strangers' had dispossessed Westerners of their rightful resources. It is claimed that the leaders of the other regions even extended this to the ethnic minorities of the Eastern region who were soon polluted with the "gospel of Igbo hatred".

6.13 The foregoing was the background to the various forms of discrimination and malicious attacks in riots suffered by Ndigbo in different parts of the country. However, relations between the Igbo and the Hausa/Fulani-led Northerners especially, deteriorated rapidly following the military coup d'etat of January 15 1966, which overthrew the First Republic. Although the coup was initially welcomed all over the country as reflected in newspaper reports and statements credited to leading politicians in the Northern region (cf. Zana Buka

Dipcharima, leader of the Northern People's Congress) and Western region (cf. Alhaji Dauda Adegbenro, leader of the Action Group), the intelligentsia, traditional rulers, and conservative political and bureaucratic classes in the north, whose political privileges were most directly threatened, seized on the preponderance of Igbo officers in the coup and the fact that most of the politicians and top military officers killed in the coup were from the north to declare it an Ndigbo coup and mobilize the people of the region against the military government headed by General J.T.U. Aguiyi-Ironsi an Igbo.

6.14 The promulgation of Decree 34 of May 1966, which abrogated the federal system and established a unitary system in its place and seemed to confirm northern fears of Igbo "take over" of the federation, provided the alibi the northern conservatives needed to unleash what most Ndigbo believe were long conceived and well orchestrated plans to annihilate them. This began with spontaneous riots in which Ndigbo were the target, and was followed by the so-called Northern counter-coup of July 1966 whose immediate goal was to avenge the killings of Northerners in the January coup, and finally a full-scale pogrom against Ndigbo that lasted till September 1966. Ndigbo and other Easterners were forced to relocate to the safety of the Eastern region. It was the deterioration of this situation, especially the failure of the new federal military government headed by General Yakubu Gowon to halt the massacre of Igbos, that led to the declaration of the sovereign state of Biafra and civil war. As was pointed out earlier on, the civil war marked the critical dividing line in the human rights history of the southeast zone in that the war and its aftermath became the backdrop for discussing human rights issues.

## **HUMAN RIGHTS VIOLATIONS**

6.15 The human rights violations in the southeast zone will be discussed along the lines of the format of the report of the investigations. The report is presented in two volumes, which cover the periods 1966-1980 and 1980-1999. In the first period, the major violations were those involved in the pogrom, the civil war, the issue of abandoned property and pervasive marginalization. Violations in the second period involved aggravated perceptions of marginalization, structural discrimination and gross violations of the rights of individual Ndigbo. We shall discuss each of these in turn.

### **THE POGROM**

6.16 Most Ndigbo regard the pogrom of May-September 1966 as the culmination of a regime of hatred against them by Northerners. To the extent that it involved the annihilation of Ndigbo, the pogrom grossly violated their collective right to existence, freedom and security. The regime of hatred saw the Jos riot (1945) and the Kano riot (1953) in which Ndigbo were the main targets. One of the immediate causes of the pogrom was the so-called Igbo coup of January 1966, which led to the establishment of the military government headed by General Ironsi. The counter-revolutionary opposition to the Igbo and Ironsi's government that ultimately resulted in the counter-coup of July 1966 and the pogrom was mobilized through anti-Igbo sentiments in mosques, New Nigerian, Gaskiya ta fi Kwabo, structures of the defunct NPC, Radio Kaduna, Spotlight, a newsletter edited by Umaru Dikko, and students of Ahmadu Bello University. At least 95 Ndigbo officers and other ranks were killed and hundreds wounded by Northern soldiers in the counter-coup in various military formations, especially in Ikeja, Abeokuta, Ibadan, and Kano. One of those killed was the head of state, General Aguiyi-Ironsi.

6.17 The pogrom on the other hand saw the death of over 100,000 Ndigbo and other Easterners in several Northern cities, notably, kano, Gombe, Katsina, Zaria, Kaduna, Makurdi, etc.<sup>1</sup> Of those that survived, over 2 million fled to the safety of the Eastern region to become displaced persons and refugees, with the federal government refusing to pay the salaries of those amongst them who were civil servants. The bestiality visited on Ndigbo was likened to “the final solution to the Jewish problem”. Hotels, shops, residential buildings and churches belonging to Ndigbo were looted, destroyed and set on fire, human heads were chopped off, wombs of pregnant women were ripped open, girls and women were raped, eyes were plucked from their sockets, people were buried alive, and so on.

6.18 Evidence obtained from survivors reinforced the strong view that the pogrom was orchestrated. It was reported that Emirs, village and district heads, and politicians were involved in the planning and execution of the attacks, that the police, especially the Native Authority police, were actively involved, that the plans had the blessing of the British, and that Northerners of the Middle Belt, especially Tiv and Idoma, partook in the massacres. Considering that the pogrom was closely tied to the so-called Igbo coup of January 1966, the question many ordinary Ndigbo are still searching for answers to, is why they were made to suffer for what was clearly a military affair. Why, for instance were the kith and kin of Colonel Buka Dimka who led the unsuccessful coup of February 13 1976 that saw the assassination of General Murtala Mohammed not punished for the “sins” of their officer brother? The only answer they can find is hatred of Ndigbo.

## **THE CIVIL WAR**

6.19 The violation of Ndigbo rights was a defining element of the Nigerian civil war. To begin with, the declaration of the independent Republic of Biafra was forced by the imperative of survival and self-defence in the face of threats of extermination. Then there were the wartime deprivations and sufferings caused by federal blockade, severe food shortages, starvation, and disease. In fact, starvation was officially perpetrated through scorched earth policy and economic blockade – over 1000 Ndigbo are estimated to have died from starvation. But by far the worst cases involved the violations of conventions and rules of war, which were shielded because the federal military government tried as much as possible to keep out international observers from behind battle lines where the atrocities took place. But the atrocities were generally well known, and the International Red Cross was particularly critical of the excesses of federal troops and the reckless contravention of the Geneva Convention. In response to critical international opinion and outcry, the federal government was forced to draw up a code of conduct for soldiers, but this did little to reduce the atrocities.

6.20 The atrocities involved attacks on civilian populations and the horrendous manner in which groups of innocent people were massacred. The horrors that federal troops perpetrated in the liberation of the Mid-West region from the ‘rebels’ especially in Asaba and Ibusa, as well as the in the ‘liberation’ of Onitsha, Aba, Ihala town, Ibagua, Lejja, and Okigwe stand out clearly in this regard. For example, an estimated 8000 Ndigbo were killed in the Mid-West, mostly in Asaba and its environs, and over 2000 in Aba. Some of the more dramatic accounts, as recorded by foreign correspondents and survivors, included the following:

- Sadistic execution of men, youth and women who had warmly welcomed federal troops to Asaba with gifts;
- Massacre of 35 members of the Apostolic Church who chose to pray for peace in the church rather than flee Onitsha when federal troops came;
- Killing of defenceless hospital workers and patients at the Joint hospital in Oji river; the killing of over 100 relief workers, missionaries, women and children in Okigwe;
- Bombing raids “like mad” on what federal commanders called “bastard” civilian targets in Arochukwu, Aba and other places;
- “Operation totality” which saw the total destruction of whole villages – human lives, habitation, livestock, farmlands – around Onitsha, Owerri and Nsukka;
- The rape and molestation of women and girls – many were made sex slaves in war camps, and some of those killed had long sticks poked through their external genitals; etc.

6.21 The treatment of Biafran soldiers, especially the cold-blooded murder and execution of prisoners of war, represented another face of the atrocities. Even soldiers who laid down their arms after the formal surrender of Biafria were killed at will by federal troops who were in charge of disarming them, as were scores of civilians. The question is, why were the federal troops so brutal and excessive in a war that the federal military government called a ‘war of unity’? Part of the answer is provided by the International Commission on the Investigation of Crimes of Genocide. After extensive research, which included interviews with 1,082 people representing various shades of opinion in the Nigerian crisis, the commission’s chief investigator concluded that, “the hatred of the Biafrans and a wish to exterminate them was a foremost motivational factor”. This was

consistent with the Ndigbo belief that hostility toward them by many groups in the country is borne out of deep-seated hatred.

### **ABANDONED PROPERTIES**

6.22 The problem of abandoned properties was one of the major fall-outs of the civil war. It had to do with the properties Ndigbo left behind when the war forced them to flee to the Igbo core of the Eastern region. The problem was most pronounced in Port-Harcourt, which was practically an Igbo city before the civil war, and Calabar and other parts of the then South-East state. In both places, members of the minority groups – who appeared to have found an opportunity to finally liberate themselves from “Igbo domination” – were allegedly instigated by the state governments and federal authorities to take possession of Ndigbo property. Those that showed up to reclaim their property were either brutally assaulted or killed. This was how Ndigbo lost property – buildings, undeveloped plots of land and petrol stations – worth 56 million Naira in the 1970s in Port-Harcourt. In the South Eastern state, property lost included 1371 houses, 219 undeveloped plots of land, 22 hotels, 55 items of plant and machinery, and 545 farms and plantations. One fairly peculiar case was that of the Ikwere-Aro-Ikwere, an Igbo sub-group in Rivers state, whose members were practically forced to live in refugee camps after their houses and other properties in Aluu, Agwa, Ozuiba and other homeland settlements were utterly destroyed.

6.23 Entreaties made to the federal government to deliver Ndigbo from these acts of grave injustice and deprivation failed to change the situation. This was in spite of favourable recommendations by panels set up to review the issue (the panel headed by Col. S.F. Daramola for instance recommended the rehabilitation of dispossessed

Ndigbo), and a Supreme Court ruling that declared a Rivers state edict authorizing take-over of abandoned properties unconstitutional. What the federal government offered in the name of “appeasement” was a far cry from what Ndigbo demanded. It authorized the compulsory acquisition of Ndigbo property in Rivers and South Eastern states, the payment of arrears on confiscated buildings for the period 1970-75 on the basis of a flat rate of 500 Naira per year, and the sale of landed properties not acquired by the federal or state governments to indigenes of the states on the payment of “fair” prices to original owners.

### **MARGINALIZATION**

6.24 Ndigbo feel that since the civil war, there has been a deliberate attempt by the federal government, which has been led and controlled by the Hausa/Fulani and Yoruba, to marginalize and disempower them simply because they lost the war. This marginalization is said to be real, not imaginary or “Bermuda mentality”, and manifested in six crucial spheres or sectors – politics, economy, military, education, media and bureaucracy. The emergence of an omnipotent central government, which virtually destroyed Nigeria’s federalism, facilitated the allegation of marginalization. The defining elements of war-induced marginalization included the following.

- The insincerity and failure of the programme of rehabilitation, reconstruction and reconciliation declared by the federal military government to ensure the accelerated re-integration of Ndigbo. Offers by countries, humanitarian organizations, foreign missions and church organizations to assist in the programme were turned down ostensibly because they had supported Biafra. The result was neglect of destroyed and run down infrastructure – roads, schools,

health centers, communication infrastructure, etc – especially as the administration of Ukpabi Asika in the then East Central state was allegedly starved of funds.

- The disadvantaging of Ndigbo in revenue allocation through the assignment of greater weight to the criteria of population and equality in 1970, and the corresponding diminution of the weight previously assigned to the principle of derivation which Ndigbo believe was done to prevent them from enjoying the full benefit of the large oil deposits located in the old Eastern region. To support this view, it is pointed out that derivation was only restored in the 1990s after the south eastern states had been excluded from the category of oil-producing states.
- Unjust punishment and discrimination against Ndigbo. Decree no 16 of 1970 denied reinstatement or re-absorption of Igbo officers into the armed forces, police and prisons. This was very injurious as it not only denied Ndigbo who were in desperate need of re-settlement the critical source of livelihood but also created a deficit of Igbo officers in later years, thereby reinforcing the group's marginalization in appointments under military rule.
- In the political sphere, a coalition of Northern and South Western ethnic nationalities dominated the federal government and its agencies, to the virtual exclusion of Ndigbo. The ethno-geographical spread of incumbents of the position of head of state and other top political offices (military governors, ministers, membership of the Supreme Military Council/Armed Forces Ruling Council, the highest organs of government under the military) after the civil war clearly showed dominance by the Jawara, Angas, Hausa/Fulani, Gwari, Kanuri, and Western ethnic nationalities.
- In the economic sector, the compulsory closure of Ndigbo bank accounts, and the paltry flat sum of 20 pounds given to all previous

account holders, as well as the ban in 1971 of the importation of secondhand clothing and stockfish, which were the main commodities for Igbo traders, made re-entry of Ndigbo into the national economy very difficult. This was especially because the process of indigenizing the economy through the sale and transfer of key enterprises to Nigerians was initiated in 1972, only two years after the war, and at a time Ndigbo lacked the wherewithal to compete with members of other groups for control of the economy and industrial sector. Ndigbo were also systematically excluded from employment and participation in important government economic agencies established shortly after the war, namely, the Nigerian Agricultural Bank (1971), Nigerian Standards Organization (1971), Nigerian National Petroleum Corporation (1971), and Nigerian Bank for Commerce and Industry (1973).

- Educational institutions destroyed during the war were not reconstructed or rehabilitated, with the result that school children had to take classes under trees in some cases. The same deliberate attempt to strangulation Ndigbo educational enterprise also led to the neglect of wartime science and technology feats recorded by Biafra – the famous Biafran Directorate of Research was taken over by the federal government and promptly strangulated. The failure to site one of the six federal polytechnics created between 1976 and 1979 in Igbo land was also seen as a continuation of the strangulation strategy.
- The creation of more states and localities as well as boundary adjustments that accompanied them were also used to perpetuate the structural basis of Igbo marginalization. The South East zone continually lagged behind the other major ethnic groups in the number of states and local governments. For example, in the 1976 exercise that increased the number of states in the federation to 19,

there were only 2 Ndigbo states in comparison to the Hausa/Fulani and Yoruba who had five each. With states serving as distribution outlets for allocating federal resources, the disadvantage suffered by the Igbo can be well imagined. Ndigbo further allege that the process of boundary adjustment was used to transfer oil-rich parts of Igbo land – such as the Ndoni/Egbema and parts of Ndoki south of the Imo river, which is said to harbour the highest oil deposits in the country – to Rivers, Cross River and Akwa Ibom states.

- Igbo marginalization was by far mostly clearly seen in the distribution of key federal projects whose locations were expected to follow the principle of balance. All the 5 steel rolling mills in the country were located in the north and west; the South East was the only zone without a functioning electricity plant as the Oji river thermal station was abandoned; and the zone was also left out of the oil industry in spite of oil being found before the civil war in Nsukka by SAFRAP, a federal government oil company, and that Ugwuoba is said to have the largest reserve of natural gas in the country.

### **AGGRAVATED MARGINALIZATION**

6.25 The marginalization of Ndigbo got even more pronounced in the period after 1980, for basically the same reasons highlighted above: the disadvantage in the number of Ndigbo states and local government areas, the dearth of Ndigbo officers in the armed forces, police and security agencies following the mass purge at the end of the civil war, and what many Ndigbo considered to be hatred and persecution by most other Nigerians. In terms of the first three factors, the attempts made by the federal authorities to redress Ndigbo disadvantage and structural marginalization did little to change things. Thus, although the number of states in the South East was

increased to five in 1996, this was still lower than the number of states in the other majority zones. Also, the short-lived appointments of Igbo officers as Chief of General Staff and Chief of Naval Staff were considered too tokenist to obviate the dearth and marginalization of top Igbo officers in the military, police, security, bureaucracy, parastatals, and other key institutions.

6.26 The Second Republic, which held much hope for Ndigbo because of the relative seriousness with which President Shehu Shagari sought to apply the federal character principle and balance the interests of all groups, was unfortunately overthrown. Similarly, the hope for change under the presidency of Chief MKO Abiola for who Ndigbo voted massively (65 per cent) was also aborted by the annulment of the June 12 presidential election. The key indicators and processes of marginalization included the following.

- The under-representation of Ndigbo in important federal establishments and their exclusion from headship – chief executive of NEPA, Governor of Central Bank (Paul Ogwuma broke the chain of exclusion by serving as Governor between 1993 and 1999), minister of defence, which was virtually monopolized by Northerners, secretary to federal government, chief executive of Nigerian Security and Minting Company, chief of army staff, Inspector-General of Police, head of Customs and Excise, minister of FCT, minister of internal affairs, etc. Under the administration of General Sani Abacha especially, most important offices in the federal government were occupied by Northerners. The marginalization continued under the civilian administration of Chief Olusegun Obasanjo, as the south-east had the lowest number of ministers of cabinet rank and ministers of state among all the zones in the federal executive.

- Discriminatory practices against Ndigbo who live in states outside the south east and, as ‘non-indigenes’, pay different taxes and fees from the ‘indigenes’ of those states, and are excluded from enjoyment of the privileges provided by the state. This is despite the fact that the large numbers of Ndigbo in these states have swollen the populations and revenues of the host states. The worst situation has been in the northern states where Ndigbo feel they are less protected by the law than any other group in the country. The Islamization of many of these states, occasioned by the introduction of the sharia legal system has been a major factor in this regard. In addition to denying non-Muslim Ndigbo the right to freedom of worship and association, Islamization has provided the justification for the so-called religious riots – notably the Kano riots of the 1980s and 1990s, Bauchi in 1991, Kaduna and Zaria in the 1980s and 1990s – in which thousands of Ndigbo were killed, thousands more lost huge investments and property (hotels, churches, trading stores were particularly targeted), and several victims were turned into refugees and displaced persons. One of the most horrifying specters of these riots was the case of Mr. Gideon Akaluka, who was abducted from police custody, killed, and his severed head was paraded around the streets of Kano for what was alleged to be desecration of Islam.
- The criminal neglect and non-maintenance of federal roads in the south east, notably the Onitsha-Nnewi-Owerri road, Okigwe-Isikwuato-Arochukwu road, Oji river-Awgu-Okigwe road and Aba-Owerri-Nekede road. Other forms of economic discrimination and deprivation included
  - (i) The inequitable allocation of projects to the south east by the Petroleum Trust Fund (PTF), which allocated

twice as much of the Fund's projects – roads, education, health, food, water supply and so on – to states in the north western zone (Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto and Zamfara), than it did to the Ndigbo states. In the area of road rehabilitation, which was one of the PTF's key projects, only 5.06 per cent of the roads rehabilitated was in the south east. The actual figures tell the whole story: while south east states had a total of 877.9 kms of road, zone 4 had 4699.44 kms, zone 3, 5020 kms, and zone 5 had 4551 kms. Yet, when the PTF was liquidated, the states of the south east were required along with others states to offset the huge debt of 25 billion Naira accumulated by the fund.

- (ii) Continued abandonment of the Oji river thermal station and the Enugu coal mine; denial of petrochemical and iron and steel industries to the south east, despite satisfying the raw material, market, transport, and other requirements for their operation; and the non-location of any of the operational 91 federal industrial projects in Igbo land;
- (iii) The refusal of the federal government to assist in the rehabilitation of the burnt Onitsha market, which is reputedly the largest in West Africa, at a time when 1.6 billion Naira was given to the Kaduna international trade fair project. Similarly, the federal government committed huge sums to the desertification, locust control and flood relief projects in the north, but failed to address the chronic erosion problems of the south east;

- (iv) The failure of the federal government to dredge the river Niger, build a second bridge and an inland port over the river to actualize the vast industrial potential of the Onitsha-Nnewi-Aba axis. This was part of the regime of strangulation of Igbo development.

### **VIOLATIONS OF RIGHTS OF INDIVIDUAL NDIGBO**

6.27 The main violations here involved the right to life and fair hearing as well as unlawful arrest and detention. The police was the main culprit in these violations, using power excessively and recklessly to arrest, detain and engage in extra-judicial killings and criminal acts. In one of the most sensational cases mentioned in the two-volume report, a robbery victim, Mr. George Mgbor of Enugu, found that the policeman at the station where he went to report the incident, was actually one of those that robbed him! The complicity of the police cannot therefore be overemphasized. But the milieu of authoritarian military rule provided the anchor for these abuses, as it was the source of the enabling draconian decrees under which opponents of the regime(s) were detained. It is not surprising therefore that violations of individual rights are catalogued in the second volume of the report on the south east, which covers the high points of ultra-authoritarian rule by the military.

6.28 Indeed, a significant number of Ndigbo whose rights were violated either belonged to pro-democracy and human rights organizations that were in the forefront of the long-drawn struggle to oust military rule, or were involved in action that was calculated to thwart military takeover. To the latter category belonged Senators Polycarp Nwite, Okoroafor Amadi and four others who were arrested and detained for issuing a statement signed by then Senate President

asking senators to reconvene apparently to oppose the takeover of government by General Sani Abacha. Senator Nwite was subsequently arraigned on a trumped up charge of plotting to blow up the NNPC depot at Ejigbo. In the category of pro-democracy activists were Olisa Agbakoba of CLO, Arthur Nwankwo of NADECO and Udentia O. Udentia of Eastern Mandate Union (EMU).

6.29 Although most of the violations of the rights of individual Ndigbo cited in the report took place outside the southeast, notably in Lagos and the north, it would not be entirely correct to regard them as suggesting the targeting of Ndigbo<sup>2</sup>. This is because, with a few exceptions that had to do with religious and ethnic discrimination, the few abuses cited from the southeast were not qualitatively different from those suffered by Ndigbo outside the zone. So, in classifying and highlighting the various violations suffered by Ndigbo, nothing is made of where they occurred. The abuses and violations are catalogued according to the following categories.

### **ILLEGAL ARRESTS AND UNLAWFUL DETENTION**

6.30 This was by far the most widespread of the violations, though most of the cases reported had political undertones. They were perpetrated by police and security agents of the unpopular military governments, using decree no 2 and other obnoxious legal instruments authored by the governments, to suppress opposition. Examples included the following:

- Arrest and detention in Lagos of Olisa Agbakoba, Chima Ubani, Franklin Ihedoro and their associates in the Civil Liberties Organization, Campaign for Democracy and Constitutional Rights Project at several times over their anti-military and pro-democracy activities – Franklin Ihedoro, for instance, was

arrested for attempting to post a complaint to the African Human Rights Commission against the trial, conviction and sentencing to death of Ken Saro-Wiwa and 8 other Ogoni minority rights activists;

- Arrest, detention, trial and conviction of three Ndigbo journalists, Chris Anyanwu of TSM magazine, George Mba of Tell magazine, and Ben Obi of Classique magazine, for being accessories to the fact of treason following the alleged coup of 1995. They were tried without proper legal representation, and sentenced to life imprisonment, which was later commuted to 15 years imprisonment. The curious thing about the case is that the stories of the coup they were supposed to have known were denied by government when they were first published;
- Arrest and detention of Arthur Nwankwo of NADECO and Udentia Udentia of EMU along with several other anti-military activists in June 1998;
- Arrest and detention of Joshua Ogbonna, publisher of The Rising Sun in Lagos on the orders of a police officer apparently over 'damaging' publications on Chief Kanu and his son Daniel, who were avowed supporters of the Abacha administration;
- Arrest and detention for several days at the Oguta police station of two journalists, Chidi Nwaokpara and Douglas Njoku, for "espionage" following their visit to an oil flow station in 1998;
- Arrest, detention and subsequent arraignment of Charles Okoro, a newspaper vendor in Lagos, and two civil servants for reading offensive news item in The News magazine at the height of the tension over annulment of the June 1993 presidential election – interestingly, their Hausa friends who were reading with them were not arrested;

- Arrest and detention of Chris Okolie, editor-in-chief of Newbreed magazine, and four others for publishing falsehood, whereas no action was taken against the Hotline, a northern magazine, which published a similar story.

6.31 *Police/Military Brutality and Killings* The cases here were of three types: (i) killings by military and police patrol teams who terrorized ordinary people with excessive use of arbitrary power; (ii) extra-judicial killings (or so-called unexplained deaths) of detainees in police custody; and (iii) disappearances from police custody. Type (i) cases included the following:

- The killing of Peter Ekuensi by an army patrol team from the 302 field artillery brigade in Onitsha for no clear reason;
- Okezie Amaube, publisher of Newsservice magazine was shot dead by members of the Operation Vigilance team in Enugu, who claimed to have mistaken him for a printer they were trying to arrest;
- Obinna Isaac Okeh, a revenue collector with the Isiala local government council was shot and killed by police of the anti-crime patrol team, who later declared him an armed robber;
- Godfrey Chukwu, a newspaper vendor in Lagos, was killed by a shot from men of the Operation Sweep anti-crime team who were trying to effect the arrest of a fleeing bus driver;
- The 'accidental' killing of young Miss Ogechi Udensi by a police orderly attached to the resident electoral commissioner in Delta state in January 1997 and the subsequent attempts at a cover up by both the police and the commissioner.

Examples of Type (ii) cases included

- The death from torture in police custody of Uzoma Eneregbu, a professional driver, who was arrested for the theft of a bus and

was branded an armed robber – his brother who tried to bail him before he died was also detained for 4 days for “inquiring after an armed robber”;

- Richard Akunama, security man with a construction firm in Lagos, who was arrested and detained by the special anti-robbery squad of the police over a robbery case in the construction firm died from torture meted on him to extract confessional statement. His corpse was subsequently dumped in the mortuary as that of an armed robber;
- Chike Emenyi died in detention at Makinde police station in Lagos where he was detained along with 4 others;
- Japhet Eze who lost his duty vehicle to armed robbers and was locked up by police who detained him for “ambiguous statement” in May 1991. He died in detention, and autopsy showed torture as cause of death. Makinde police station

Finally, the following exemplified Type (iii) cases involving disappearances from police custody

- Mr Peter Nwoko was arrested and detained at the Ikeja police station on his way to work in May 1991. All efforts to locate him after two months by his wife and the CLO were to no avail, and though the police admitted in court that they detained, they could not account for his whereabouts.

## **EXTORTION**

6.32 The cases here included that of a farmer who was unlawfully detained by a police sergeant who failed in his bid to extort 5000 Naira from him. The sergeant was arrested when the commissioner of police was petitioned. In another case, an Igbo club proprietor in Lagos alleged that about 100 people in his neighbourhood were arrested and asked to pay a fee of 1000 Naira

each to be freed, and that men of the Operation Sweep anti-crime squad raided his nightclub several nights for the purpose of extortion. In some cases, cases of extortion were fatal. This was the case in the killing of Fidelia Oguonu, a widow. She died from gunshots fired by a police constable at a checkpoint at the Oba junction in Anambra state, following disagreements with the driver of the vehicle in which she was travelling over extortion.

### **LABOUR-RELATED VIOLATIONS**

6.33 The catalogue of violations in this category emanated from overzealousness and excessive (ab)use of power by government and chief executives. Dr Chris Egueke was sacked as General Manager of the Delta state Broadcasting Corporation over anti-government broadcast by students of Delta State University who forced their way into the studios of the broadcasting station. In 1997, the military administrator of Enugu state dismissed all 32 law officers of the state's ministry of justice who were on strike to back up their demand for better conditions of service and harmonization with federal law officers. Finally, at the University of Nigeria, Nsukka, the sole administrator appointed by the military administration of General Sani Abacha, Professor Gomwalk, was accused of harassing and persecuting academic staff that opposed him. This was the background to the termination of the appointments of some activist academics following the ASUU crisis of 1996. The following year, 17 academics, including some of those already sacked, were implicated in the violent protests against Professor Gomwalk by students, and subsequently arraigned for various offences, including arson, and production and circulation of seditious publications.

## **CONCLUSION AND RECOMMENDATIONS**

6.34 The key to unraveling the nature and import of human rights violations in the southeast zone in the period 1966-1999 lies in the pervasive feelings of Ndigbo that they were hated and persecuted, and that beginning from the end of the civil war in 1970, they were being punished through marginalization and discrimination for the sins of the civil war. Two factors served to aggravate these feelings. First was prolonged rule by unaccountable and authoritarian military governments. The Igbo fared very badly under the military because of the massive purge of Ndigbo officers and men from the armed forces, police and security agencies at the end of the civil war.

6.35 The second factor was the destruction of the country's federal system and the emergence of an omnipotent central government. This development was conducive to the regime of systemic deprivation and marginalization against the Ndigbo. It is in this regard that the distinction made in the report by Dr Nwankwo between marginalization, which is the deliberate disempowerment of a group of people in the federation by the group(s) in control of state power and marginality which refers to a state of being backward due to the group's own fault, is very useful. Ndigbo marginalization is then attributed to the machinations of the Hausa/Fulani and Westerners to exclude and peripheralize the Igbo.

6.36 Given this background, it becomes fairly obvious that democracy, (true) federalism in which the awesome allocative powers of the central government are drastically reduced, and intensified tolerance and national reconciliation are sine qua non for redeeming the rights of Ndigbo. In the immediate short run, efforts have to be made to redress the imbalances that suggest deliberate neglect and

marginalization on the part of the federal government. Roads and other infrastructure, and the seeming helplessness of the police and security agencies in protecting Ndigbo from malicious attacks in so-called religious and ethnic riots in other parts of the country have to be urgently addressed. The systemic discrimination against so-called non-indigenes and their exclusion from full citizenship, which has adversely affected the Igbo who have nearly 50 per cent of their people in 'Diaspora' has also to be urgently addressed. Finally there has to be a vigorous programme of human rights education and awareness campaign for the police, military and security forces on the one hand, and the politicians, office power holders and the masses of ordinary people on the other.

#### **END NOTES**

1. The killings of Ndigbo were not however restricted to the North. It was alleged, for example, that Bini and other non-Igbo military officers organized attacks on Western and Ika Ndigbo. Similar incidents were reported in the Western region.

2. It is difficult to prove that in two of the cases cited, the people concerned were deprived of their rights because they were Ndigbo.

6.37 First was the case of Jennifer Madike who was detained along with her cousin, Doris Obi, on drug-related offences. She claimed to have an affair with Fidelis Oyakhilome, head of the National Drug Law Enforcement Agency, and it was widely believed that Oyakhilome himself was involved in the offences for which she was detained. To cite the non-trial of Oyakhilome as evidence of targeting Ndigbo is obviously an exaggeration. The other case was that of Alozie Ogugbuaja a police officer who was given "punishment postings" ,

suspended and finally dismissed from the police force for his outspoken and radical views on the police, military government and national politics. It is hard to see that he was dismissed because he was Ndigbo, as his treatment was fairly consistent with that of other radicals in the police and armed forces.

## **CHAPTER SEVEN**

### **HUMAN RIGHTS VIOLATIONS IN NIGERIAN PRISONS**

#### **INTRODUCTION**

7.1 This chapter will highlight the gross human rights violations which occur in prison or which are related to prisoners in Nigeria. Attempt will be made to address the causes, nature and extent of the violations. In addition, emphasis will be placed on highlighting recommendations for reform to ensure the redress of past and present injustices and prevent future violations in this regard.

7.2 The chapter is divided into the following sections:

- Background information on the History, Functions and Administrative Structures of the Nigeria Prison Service;
- Critical problems and issues relating to human rights violations; and
- Recommendations and Conclusions.

7.3 In carrying out the above, we will rely on the submissions made before the Commission by the Nigeria Prison Service and by Non Governmental Organisations (NGOs).

#### **BACKGROUND INFORMATION ON THE HISTORY, FUNCTIONS AND ADMINISTRATIVE STRUCTURE OF THE NIGERIA PRISON SERVICE**

## **BRIEF HISTORICAL PERSPECTIVE**

7.4 The Nigerian legal system is based on the English model. Prior to colonisation, the communities within the region now known as Nigeria administered a justice system that was primarily based on a tripartite model (i.e., involving the community, victim and offender in the negotiation of justice and its administration). Prisons were non-existent. The community (and in the non-feudal societies, the community age grades) were actively involved in ensuring peace/security, as well as law enforcement.

7.5 The prisons service in Nigeria predates the independence and, indeed, the founding of the Nigerian nation. Although the year 1873 marked the formal beginning of the organisation of a modern prison service in Nigeria under the colonial dispensation, Prison and its administrative and physical structure(s) were not unknown in the pre-colonial social formation in the area now known as Nigeria. In 1872, the first prison in Nigeria was established at Broad Street, Lagos. By 1910 there were prisons in Ibadan, Degema, Onitsha, Calabar, etc., – all administered under the colonial prison administration. But as a result of Indirect Rule, and given the fact that there were developed prison institutions in the north (and to some extent in the west of the country), the colonial authorities were content to allow the prisons in these areas to function under supervision. The Native Authority (NA) prisons (as they were referred to) were allowed to function alongside the colonial prisons with some measure of supervision by the latter. This was the dual state of the entire prisons system until 1968 when the prison services in Nigeria were unified under one administration. With the amalgamation of the Northern and Southern Protectorates by Lord Lugard in 1914, the Prison Ordinance of 1916 and Prison Regulations of 1917 were promulgated.

The ordinance gave extensive powers to the Governor to establish and regulate prison administration throughout Nigeria. It also gave powers to the governor to appoint a Director of Prisons and other officers to manage prisons.<sup>3</sup> However, there was no uniformity in prison administration because of the difference in the mode of governance in the then Northern and Southern Nigeria. In the north, the Native Authorities under the supervision of the Chief Warder or 'Yari' managed prisons; while in the south, there were three categories of prisons. Thus, these were Provincial Prison;<sup>1</sup> Divisional Prison and Convict Prison, which were established for those serving sentences above two years.

7.6 Although many ordinances and orders were made by government to regulate prison administration between 1920 and 1960, it was in 1966 that the Federal Government made moves for unification of prisons throughout the federation. With the Gobir Report on unification of prisons, the Federal and Native Authority prisons were unified on April 1, 1968. Subsequent reorganizations in prison activities led to the promulgation of Prison Decree No. 9 of 1972.

7.7 To ensure a better functional delivery system, and in keeping with its status as an important security agency, government in 1992 removed the prisons from the civil service structure.<sup>2</sup>

## **NIGERIAN PRISON SERVICE FUNCTIONS/OBJECTIVES**

7.8 The main functions of the Prison include:

- To keep safe custody of persons legally interned;

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<sup>3</sup> See order 60 of 1922.

<sup>2</sup> See Federal Government Circular B.63755/11/8311 of 7/10/93 and compare Regulations 5 and 6 of the Draft Prisons Regulations.

- To identify the causes of their anti-social behaviour, treat and reform them to become law-abiding citizens of a free society;
- To train them towards their rehabilitation on discharge;
- To generate revenue for government through prison farms and industries.<sup>3</sup>

7.9 In 1997, the Prison Service, in describing its functions/objectives, stated that they are the ‘confinement, reformation and rehabilitation of persons legally interned under internationally accepted standards’. In addition, it stated that the other targets of the service are:<sup>4</sup>

- Ensuring the recruitment, training and proper deployment of the right calibre of persons into the Service to improve service standards, efficiency, and productivity through the Directorate of Administration, Personnel Management and Training.
- Enhancing a more coordinated health and welfare programmes in the prisons and planning, executing and monitoring projects and maintaining the existing structures of the Nigeria Prisons Service through the works and Logistics Directorate.

## **ADMINISTRATIVE STRUCTURE OF THE NIGERIAN PRISON SERVICE**

7.10 The prison service has six – directorates and these are: Operations; Administration, Personnel Management and Training; Finance and Supplies; Inmate Training and Productivity; Medical and Welfare Services; and Works and Logistics.

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<sup>4</sup> See Federal Ministry of Internal Affairs 1997 Annual Report at page 26.

7.11 A Deputy Controller-General of Prisons (DCG) heads each of this Directorate.

7.12 At the apex of the prison organisational structure is the Controller-General of Prisons (CGP). He is the chief executive of the Service and is responsible for the formation and the implementation of approval penal policies. He is answerable to the President of Nigeria through the Minister of Internal Affairs. There are eight (8) administrative zones into which the prisons in the states are grouped for proper coordination and supervision. Each Zonal Command is headed by an Assistant Controller-General (ACG) of Prisons, whose responsibility is to coordinate and supervise the activities of the State Commands in the Zone. There are 36 Prison State commands in the 36 States of the federation. The Federal Capital Territory in, addition, is also treated as a Command. Controllers of Prisons (CP) head all these Commands. The Controllers of Prisons supervise the activities of the prison formations in their respective states, and are answerable to the Controller-General of Prisons through the Zonal Coordinators. Below the State Controllers are the individual prison formations that must report to their State Controllers and are supervised by the latter.

### **CRITICAL PROBLEMS AND ISSUES RELATING TO HUMAN RIGHTS VIOLATIONS IN PRISON**

7.13 There are two pertinent issues to reflect on in this regard:

- To what extent is the administrative structure and operations of the Nigeria Prison Service able to effectively meet its stated functions?
- What human rights abuses occur in prisons and under what circumstances.

7.14 In addressing the issue of human rights violations, the Nigeria Prison Service submission to the HRVIC stated that:

*The large concentration of offenders in the nation's prisons and their status in relationship to the state make incidence of abuse possible. The level of attention that hitherto has been accorded the Prison Service in Nigeria in reality has served to facilitate the violation of certain rights of prisoners.<sup>5</sup>*

7.15 In the submission of the Nigeria Prison Service to the HRVIC there are two main sources of human rights violations, namely: Violations arising from prison congestion, inadequate facilities and delay in the justice process; and violations arising from overbearing state policy and state officials, especially during the Military regimes.

7.16 Below are some of the observed critical problem areas and issues:

### **DEATHS IN CUSTODY**

7.17 The rate of deaths in prison custody is high. Also, there is no proper recording and inquest procedure for documenting and investigating all cases of deaths in prison custody. Where records exist, such records are often incomplete (PRAWA, 1998). For example, the official records of deaths in prison custody for 1984, 1985, 1986 and 1988 came to a total of 4,315. Out of this number, 3,117 were classified as "natural deaths," death by firing squad accounted for

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<sup>5</sup> Overview of Human Rights Violations and Professional Hazards in Nigeria Prison Service (Being A Written Presentation of the Nigeria Prison Service At the Special Public Hearing of the HRVIC) Held on October 5, 2001 at the Women Development Centre, Abuja.

927, while death by hanging was 262. See the Table below for more information.

7.18 Table 1: Number of officially recorded deaths in Nigerian prisons and methods in which deaths occurred from 1980 – 1988

METHOD OF DEATH	1980	1981	1982	1983	1984	1985	1986	1987	1988
“NATURAL DEATHS”	115	NA	146	205	381	501	620	NA	1615
BY FIRING SQUAD	4	NA	NA	NA	232	255	233	NA	207
BY HANGING	4	NA	11	6	123	46	42	NA	51
TOTAL	123	NA	160	212	740	804	896	NA	1875

*Computation derived from: Nigerian Prison Service Annual Report (1980-86), Federal Office of Statistics Annual Abstract of Statistics (1981, 1985-87).*

7.19 It is surprising that all deaths not by an execution order are classified as “Natural Causes” as reflected in the Table above. There is no clear evidence on the circumstances of these deaths; neither is there a system for an independent inquest to be commission on such deaths.

7.20 It has also been observed that these records are not exhaustive. For instance, in Ikoyi prison, Lagos, between January – June 1988, there were 54 deaths. A period of just six months and for just one prison out of the over 135 prison and 79 lock-ups across the

country, as at then. The same prison recorded 78 deaths between January and September 1989. In Warri prison, between January 1989 and April 1990, there were 90 deaths. At the Maximum Security prison Kirikiri Lagos, there were 49 recorded deaths from January – December 1989. A rough estimate can be derived from these figures to the effect that about 217 deaths were recorded in just three prisons for a period of one year. Warri prison's average daily population (ADP) as at April 1990 was 1,200. Thus, with 90 deaths, about 7.5% of the Warri prison total population died in custody for that year. Further analysis indicated that the rate of deaths in prison custody in Nigeria constitute about 18.1% of the total prison population.<sup>6</sup> A trend analysis of the deaths which occurred in three prisons indicate that the following:

- (a) The greatest number of deaths occur during rainy season with worse hit months being May - August (a period notable for rain falls, increased farming activities and high cost of feeding); and
- (b) Fluctuations marked with 5-day interval high and low peaks with respect with the frequency of deaths. This evidence, therefore, suggests that institutional administrative factors such as overcrowding, damp cells, poor feeding, poor staff response to health hazards/ epidemics etc.

7.21 The majority of the deaths in prison custody occur amongst awaiting trial / remand prisoners. The figure for deaths that occurred in Agbor, Oko, Auchi, Ikoyi and Warri prisons for the period under study indicate that remand and awaiting trial prisoners

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<sup>6</sup> Agomoh, U.R. (1998), 'Deaths in Custody: A Case Study of Nigerian Prisons', in Liebling A (Eds.) Deaths in Custody: An International Perspective, Institute for the Study and Treatment of Delinquency (ISTD), London, and UK.

See also, PRAWA (1998b) Dying in Custody (Penal Reform Educational Series, Issue III) PRAWA: Lagos.

represented 83.9% of all the deaths. Sometimes this figure can be as high as 100% as shown in the case of Ikoyi prison between 1 January and 22 April, 1998.<sup>7</sup>

7.22 Perhaps some explanations for the high death rate in prison custody can be seen in the submission of the Nigeria Prison Service to the Commission where it stated that:

*“With the high incidence of prison congestion and the inadequate cell accommodation, the requirement of health and hygienic environment have been difficult to maintain in our prisons. There are incidences of frequent outbreak of communicable diseases such as scabies, tuberculosis among others in our nation’s prisons. Added to this, not all the prisons have ambulances. This makes the transportation of prisoners who are critically ill to hospitals difficult.”<sup>8</sup>*

7.23 The submission stated further that:

... under the conditions of chronic, prison congestion, perennial neglect of the service and delays in justice delivery, certain basic rights of prisoners are violated. The rights to life and integrity of the person, to health and respect for human dignity are largely un-guaranteed.<sup>9</sup>

## **TORTURE**

7.24 There is evidence of physical and psychological torture of inmates. Study have shown that 90% of the ex-prisoners study report that while they were in prison they personally experienced physical

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<sup>7</sup> Odinkalu, A. C. and Ehonwa, L. (1991), Behind the Wall, CLO: Lagos (Updated by Ehonwa L., 1998); Agomoh, U. R. (1996), Decongesting the Nigerian Prisons and Police Cells: Strategies for Decongesting the Remand Population, PRAWA: Lagos; PRAWA (1998), Agenda for Penal Reform in Nigeria, PRAWA: Lagos

<sup>8</sup> See Page 3 of the Nigeria Prison Service Submission to the HRVIC.

<sup>9</sup> See Page 4 of the Nigeria Prison Service Submission to the HRVIC.

torture in custody. Also, all the ex-prisoners mentioned that they experienced psychological torture while in custody. A high proportion of the physical torture was reported to occur also in police cells .<sup>10</sup>

7.25 This is a negation of Rule 31 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which states that:

*Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.*

7.26 Whilst the Nigeria Prison Service in recent years has embarked on some training on human rights standards for its officers, more effort is needed to enhance the full implementation of these standards. Corporal punishment and the use of solitary confinement and dark cells are still being practiced. Also, flogging of inmates has also being observed in some prison. More efforts need to be put in place to address the massive evidence of psychological torture. A notable picture is the squatting posture that prisoners take when speaking to prison officers or when being addressed by the officers. This has being observed to occur in all prisons within the country.

#### **POOR TREATMENT OF PRISONERS (INCLUDING HEALTH AND WELFARE FACILITIES)**

7.27 There have been several reports on poor treatment of prisoners with regards to the provision of health and welfare facilities.

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<sup>10</sup> Agomoh U.R (1995), "Physical and Psychological Torture in Nigeria" (A paper presented at the International Conference on Torture: Care for Caregivers organised by the International Council for Torture Victims and The Cape Town Trauma Centre) Held in Cape Town, South Africa.

7.28 There are evidences of inadequate health, welfare and rehabilitation package for prisoners (e.g. lack of specialised health package on HIV/Aids prevention / education, drug abuse, lack of adequate skill training programmes, etc.). There also report of high prevalence of diseases such as scabies, tuberculosis, malaria, and diarrhea.

7.29 Beyond the issues contained in the Prison Service Submission to the HRVIC as mentioned under paragraph 2.1 above, the submission also gave additional explanation for some of the causes of deaths in custody relating to poor medical facilities. I states that:

*In matters concerning the health of detained persons, Rule 62 of the United Nations Standard Minimum Rule for the Treatment of Prisoners provides that all necessary medical, surgical and psychiatric services shall be put in place in prisons. Our experience under the military is such that the prison authority has to seek for permission before proper medical attention can be secured for detained persons. Oftentime(s), permission came too late for detained persons whose health conditions have reached a critical stage, thus resulting to death.<sup>11</sup>*

## **PRISON OVERCROWDING**

7.30 At present, the country has 148 prisons and about 83 satellite prisons or lock-ups<sup>12</sup>, 10 prison farms and 9 cottage industries for the training of inmates. The capacity of the Nigerian prison is about 25,000 but the prison currently holds 44,797

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<sup>11</sup> See Page 5 of the Nigeria Prison Service Submission to the HRVIC.

<sup>12</sup> Facilities to hold defendants in jurisdictions without any prison but where there are courts located. Y few prisoners are held in these facilities (often ranging from 60-20 persons).

inmates.<sup>13</sup> In May 1999, the prison population was 40,899. Of this number 21,579 (52.8) were awaiting trial prisoners. In a more recent statistics submitted<sup>14</sup> by the Nigerian Prison Headquarters, the inmate population was 42,298 with awaiting trials constituting 24,953 (59%) of this figure. See Table 1 below for prison population for 1995 – 1999 as cited by the Prison Service Headquarters/Federal Ministry of Internal Affairs.

Table 2: Prison Population for 1995 – 1999

	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>
<b>Inmate Populati on</b>	<b>56,700<sup>15</sup></b>	<b>44,000<sup>16</sup></b>	<b>N/A<sup>17</sup></b>	<b>54,637<sup>18</sup></b>	<b>44,797<sup>19</sup></b>

7.31 The above statistics does not however give us any detail relating to fluctuations in prison population within the year. Fluctuations as recorded in some selected states in 1999 are reflected in table two below and these give us some information of a progression in the problem.

<sup>13</sup> Prison population as at 31 October, 1999 according to the Nigeria Prison Headquarters Official statistics.

<sup>14</sup> Submitted in November 2000.

<sup>15</sup> See Federal Ministry of Internal Affairs 1995 Annual Report at page 31. The same document also stated that as at 31 December, 1995 ‘well over 70,783 persons were in prison country in Nigeria’.

<sup>16</sup> See Internal Affairs 1996 Annual Report at page 49.

<sup>17</sup> No figure was given for this in the 1997 Annual Report of the Federal Ministry of Internal Affairs.

<sup>18</sup> Calculated from figures given in the Federal Ministry of Internal Affairs 1998 Annual Report at page 48.

<sup>19</sup> This figure refers to prison population as at 31 October 1999. See Prisons and Penal Reform Factsheet Vol. 2 (nos. 1, January 200 PRAWA, at page 9).

Table 3: Comparison of Prison Population for January, May and October 1999 for Some Selected States<sup>20</sup>

<b>States</b>	<b>Prison population (As at 31/1/99)</b>	<b>Prison population (As at 31/5/99)</b>	<b>Prison population (As at 31/10/99)</b>
Kaduna	2691	2440	6268
Federal Capital Territory	388	425	521
Ondo	669	726	844
Abia	1460	1155	1067
Niger	896	982	1098
Zamfara	842	692	591
Lagos	5852	5586	5640
Ebonyi	570	674	744
Imo	1475	1419	1284
Ekiti	291	276	336
Benue	592	596	626
Jigawa	691	663	712

7.32 The rate of this fluctuation as observed within a brief interval (4 monthly interval) also suggests that prison population may be more likely determined by administrative factors and practices within the criminal justice delivery system rather than increase in crime rate.

7.33 An analysis of the prison population has shown that congestion is mainly evident in some identified prisons. The analysis shows that about 30 prisons in the country accounts for 50% of the

<sup>20</sup> For a more detailed analysis of this including information on all the other states, see Ibid. at page 9

country's total prison population <sup>21</sup>. See table below for a breakdown of inmate population and percentage of awaiting trial prisoners in the identified 30 most populated prisons.

Table 4: Breakdown of Prison Population of the 30 most populated prisons in Nigeria<sup>22</sup>:

<b>S/N</b>	<b>PRISON</b>	<b>INMATE TOTAL</b>	<b>AWAITING TRIAL POPULATION</b>	<b>% OF AWAITING TRIAL POPULATION</b>
1	Medium Lagos	2618	2256	86%
2	Ikoyi Lagos	1771	1631	92%
3	Port Harcourt	1444	1201	83%
4	Maximum Lagos	1274	904	71%
5	Onitsha	1167	969	83%
6	Owerri	1012	906	89%
7	Enugu	943	702	74%
8	Kano	883	554	63%
9	Kaduna	778	611	78%
10	Aba	722	593	82%
11	Maiduguri New	665	493	74%
12	Sokoto	620	350	57%
13	Bauchi	654	280	42%

<sup>21</sup> See Oloyede G. 'Congestion – The Need for the Criminal Justice System to be more Accountable' – presented to the Prerogative of Mercy Committee in 1998. The paper was updated in October 2000.

<sup>22</sup> Oloyede G. Ibid.

14	Abakaliki	583	413	70%
15	Warri	561	395	70%
16	Jos	555	212	38%
17	Benin city	553	324	58%
18	Uyo	544	38	64%
19	Oko (Edo)	519	443	85%
20	Gombe	495	197	39%
21	Abeokuta	488	293	60%
22	Akure	472	433	98%
23	Katsina	452	333	74%
24	Awka	444	368	82%
25	Yola	426	294	69%
26	Ilesha	421	224	54%
27	Maximum Gusau	420	183	43%
28	Calabar	391	280	71%
29	Goron Dutse	367	100	27%
30	Ado Ekiti	355	171	48%
	TOTAL	22,609	16,461	

7.34 The following are some of the causes of prison overcrowding:

- High remand population
- Court congestion and lack of speedy trial
- Overuse of imprisonment by the courts
- Abuse of arrest powers and bail conditions by the police
- Inadequate legal aid facilities<sup>23</sup>

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<sup>23</sup> There is a Legal Aid Council providing some limited legal aid to defendants. Also, many NGOs are providing some legal aid to defendants. However, these facilities are grossly inadequate.

- Logistics problems relating to transportation of defendants to courts (i.e. lack of 'black maria' or its malfunctioning, lack of fuel etc.)
- Inadequacy in prison structures
- Inadequate utilisation of non-custodial disposition measures
- Corruption

7.35 An attempt was made in September 1998 by the government to address the problem of prison congestion. The then Federal Government constituted a Presidential Task Force (National Committee) on Prison Decongestion and Reforms. This Committee was once chaired by the Minister of Justice and Attorney General of the Federation. Other members of the Committee were representatives of the Presidency (Secretary of the Prerogative of Mercy), the Ministry of Internal Affairs, the Prisons Service, National Human Rights Commission, and NGOs. The Committee set up sub-committees, approved criteria for release of prisoners and visited all prison formations in the country for on-the-spot verification of data. The government also empowered<sup>24</sup> the various State Criminal Justice Committees to move court sittings into prison yards and facilitate speedy trial. Through this exercise, over 8,000 prisoners were released. It is important to state the impact of this exercise was not sustained and thus by May 2000, the prison population rose beyond its 1998 and 1999 figures.

### **PROBLEMS FACED BY AWAITING TRIAL/REMAND PRISONERS**

7.36 There are presently more awaiting trial persons in prisons than convicts and some of the awaiting trials stay for up to ten (10)

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<sup>24</sup> The sum of 500,000 naira (approximately, 3, 333 British Pounds Sterling) was given to each Criminal Justice Committee to cover running costs such as stationary and visit to prisons. Some states e.g. Benue used part of their funds to purchase relevant equipment for the exercise such as photocopying machine.

years without conviction. For instance, out of a total of 42,298 inmates nation-wide earlier given as at June 2000, 24,953 (59%) are awaiting trial, some for up to ten years or more. This is usually the general picture. If we consider the figures in some specific prisons, the extent of the problem becomes very obvious. Consider for instance the figure on these five- (5) prisons. See the table below for more information.

Table 5: Breakdown of Prison Population in Some Selected Prisons:

S/N	PRISON	INMATES TOTAL	CONVICT S	ATPs	CAPACIT Y
1.	KANO	817	225	592	690
2.	KIRIKIRI	2289	521	1768	704
3	(M)	1661	144	1517	800
4	IKOYI	1344	379	965	804
5.	PH OWERRI	1045	100	945	630

7.37 From the figure above we can observe that, in almost all these prisons, awaiting trial persons far outstrip the prison capacity itself. Given that most of these awaiting trials stay for long periods without trial, we make bold to say that this represents a violation of Human Rights of a type that does not conform to our democratic aspirations. Above all, they make the current assessment of the reform potentials of the prison difficult to evaluate. It is illustrative to note that in Owerri prison, for instance, out of 1,045 inmates, only 100 are convicted, while the remaining 945 are unconvicted. In Ikoyi, only 144 out of 1,661 prisoners were convicted.

7.38 Some of the critical violations meted against the remand prisoners include the following:

1. Delay in trial process
2. Severely overcrowded cells
3. Exclusion from training and educational activities (including vocational training)
4. Limited allowance to involve in recreational activities
5. Benefit from less open-up time
6. Lack of adequate sleeping space
7. Lack of bedding facilities
8. Lack of adequate ventilation in awaiting trial cells
9. Lack of adequate classification for awaiting trial persons
10. Inadequate facilities for visits/consultations with lawyers and families
11. Inadequate uniforms and other clothing materials for awaiting trial prisoners
12. Lack of adequate writing materials to facilitate links with families

7.39 It is important to note that the problem of congestion and high remand population impact on other areas and further worsen the situation. It impacts on conditions of imprisonment, death rate, clothing, feeding, medical support, training, and other support services, etc.

#### **LACK OF ADEQUATE JUVENILE JUSTICE SYSTEM**

7.40 There are inadequate facilities for young offenders. The service has only two young offenders' facilities in Kaduna and Abeokuta. A third one located in Ilorin is yet to be functional. In 1999, the government approved the construction of a facility for young

offenders in each of the six geo-political zones but not much has happened in this regard.

7.41 The problems by young offenders include the following:

- Inadequate juvenile justice machinery including Courts and personnel
- Inadequate juvenile/ young offenders' facilities
- Poor training on treatment of juveniles
- Inadequate legal instrument for the protection of young offenders
- Presence of young offenders in adult prisons
- Lack of adequate educational facilities for young offenders
- Lack of adequate involvement of the families in the treatment and resettlement programmes for young offenders

7.42 See below distribution of prison admission for age group from 1989 – 1993 (for which figures are available for comparison)<sup>25</sup>:

Table 6: Prison Admission by Age Cluster

<b>Age Categories</b>	<b>1989</b>	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>
Under 16	147	473	1,204	1,253	709
16-20	8,084	12,617	12,334	10,354	6,496
21-25	13,698	17,287	15,216	10,356	12,444
26-50	16,866	18,580	22,452	23,737	20,848
51 & Above	1,994	5,122	913	1,808	985
<b>TOTAL</b>	<b>40,789</b>	<b>54,079</b>	<b>52,129</b>	<b>47,508</b>	<b>41,482</b>

<sup>25</sup> Source: Abstract of Statistics, Federal Office of Statistics, Lagos 1996.

7.43 There is no comprehensive and up-to-date data on juveniles in Nigeria. Also, there are instances where false and exaggerated ages have been stated in defendants remand warrants to facilitate their being accepted in custody by the prison authority. Thus, there are many young persons in prison who are not captured in prison statistics as young persons because such compilations are based on warrants submitted by the police.

#### **POOR TREATMENT OF WOMEN**

7.44 The incarceration of women is not only a restriction of liberty but it is a limitation of the right to reproduction. This is because of the issue of menopause. So, unlike the male, the imprisonment of a woman, especially those with no children and with long duration in prison custody, has serious cultural implication if they experience menopause while in prison as soon as they are released. In addition, due to the fact that women are fewer within the prisons and other gender related insensitivity, the mainstream ('male-stream') prison system often fails to address the peculiar needs of women. For instance, the following problems are evident:

- Lack of gender sensitivity training for criminal justice agents
- Sexual harassment / abuse of women by criminal justice agents  
(from the police through to prisons)
- Lack of / inadequate antenatal/post-natal care for women in prison
- Lack of adequate sanitary provision for women in prisons
- Lack of family visiting centres/children crèche in women facilities

**As at May 31, 1999 figures from five states indicated that there are 29 mentally ill prisoners in the five states – namely: Rivers (8), Ogun (3), Borno (14), Benue 3 and Akwa-Ibom (1).**

- Lack of adequate educational/occupational skills for women in prison

### **POOR TREATMENT OF MENTALLY ILL PRISONERS**

7.45 There are no secured units for mentally ill prisoners. It is a common sight to find mentally ill prisoners in ordinary prisons. In 1999, the government approved that all mentally ill prisoners should be transferred to the psychiatric hospitals nearest to them but the order was not adhered to due to some logistics reasons.

7.46 The violations experience by mentally ill prisoners include the following:

- No specialised facilities either in prison or in psychiatric hospitals for the management of these cases.
- Lack of specialised training for prison health workers on the treatment of mentally ill prisoners.
- Lack of adequate collection of statistics on the number, charge/offense, type of illness and duration in custody of mentally ill prisoners.
- Lack of proper assessment of present mental state of prisoners upon admission.

7.47 In the list of mentally ill prisoners submitted to the Presidency by the National Committee on Prison Decongestion, 100 mentally ill prisoners were identified during the Committee's prison on-the-spot assessment. Recommendation was made for these mentally ill prisoners to be transferred to the nearest mental health/psychiatric facilities. The President gave approval in October 1999. But the directive was not executed. There are usually problems with transfer of prisoners to state and federal hospitals due to lack of

available funds for settlement of hospital bills. The prisons argue that they don't have funding to pay the bills and the hospitals argue that they cannot afford to waive the medical expenses.

7.48 For more information on available statistics relating to mentally ill prisoners refer to Prisons and Penal Reform Factsheet.<sup>26</sup>

Table 7: Distribution of prisoners by sex and state as at June 1999<sup>27</sup>.

<b>State</b>	<b>Males</b>	<b>Females</b>	<b>Total</b>
Abia	1117	27	1144
Adamawa	1527	20	1547
Akwa-Ibom	1323	28	1351
Anambra	1720	22	1742
Bauchi	1048	4	1052
Bayelsa	-	-	-
Benue	603	3	606
Borno	1609	9	1618
Cross Rivers	875	18	893
Delta	1535	58	1593
Ebonyi	709	16	725
Edo	1744	67	1811
Ekiti	273	6	279
Enugu	1278	27	1305
Gombe	586	7	593
Imo	1401	40	1441
Jigawa	647	5	652
Kaduna	2016	22	2038
Kano	1431	40	1471

<sup>26</sup> November 1999 edition at page 13.

<sup>27</sup> See Prisons and Penal Reform Factsheet Vol. 1 (nos. 3) Optic.

Katsina	1063	12	1075
Kebbi	946	11	957
Kogi	286	3	289
Kwara	309	5	314
Lagos	5442	92	5534
Nasarawa	567	4	571
Niger	970	5	975
Ogun	689	11	700
Ondo	725	1	726
Osun	305	10	315
Oyo	745	16	761
Plateau	1012	16	1028
Rivers	2064	67	2131
Sokoto	854	19	873
Taraba	1149	19	1168
Yobe	631	2	633
Zamfara	681	6	687
Fed. Capital Ter.	356	8	425
<b>TOTAL</b>	<b>40,260</b>	<b>726</b>	<b>40,986</b>

7.49 Women are minorities within the criminal justice/penal system. For instance, out of the 40,899 prisoners as at May 31, 1999, 602 (1.5%) were women<sup>28</sup>. As at the first week of June 1999, with a total prison population of 40,986, female prisoners accounted for 726 (1.8%)<sup>29</sup>. A recent figure given by the Prison Headquarters<sup>30</sup>, stated that out of a total prison population of 42,298, 956 (2.3%) were female

<sup>28</sup> See Prison and Penal Reform Factsheet Vol. 1(nos.1) October 1999, PRAWA: Lagos at Page 3.

<sup>29</sup> See Prison and Penal Reform Factsheet Vol. 1(nos.3) November 1999, PRAWA: Lagos at Page 8.

<sup>30</sup> Figure given in November 2000.

prisoners. Further breakdown of the June 1999 figure according to distribution of the figures by states is given above.

### **INADEQUATE TRAINING, REHABILITATION AND RESETTLEMENT PROGRAMMES FOR PRISONERS**

7.50 There are inadequate aftercare facilities for ex-prisoners. Though there are few instances of assistance being given to prisoners on discharge, such assistance are often very limited. These include the provision of clothes for the prisoner to wear upon discharge, money for transportation to their respective homes upon discharge, and tools for self-employment. For instance, the service reported that in 1997, about 1,971 discharged inmates were supplied with dress, 460 granted transport fares to their various destinations and only 121 discharged inmates were provided with varying trade tools.<sup>31</sup> All follow-up support to ex-prisoners is being provided by Non Governmental Organisations and religious bodies and these are grossly inadequate. Also, there is no probation service in the country. In some states, the Departments of Social Development are providing some limited services on this for young offenders<sup>32</sup>.

7.51 The above issues are also highlighted in the submission to the HRVIC by the Prison authorities, which further stated that the above situation contravenes Rule 65 and 64 of the United Nations Standard Minimum Rule for the Treatment of Prisoners which states as follows:

7.52 The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose so far as the length of the sentence permits, to establish in them the will to

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<sup>31</sup> See Internal Affairs 1997 Annual Report at pg. 29.

<sup>32</sup> An example is Lagos State.

lead law – abiding and self supporting lives after their release and to fit them to do so. The shall be such as will encourage their self-respect and develop their sense of responsibility.<sup>33</sup>

7.53 The duty of society does not end with a prisoner's release. There should therefore be governmental or private agencies capable of leading the released prisoner efficient after-care directed towards lessening of prejudice against him and towards his social rehabilitation.<sup>34</sup>

### **GENERAL ISSUES**

7.54 There are major confounding factors to some of the above noted problems. These are:

#### ***(a). Lack of Adequate Coordination and Planning within the Justice Sector***

7.55 This includes:

- Lack of a central planning body for the criminal justice system/administration.
- Lack of proper coordination and cooperation between the police, judiciary,  
Director of Public Prosecution and the prisons.
- Lack of adequate collation of data on vital issue and regular updating of such data.
- Lack of adequate utilisation of statistics in planning operations, allocation of resources and evaluation / assessment of prisons operations.
- Lack of efficient allocation and disbursement of funds.

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<sup>33</sup> Rule 65 of the United Nations Standard Minimum Rule for the Treatment of Prisoners.

<sup>34</sup> See Rule 64 Ibid.

- Lack of a central planning body for the Nigerian Prison Service<sup>35</sup>

7.56 Information flow within the different Directorates of the Prison Headquarters needs to be improved. This also applies to the various command structures – from the headquarters to the zonal command, to the state command and the prisons. There are no proper coordination within the criminal justice delivery system – the police, prosecution, judiciary and prisons both at the state and federal levels. Also, the statistics department of the Nigerian Prison Service needs to be utilised as a key feeder into all the Nigerian Prison Service Planning activities. Data should be collated on various key issues and this should be regularly updated and accessible for research, planning, monitoring and evaluation purposes for both the Prison Service and other related agencies.

***(b). Inadequate Funding and Other Administrative Setbacks***

7.57 These include:

- Poor allocation of funds to execute relevant projects and activities of the Service
- Irregular disbursement of funds
- Lack of control on use of funds allocated to the Service
- Injudicious use of available funds
  - Administrative strangulation of Nigerian Prisons Service as a result of the integration of the Service into the Ministry of Internal Affairs.

7.58 An examination of all the Annual Reports of the Ministry of Internal Affairs indicates that inadequate funding and irregular

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<sup>35</sup> See Federal Ministry of Internal Affairs Annual Report 1998, page 49-50.

disbursement of funds are key problems which affect the general performance of the Nigeria Prison Service.<sup>36</sup>

7.59 Other problems linked to this are the nature of disbursement of funds. For example, the practice of monthly disbursement of funds, which result to inadequate planning and less cost effective. The prison farms centres are one of the mostly affected by this practice. There is the need for the autonomy of the Prisons Service to be totally implemented in all its ramifications.

**(c) *Inadequate Community Involvement in Dispensation of Justice***

7.60 This includes:

- Lack of adequate public awareness, sensitisation and involvement in the formal criminal justice system, which is contra-cultural.
- Lack of adequate public awareness and sensitisation on prisons and penal reform issues.
- Lack of adequate community participation in the promotion of penal reform

7.61 The role of public education and sensitivities on facilitating policy advocacy cannot be ignored in the promotion of penal reform. Also, criminal law procedure and disposition measures need cultural realignment and procedural simplification to enable citizens understanding and involvement in the formal criminal justice process.

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<sup>36</sup> Ibid. at page 54.

**(d). Professional Hazards Faced by Prison Officials in the Course of Their Duties**

7.62 The submission to the HRCIV by the Nigeria Prison Service argue that prison staff get killed or injured during prison riots by prisoners and that during the military regime, many prison officers were detained in the course of their professional obligation to the nation. The working conditions of prison staff are so poor without adequate accommodation facilities and with no welfare package. The submission further stated that the poor health conditions arising from prison congestion affect the prison staff as well.

**RECOMMENDATIONS AND CONCLUSIONS**

7.63 Future interventions focusing on Prisons and Penal Reform need to look at the following:

**ENACTMENT OF APPROPRIATE LEGAL FRAMEWORK**

7.64 This will include legal framework for the following: Procedural Reforms; Bail Reforms, Enhancement of Alternatives to Imprisonment Options; and Prison Regulations; etc.

**ESTABLISHMENT OF INDEPENDENT INQUEST PROCEDURE**

7.65 This should apply to **all cases** of deaths in custody in police cells, prisons and other detention centre. The report should be available to the families and all other interested parties. Officers found to be implicated in whatever form in causing or exacerbating the death of an inmate should be prosecuted and punished if found guilty.

## **ESTABLISHMENT OF STRONG INDEPENDENT MONITORING OVERSIGHTS MECHANISMS**

7.66 There is need to carry out on-the-spot assessment of: (a) Prisons; (b) Police Cells; and (c) other detention centres (including the State Security Service, Customs and National Drug Law Enforcement Agency Detention Cells).

7.67 This initiative needs to have the full backing of the government and NGOs and can be achieved through some of the following activities: Strengthening the prison monitoring activities of the National Human Rights Commission and the appointment of a prison ombudsman. In addition, this should include the establishment of state and community-based prison monitoring team made up of representatives of NGOs, Professional bodies (such as the Nigeria Medical Association and Nigeria Bar Association), National Human Rights Commission, Religious bodies etc.

7.68 The team should amongst others monitor the following: nutritional value of the food served to inmates; general prison hygiene; state of overcrowding; and general treatment of inmate to ensure that it complies the United Nations Standard Minimum Rules for the Treatment of Prisoners.

## **IMPROVING THE TREATMENT AND CONDITIONS OF LIVING OF AWAITING TRIAL PRISONERS**

This will include the following:

- Complete separation of awaiting trial prisoners and convicted persons. Attempts should be made to designate some prisons as either remand or convict prisons, and high and low security prisons.

- Provision of adequate vehicles for conveying prisoners to courts and training of prison escort officers on human rights.
- Provision of educational, vocational and recreational activities in prisons for awaiting trial prisoners.
- Provision of adequate medical, legal and welfare (including decent sleeping space, ventilation, lighting, clothing, etc.) facilities for remand prisoners.

### **FACILITATION OF IMPROVED INTERNAL ADMINISTRATION OF THE NPS**

- Improving the team building and coordination between various departments of the NPS.
- Further development of the NPS internal human rights monitoring mechanisms.
- Strengthening the Statistics, Research, Planning and documentation activities of the NPS.
- Capacity development to enable the Service execute better revenue generation, financial management and self-accounting system.
- Facilitation of communication between the various NPS departments, various command structures of the NPS and between the NPS and outside agencies (including NGOs, the media and criminal justice agents).

### **PROMOTION OF WIDE SECTOR INVOLVEMENT IN THE FACILITATION OF PRISON DECONGESTION**

7.69 This include:

- Strengthening the work and effectiveness of State Criminal Justice Committees. This should include the facilitation of monitoring mechanisms and introduction of a comprehensive centralised mechanism for collation of data relating to the activities of the

State Criminal, including the facilitation of the involvement of NGOs in their work.

- Support for the establishment of a criminal justice administration coordination mechanism which should include the police, prisons, judiciary, ministry of justice and NGOs.
- Need for the establishment of a National Criminal Justice Commission and Crime and Justice Information Network.
- Reform of the Federal and States Ministries of Justice to enable the creation of a Justice Department in each Ministry of Justice.
- Improving the efficiency of the police and the courts in their trial and sentencing functions.
- Support for the development of early warning signals and emergency intervention in the management of prison congestion.
- Support towards the development of alternatives to imprisonment initiatives (training of criminal justice agents, sensitisation of legislators/facilitation of legislative reforms, public education/awareness and development of pilot schemes on the project.

**PROVISION OF COMPREHENSIVE MEDICAL, WELFARE, REHABILITATION AND RESETTLEMENT PROGRAMME THAT DEMONSTRATES BEST PRACTICES:**

7.70 This include:

- Upgrading of structural facilities in prisons throughout the country.
- Provision of adequate medical, surgical, and psychiatric facilities for prison inmates.
- Provision of adequate inmate supplies e.g. soap, blankets, uniforms, beds, etc.

- There is need to carry out a full-scale scheme, which will focus on the introduction of a comprehensive package to facilitate improved welfare, rehabilitation and resettlement activities for prisoners and ex-prisoners.
- This scheme will include projects such as prison-based and community-based skill training and income generating activities, family links and contact, legal assistance Programme, literacy and educational support programmes, alternative to violence training etc. This should include aftercare support activities to ensure that ex-prisoners have sufficient resources and opportunities to properly re-integrate themselves into society.

#### **FACILITATION OF TRAINING**

7.71 The training for prison officers should highlight best practices, human rights standards and treatment of vulnerable prisoners.

7.72 This should include:

- Development/adaptation of training manuals on various issues; Training on international and regional human rights standards; Gender-sensitivity training for criminal justice agents; Training on prevention of torture and trauma counseling for health workers; Training on prevention of HIV/AIDs (including the use of peer group education) in prison; Training on the needs and management of young offenders; Training on socialisation of prisoners and offender behaviour.

#### **SPECIAL PROGRAMME FOR VULNERABLE PRISONERS**

7.73 The aim of this recommendation is to address in practical manner the peculiar problems faced by vulnerable categories of prisoners such as: (a). Young Offenders; (b) Mentally-Ill Prisoners; (c)

Foreign Prisoners; (d) Prisoners on Death Penalty; (e) Women Prisoners; and (f) Prisoners with Disability.

## **IMPLEMENTING NEW MODELS OF JUSTICE AND COMMUNITY PARTICIPATION**

7.74 This will include schemes on ‘transformative’ and restorative justice models. This will highlight the traditional African justice models, which include the participation of victims, offenders and the community such as victim-offender mediation/conciliation, family group conferencing, community mentoring, community service etc. The model will highlight healing justice and redirect energy from emphasis on revenge.

7.75 Community – linked crime prevention models targeting youths at risk and providing social support focusing on social, psychological and economic needs of out-of-school youths.

## **CONCLUSION**

7.76 The Nigeria Prison Service occupies a primary place in the Criminal Justice System. The problems militating against effective operations of the Service have been enumerated here and elsewhere.<sup>37</sup> The future focus, which is highlighted in this report, is the need to establish a strong human monitoring and investigation oversight, facilitate multi-agency collaboration, and the practical implementation of human rights standards in the treatment of prisoners and detainees.

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<sup>37</sup> See also, Agenda for Penal Reform in Nigeria (PRAWA, 1998); Odinkalu A.C and Ehonwa L ‘ Behind the Wall (CLO, 1991), and Agomoh U ‘ Decongesting the Nigerian Prisons: Strategies for the Remand Population’ (PRAWA, 1996); Agomoh U, Adeyemi A, and Ogbebor V (2001) The Prison Service and Penal Reform in Nigeria: A Synthesis Study for the Safety, Security and Access to Justice Programme of DFID, PRAWA: Lagos

7.77 For the justice system to be meaningful, accessible, just, effective and humane, it needs to address the problems of prison conditions (including congestion) and poor treatment of prisoners. Practical initiatives highlighting best practices, non-custodial sanctions, models of transformative and restorative justice need to be supported. In addition, training of criminal justice agents/health professionals to improve their treatment of prisoners and detainees as well as the execution of programmes to address the problems faced by vulnerable prisoners – young offenders, women prisoners, foreign prisoners, mentally ill prisoners and prisoners on death row need to be encouraged. Planned interventions need to be well articulated, coordinated and monitored with in-built elements of sustainability and joint NGO–government participation. Community participation and support is key to providing long term validity and relevance for the programme. In addition, the military has to desist from interfering with the prison operations and statutory functions.

7.78 The reform of the Nigerian Prisons and Penal System should feed in to the reform of the wider justice system, which should target the promotion of safety, security and confidence in the justice system. This will contribute to the overall stability of the country – economically, socially and politically. Also, it is important to note that any reform within the prison system should be complimented by reforms within the economic, social and political spheres of the country. This is the only way we can ensure a humane and effective justice system in Nigeria that reflects the respect of human dignity.

## **CHAPTER EIGHT**

### **HUMAN RIGHTS VIOLATIONS BY THE NIGERIA POLICE**

#### **INTRODUCTION**

8.1 The focus of this chapter is on patterns of human rights violation by the police in Nigeria between January 15, 1966 and May 28, 1999, as well as an examination of the structural and institutional factors that aided police abuse of human rights within the period. The chapter is divided into five sections. Section one examines briefly the origin of the police in Nigeria. Section two analyses the impact of military rule on the Nigeria Police Force. Section three presents the patterns of police violations of human rights in Nigeria. Section four looks at institutional factors that aid police violations of human rights. Finally, section five proposes some recommendations.

#### **ORIGIN OF THE POLICE IN NIGERIA**

8.2 Before the advent of British colonial rule, the various ethnic nationalities that make up Nigeria 'boasted several arrangements for the maintenance of law and order'.<sup>38</sup> This ranged from the highly developed age grade system among the Ibos of southeastern Nigeria, the 'secret societies', such as the Ogboni and Oro cults found in several Yoruba communities of the Southwest, to the Ekpe cult among the Efiks of the South-South. All these societies, rooted in the communities, helped in maintaining law and order, and general community development.<sup>39</sup>

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<sup>38</sup> See Tamuno 1971; Nwankwo et al, 1994; Chukwuma & Ibidapo Obe 1995.

<sup>39</sup> I.C. Chukwuma and A. Ibidapo-Obe (1995) (Eds.), *Law Enforcement and Human Rights in Nigeria*, Lagos: Civil Liberties Organization, p.66.

8.3            However, the idea of the modern Nigeria Police, armed and distinct from civil society, is a creation of colonial rule. The police began their history and functions in the interest of British colonial government. It is important to underline the motive for the establishment of the modern Nigeria Police Force as it has a direct influence on the functions, which the police have performed in Nigeria up till the present dispensation. Orthodox literature on the police reveal that the first modern police force in the world, Metropolitan Police Force, London, was established in 1829, partly in response to popular outrage in Britain against the brutality of soldiers in dealing with social dislocations occasioned by the industrial revolution.<sup>40</sup> Thus the modern British police forces were established with the principle of being “in tune with the people, understanding the people, belonging to the people and drawing its strength from the people.”<sup>41</sup>

8.4            In the Nigerian situation, “the colonial government was faced with the problem of controlling restive natives that needed to be cowed in order to facilitate colonial exploitation of Nigeria's resources, hence, the need for coercive police forces.”<sup>42</sup> The period between 1861 and 1904 witnessed British colonialists subjecting over two hundred and fifty nationalities that make up Nigeria to their domination. As each of the nationalities was subjected to colonial rule, the British established police forces and constabulary to protect its interests.<sup>43</sup> These forces and constabulary were armed and organized as quasi-military squad. Such forces in different territories were made up of

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<sup>40</sup> R. Reiner (2000) *The Politics of the Police*, Oxford: Oxford University Press, pp.16-18.

<sup>41</sup> H. Williams, (1983) quoted in I. Chukwuma (1998) “Police Powers and Human Rights in Nigeria”, *Law Enforcement Review (January – March 1998)* Lagos: Centre for Law Enforcement Education p. 36.

<sup>42</sup> I. Chukwuma (2001) “Police Transformation in Nigeria: Problems and Prospects” in *Crime and Policing in Transitional Societies*, Johannesburg: Konrad-Adenauer-Stiftung, p. 127.

<sup>43</sup> E.E.O. Alemika (1993) “Colonialism, State and Policing in Nigeria”, *Crime, Law and Social Change*, 20: 187-219.

officials who were strangers in communities where they were employed. The purpose of this practice of alienating the police from the community they serve was to ensure that such officials, when deployed to execute punitive expedition would act as an army of occupation and deploy maximum violence on the community.<sup>44</sup>

8.5 An example of this was in 1863, when the colonial Governor of Lagos Colony, H. S Freeman wrote a letter to the Duke of Newcastle in which he highlighted the advantage of an estranged police for the colonial government. According to him, deploying policemen to areas where they were aliens would foster effective deposit of violence in the community policed. Consequently, Freeman reported that:

*The men [Hausamen recruited into the force in Lagos Colony] being from the interior and professing the mussulman [Muslim or Islam] religion are hated by the natives of these parts who have hitherto only known them as their slaves. They [Hausas] are disliked also by the Europeans as being of a more independent character than the Lagos people. They thus have only the government to depend on, and if properly managed will prove a valuable resource to this settlement.*<sup>45</sup>

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<sup>44</sup> E.E. O Alemika (1998) "Policing and Perceptions of Police in Nigeria *Police Studies* 11 (4): 167 –176; P.T. Ahire (1991) *Imperial Policing* Milton Keynes: Open University Press.

<sup>45</sup> Letter from Governor H.S Freeman to Duke of Newcastle on December 31, 1863, National Archives, Ibadan: cso /i/i/i. This force was also known as the Armed Hausa Police Force, because it consisted largely of Hausas who had been freed from slavery around Lagos. Thus creating enmity between the public and the Police was a colonial Policy implemented through recruitment and employment, in order to achieve effective containment of opposition to colonial rule. See E.E.O. Alemika (1988) *ibid*, Tamuno (1970), Chapter 1, *op. cit* for further discussion.

8.6 The arrangement did “prove a valuable resource” to the colonial government. As a result, thirty years later in 1893, another colonial governor, in a letter to London, reported that:

8.7 In our Hausa force we have a body of men dissociated from the countries immediately around Lagos both by birth and religion, and who are as a matter of fact the hereditary enemies of the Yorubas. This is such an enormous advantage in any interior complication [opposition to colonial rule] that I should be sorry to see it abandoned if it were possible to obtain a supply of recruits in any other way (emphasis added).<sup>46</sup>

8.8 In essence, there was a colonial interest in ensuring that the police were alienated from the communities they were recruited to police. They were not established as agents for promoting rule of law, human rights or for delivering social services. The colonial police forces were therefore used in punitive expeditions to further the goal of colonial annexation of territories,<sup>47</sup> to suppress opposition against colonial exploitation.<sup>48</sup>

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<sup>46</sup> Denton and Rippon, August 2, 1893 at the National Archives, Ibadan, cso/1/1/14, quoted in E.E. O Alemika and I. C. Chukwuma (2000) *Police Community Violence in Nigeria*, Lagos; Centre for Law Enforcement Education, p.31.

<sup>47</sup> Examples include the activities of the colonial constabulary police in the pillage of Benin Kingdom (1897), Opobo nation and the battle for Niger confluence occupied by various ethnic nationalities such as Abinu (Bunu land), Bassa Nge, Oworo, Kakanda, Egbura etc) between 1895 and 1900. The ‘victory’ of the British Force led to the formation and proclamation of the Protectorate of Northern Nigeria with Lokoja as headquarters on January 1, 1900.

<sup>48</sup> Such instances include women anti tax riots in the East (1929-1930), in Warri Province (1927-1928), in Abeokuta (1948) and industrial Labour strikes in Burutu (1945), Enugu (1949), general strike (1945). Scores of unarmed men and women were “killed or maimed in these incidents by colonial forces.

8.9 With the amalgamation of the Northern and Southern protectorates of Nigeria into one country in 1914, the various police forces that existed at the time were later brought together to form a national police force for Nigeria in 1930 through the enactment of the Police Ordinance No. 3 of 1930.<sup>49</sup> Subsequent organizational developments that took place in the Nigeria Police prior to independence included administrative adjustments that followed the constitutional changes of 1947, 1950, 1954 and 1957. The most notable development in the Nigeria Police Force prior to independence was the federalization of the force in 1954, which followed the coming into effect of the Littleton Constitution that year. The consequence of the development for the police is that both the federal and then regional governments shared responsibility for the maintenance of law and order and the preservation of public safety.<sup>50</sup>

8.10 When Nigeria became politically independent in 1960, there were expectations that the police would be reorganized and re-orientated from a colonial occupation force to a service organization. This did not happen. The parties that were elected into government found it more convenient to retain all colonial structures of coercion in dealing with the people. Therefore, instead of a major reorganization of the police to serve and protect Nigerian people, what was witnessed was a ceremonial oath transferring allegiance of the Nigeria Police Force from the British Crown to the Federal Republic of Nigeria and a change of their former crests bearing the symbol of the British Crown to the Federal Coats of Arm. All other features of the police that made

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<sup>49</sup> A. Nweze and L. S. Wapmuk (1989) "The Police in Nigerian Society" in B. J. Takaya, *Security and Human Rights in Nigeria*, Jos: Centre for Development Studies, p. 68.

<sup>50</sup> C. Nwankwo et al. (1993) *Human Rights Practices in the Nigerian Police*, Lagos: Constitutional Rights Project, p.16.

them widely feared and despised under the colonial government were left untouched.<sup>51</sup>

## **IMPACT OF MILITARY RULE ON THE POLICE**

8.11 The situation worsened due to persistent seizure of political power by the Nigerian military, which prevented the development of the democratic culture and adherence to the rule of law and due process by the police in the country. The military took over of government in 1966 and the subsequent appointment of the Inspector-General of Police, Alhaji Kam Selem, and his deputy as members of then Federal Executive Council under General Ironsi regime, could be described as a marriage of convenience between the police and the military, which neither boosted police image among the populace nor enhanced their efficiency in discharging their constitutional responsibilities.<sup>52</sup>

8.12 Writing on why the military co-opted the police leadership into their ruling council, S.A. Asemota noted:

*Military personnel at the time (1966) were relatively few - 11, 000 and the only federal law enforcement agency that had presence throughout Nigeria was the Nigeria Police (Force). It became clear that the army could not effectively rule without police assistance. Added to this fact, was the role the police played during the difficult days after the death of Major-General Ironsi. Police Force Headquarters at Moloney Street, Lagos, was used as Command Headquarters by Gowon for a short but crucial period, while police communication system, which covered the country at the time, was the most efficient. Thus, coalition*

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<sup>51</sup> Ibid.

<sup>52</sup> See I.C. Chukwuma (1995) Police Powers and Human Rights in Nigeria” Law Enforcement Review, January – March 1998: 36.

*of military/police in government was the most logical”  
given the situation at the time.*<sup>53</sup>

8.13 While this 'love affair' between the police and the military lasted, police needs were largely provided and its leadership under Alhaji Kam Seleem was highly respected by the military. However, the romance period did not last long. In the course of the civil war, which broke out in 1967, the military had to recruit additional hands to prosecute the war. This led to an increase of the armed forces personnel strength to about 250, 000, thus making the need for the police in military governance less necessary.<sup>54</sup> Commenting on the consequences of this development, Asemota stated:

*With the increased strength of the army, and the existence of military formations in most part of Nigeria, some officers then questioned the need for the police in government.*<sup>55</sup>

8.14 This resentment notwithstanding, the police continued to be part of the Federal Military government throughout the regime of General Gowon. However, with his overthrow by General Murtala Mohamed in 1975, military hostility against police involvement in government intensified and police personnel were excluded from direct governance of states. Since then, relationship between the police and the military has become that of a 'master and servant'. Even though subsequent military governments restored the appointment of police Inspector-General into its ruling councils and occasionally appointed police commissioners as governors of states, it was clear that the police were no longer important in the governance calculus of the military as from the late 1960's. Therefore, the military relegated the

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<sup>53</sup> S.A. Asemota (1993) "Policing Under Civilian and Military Administration" in T. N. Tamuno, *Policing Nigeria: Past, Present and Future*, Lagos: Malthouse Press Limited, P. 396.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

police as an institution of state to the background and brazenly encroached on its functions of maintenance of law and order. The police also undertook roles that had nothing to do with their traditional duties and willingly performed them without regard to their constitutional implications.

8.15 The effect of police participation in military government with respect to human rights was that they performed legislative, executive and judicial functions. According to Asemota (1993):

*...The Inspector General of Police was a member of the Federal Executive Council, and Commissioners of Police were members of the State Executive Councils. They became part of the policy making body for the country. The police were also part of the lawmakers (legislature); they initiated and/or discussed all decrees and edicts before they were passed throughout the country, in addition to performing their traditional role as law enforcement agents. The implication of this was that the police influenced the making of laws, which they perceived would make their functions easier.<sup>56</sup>*

8.16 For instance, the Armed Forces and Police (Special Provision Decree 1967) provided that when any person in possession of explosive, firearm etc. is "arrested and attempts to escape, it shall be lawful for any person authorized to make an arrest under this decree to shoot to kill" (S. 3(2) of the decree). The same decree provided for the setting up of a Military Tribunal to try suspects, and for "an accused to conduct his own defense in person" - thus denying such accused, legal representation. Furthermore, the Robbery and

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<sup>56</sup> Ibid. P.397

Firearms (Special Provisions Decree 1970) made the police the judge and prosecutor of suspects brought before the tribunal. The decree authorized the Military Governor of a state to set up tribunals for trial of offences and the composition of such tribunals included “an officer of the Nigeria Police Force not below the rank of Superintendent of the police.”<sup>57</sup> Others were: a judicial officer, who was the Chairman of the tribunal and an officer of the Nigerian Army not below the rank of Captain. With respect to the procedure, the decree provided that the procedure to be followed “ shall be in accordance with such ruling as the tribunal may make either general or for the purpose of the proceeding of the tribunal ...”<sup>58</sup> and further that no right of appeal to any court in Nigeria ... shall apply in respect of the convict...,<sup>59</sup> This decree suspended the provisions of the fundamental rights section contained in the chapter II of the 1963 Constitution by providing that “the question whether any provision of Chapter of the Constitution of the Federation has been ... convened ... shall not be enquired into in any court of law ...” Since 1967, subsequent military administrations have copied almost word-for- word, the content of Decree No. 8 of 1967.

8.17           Consequently, as observed by Asemota (1993):

*...The involvement of the police in legislative, executive and judicial functions of government (under the military) reduced its policing efficiency. The end result was, rather than provide adequate manpower and all necessary equipment to enhance police efficiency, ‘short-cut’ methods were employed, standard lowered, and convictions were gained with little or no effect. This became the pattern of military rule and the longer military rule lasted, so were*

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<sup>57</sup> Section 5(2), Decree N0. 8 of 1967.

<sup>58</sup> Section 6(4) Decree No. 8 of 167.

<sup>59</sup> Section 8 (2), Decree No. 8 of 1967.

*similar laws regularly enacted and police efficiency deteriorated further. The unedifying and unfortunate result was that the police closed down its dog section, neglected its fingerprint, handwriting and other scientific department and ignored training abroad, recruited no new experts or scientists and lost its traditional function of detection of crime and apprehension of offenders.”<sup>60</sup>*

8.18 Even though it could be argued that the “police did not enter government on their volition. That they were drafted into it.”<sup>61</sup> They did not seem, however, to have appreciated the extent of damage this involvement was to inflict on their role as police personnel and the difficulty they were to have in relating to members of the public, especially organized civil society groups such as students, labour and human rights organizations. This much was admitted by then Inspector-General of the Nigeria Police, Alhaji Ibrahim Coomassie, when he stated in an acceptance speech for an honorary doctorate award from Imo State University in March 1998:

*“The Force (Nigeria Police Force) has been torn between the civil populace and the military, so much so that its civil traditions are almost lost to military authoritarianism.”<sup>62</sup>*

8.19 His predecessor, Alhaji Aliyu Attah, had stronger words for the ordeal of the police under the military. In his address at the inauguration of Retired Inspectors-General of Police Forum (RIGENEF) in Abuja in 1992, he was reported to have said:

*Police officers and men go about in tattered uniforms, no barracks accommodation, training colleges are ill-equipped, the FIIB (Force Intelligence and Investigation Bureau now Force Criminal*

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<sup>60</sup> S. A. Asemota, (1993) “Policing under Civilian and Military Administrations” in T. K. Tamuno et al (eds.) *Policing Nigeria: Past, Present and Future*, Lagos: Malt house Press Limited pp. 397-398.

<sup>61</sup> Ibid.

<sup>62</sup> I. Chukwuma and O. Ifowodo (1999) (eds.) *Policing a Democracy*, Lagos: Centre for Law Enforcement Education p.2.

*Investigation Department FCID) fingerprint and laboratory equipment are all dead, vehicles are a luxury, offices lack stationery and above all, the men work round the clock without rest and without allowance.”<sup>63</sup>*

8.20 It would appear that while the military relegated the police to the background, the civilian population was singled out by the police for their revenge, as the following section seems to buttress.

### **PATTERNS OF HUMAN RIGHTS ABUSE BY THE POLICE**

8.21 For the performance of their duties, the Nigerian police are given extensive powers under the constitution, the Police Act, Criminal Procedure Act (CPA), Criminal Procedure Code (CPC) and numerous other statutes. These powers include the powers of arrest, search, seizure, detention and the power to use reasonable force in certain circumstances. The exercise of each of these powers affects the citizen and therefore the fundamental rights of the citizen are more directly affected by police activities than by those of other internal security forces in the country.<sup>64</sup> Any abuse in the exercise of these powers invariably results in the violation of the fundamental rights of the citizen.

8.22 Studies summarized in this section reveal that police abuse of human rights within the period under review is not only countrywide in its manifestation but also institutional in its execution. The typologies are analyzed below:

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<sup>63</sup> The Sunday Punch, November 22, 1992.

<sup>64</sup> M.A. Ajomo and I.E. Okagbue (eds.) (1991) *Human Rights and the Administration of Criminal Justice in Nigeria*, Lagos: NIALS, p.98; O. C. Eze (1993) “The Police, Rule of Law and Human Rights” in T. N. Ta Tamuno, “Policing Nigeria: Yesterday, Today and Tomorrow, Lagos: Malthouse Press Limited, p.417.

## **ILLEGAL ARREST**

8.23 Although the police are empowered by the Criminal Procedure Act, 1945 and the Criminal Procedure Code, 1960 to arrest persons upon reasonable suspicion of committing criminal offences, studies reveal a gross abuse of this power. For example, a study conducted by the Nigerian Institute of Advance Legal Studies (NIALS) in 1991, which included arrest procedure practiced by the Nigerian police reveal that out of 863 suspects interviewed, 320 (37%) claimed that they were only told the reasons for their arrests while in detention.<sup>65</sup> However, out of 232 police respondents to the interview, 9 out of 10 (93.5%) would always inform a suspect of the reason for an arrest. "While the number of irregular arrests indicated by the police responses may seem too low (in the light of their reputation in this regard) it is indeed of importance, considering the nature of the rights violated and the fact that such violations would appear deliberate, since almost every police officer knows or ought to know, the basic requirements of a valid arrest."<sup>66</sup> Furthermore, the responses indicated what policemen know they should normally do, not what they had done in actual cases.

8.24 Handcuffing, binding or subjecting a suspect to unnecessary restraint in the course of arrest, except by order of court or reasonable apprehension of violence or attempt to escape is outlawed under section 4 of the CPA. Again there is a disparity between what the law says and the actual police practice. A report on Human Rights Practices by the Nigerian Police, published by the Constitutional Rights Project (CRP) in 1993, established that the police could do anything in the course of arresting a suspect. Even relatives

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<sup>65</sup> M.A. Ajomo et al. (1991), P.91.

<sup>66</sup> Ibid.

and family members are not spared as they were often taken hostage until the suspect presents himself for arrest. According to the report:

*The police have ... gone beyond their powers of arrest, to now arrest innocent persons who do not fall into the categories stated under the law. In search of suspects, the police have had to arrest relatives of suspects where they cannot find the suspect in question. 29% of police officers interviewed by CRP admit this is a common practice.”<sup>67</sup>*

8.24 Petitioners who testified during the public hearings of the HRVI Commission also corroborated this practice.

### **DETENTION WITHOUT TRIAL**

8.25 A disturbing aspect of police abuse in Nigeria is the contempt some policemen seem to have for the rule of law and due process. This is most manifest in the manner in which people are arrested and detained for long period of time without trial. The Constitution of Nigeria and the Police Act permit derogation of the right to personal liberty for the sole purpose of arraigning a suspect before a court of law.<sup>68</sup> But in practice, policemen sometimes arrest and detain people merely to intimidate and extort money from them. Writing on the above, a Nigerian Jurist stated:

*“The irony of the situation is that the courts do not always have the opportunity to examine most of these violations because the police hardly proceed beyond harassment and intimidation levels. The objective is never to prosecute. The victims of these violations*

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<sup>67</sup> C. Nwankwo et al. (1993) *Human Rights Practices in the Nigerian Police*, Lagos: Constitutional Rights Project, p. 45.

<sup>68</sup> Refer to section 35 (1) of the 1999 Constitution and section 27 of the Police Act.

*are themselves not equipped to be able to go to court and seek a judicial examination of their cases.”<sup>69</sup>*

8.26 Section 35 (4, b) of the Constitution provides for the commencement of the trial of an accused within three months of arrest, during which the suspect is also entitled to bail for certain categories of offences. In practice, however, the police sometimes arrest and detain suspects for years without trial. According to Olu Onagoruwa:

This situation normally occurs when a person is arrested on suspicion of having committed a serious offense. In that case, the police are caught in a web! The need to keep the accused in custody pending investigation into the crime and the desire to fulfill the constitutional requirement of arraignment of the accused person before a court within a reasonable time. In this web of contradiction, the police finds a way out in the ‘Holden Charge.’<sup>70</sup>

8.27 Holden charge as a phenomenon of police abuse of the court process refers to a process where the police rushes an accused to a court (usually a magistrate court) and ‘his plea taken usually on a charge over which the magistrate has no jurisdiction to try. Following this exercise, the police feels comfortable that the accused person may now be detained for as long as investigation lasts and the DPP’s (Director of Public Prosecution) advice is being awaited and until the decision whether or not to file information before the competent court

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<sup>69</sup> M.A. Ikhariale (1995), “ Justice in the Accusation: A constitutional Evaluation of the Nigerian Criminal Justice System” in I. Chukwuma and A. Ibidapo-Obe, *Law Enforcement and Human Rights in Nigeria*, Lagos: Civil Liberties Organization, p. 20.

<sup>70</sup> O. Onagoruwa, (1995) “ Delays in the Criminal Justice System: The Propriety of the Holden Charge Phenomenon”, in I.Chukwuma and A. Ibidapo-Ode (eds.) *Law Enforcement and Human Rights in Nigeria*, Lagos: Civil Liberties Organization, p. 32

is taken.”<sup>71</sup> Under this guise, detainees are simply forgotten in police custody or the awaiting trial units in Nigerian prisons. In severe cases, within the long period of time, it often takes the DPP to file information to the appropriate court for the arraignment of the detainee, the file could get lost or the police personnel handling the case transferred to another location. This means that the detainee would be languishing in jail without any record of his case.

8.28 The Court of Appeal has declared ‘Holden charge’ unknown to Nigerian law. In the case of *Enwere v C.O.P*, the Court of Appeal examined the Holden charge phenomenon and declared:

... It is palpable that the appellant in the instant case until 8<sup>th</sup> March 1993, when he was granted bail by this court was still being detained under what is called a purported “holden charge” without any information filed against him before any law court. I hold that the act constitutes improper use of power or a flagrant abuse of power by the police for which they stand condemned. The particular abuse is all the more serious when it is known that there have not been exhibited proofs of witnesses evidence evidencing police desire to prosecute the appellant placed before trial.”<sup>72</sup>

## **TORTURE**

8.29 Although the Nigerian Constitution and the Evidence Act, 1960 in particular, prohibit coercion of suspects during interrogation, studies have established that the Nigerian police indulge in the use of torture for the extraction of criminal “confessions” during interrogation of suspects. In the study conducted by the Constitutional Project (CRP) quoted earlier, 69% of the respondents alleged that statements

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid. P.33

or confessions made by suspects during police interrogation were not made voluntarily. <sup>73</sup>

8.30 Most policemen interviewed in the study conceded that in the absence of an efficient means of investigating crime, torture became the easiest and most effective means of interrogation.<sup>74</sup> The police in extracting confessionals from criminal suspects and political detainees routinely use the following methods of torture:

- ‘Hanging’ – suspension of suspects in the air with the aid of ropes tied to ceiling fan hooks;
- Shooting in the limbs
- Cigarette burns;
- Insertion of broom sticks or pins into the genitals of male suspects and the neck of beverage bottles into female suspects;
- Beating with horsewhips, electric cables and batons;
- Electric shocks;
- Mock execution;
- Removal of victim’s finger nails and cuticles with pliers; and
- Denial of food and medical attention.<sup>75</sup>

8.31 The use of each of the foregoing torture methods is not mutually exclusive. In the course of interrogation of suspects, some police personnel often apply a combination of them to achieve desired result. Sometimes, the victims do not survive the ordeal, thus leading to extra-judicial killing. For some case studies of individual experiences of torture by the police within the period under review, refer to the volume on public hearings.

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<sup>73</sup> C. Nwankwo et al (1993) p. 37.

<sup>74</sup> Ibid.

<sup>75</sup> I.Chukwuma (1994), P. 55.

## **EXTRA-JUDICIAL KILLING**

8.32 Studies on patterns of police violence in Nigeria have bared two basic situations of contact between the police and the citizen, which often precipitate disproportionate use of violence and deadly force by the police, often resulting extra-judicial killing. These are situations of 'crime control' and 'crowd control'.<sup>76</sup> The average Nigerian policeman seems to approach his duties with a conviction that the suspects are already guilty and therefore deserve no respect or sympathy at all. In crowd control, he believes that the citizen has no right either to peaceful assembly or protest, except when the activity is in support of government. In crime control, the average citizen who encounters the police is seen and treated as either a criminal or a potential criminal. The result is that the use of violence and deadly force has permeated and pervaded every aspect of police work in Nigeria.<sup>77</sup>

8.33 A report by the Civil Liberties Organization (CLO) on torture and extra-judicial killing by the police reveals that the 'practice of extra-judicial killing has eaten so deep into the (police) system that its full ramifications may be difficult to determine.'<sup>78</sup> This holds true, especially for criminal suspects.<sup>79</sup> Another study carried out by the Centre for Law Enforcement Education on police community violence in Nigeria, corroborated the widespread nature of police extra-judicial killing in Nigeria.<sup>80</sup> According to the study:

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<sup>76</sup> A. Ibidapo-Obe (1995) "Police Brutality: Dimensions and Control in Nigeria" in I. Chukwuma and A. Ibidapo-Obe, *Law Enforcement and Human Rights in Nigeria*, Lagos: Civil Liberties Organization, p. 45

<sup>77</sup> Ibid.

<sup>78</sup> I. Chukwuma (1994) *Above the Law: A Report on Torture and Extra-Judicial Killing by the Police in Lagos State*, Lagos: Civil Liberties organization, P.72.

<sup>79</sup> Ibid.

<sup>80</sup> E.E.O Alemika and I. Chukwuma (2000) *Police Community Violence in Nigeria*, Lagos: Centre for Law Enforcement Education, P.57.

Under military governments, the issuance of ‘shoot at sight’ order against crime suspects as well as demonstrators give the police the wrong impression that firearms and violence are to be used as tools of routine police work.<sup>81</sup>

8.34 In 1991, the CLO reported that the police killed an average of more than three persons under extra-judicial circumstances per month in Nigeria.<sup>82</sup> Follow up research by the organization in Lagos State in 1992 made a shocking revelation. Between January and September of that year ‘the corpses of 449 people whose deaths were suspected to have been under extra-judicial circumstances were deposited in the mortuaries of Ikeja General Hospital alone. This figure shows an average of 49.8 corpses per month or 1.66 per day in Lagos State.’<sup>83</sup>

8.35 Although the Lagos State Police Command in a press statement denied the report, the CLO’s call for an official investigation into the matter as required under the United Nations Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary or Summary Execution was not heeded.<sup>84</sup> Principle 9 States:

*There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances.”*

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<sup>81</sup> Ibid.

<sup>82</sup> I. Chukwuma (1994) P. 72

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

8.36 Studies have established three major types of police extra-judicial killings in Nigeria. These are:

- Deaths in Custody;
- Killings at Police Checkpoints and;
- Killings during Protest.

8.36 Deaths in custody relates to cases of people who are known to have been taken to police custody hale and hearty, only to come out as corpses. Sometimes the police deny having detained such persons. At other times they come out with reports insinuating that such persons have been released. In glaring cases, the corpses of such suspects are dumped in the mortuaries of government hospitals as unknown robbers killed in a shoot-out between police and robbers.<sup>85</sup>

8.37 Killings at police checkpoint are another major type of extra-judicial killing by the police. Successive Inspectors-General of Police in Nigeria, worried by persistent reports of police killings at checkpoints, have at different times ordered the withdrawal of their personnel from checkpoints. The reality is that they always managed to find their way back under different guises. According to newspaper reports, over 500 hundred people were extra-judicially killed at police checkpoints between 1982 and 1992.<sup>86</sup> Most of the victims were unarmed motorists who would not have met their untimely deaths if

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<sup>85</sup> A typical example was the case of Larry Elechi Igwe, a 26 year-old businessman, who was killed while in the custody of Surulere Police Station, Lagos, on December 20, 1990. Igwe's corpse was however, later discovered by relatives at Lagos Hospital mortuary, badly bruised and tagged 'unknown corpse, reference number 5960. One Sergeant Joseph Ohihion of the Police Station deposited the corpse at the mortuary. The police official account was that Igwe was killed with some other occupant of his car following a gun battle with the police who took them for armed robbers. The car in question bore no holes and informed sources reported that the bullet that killed him was fired at close range.

<sup>86</sup> Iyiola Faloyin et al, "Checkpoint Blues", *Sunday Concord*, September 13, 1992, p. 15

the police had observed United Nations regulations on the use of force and firearms.

8.38 Police interventions in protests in Nigeria have always been with a view to quelling them, if such protests are not supportive of the government. Hence, the brutal measure employed in dispersing them.<sup>87</sup> Shooting of canisters of irritant gas and sometimes live bullets are standard police practice, even when non-lethal measures of crowd control during protests would have been more effective.<sup>88</sup>

### **INSTITUTIONAL FACTORS THAT AID POLICE VIOLATION OF HUMAN RIGHTS**

8.39 An examination of patterns of police violations of human rights in Nigeria would not be complete without looking at the institutional factors that aided or tolerated the commission of such abuses. Even though police authorities often deny or conceal their collusion in the commission of certain categories of human rights violations by their operatives, the logistics of carrying out some of these acts, make such insinuations unacceptable.<sup>89</sup> Investigations have shown that for a suspect to be arrested, detained, tortured or killed, it involves at least, the person who committed the act and the superior officer who ordered, consented or tolerated it.<sup>90</sup> According to a publication of Amnesty International:

...Because the incidents of torture and extra-judicial killings are often connected to a police station, division or department, which is hierarchically structured, their execution is likely to

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<sup>87</sup> Refer to "Shoddy Outing" in African Concord, May 25, 1992, p. 20.

<sup>88</sup> The United Nations Basic Principles on the Use of Force and Firearms provide for the use of firearms only when less extreme measures are insufficient.

<sup>89</sup> I. Chukwuma (1994) p. 1.

<sup>90</sup> Ibid.

involve a chain of command extending from the highest officer who permitted or connived in the crime to the lowest officer who helped in carrying it out. Logistical support, too, will be needed: torture instruments, guns and ammunition, vehicle, communication facilities, places to hold prisoners and torture them and the means of disposing bodies to the mortuaries or graves.”<sup>91</sup>

8.40 The institutional factors that aid police violations of human rights include:

- Character of Laws in our Society
- Nature, Extent and Scope of Police/Citizen Contact
- Police Training and Educational Qualification
- Police Code of Conduct and Discipline
- Police Corruption
- Police Accountability

8.31 An analysis of these factors is critical to the understanding of patterns of police violation of human rights in the country.

### **CHARACTER OF LAWS IN NIGERIA**

8.32 Most of the laws enacted in Nigeria within the period under review, especially the laws promulgated by the military, precluded judicial review of activities purported to have been carried out in pursuance of them by security agencies, including the police.<sup>1</sup> This makes it difficult to legally hold the police accountable for the atrocities they committed in execution of those laws. Whereas a democratic government defers to the supremacy of the constitution, and its acts subject to judicial review, the opposite is the case under

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<sup>91</sup> Amnesty International (1994) “Disappearances and Political Killings: A manual, Amsterdam: Amnesty International, p, 87.

military dictatorship. On power, the military promulgates a Basic Constitution (Suspension and Modification) Decree, the purpose and effect of which is to suspend some and modify other provisions of the existing constitution.<sup>ii</sup> What is saved or preserved in the existing constitution remains in force at the will of the decree, which is subsequently issued by that body. "In effect," argues Ojomo & Okagbue, "under a military administration, constitutional supremacy gives way to legislative supremacy."<sup>iii</sup>

8.33 Given the foregoing situation, the police and other internal security forces in Nigeria did not bother about what the constitution says as long as they were serving under military government. The result was the entrenchment of a police state in the country, especially during the regimes of Generals Buhari, Babangida and Abacha, where the whims and caprices of those in power were enforced as laws with the proverbial over-zealousness which the police and other internal security forces in the country are noted for.

### **NATURE, EXTENT AND SCOPE OF CONTACTS**

8.34 Police and citizens are in constant daily contact. These contacts may be voluntary or involuntary. The nature, extent and scope of contacts influence police-public relations. According to White et al:

"Interacting with citizens constitutes an important part of a police officer's daily activities. Many aspects of these interactions have the potential for influencing how the police and citizens perceive and evaluate each other ... Research over the years has established the fact that contacts between the officers and citizens influence police-community relations in major ways, often for the worse.... Citizens often bring to the interaction an array of attitudes and preconceived notions about the police and

their conduct... Likewise, the officer brings to the interaction a similar attitude of presumptions, prejudices, and perceptions of the citizen. Prior research has established that the officer is sometimes ... prejudiced, callused by contacts with undesirable and unrepresentative population elements, and is trained to assert authoritative control in these contacts. In addition, the police culture abounds with perceptions of the public as uncooperative, unsupportive, and antagonistic towards the police.<sup>iv</sup>

8.35 Antagonism and violence between the police and citizen, which precipitate human rights violation by the police tend to be higher in societies where the police focuses on law enforcement alone than in other societies where they combine law enforcement with social welfare services. Except the police see themselves as "part of the social fabric of a community, they will be perceived as an alien force, and, unless they are clearly visible in their roles of helping people in trouble, they will be seen as a mercenary army of enforcers."<sup>v</sup> In Nigeria, the "acute shortage of personnel has reduced the police to crime fighters [which they do very ineffectively due to qualitative and inadequacy of men, material and money] to the detriment of the diversification of police functions found in western societies."<sup>vi</sup> According to Alemika (1988):

" Few members of the public see the police as friends, instead the sight of police is considered synonymous with trouble. This is partly because in the absence of a social service dimension in police work in Nigeria, the police pre-occupations or routine police work revolve around stop and questions/search, arrest, crime investigation, detention, prosecution, riot and crowd

control, and armed combat against violent criminals and guarding of the rich and powerful. Consequently, there are rather too few positive attributes of policing that can be projected.<sup>vii</sup>

### **POLICE TRAINING AND EDUCATIONAL QUALIFICATION**

8.36 There are different types of training courses for various categories of policemen in Nigeria.<sup>viii</sup> None has emphasis on human rights. Police authorities, however, argue that instructions on the rights of an accused are given in their course on Nigerian criminal law. Constables, who constitute over eighty percent of the force, undergo six months basic training in the course of their enlistment.<sup>ix</sup> 'During the six-month period of basic training, they are taught police duties, criminal law, general knowledge, drill, musketry, self-defense and first aid.'<sup>x</sup>

8.37 Apart from the fact that six months of basic training can hardly be said to be enough time for the recruits to duly understand the depth of responsibility society places on them at the end of their training, it is also obvious that the low level of basic educational qualification<sup>xi</sup> required for their enlistment in the Force prevents them from having hardly anything better than a pedestrian understanding of the general course on criminal law, which they pass through. An effort to peg the minimum educational requirement for enlistment into the police force at Secondary School Certificate by a former Inspector-General of Police, Etim Iyang, was dropped by his successor, Muhammadu Gambo, for political considerations.<sup>xii</sup>

8.38 It is therefore a marked deviation from International standards requiring proper training of law enforcement officials. The

UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials calls for proper screening procedures before selection of law enforcement officials, moral, psychological and physical qualities for the effective exercise of their functions and continuous and thorough professional training.<sup>xiii</sup>

### **POLICE CODE OF CONDUCT AND DISCIPLINE**

8.39 Although the Nigeria Police Regulation, 1968, provides a code of conduct guiding the activities of policemen in Nigeria, the code has neither been reviewed to incorporate the provisions of the United Nations Code of Conduct for Law Enforcement Officials nor observed and effectively enforced in practice.

8.40 The provisions of the code range from what a policemen who feels wronged by another should do,<sup>92</sup> conduct of police officers in their official duties,<sup>93</sup> prohibition of receiving of presents (except from close personal friends or relatives),<sup>94</sup> petition writing,<sup>95</sup> to institution of legal proceedings in their personal capacities. There is, however, no mention of the requirements of upholding the human rights of all persons they come in contact with,<sup>96</sup> guidelines on the use of force,<sup>97</sup> maintenance of the confidentiality of certain information in their possession,<sup>98</sup> the prohibition of the use of torture in their work and the full protection of the health of persons in their custody, as provided in the Code of Conduct for Law Enforcement officials.

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<sup>92</sup> Police Act, Section 352.

<sup>93</sup> Ibid. Section 353

<sup>94</sup> Ibid. Section 354

<sup>95</sup> Ibid. Section 365.

<sup>96</sup> Refer to article 2, United Nations Code of Conduct for Law Enforcement Officials.

<sup>97</sup> Ibid. Article 3.

<sup>98</sup> Ibid. Article 4.

8.41 Observance and enforcement of the rather obsolete code have also not been seen in practice. As the studies summarized in section three of this chapter show, an average Nigerian policeman has no respect for the dignity of individuals he comes in contact with while on and off duty. The situation is not helped by the fact that the Nigerian Police Force is not particularly known for disciplining its officers accused of human rights violation. The Police Act did not also specify disciplinary processes to be followed where human rights abuses are alleged against police officers.<sup>99</sup>

8.42 On occasions police authorities have invoked their internal disciplinary procedure (Orderly Room Trial) to investigate allegations of use of excessive force against their personnel. But these boards do not often result in the disciplining of police officers that violate human rights. This practice violates the United Nations Basic Principles on the use of Force and Firearms by Law Enforcement officials. Principle 22 Stipulates that persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial review.<sup>100</sup> Internal boards of inquiry by the police in Nigeria are a typical strategy to sweep events under the carpet as they create the impression that police authorities are doing something about human rights abuses by their men, whereas in actual fact, officers guilty of these atrocities are walking the streets and breathing freely as freemen.

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<sup>99</sup> B. Nowrojee (1992), *The Nigerian Police Force: A Culture of Impunity*, New York: Lawyers Committee for Human Rights, p. 11.

<sup>100</sup> The United Nations Basic Principles on the Use of Force and Firearms was adopted by the Eight United Nations Congress on the Prevention of Crime and Treatment of Offenders, Havana, Cuba, August 27 – September 7, 1990.

## **POLICE CORRUPTION**

8.4 3 “The image of Nigerian police is very poor,”<sup>101</sup> says a study. Many factors are responsible. Most important of these, apart from their notoriety in brutality, is corruption. It is now taken for granted that provided he/she can find his/her way through, a citizen can manipulate the police as he/she wishes, even in pursuit of personal vendetta. Corruption seems to have become institutionalized by policemen at checkpoints who collect money unashamedly in the full glare of passengers and other road users. Every checkpoint is by itself a ‘toll gate’, especially for commercial vehicles, but with the difference that the proceeds go into private pockets.<sup>102</sup>

8.44 Police authorities are not unaware of the pervading corrupt practices of their men. Perhaps the most wholesome acceptance of this practice by Nigerian policemen came from no less a person than the former Inspector-General of Police, Alhaji Mohammadu Gambo. While in office he was once quoted as saying:

“Police corruption (in Nigeria) is a tragedy because it touches the very core of public confidence and trust in the police force.”<sup>103</sup>

8.45 Corruption in the Nigerian Police Force is not confined to dealings with the members of the public. The study by the Nigerian Institute of Advance legal Studies quoted earlier indicate that some policemen complained of internal corruption within the force. These policemen complained that they had to bribe to get their uniform, to

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<sup>101</sup> A. O. Ojomo and I.E. Okagbue (1991), p126.

<sup>102</sup> Ibid.

<sup>103</sup> Newbreed Magazine, Lagos, May 7, 1989, p.20.

be issued with working rifles, to be posted to 'lucrative' checkpoints or to obtain barracks housing.<sup>104</sup>

8.46 Ironically, corruption according to the Police Act is an offense against discipline and draws sanctions ranging from outright dismissal from the Force to reprimand.<sup>105</sup>

### **POLICE ACCOUNTABILITY**

8.47 It was the Roman satirist, Juvenalis, who perhaps first raised the question of an accountability structure for the police when he asked, "Who will guard the guardians?" Historically, the police have been largely left alone to keep their house in order, with some external oversight administered by the courts and government. This simple approach has now been found wanting because of widespread citizens' dissatisfaction with the internal disciplinary procedures of police departments. Numerous studies and inquiries have also demonstrated the vulnerability of the police to abuse of human rights, corruption and misconduct.

8.48 In Nigeria, if a citizen feels that the police violate his or her rights, and he or she has neither the money nor the time to wade through the cumbersome judicial process in order to bring charges against the police, the person is left with no other alternative but to take the matter back to the police. Even though police authorities argue that its internal 'Orderly Room Trial' has been very effective in sanctioning erring officers, not a few people believe that the process is like taking your complaints back to your police abuser.

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<sup>104</sup> A. O. Ojomo and I.E. Okagbue (1991) p. 126.

<sup>105</sup> Refer to Police Act, First Schedule, Regulation 370 ( c).

8.49 Theoretically, the Ministry of Police Affairs is supposed to exercise oversight friction on the police, which should include ensuring that its police personnel adhere to the highest standard of ethics and professional discipline. In practice, however, the ministry lacks the structure and capacity to play this role. It has offices only in Abuja, while the Nigeria Police Force has presence in the 774 local government areas in Nigeria. The type of oversight role it would be able to play can best be imagined. Similarly, the recently inaugurated Police Service Commission (PSC) has a responsibility to discipline erring police personnel with the exception of the Inspector-General of Police. However, the eight-member Commission lacks the capacity to effectively maintain an oversight function on the over 180, 000 police personnel in Nigeria, and it is currently considering delegating some of its disciplinary powers back to the Nigeria Police Force.

## **RECOMMENDATION**

8.50 The following reform measures are recommended in order to enhance police respect for human rights in Nigeria.

### **A. STRUCTURAL REFORMS**

8.51 The country must restructure its political and economic structures toward democratizing the polity, and promoting economic efficiency and competitiveness with due consideration for and guarantee of social equity and welfare, especially in the provision of health, education and housing for the needy.

1. Democratization of Nigerian polity and economy should be accelerated. This is the only way to have an effective, efficient, civil and polite, accountable, well-equipped and adequately remunerated and motivated police in the country.

2. The economy should be restructured to provide the basic needs of citizens on local/national self-reliance basis. The development of effective services like education, health, transportation, telecommunication, and energy (electricity) should receive priority attention in national development policies and the services should be made available to citizens at affordable costs.
3. Corruption, which is an important motivation for political repression and a major cause of economic and social backwardness in the country, should be tackled through effective legal provisions that are fairly and promptly enforced. This will reduce the high level of corruption in the top hierarchy of government and private institutions. The existence of corruption at these levels encourages corruption at other levels, especially by law enforcement agents. Effective anti-corruption programme in the country will also promote effective and efficient allocation and management of resources for national development and provision of social services.

### **INSTITUTIONAL REFORMS**

8.52 The following conditions within the Police Force should be given due attention with a view to reducing the institutional sources of police violation of human rights.

1. Police should enlarge the scope of contacts between the police and citizens to include social services delivery in order to create favorable environment for public cooperation with police, in their law enforcement duties.
2. Members of the public should be educated on the role and powers of police, and the significance of public cooperation with police in

order to promote an overall individual, community and national security.

3. Policemen and women should be thoroughly screened and tested during their initial training to ensure that they possess good character, and are emotionally stable before they are finally enlisted.
4. The government should provide opportunities for training in academic and professional disciplines by police officials. Many officers on their own, embarked on self-sponsored education at post-secondary levels; but instead of being rewarded, they are indirectly punished for example, the Force refuses to promptly retrain and upgrade them in accordance with their qualifications. Officers who engage in self-education or self-sponsorship in order to acquire higher educational and professional qualifications should be upgraded to appropriate ranks within twelve months.
5. Workshops, seminars, lectures for the reorientation of police officers should be organized at state and divisional command levels, to enable them acquire proper orientation for policing a free and democratic society. The curriculum of police colleges should be enlarged to adequately deal with human rights education, international codes and ethics for law enforcement officers, etc.
6. In order to enhance the effectiveness of the police, the Nigeria Police Force should be well-funded and equipped. This will boost the morale of the officers, enhance their performance, and promote positive evaluation of police by citizens.

7. The Nigeria Police Force should change its law enforcement practices and style that emphasize reactive policing. Instead, proactive preventive policing strategies, such as beat (foot) patrol, and problem-oriented policing, which involve police-community partnership, should be emphasized.
8. Refresher courses should be provided for all levels of the police with a view to sharpening the professional skill of officers and to enable them understand the changes and dynamics in the country's political, social and economic spheres. The courses should also aim at ensuring that police are properly oriented to promote good relationships with the public, and protect human rights and rule of law in the country.
9. Nigeria police should pay attention to effective information management – collation, analysis, publication, storage and dissemination of relevant criminal, social and economic information. At present the quality of criminal and law enforcement statistics generated and produced by the police is grossly unsatisfactory in terms of scope or coverage and accuracy of data, level of analysis, format of presentation and publication. Worse still, the Nigerian police are reluctant to collaborate with technically qualified criminologists to design appropriate and reliable criminal and law enforcement information management system. The police are also reluctant to disseminate criminal and law enforcement statistics to researchers, mass media practitioners, civil society organizations and citizens in general. This practice denies the police of public understanding of their responsibilities and constraints. The police authority should establish a panel comprising police and

civilian specialists to design appropriate criminal and law enforcement information management system for the country.

10. There is need for explicit guidelines that conform with international conventions and principles on Law Enforcement, to guide the behaviour of police officers and their relationships with the public. The present force order governing the use of firearms requires changes to make conditions for the use of firearms more restrictive. In addition, police should procure more non-lethal but effective weapons such as water canons, rubber bullet, etc. for crime and crowd control. The use of baton rather than personal arms should be reintroduced as routine tools of law enforcement for the beat officer.

11. The police authority should enhance the quality and quantity of telecommunication facilities available to officers. Telephone and radio communication facilities should be installed in all police stations and barracks. In addition, every active policeman and woman should be provided with an effective and reliable walkie-talkie for communication with police stations and patrol vehicles within his divisional command to ensure better police response to crime and needs of victims.

### **LEGISLATIVE INITIATIVE**

8.53 Several legislative initiatives are needed to promote police effectiveness, civility and accountability, and reduce police violation of human rights. Some of such initiatives are presented below:

1. The Police Act, including Police Regulations should be reviewed to bring it conform with international conventions and

principles, and the nation's constitutional provisions on human rights, law enforcement, criminal justice administration and treatment of offenders.

2. The National Assembly should enact a law to create Police Boards at the village, divisional, state and national levels. The composition should include elected representatives of community based organizations, workers, students, professional associations (especially medical, legal, academic), trade associations (especially commercial vehicle drivers), religious and community leaders, retired police officers and a serving police officer within the command. The Board should have a civilian chairman. The functions of the Board should include:
  - A. To promote effective police services
  - B. To promote respect for human rights and rule of law by police
  - C. To promote police accountability to the citizens
  - D. To promote and mobilize public support for the police
  - E. To organize public enlightenment programmes for police and citizens on police powers and functions and citizens' concerns for public security, personal safety and human rights.
  - F. To promote measures to reduce conflicts and violence between police and citizens.
  - G. To identify and promote measures to reduce crime and insecurity in society and to assist police efforts towards crime prevention and control, and law enforcement in communities.
  - H. To promote partnership, communication, and cooperation between the community and the police in problem - identification and problem - solving.

- I. To receive, investigate and make recommendations on complaints against police men and women, and police departments. The report shall be transmitted:
  - i. from community (village / town) Police Board to Divisional Police Board.
  - ii. from Divisional Police Board to State Police Board, and
  - iii. from state Police Board to National Police Board.

8.54 The Police Boards should operate as independent organizations. They should, however, be under the office of the Minister of Police Affairs, who shall establish a state liaison office to coordinate the activities of the Board within each state of the federation.

3. The National Assembly should enact a law for the establishment of a Legal Assistance Fund, into which the federal government shall make an annual subvention. Victims of police and executive oppression should be able to draw on the fund for civil litigation.

### **CIVIL SOCIETY INITIATIVES**

8.55 The civil society organizations need to create programme, activities and measures that will enhance partnership and cooperation between the public and police. Additionally, the organizations should empower citizens to ensure police accountability and effective police services. Civil society institutions can promote these through the mobilization of the public in support of police legitimate efforts as well as the mobilization of citizens against abuse of authority/power, brutality and violence, insensitivity incivility and ineffectiveness by

police. Civil society institutions should maintain a strong monitoring, research, training and advocacy capacity on police work in the country.

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<sup>1</sup> . Godwin Uyi Ojo, “The Tragedy of Oil” in Civil Liberties Organisation (ed.) *Ogoni: Trials and Travails*. (Lagos: Civil Liberties Organisation, 1996), p. 3.

<sup>2</sup> . See, Eghosa Osaghae, “The Ogoni Uprising: Oil Politics, Minority Agitation and the Future of the Nigerian State”, *African Affairs*, Nos. 94 (1995), pp. 325.

<sup>3</sup> . See, Cyril Obi, “Oil and the Minority Question” in A. Momoh and S. Adejumobi (eds.), *The National Question in Nigeria: Comparative Perspectives*. (Aldershot: Ashgate, 2002), p. 113.

<sup>4</sup> . See, Sokari Ekine, *Blood and Oil*. (London: Centre for Democracy and Development, 2001), p. 9.

<sup>5</sup> . See, Ibibia L. Worika, “A Report on the Investigation of Human Rights violations in the South- South Zone, 1966-1999: Community/Group Deprivations in Rivers State”. Report of Research Commissioned by the Centre for the Advanced Social Sciences (CASS) for the South South Zone Research.

<sup>6</sup> . Human Rights Watch, *The Price of Oil*. (New York: Human Rights Watch, 1999), p. 70.

<sup>7</sup> . Human Rights Watch, *Ibid*, p. 132.

<sup>8</sup> . Human Rights Watch, *Ibid*, p. 132-133.

<sup>9</sup> . Human Rights Watch, *Ibid*, p. 59.

<sup>10</sup> . Human Rights Watch, *Ibid*, p. 70.

<sup>11</sup> . Human Rights Watch, *Ibid*, p. 62.

<sup>12</sup> . Human Rights Watch, *Ibid*, p. 70.

<sup>1</sup> . see, Human Rights Practices in Nigeria, 1996, p.7.

<sup>2</sup> . Civil Liberties Organisation (CLO), Annual Report, 1996, p.11.

<sup>3</sup> . Civil Liberties Organisation (CLO), Annual Report 1996, p.46.

<sup>4</sup> . See, Civil Liberties Organisation (CLO) Annual Report, 1998, p. 46-50.

<sup>5</sup> . See, the submission of Afenifere to the Human Rights Violations and Investigation Commission, 2001, pp. 9-10.

<sup>6</sup> . Human Rights Practices in Nigeria, p. 14.

<sup>7</sup> . See, Human Rights in Retreat, A publication of the Civil Liberties Organisation, 1993, p.33.

<sup>8</sup> . See, Human Rights in Retreat, A publication of the Civil Liberties Organisation, 1993, p.33.

<sup>11</sup> . See, CLO Annual Report, 1997, p.22.

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- <sup>12</sup> . CLO Annual Report, 1995.
- <sup>13</sup> . see, CLO Annual Report, 1995, p. 33.
- <sup>14</sup> . See, Human Rights Practices, 1996, p. 73.
- <sup>15</sup> . See, CDHR Annual Report, 1995, p. 96.
- <sup>16</sup> . See, CDHR Annual Report, 1996, p.126.
- <sup>17</sup> . See, CLO Annual Reports, 1995, p.52.
18. See, Said Adejumobi, Structural Adjustment, Students Movement and Popular Struggles in Nigeria, 1986-1996” in Attahiru Jega (ed.) *Identity Transformation and Identity Politics Under Structural Adjustment in Nigeria*. (Uppsala and Kano: Nordic Africa Institute and Centre for Research and Documentation, 2000), pp. 204-234.
- 19.
- <sup>19</sup> . Ibid.
20. See, Attahiru Jega, *Nigerian Academics Under Military Rule*. (Stockholm: Department of Political Science, Stockholm University, 1994).
- <sup>1</sup> See, Human Rights Practices in Nigeria, 1996, p.7.
- <sup>2</sup> Civil Liberties Organisation (CLO), Annual Report, 1996, p.11.
- <sup>3</sup> Civil Liberties Organisation (CLO), Annual Report 1996, p.46.
- <sup>4</sup> See, Civil Liberties Organisation (CLO) Annual Report, 1998, p. 46-50.
- <sup>5</sup> See, the submission of Afenifere to the Human Rights Violations and Investigation Commission, 2001, pp. 9-10.
- <sup>6</sup> . Human Rights Practices in Nigeria, p. 14.
- <sup>7</sup> . See, Human Rights in Retreat, A publication of the Civil Liberties Organisation, 1993, p.33.
- <sup>8</sup> . See, Human Rights in Retreat, A publication of the Civil Liberties Organisation, 1993, p.33.
- <sup>11</sup> . See, CLO Annual Report, 1997, p.22.
- <sup>12</sup> . CLO Annual Report, 1995.
- <sup>13</sup> . see, CLO Annual Report, 1995, p. 33.
- <sup>14</sup> . See, Human Rights Practices, 1996, p. 73.
- <sup>15</sup> . See, CDHR Annual Report, 1995, p. 96.
- <sup>16</sup> . See, CDHR Annual Report, 1996, p.126.
- <sup>17</sup> . See, CLO Annual Reports, 1995, p.52.
21. See, Said Adejumobi, Structural Adjustment, Students Movement and Popular Struggles in Nigeria, 1986-1996” in Attahiru Jega (ed.) *Identity Transformation and Identity Politics Under Structural Adjustment in Nigeria*. (Uppsala and Kano: Nordic Africa Institute and Centre for Research and Documentation, 2000), pp. 204-234.

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22.

<sup>19</sup> . Ibid.

<sup>20</sup> . See, Attahiru Jega, *Nigerian Academics Under Military Rule*. (Stockholm: Department of Political Science, Stockholm University, 1994).

<sup>i</sup> The most notorious is Decree No. 2 of 1984.

<sup>ii</sup> Decree No. 1, 1984 provides in section 1(1), 'the provisions of the Constitution of the Federal Republic of Nigeria mentioned in schedule 1 to this decree are hereby suspended'. Section 1(2) further provides subject to this and any other Decree, the provisions of the said constitution which are not suspended by the subsection (1) above shall have effect subject to the modification specified in schedule 2 to this decree.' Accordingly, in schedule 2, part B of the decree, section 1(1) of the 1979 constitution was modified thus: 'this constitution as amended by this or any other decree is supreme and its provisions shall have binding force on all authorities and persons throughout the Federation.

<sup>iii</sup> M. A. Ajomo and I.E. Okagbue (eds.) 1991, *Human Rights and the Administration of Criminal Justice in Nigeria*, Lagos: NIALS, p. 39.

<sup>iv</sup> M. F. White, T.C. Cox and J. Basehart (1991), "Theoretical Considerations of Officer Profanity and Obscenity in Formal Contacts which citizens" in Thomas Barker and David L. Carter (eds.) Police Deviance (Cincinnati, Ohio: Anderson Publishing Co.).

<sup>v</sup> A. S. Blumberg (1979) *Criminal Justice* 2<sup>nd</sup> ed. (New York: New Viewpoint), p.59.

<sup>vi</sup> Oluyemi Kayode (1983) "Nigeria" in E.H. Johnson (ed.) International Handbook of Contemporary Developments in Criminology, Westport, Com: Greenwood Press

<sup>vii</sup> E .E.O Alemika (1988), "Policing and Perceptions of Police in Nigeria", Police Studies, p.174

<sup>viii</sup> These courses are basic training for recruits, Cadet inspectors, and Cadet Assistant Superintendent of Police (ASP). Others are staff development courses, Detective training, Promotion courses and Traffic courses.

<sup>ix</sup> B.J. Takaya (1989), (ed.) *Security Administration and Human Rights*, Jos: Centre for Development Studies, p 351.

<sup>x</sup> Ibid.

<sup>xi</sup> The educational qualification necessary for enlistment into the police, according to the Police Act is Secondary class four certificate.

<sup>xii</sup> I. Chukwuma (1993) *The Nigerian Police and Individual Liberty*, Lagos: Civil Liberties Organisation, p. 30.

<sup>xiii</sup> United Nations (1993), *Human Rights: A compilation of International Instruments*, New York: United Nations, p. 322.

## **VOLUME FOUR**

### **INTRODUCTION**

1. This volume is a case-by-case record of the Commission's public hearings at Abuja, Lagos, Port-Harcourt, Enugu and Kano.
2. Chapter One introduces the entire volume. It does so within the context of the Commission's terms of reference and the framework of the Tribunals of Inquiry Act. It also enumerates the daily procedure for the conduct of public hearing.
3. Chapter Two is a case-by-case record of the first set of petitions heard in Abuja. It is entitled Abuja I.
4. Chapter Three, entitled, Lagos Centre, is a case-by-case record of the petitions whose hearings started in Lagos from November 13 to December 16, 2000.
5. Chapter Four covers the petitions that were heard at Port-Harcourt.
6. Chapter Five covers all petitions whose hearings commenced at the Kano Centre from March 12, 2000 and ended March 22, 2000. Some of the petitions here were adjourned to the Abuja Centre for further hearing.
7. Chapter Six covers the public hearings at the Enugu centre. These were held from April 18, 2001 to May 7, 2001.

8. Chapter Seven, entitled Abuja II, covers the continuation of cases across the various zones which were not exhausted.

9. Chapter Eight, entitled, Abuja III, is the third session of the Commission at Abuja. It took place between September 3, 2001 and October 18, 2001. Though this session concluded hearing started at other centres, including Abuja, it nonetheless considered some fresh cases.

10. Chapter Nine is the conclusion. It takes a look at the entire hearings. It also makes general observations on the grievances that informed most of the petitions and the failure of institutions in safeguarding the rights of the people.

## CHAPTER ONE

### INTRODUCTION

1.1 One of the highlights of the maiden address of President Olusegun Obasanjo when taking over the reins of power on the 29th of May 1999, was a commitment to fight the twin evils of institutionalized corruption and human rights abuses which had characterized Nigeria's experience during the era of military rule. In apparent fulfillment of that pledge, the President, on the 4th of June 1999, inaugurated the Human Rights Violations Investigations Commission (HRVIC – hereafter, the Commission) with a membership of seven distinguished Nigerians.

1.2 In his speech during the inauguration, the President pointed out that setting up the Commission was a manifestation of the determination of the new democratic government,

*To heal the wounds of the past and quickly put the ugly past behind us so as to continue to stretch our hands of fellowship and friendship to all Nigerians for complete reconciliation based on truth and knowledge of the truth in our land.*

1.3 He went on to assert that the paramount intention was to pave the way for reconciliation and thus move the country forward in peace and harmony. In his words,

*We want to reconcile all those who feel alienated by past political events, heal wounds inflicted on our people and restore harmony in our country. We want*

*the injured and the seemingly injured to be reconciled with their oppressors or seeming oppressors. That is the way to move forward.*

1.4 From the above was derived the mandate of the commission which as articulated by its chairman during the zonal public hearings constituted the following:

- 1) To **Heal** the wounds of the past;
- 2) To achieve **Reconciliation** based on Truth and knowledge of the Truth; and
- 3) To restore **Harmony** in our country.

1.5 The Commission derived its powers from the Tribunals of Inquiry Act (Cap 447) Laws of the Federation of Nigeria 1990. Section 8 of the Act states that the Commission “shall have power to regulate its own proceedings”. In the exercise of this power as well as the desire to elicit information from primary sources, the Commission decided to organize public hearings in a bid to more effectively carry out its assignment. The public hearings were of two types. First, were the Zonal Hearings which were held in six designated centres in the country’s six geo-political zones and second, were the Special Hearings. The latter were hearings organized for civil society and human rights organizations and other specialized professional groups such as the security agencies.

1.6 The conduct of the public hearings was organized within legal framework of the Tribunal of Inquiry Act and particularly Sections 9 – 13 which state as follows:

9. *Subject to the provisions of the Tribunals of Inquiry Act, the Panel shall have and may exercise any of the following powers, that is to say –*

a) *To procure all such evidence, written or oral, and to examine all such persons as witnesses as the Panel may think it necessary or desirable to procure or examine;*

b) *To require such evidence to be given on oath as is required of a witness testifying before a court;*

c) *To summon any person in Nigeria to attend any meeting of the Panel to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession, subject to all just exceptions;*

d) *To issue a warrant to compel the attendance of any person who, after having been summoned to attend fails or refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the Panel;*

e) *To admit any evidence, whether written or oral, notwithstanding that such evidence might have been inadmissible in civil or criminal proceedings before a court, and power to act on such evidence;*

*f) To enter upon any land or premises personally or by any agent or agents duly authorized in writing by the Chairman, for any purpose which, in his opinion is material to the inquiry, and in particular, for the purpose of obtaining evidence or information or of inspecting or taking copies of any documents required by or which may be of assistance to the Panel, and for safeguarding any such document or property which, in the opinion of the Panel ought to be safeguarded for any purpose of the inquiry.*

*10. The Chairman shall have power to issue, on behalf of the Panel, all such summonses, subpoenas and other processes and make such necessary appointments as may be required under this Instrument either before or during the inquiry until the submission of the Panel's final report.*

*11. Evidence taken under this Act shall be inadmissible against any person in any civil or criminal proceedings whatever, except in the case of a person charged with giving false evidence before the Panel.*

*12. Any person who –*

*a) threatens, insults or injures any person for having given evidence or on account of the evidence given before the Panel; or*

*b) hinders or attempts to hinder any person, or by threats deters or attempts to deter any person, from giving evidence before the Panel; or*

*c) gives false evidence upon oath before the Panel shall be guilty of all offence and liable on summary conviction to imprisonment for a term not exceeding two (2) years.*

*13. Any person who, after service on him of a summons to attend as a witness or to produce a book, document or any other thing and, notwithstanding any duty of secrecy however imposed, fails or refuses or neglects to do so or to answer any question put to him by or with the concurrence of the Panel shall be guilty of an offence, and liable on summary conviction to a fine of two hundred Naira or to imprisonment for terms of six months: provided that no person shall be bound to incriminate himself and every witness shall, in respect of any evidence written by him for or given by him for the Panel, be entitled to the same privilege to which he would have been entitled if giving evidence before a court of justice.*

1.7 The daily sittings of the Commission however followed the procedure outlined below:

**Daily Procedure for Conduct of Public Hearings**

1. Counsel, Commission staff (registrars, verbatim reporters) and members of the public are seated.
2. The counsel list is signed by counsel.
3. Members arrive and take their seats.
4. Chairman informs gathering of the procedure to be adopted by the Commission, i.e:
  - a) The Commission's counsel will lead all the witnesses (i.e. the petitioners, respondents and any other witnesses).

- b) The petitioner or his counsel, or the respondent/witness or his counsel may cross-examine any witness if need be.
5. The Registrar calls the petition to be heard.
  6. The petitioner is called to the witness box.
  7. The Commission's counsel announces appearance.
  8. Any other counsel interested in the matter announces appearance.
  9. The Commission's counsel commences examination in chief.
  10. Respondent/witness or his counsel is allowed to cross examine the petitioner.
  11. After the petitioner's testimony, respondent goes into the witness box, the procedure is repeated and he is also led in evidence by his own counsel.
  12. After respondent's evidence, petitioner or his counsel may cross-examine him.
  13. Commission's counsel may re-examine any witness if need be.

1.8 As mention earlier, one phase of the public hearings was conducted in designated centres in the six geo-political zones of the country. Because of time constraint, not all the petitions slated for hearing in some of the zones could all be heard or concluded in the designated centres. Such unheard or unconcluded petitions were thus adjourned or transferred as the case may be, to the Abuja Second and Third sessions. Below, is the summary of the petitions heard per zone/centre (excluding the Special Hearings). Details of petitions heard in each Centre are provided in Appendix I.

1.9

**ZONAL PUBLIC HEARINGS**

S/NO	CENTRE	DATE OF HEARING	PETITIONS HEARD	PETITIONS STRUCK OUT	PETITIONS WITHDRAWN
1.	ABUJA 9I)	24TH OCT - 31ST NOV. 2000	35	2	-
2.	LAGOS	13TH NOV - 16TH DEC. 2000	57	1	-
3.	PORT-HARCOURT	15TH JAN. - 2ND FEB, 2001	36	1	2
4.	KANO	12TH - 22ND MARCH, 2001	34	9	3
5.	ENUGU	18TH APRIL - 4TH MAY, 2001	39	6	-
6.	ABUJA (II)	25TH JUNE - 31ST JULY, 2001	77	20	5
7.	ABUJA (III)	3RD SEPT. - 9TH OCT. 2001	62	10	-
	<b>TOTAL</b>		<b>340</b>	<b>49</b>	<b>10</b>

1.10 The Special Hearings were all organized during the Third Abuja Sessions. Submissions were made by the following:

1. National Human Rights Commission
2. Civil Liberties Organization.
3. Constitutional Rights Projects.
4. Centre for the Defense of Human Rights.
5. Prisoners Rehabilitation and Welfare Action.
6. The Armed Forces.

7. The Police
8. State Security Service
9. National Intelligence Agency
10. The Nigeria Prisons.
11. The Prison Rehabilitation Ministry International.

1.11 Research Institutions and Individual Researchers earlier commissioned to undertake background researches for the Commission also made summary presentations. They included:

1. Centre for Democratic Development Research and Training
2. Development Policy Centre
3. BOABAB
4. The African Centre for Democratic Government
5. Centre for Advanced Social Science
6. Alhaji M. D. Yusuf
7. Professor S. G. Tyoden.

1.12 It is on record that the Commission received over 10,000 petitions. However, as can be seen in the Table above only 40 petitions were the subject of public hearings. These petitions were those which the Commission deemed as dealing with *gross violations* of human rights in line with its terms of reference. However, neither the instrument setting up the Commission, nor its terms of reference, defined the concept, *gross violations*. The Commission therefore adopted and modified the definition used by the South African Truth and Reconciliation Commission. Violations of human rights seen as gross were thus designated as:

- a) the killing, abduction, torture or severe ill-treatment of any person.

- b) an attempt, conspiracy, incitement, instigation command or procurement to commit an act referred to in paragraph (a) --- and which was committed during the period 15th January 1966 to 29th May 1999.

1.13 After identifying those petitions the Commission believed came under the category of *gross violations*, the list, number of petition, name of petitioner and date of hearings were published in four daily newspapers with a national circulation. This was done a few days to the commencement of each zonal hearing. In addition, the Commission sent out bailiffs with written summonses which were served on petitioners and witnesses alike.

1.14 Another point worth noting was the nature of the Commission. It was only a fact-finding Commission whose major preoccupation was preliminary investigation into facts with a view to recommending further action as dictated by the available evidence. It was not empowered or mandated by its Terms of Reference or the Tribunals of Inquiry Act to pass final judgment. In other words, it was not a fault-finding or guilt-finding body in the sense that it could pass a verdict of Guilty or Not Guilty; Liable or not Liable as the case may be. This thus differentiated the Commission from a Court of Law although it adopted the same *modus operandi*, in the conduct of the public hearings.

1.15 In the course of the hearings, the Commission has had to strike out some petitions. This was done based on three reasons: First was when the Commission discovered that a petition was a subject matter before a Court of Law. Second was the voluntary withdrawal of a petition by the petitioner and the withdrawal is not objected to by

the individual(s) or institution(s) petitioned against. Third was when a petitioner fails, after due service of notice of hearing, to appear before the Commission on a date fixed for hearing. This third reason was usually the discretion of the Commission and was usually exercised with great caution, after the Commission had convinced itself that there was proof of service and that the petitioner was given adequate notice. Even so, the Commission usually struck out these categories of petitions with a *proviso* that the petitioner was at liberty to refile such petition.

1.16 As mentioned earlier, one of the major reasons for convening the public and special hearings was the need to collate as much data as possible from primary sources i.e the direct victims of the human rights abuses being investigated. The special hearings also provided the same type of information, although from interested and informed secondary sources with in-depth knowledge and/or information on such violations. A third reason for the conduct of the hearings was that it provided a public forum for the aggrieved to air his or her grievances and for the alleged perpetrator to state his or her own side of the story. The overall intention being the hope that the face-to-face encounter between accused and accuser would provide an opportunity for reflective soul-searching, remorse, forgiveness and reconciliation. Finally it was also intended that the public hearings would provide Nigerians and indeed the world at large an opportunity to know at first hand, who did what, to whom and with what consequences.

1.17 What follows is the summary of these hearings as recorded in the various centres.

## CHAPTER TWO

### ABUJA I

#### INTRODUCTION

2.1 The first phase of the public hearings of the Commission took place in Abuja between the 24th of October, 2000 and the 31st of November, 2000. Since Abuja later on witnessed other public hearing sessions, for convenience, this phase will be referred to as “THE FIRST ABUJA HEARINGS”. During this phase, a total number of 42 petitions were presented for hearing. Out of this number, 14 petitions were concluded; 4 were struck out, mostly because the petitioners failed to show up to prosecute or follow up their petitions or because they requested to withdraw it. Twenty-four petitions were adjourned to subsequent Abuja sittings or to other zones for continuation of hearing.

2.2 The first Abuja sittings started with the cases of the petitioners who were implicated in the 1995 *coup d’etat* which were popularly referred to by the petitioners, as a phantom *coup detat*.

2.3 Apart from the *coup d’etat* cases, other petitions dealt with in this zone included petitions which dealt with unlawful killings and unlawful detentions.

2.4 Without any exception, all the petitions relating to alleged involvement in the 1995 *coup d’etat* complained of torture, inhuman and degrading treatment as well as denial of the constitutional right of the petitioners to fair hearing, as a result of reliance on the Special Military Tribunal.

2.5 About four different categories of cases were heard during the first Abuja sittings. They included cases of torture, inhuman and degrading treatment, cases of unlawful killing, abduction, etc.

2.6 The first group of cases tagged, **the 1995 Coup cases**, was consolidated because of their similarity and close relationship. The cases are dealt with below on a case-by-case basis.

**PETITION NO. 147 PETITIONER: CAPTAIN U.S.A SULEIMAN**

This case was started during the first Abuja sitting but was concluded during the second Abuja sitting. The petitioner's petition, which was tendered in evidence as **Exhibit I**, disclosed that following his alleged complicity in the 1995 coup plot, he was detained without trial for eleven months. During this period, he was kept in solitary confinement in a dungeon at three different locations in Lagos. His detention was accompanied by severe torture, including being chained, hand and foot, for twenty-four hours each day. He demonstrated the various torture positions, which he was forced to adopt. In his own words,

*“the dungeon at 78 Alexander Avenue, Ikoyi, where I had a stint must be given a special mention. It is a dreaded location by all detainees as it accommodates the worst cells I have ever come across in my life.*

*The cubicle – like dungeons, not ventilated and in perpetual darkness, twenty-four hours a day. The combined effect of Lagos humidity and the air-tight nature of the dungeons leave detainees gasping for breath and their body dripping of sweat all day.*

*The setting is akin to the German Gestapo camp of the Nazi era”.*

Like the petitioners in his group, the petitioner blamed the following individuals:

- i. Major General Patrick Aziza - who was Chairman of the Special Military Tribunal (SMT).
- ii. Major General Felix Mujakpero - Head of the Special Investigation Panel.(S.I.P).
- iii. Col. J. K. Olu - Head of Security Group of Directorate of Military Intelligence
- iv. Col. Frank Omenka, and
- v. Zakari Biu - Assistant Commissioner of Police.

Only ACP Zakari Biu appeared during this session. He was represented by Counsel who cross-examined the petitioner (Commission Witness I), after his testimony, ACP Zakari Biu in his testimony denied torturing the petitioners.

**PETITION NO 364: PETITIONER COL. MARTINS AZUKA IGWE**

This petitioner’s case was the second heard by the Commission during the first Abuja sitting. Like Captain Suleiman, he was arrested, detained and severely tortured for alleged complicity in the 1995 coup plot to overthrow the government of Gen. Sani Abacha, a plot which he referred to in his testimony as “a non-existent coup plot”. However, his own ordeal went beyond torture. He was tried by the General Patrick Aziza Coup Tribunal and was sentenced to death by firing squad. The death sentence was later commuted to twenty years imprisonment and

his military career was destroyed following his retirement from the Army.

In his evidence, he described the torture inflicted on him as well as the torture position to include:

- i. The chaining of his hands and feet to the wall in the form a crucifix and being made to stand throughout the night in the dark, damp and unventilated cell.
- ii. Being suspended on a horizontal pole with his hands and feet tied behind him while being simultaneously questioned and beaten.

This witness was detained for a total of four years and seven days under inhuman condition.

The witness was cross-examined by Counsel to ACP Zakari Biu who was described by the petitioner during his testimony as his “Chief Torturer”, a tag that was denied by ACP Biu. The witness stood by his story during the cross-examination.

During the second Abuja session, the following petitions were consolidated and heard together with the case of Lt. Colonel Martins Azuka Igwe since the facts of the case were similar. They are:

- Petition No. 38 by Col. Roland N. Emokpae,
- Petition No. 147 by Captain U. S. A. Suleiman,
- Petition No., 101 by Navy Lt. Akin Olowookere and
- Petition No. 150 by Navy Commander L. M. O. Fabiyi

Another related case presented by Lt. Col. Richard Obiki was also concluded during the session. The common thread that ran through the testimonies of this group of petitioners was the contention that the 1995 coup plot which they unanimously tagged “a phantom coup” existed only in the imagination of their accusers. Lt. Col. Igwe in his testimony stated thus,

*“the whole coup saga of 1995 was stage-managed basically by the late General Abacha and his agents to deal with General Olusegun Obasanjo and the late General Shehu Musa Yar’adua for not supporting (Abacha’s) infamous regime. We (the hounded military officers and civilians) were merely used to make up a concocted coup story for effect. I committed no offence whatsoever”.*

The petitioners’ claims of arbitrary arrest, detention, trial and undeserved conviction were also uniform. Also, almost all the petitioners pointedly named the same individuals as the perpetrators of the abuses against them, namely: Major Generals Patrick Aziza and Mujakperuo, Colonel Frank Omenka, and ACP Zakari Biu. Col Omenka had however fled the country at the time of the sittings of this Commission and could therefore not be summoned to appear before it.

General Felix Mujakperuo in his response to the allegations made against him in the petitions stated that he was the Head of the Special Investigation Panel set up by the military under the government of the day in 1995 to investigate the suspects of the alleged coup plot. He also stated that the SIP was divided into three separate and distinct units namely: The Interrogation Section, The Investigation Section and the Legal Unit. He also informed the Commission that each of these units had its own convening orders and although he was the overall

head of the Panel, he was in fact in charge of only the Investigation Section. He denied ordering or partaking in torture or ill-treatment of any of the suspects.

General Patrick Aziza in his response stated that he was the President of the Special Military Tribunal, which tried the coup suspects. He denied presiding over a kangaroo court as claimed by the suspects, pointing out that the Special Military Tribunal, which tried, convicted and handed out death sentences or terms of imprisonment to the suspects, was in fact a creature of the Treason and other Offences (Special Military Tribunal) Act, Cap 444, Law of the Federation of Nigeria, 1990. He denied any link whatsoever with the arrest or alleged torture of any of the petitioners.

This witness stated that at the end of the prosecution's case, the then suspects were given the opportunity to enter into their own defences. The petitioners' claims of torture were rejected by him on the ground that there were no visible wounds.

This witness denied the claim of the petitioners that as a member of the Provisional Ruling Council, which ratified the sentences passed on the accused persons, he acted as both prosecutor and judge to the detriment of the petitioners. The witness corroborated the testimony of Captain U. S. A. Suleiman to the effect that although the latter was billed to appear before the SMT for trial, he was eventually not brought. Despite being cleared by the S.I.P, the petitioner's detention continued nonetheless. In the light of the claims of all the petitioners that no coup plot by whatever shape took place in 1995, they wanted the alleged 1995 coup plot to be declared a hoax. They were also united in their assertion that their trial for the alleged coup plot was

malicious, vindictive and unjust, and their conviction a travesty of justice. Indeed, they argued that it was in the light of the realization of these facts that the government of General Abdulsalami Abubakar granted them State Pardon. What they are now seeking from the Commission/Government is that their entire convictions be quashed, they be paid compensations and rehabilitated accordingly.

**PETITION NO. 31 PETITIONER: LT. COLONEL OBIKI**

This petitioner was also arrested, detained and tortured for alleged involvement in the 1995 coup plot. He was tried by the Special Military Tribunal. He was sentenced to life imprisonment but spent twenty-two months in detention. The petitioner adopted the testimony (including the prayers) of all the other victims of the alleged coup plot in 1995.

**PETITION NO. 124: PETITIONER: COLONEL OLOSEGUN OLORUNTOBA**

The petitioner was also arrested, detained and tortured in connection with the 1995 alleged coup plot. He was tried by the General Patrick Aziza Coup Tribunal and was sentenced to death by firing squad. In view of the consistency of his account of torture with those of the other coup victims, the Commission decided it had received enough evidence and there was no need to summon any more witnesses. His case was consolidated with all the other 1995 coup cases.

**PETITION NO. 123 PETITIONER D. K. OLOWOMORAN**

This petitioner was one of the officers who were arrested, detained and severely tortured in connection with the 1995 coup plot. Although the charges of coup plotting preferred against him were eventually dismissed by the Special Military Tribunal, his detention continued for

about eight months thereafter. His petition was consolidated with those of the other alleged coup plotters.

**PETITION NO. 306 PETITIONER: COLONEL E. I. JANDO**

The petitioner was arrested in December 1997 in connection with the second alleged coup plot against the government of General Sani Abacha. In his testimony, he stated that he was detained, severely tortured and eventually charged before the Special Military Tribunal headed by General Victor Malu with “concealment of information of treasonable value”. He denied any link with the 1997 alleged coup plot.

During his testimony, he stated that one Colonel Nathaniel Madza had falsely implicated him. Colonel Madza in his testimony agreed to report the petitioner to the military authorities but maintained he did it as part of his duties. However faced with his accuser and the facts before him he showed remorse. “He pleaded for forgiveness, telling the petitioner that they were both victims of the system”. The Commission achieved one of its earliest reconciliations when it reconciled Colonel Madza and the petitioner. The case was concluded during the first Abuja session.

**PETITION NO. 495. PETITIONER: MURTALA S.YAR’ ADUA**

The petitioner is the son of the late General Shehu Musa Yar’ adua, the former Chief of Staff, Supreme Headquarters, under the regime of General Olusegun Obasanjo between 1977 and 1979. He alleged that his father was unlawfully arrested, detained, tried, convicted and sentenced to death by the Special Military Tribunal headed by Major-General P.N. Aziza for alleged involvement in the alleged coup plot of 1995 under the late General Sani Abacha’s regime. His death

sentence was subsequently commuted to life imprisonment by the same regime. The petitioner lamented that his father died in Abakaliki prisons while serving the life sentence in circumstances that clearly suggest complicity on the part of the government of the day.

On the 30th of October 2000 when the petition was mentioned for hearing for the second time, the petitioner informed the Commission that he did not receive the notice of hearing on time and requested for an adjournment to enable him prepare for the matter.

The Commission acceded to this request. When the matter was subsequently called for hearing on the 26th and 29th of June, 2001 respectively, the petitioner was absent and was not represented by counsel.

The counsel representing the Commission informed the Commission that attempts to serve the petitioner necessary notices of hearing had failed. The Commission observed that the matter had been adjourned several times in order to enable the petitioner appear and present the petition. The petition was accordingly struck-out.

**PETITION NO 233: PETITIONER: OLU BAMGBOSE**

This petitioner wrote to complain about his arrest, detention and torture in connection with the 1995 alleged coup plot against the government of General Sani Abacha. He supplied an address in the United States of America through which he was served by DHL courier service. However, the indication from the courier company was that the addressee was unknown at the address he supplied. The case was therefore struck out owing to the absence of the petitioner.

**PETITION NO. 275: PETITIONER: MAJOR MICHAEL O. EDEGHABA**

The petitioner's case is that of unlawful arrest, detention and torture on alleged trumped-up charges of coup plotting in 1994. He spent over two years in detention and was tortured by being hand- and leg-chained while in custody. He attributed his travails to his opposition to continued military rule, which earned him the tag of a member of the National Democratic Coalition (NADECO), which was at the time a vocal opponent of military rule. The other two witnesses who were summoned by the Commission, Colonels Bassey Asuquo and K. J. Olu, were absent. The Commission ruled that their testimony would add nothing more to the case. The petitioner's case was accordingly closed.

**PETITION NO. 497: PETITIONER: OLUGBENGA OBASANJO**

This petition was submitted by Olugbena Obasanjo to complain about the alleged unlawful arrest, detention, trial and conviction of his father, Chief Olusegun Obasanjo for alleged complicity in the purported coup plot against the government of General Sani Abacha. The petitioner was absent from the proceedings but was represented by counsel. The present Head of State, Chief Olusegun Obasanjo who is the subject of the petition was summoned by the Commission as a witness, and he appeared and testified.

Counsel to Alhaji Ismaila Gwarzo, one of the witnesses in the case had challenged the non-appearance of the petitioner and urged that the case be struck out. The Commission however upheld the argument of the counsel to the petitioner and Chief Obasanjo that representation by counsel was sufficient under the Tribunals of Inquiry Act. This was the attitude which the Commission adopted, in subsequent cases

where an absent petitioner was represented by counsel. The petition was accordingly not struck out.

The then Chief of Defence Intelligence, Rear Admiral Joseph Ajayi, who was summoned as a witness brought certain items, which he tendered in evidence. These were:

- a. A copy of the video recording of the proceedings of the 1995 Special Military Tribunal, which tried the alleged coup plotters which was tendered in evidence and marked Exhibit 1.
- b. Record of proceedings of the Special Military Tribunal convened by Major General Abdulsalami A. Abubakar, which was marked Exhibit 2.
- c. Report of a Ministry of Defence Special Investigation Panel on the coup plot against the Federal Government, which was marked Exhibit 3.
- d. A letter captioned: "Cashiering of Retired NA Officers" General Olusegun Obasanjo (N46) dated 25th October, 1995 and signed by Brigadier-General Said, which was marked Exhibit 4.

A letter entitled, "Grant of Amnesty to Detainee:" signed by one Air Vice Marshall Idi Musa which was marked Exhibit 5.

In his testimony, Chief Olusegun Obasanjo stated that he promptly answered the summons of the Commission to show leadership by example and to show that nobody is above the law. The witness identified Exhibits 1 to 5, which were tendered when the case first came up for hearing. He also confirmed that the petition was indeed written by his son and confirmed the facts of his arrest, detention, trial, conviction and sentence as contained in the petition. The petition was received in evidence as Exhibit 6.

The witness was charged for concealment of treason and sentenced to twenty-five years imprisonment. He confirmed that the petitioner witnessed his arrest and underwent psychological trauma as a result of same.

This witness also disclosed during his testimony that while he was in prison, Colonel Bello-Fadile wrote a letter of apology to him. A copy of this letter was tendered in evidence and marked Exhibit 7. He was also cashiered from the army while he was in prison. He finally stated he had forgiven all those who implicated him in the alleged coup plot and that he desired no compensation as he had been vindicated. At the prompting of the Commission, the witness and Colonel Bello-Fadile demonstrated their reconciliation by publicly embracing each other.

Colonel Bello-Fadile who was alleged by Chief Obasanjo to have implicated him in the plot also testified. He confirmed that he indeed wrote the letter of apology to Chief Obasanjo and also stated that he was tortured into implicating Chief Obasanjo. He denied planning a coup but stated that he may have been used to implicate Chief Obasanjo in the alleged coup plot in order to lend credence to the coup plot story. The Commission decided that no further testimony was required and the case was accordingly closed.

**PETITION NO. 617: PETITIONER: MRS L. WILLIAMS**

The petitioner was absent during the first Abuja sittings. Since she supplied a Port Harcourt address to the Commission, her case was remitted to Port Harcourt for hearing.

**PETITION NO. 122: PETITIONER: MRS ADEBUKUNOLA OSHODI**

This petitioner wrote to the Commission in respect of the crash of the Military Transport Plane (C-130) on the 26th of September, 1992 in which almost a whole course of military officers cutting across the Army, the Navy, and the Air force perished. She sought to know exactly what happened to her husband who was on board the plane, and the cause of the crash.

When she failed to appear during the first Abuja session, her case was remitted to the second Abuja session. At this time the Commission got an indication that she had left Abuja and that she was then resident in Lagos.

The Commission's bailiffs tracked her down in Lagos and effected service of a summons on her. She again failed to appear. Her case was accordingly struck out during the second Abuja sitting.

**PETITION 787: PETITIONER: MR. JULIUS ANAKOR**

This petitioner's complaint was in respect of the disappearance in police custody and presumed death of his younger brother, Mr. Samuel Anakor. The fact of the case is that Dr. Samuel Anakor was arrested and detained at the Wuse Police Station, while on a business trip from Aba, Abia State to Abuja. He was detained with his vehicle and cash of N450,000.00 (four hundred and fifty thousand naira).

When the petitioner and the family of the deceased grew apprehensive upon not seeing him, they traced him to the Wuse Police Station from where they were directed to the Federal Investigation and Intelligence Bureau (FIIB). They were informed that he was in the custody of one DSP Bello. All attempts to see the said Samuel Anakor proved

abortive. There was no evidence that the said Samuel Anakor had been charged with any offence or had been arraigned before any court of law.

The petitioner, in his testimony, expressed the view that his brother was murdered by the police because of the money he had on him. The Police failed to produce the two officers who were mentioned by the petitioner namely, DSP Bello, who had the victim, Samuel Anakor, in his custody and Mr. Patrick Oditia who had promised to facilitate investigations into the case.

In view of the absence of police witnesses to contradict the testimony of the petitioner, his case was closed. He sought compensation totaling N6.15 million for the presumed unlawful killing of his brother and prosecution of all those implicated in his killing.

**PETITION NO. 244 PETITIONER: STEPHEN SARKI**

This petitioner wrote in respect of the alleged murder of a member of staff of the Federal Road Safety Corps Abuja, one Mr. John Zephaniah Haruna in the Wuse Central Police Station by certain named perpetrators. When, however, the case was called for hearing, the petitioner was neither present nor was he represented by counsel and remained absent on the next date of adjournment. The case was accordingly struck out.

**PETITION NO 254: PETITIONER: MR OGAGA OVRAWAH**

This petition deals with the unlawful killing of one Innocent Oghenero Zundu Ovwah on the evening of the 3rd of March, 1998 along Gado Nasko Road, Kubwa, Abuja by three men. The petitioner named two of the perpetrators in his testimony as Mr. Adejoh Abdul and Mr Noah

Omakonji both of Kubwa, Abuja. The two alleged perpetrators were said to be in the employment of the National Intelligence Agency, Abuja.

The petitioner disclosed in his testimony that his late brother had been beaten to death by the three perpetrators following an attempt by the deceased to settle an argument between the perpetrators and a commercial motor cyclist who was carrying him (the deceased) and who had been involved in a minor accident with a car driven by one of the alleged perpetrators.

The petitioner also disclosed that the perpetrators were arrested by the police but were later granted bail by the Chief Magistrate Court in Wuse, Abuja. According to the petitioner up to the time of the hearing, no steps had been taken to initiate criminal proceedings against the perpetrators. The record of proceedings during which the alleged perpetrators were granted bail was tendered in evidence and marked Exhibit 3.

The petitioner's prayer was that the case should be re-opened and re-investigated.

The investigating police officer who investigated the case informed the Commission that following the death of the deceased, his employers, the Federal Road Safety Corps had embalmed the corpse without informing the police.

According to him, the pathologist consequently refused to carry out an autopsy on the corpse. Since there was no autopsy report, the Director of Public Prosecutions terminated the case. The case file in

respect of the case titled “Commissioner of Police Vs Adejoh Abdul and Noah Omakonji” was admitted in evidence and marked Exhibit 3. The Commission ordered that the case be re-opened and re-investigated by the police.

**PETITION NO 23: PETITIONER: ALHAJI MAHMOUD A. SAMBA**

This petitioner’s complaint relates to the bomb explosion in Ilorin Stadium on the 31st of May, 1995. The explosion according to the petitioner was an act of sabotage designed to eliminate certain people. When the case was called for hearing, the petitioner was absent and the case was accordingly struck out.

**PETITION NO. 792: PETITIONER: MR JOHN JOKOTOYE**

This petition relates to the unlawful killing of one David Jokotoye and two other individuals, Francis Omokore and Usman Kofor Mata who were allegedly shot dead by men of the Nigeria Police Force on the 22nd of May, 1998.

The petitioner in his testimony stated that the late Jokotoye and the other two were returning to Suleja from Kano where they had gone to buy a car when policemen along the Kano/Zaria expressway accosted them. While the driver of the vehicle, Kofor Mata was shot dead on the spot, the other two were wounded but were later also shot dead by the police.

The police witness, Superintendent of Police, Thomas Bangajija, stated in his testimony that the deceased had been shot while attempting to run away from the police, a claim which was contradicted by Exhibit 2, a medical certificate of death which was tendered by the petitioner

and which indicated that the late Jokotoye had been shot in the forehead, not shot while trying to escape from the Police.

The testimony adduced during the hearing of this petition revealed there was no dispute about the fact that the late Jokotoye and the other two were shot and killed by the Police, having been mistaken for armed robbers.

The petitioner sought compensation to the tune of not less than ten million naira.

**PETITION NO 900: PETITIONER: MR. T.U. AKHIDIME**

This was a case of unlawful killing. The case was struck out during the first Abuja sitting owing to the non-appearance of the petitioner but was subsequently heard during the second Abuja session, when the petitioner put up appearance. Details of the case can be obtained in the records of the second Abuja session.

**PETITION NO. 60: PETITIONER: ALHAJI SANI OTTO**

This was a case of alleged unlawful killing of one Alhaji Ibrahim Otto, about the 25th of April, 1998. The petitioner in his testimony disclosed that the deceased was killed because of his political leaning, having supported one Barrister A.D. Sodangi against his opponent, one Alhaji Isa Aliyu Ndako on election day.

The petitioner also stated in his testimony that despite a formal report to the police in Nasarawa State and a petition to the Inspector-General of Police, the Police made no arrests, neither was any investigation conducted in respect of the matter. The petitioner's prayer was that the Police should investigate his brother's death, a request which the

Commission had no difficulty in acceding to. The case was thus remitted to the police for full investigation.

**PETITION NO. 230: PETITIONER: LISA OLU AKERELE**

This was a case of unlawful arrest, detention and torture of the petitioner by the officers of the Nigeria Police Force. The petitioner stated in his testimony that during the period prior to his arrest, he was Personal Assistant to Chief M.K.O. Abiola.

On the 25th of October, 1994, armed policemen from the Aso Rock Police detachment arrested him.

The petitioner stated that he was taken before one CSP Abba who was then the officer in charge of the Aso Rock Mobile Police Unit and subsequently to Major Hamza Al-Mustapha, Chief Security Officer to the then Head of State, General Sani Abacha. The petitioner stated that on the orders of the Chief Security Officer, he was stripped naked and severely beaten by the members of the Strike Force. The beating was repeated in the office of the Commissioner of Police of the Federal Capital Territory. He stated that he was informed that his offence was being found in "a-no-go-area". He was also accused of planning to smuggle Chief M.K.O. Abiola who was then in custody out of the country.

He prayed the Commission to order the return of important documents seized from him by the security operatives, payment of adequate compensation to him as well as an apology to him. He also sought compensation for one Miss Nike Kajubo, Mr. Tope Ibronke as well as Messrs Luka Makama and John Ayodele, his two drivers, who were also unlawfully detained at various times.

Assistant Commissioner of Police, Suleiman Abba, also testified. He stated that the petitioner was arrested alongside his driver on the 26th of October, 2000, while they were trailing the convoy of the then Head of State General Sani Abacha, at about 5.00 a.m. within the premises of the presidential villa. He also stated that the petitioner had been passing information and documents secretly to Chief M.K.O. Abiola who was then in custody. He confirmed that he participated in questioning the petitioner. He also confirmed that the petitioner was beaten though, he did not take part in the beating. On the contrary, he rescued the petitioner from being beaten on one occasion. After the testimony of ACP Abba, one Mr. Darma, a member of staff of the State Security Service testified. He also confirmed that he was a member of the Committee that interrogated the petitioner.

He equally admitted that the petitioner was detained for a while at the headquarters of the State Security Service. The witness confirmed the testimonies of the first two witnesses that the petitioner was beaten.

The Commission noted that the testimonies of the second and third witnesses corroborated the petitioner's story of arrest, detention and torture. The Commission also noted and commented on the forthrightness of the witnesses. A total of three witnesses testified and four exhibits were tendered in evidence.

**PETITION NO. 324: PETITIONER: EX-MAJOR MOHAMMED MAGAJI**

This petitioner's complaint related to unlawful arrest, detention and torture of the petitioner and two of his children by Colonel Frank Omenka and on other army officers. The petitioner stated in his testimony that his ordeal started when he was falsely accused by

Colonel Omenka of having homosexual relations with two boys. According to the petitioner, he drew the ire of Colonel Frank Omenka when he was appointed as prosecutor in a case involving a top military officer, one Brigadier-General Ayanpele and in which Colonel Omenka had interest.

The petitioner stated in his testimony that he was detained and tortured on the orders of Col. Omenka. His children were also detained and beaten. The petitioner further alleged that he was denied food and medicine.

The petitioner disclosed that after a flawed investigation, he was tried by a court martial presided over by Major-General Patrick Aziza. He alleged that there were many procedural irregularities in the trial in breach of the Armed Forces Decree 105. The petitioner was eventually convicted and jailed for five years and was dismissed from the Nigerian Army. He claimed that his conviction was based on contradictory and inadmissible evidence and was borne out of malice. He blamed Generals Patrick Aziza, Ishaya Bamaiyi and Col. Frank Omenka for the violation of his rights. The petitioner sought many reliefs from the Commission, including a recommendation that his trial and conviction be re-visited. He also sought an apology from the Nigerian Army as well as compensation for himself and his children for their torture and brutalization. He further urged the Commission to pay visits to the DMI cells as well as the Inter-Centre detention outfit in order to appreciate the ordeal of those detained there. No other witness was called and the case was closed at this juncture.

**PETITION NO. 466: PETITIONER: MUSA ADEDE**

This was a case of unlawful arrest, detention and torture of the petitioner in relation to the alleged coup plot of 1995 during the regime of General Sani Abacha.

The petitioner was charged alongside some others with being an accessory after the fact of coup plotting and was tried by the Special Military Tribunal. He was severely tortured and was chained hand and foot as well as being made to endure solitary confinement during certain periods of his detention.

After he was discharged and acquitted by the General Victor Malu Special Military Tribunal in April 1998, his detention and torture continued on the orders of Sergeant Barnabas Mshelia (Rogers). Apparently, the petitioner was not tried along with other individuals accused of coup plotting in 1995, because he was out of the country at the time of that alleged coup plot. The petitioner blamed the late General Sani Abacha, Col. N.N. Madza and Sergeant Barnabas, Mshelia (Rogers) amongst others, for his ordeal.

The petitioner prayed the Commission to order the refund to him of the sum of over six million naira, which Colonel Frank Omenka had illegally forced him to pay to one NAPEX Nigeria Limited over a failed contract. The petitioner is also asking for refund of the cost of repairs and maintenance of his private aircraft which was detained for over one year. He denied knowledge of the alleged coup plot of 1995 for which he was tried in 1998, over two years after the alleged plot.

The two alleged perpetrators who were present, Colonel Nathaniel N. Madza and Brigadier-General Momoh Lawani Yesufu both cross-

examined the petitioner. During the cross-examination, the petitioner reiterated the fact that the two witnesses were members of the Special Investigation Panel which investigated the allegations against him, and which provided the report with which he was tried.

The witnesses did not dispute these. They however denied any role in the torture of the petitioner. The Chairman of the Commission blamed the system that permitted situations such as the one endured by the petitioner. He therefore urged the petitioner to forgive any grudges he bore the witnesses in the spirit of reconciliation. The petitioner and the other two witnesses practically demonstrated their reconciliation by shaking hands. The case was concluded on this note.

**PETITION NO. 430: PETITIONER: LT. I.S. UMAR**

The petitioner's petition border on unlawful arrest, detention without trial for one hundred days, and torture in connection with the alleged coup plot of 1997. The petitioner also complained of unjust retirement from the Nigerian Army for the same reason. The petitioner in his testimony blamed the former Chief Security Officer(CSO) to General Sani Abacha for his ordeal. He stated that there was no coup plot in December 1997 and that the alleged coup plot was an arrangement by General Abacha and his cohorts to eliminate all those who were opposed to his self-succession bid.

The petitioner, a former member of, and one time Acting Commander of, the Strike Force, a Special Security Unit, which was answerable to Major Al-Mustapha also stated that he incurred the wrath of Al-Mustapha because he was alleged by the latter to be too inquisitive and wanting to know about special assignments, which Major Al-

Mustapha used Sergeant Mshelia (Rogers) and some other soldiers in the strike force for.

After his testimony, Brigadier-General Ibrahim Sabo testified. He denied responsibility for the petitioner's ordeal, having been accused earlier by the petitioner of being one of those who precipitated the 1997 coup plot. He also offered some clarifications to the answers provided by the petitioner in relation to obedience of superior order in the military.

The hearing of the petition was thereafter moved to the Lagos sitting to enable the Commission take the testimony of Major Hamza Al-Mustapha. The case continued during the Lagos sitting. General Ishaya Rizi Bamaiyi and Major Hamza Al-Mustapha who were both mentioned in the petition were present and were also represented by counsel.

The petitioner was cross-examined by Major-Al Mustapha's lawyer and also by General Bamaiyi's lawyer. During cross-examination by Major Al-Mustapha's lawyer, a letter written by the petitioner to Al-Mustapha in which the former expressed gratitude to Al-Mustapha for certain favours done to him was tendered in evidence and marked Exhibit 3.

After the cross-examination of the petitioner, Major Hamza Al-Mustapha testified. He confirmed that the petitioner worked under him and also disclosed that a surveillance report linked the petitioner with one of the coup suspects, one Major Isyaku. He denied ordering the arrest of the petitioner and stated that the arrest was ordered by the Special Investigation Panel. He also denied being responsible for

the re-arrest of the petitioner after his release stating that he was in Libya at the time.

After Major Al-Mustapha's testimony, General Ishaya Bamaiyi, former Chief of Army Staff, also gave evidence. He stated that he did not know the petitioner prior to the Commission's sitting. He also stated that he was neither a member of the Special Investigation Panel, which investigated the alleged coup plot of 1997, nor was he a member of the Special Military Tribunal, which tried them. He therefore denied any complicity in the arrest, detention or torture of the petitioner.

**PETITION NO. 26 PETITIONER: EX MAJOR J.A. ACHIMUGU**

The petitioner's complaint relates to his imprisonment for five years, unlawful detention for fourteen days and torture. The facts as narrated by him in his evidence before the Commission were that he was the officer in charge of the Nigerian Army Ammunition Store in Zaria in 1999. Sometime in 1999, one Col. Umar Malami Mohammed who was the Commandant of the Nigerian Army Armament Depot in Zaria removed six sub-machine guns from the store after drugging him (the petitioner). The petitioner did not however disclose how he was drugged by Colonel Mohammed. He also disclosed that the Colonel refused to sign a form indicating that he had collected the said arms in view of his (Colonel Mohammed's) relationship with General Abacha. The petitioner was subsequently tried, convicted and jailed for five years for the loss of the firearms. He claimed that his trial and conviction were master-minded by Colonel Mohammed, who also hand-picked the officers that tried him.

In addition to the jail term, the petitioner was also dismissed from the Army. His complaint about his trial and eventual dismissal earned him another round of detention for fourteen days as well as torture. This second detention according to him was at the instance of Colonel Frank Omenka. The petitioner prayed the Commission to look into his plight with a view to prevailing on the Chief of Army Staff to convert his dismissal to retirement.

**PETITION NO. 482: PETITIONER CHIEF FRANK O. KOKORI**

This petitioner was a trade unionist and full-time Secretary-General of the National Union of Petroleum and Natural Gas Workers (NUPENG) at the time of writing his petition. He wrote in respect of his arrest, detention and mental torture in prison by the government of General Sani Abacha.

The facts of his ordeal as narrated by the petitioner in his testimony are that following the strike action organized by the Labour Union in July 1994 in response to the numerous political social and economic problems visited on the Nigerian State by the government of the day, operatives of the State Security Service (SSS) began to hunt for him. He had to go underground to evade arrest. However, he was brutally abducted along the road in Yaba, Lagos, at about 12.30 a.m. on the 19th of August, 1994 when he attempted to answer a distress call on his mobile telephone from a supposed comrade of the Labour Union. As it turned out, he had apparently walked into a well laid plan by security operatives. He was forcefully abducted by the ten-man team of security operatives, who came for him in two cars.

From Lagos, he was moved to Abuja on the 21st of July, 1994 and locked up for five weeks, twenty four hours a day in solitary confinement.

From Abuja, the petitioner stated that he was moved to Bama Prisons near Maiduguri in Borno State until his release by the government of General Abdulsalami Abubakar in June 1998. The petitioner claimed that he spent a total of forty-six months in solitary confinement in Bama Prisons.

The petitioner further disclosed that during this long period of incarceration, he was not charged with any offence and that his immediate family was subjected to various forms of ill-treatment, including the incessant searching of his home and constant surveillance of his family. The petitioner further informed the Commission that he was denied adequate medical attention by the prison authorities for his chronic medical conditions on the ground that the authorities in Abuja would be averse to his being given adequate medical attention. The petitioner pointed out to the Commission that apart from Chief M.K.O. Abiola, his stay in prison was the longest by any other political prisoner during the regime of General Abacha.

The petitioner prayed the Commission to recommend that all those found to have been engaged in the massive violation of the human rights of Nigerian citizens be made to pay for their sins, while all the victims of such human rights abuses be adequately compensated. The petitioner was cross-examined by the counsel to the State Security Service who canvassed the argument that the petitioner's

detention was lawful, an argument with which the petitioner vehemently disagreed.

The detention order, State Security Detention of Persons Decree 2 of 1984, which was the authority for the detention of the petitioner was admitted in evidence as Exhibit 2; the petition itself having earlier been admitted as Exhibit 1. No further witnesses were called and the case was concluded on this note.

**PETITION NO. 481: PETITIONER: AMBASSADOR MOHAMMED L. RAFINDADI**

This petitioner was a former Head of the Nigeria Security Organization (NSO), the forerunner of the State Security Service. His complaint relates to his incarceration for forty months between August 1985 and December 1998 following the transition from the government of General Muhammadu Buhari to that of General Ibrahim Babangida. He complained that he was kept in solitary confinement during this period. The petitioner, during his testimony urged the Commission to obtain the report of the Umaru Shinkafi Panel, which was set up by the government in 1985. He stated that the report would bear out his claim that his incarceration was as a result of conspiracy between certain individuals and the Directorate of Military Intelligence.

The Commission thus adjourned the case to the second Abuja session.

During the second Abuja sitting of the Commission, the petitioner's case was adjourned repeatedly because the petitioner was absent on grounds of ill-health. The case was subsequently struck out with leave for him to re-list it if he showed up. The petitioner subsequently neither showed up to conclude his case nor gave any indication that

he wanted it re-listed for conclusion. The petition was therefore one of those which the Commission could not conclude.

**PETITION NO. 620: PETITIONER: MR AUDU OGBE**

This petition entitled “Assassination Attempt On Me on December 7, 1998 in Makurdi in the Wake of the Local Government Elections”, was adjourned from the first Abuja session as a result of difficulty experienced by the Commission’s bailiffs in effecting service of a witness summons on the petitioner. During the second Abuja session, he wrote a letter to the Commission withdrawing his petition. The petition was accordingly struck out.

**PETITION NO. 1482: PETITIONER: MR IDRIS ABDULKADIR**

This petitioner’s complaint was in respect of unlawful detention for seven months by the Security Group of the Directorate of Military Intelligence, then headed by Colonel Frank Omenka. The incident complained of took place during the government of General Sani Abacha.

During the first Abuja sitting, the petitioner was absent and was not represented by counsel. The case was therefore adjourned to the second Abuja session. During this session, the petitioner remained absent and was not represented by counsel. Convinced that the petitioner was no longer interested in pursuing his petition, the Commission was left with no choice than to strike it out for lack of appearance. The petition was accordingly struck out with leave to re-list, if the petitioner subsequently showed up.

**PETITION NO 623 AND 629: PETITIONERS: ALAMVEABEE IDYOROUGH AND BEM AKOSU**

These petitions deal with alleged unlawful killing of three youths namely: Isaiah Igbatim Ikyereve, Andrew Akosu and Manasseh Mana by men of the Plateau State Police Command on the 14th of July 1995. The two cases were briefly mentioned during the first Abuja session and were consolidated for hearing since they dealt with the same subject matter – the death of the three youths at the hands of certain named Police officers. The consolidated petitions were remitted to the Kano session for hearing. (For details of this case, see the records of the Kano Zone of the public hearings).

**PETITIONS NOS:**

279	PETITIONER:	MKE IYOCHIR O. JUKWE
269	“	HONOURABLE ATE AHUR
422	“	YINA KOGI
423	“	DURBY T. MOTI
424	“	PETER ICHULL
448	“	ATSENDA ISHWA AND
634	“	BOBBY ADAMS AND SIMON ABUA YAJIR

The seven petitioners are all indigenes of Benue State and their complaints revolve around the same issues namely: their unlawful arrest, detention and torture for a period of over one year. The petitions were consolidated since they were based on the same facts and against the same persons. The facts of their petition are that sometime in June 1995, the then Managing Director and Chief Executive of Benue Cement Company (BCC), one Mr. Solomon Nyagba, had written a letter of complaint to the then State Commissioner of Police, Mr. Rueben Ekundayo as well as the State Directorate of the

State Security Service alleging threats to his life, the lives of some members of his family as well as threats of sabotage and disruption of the operations of the Benue Cement Company.

Annexed to the letter of complaint to the Police and SSS was a list of nine names of individuals whom the Managing Director of BCC accused of masterminding the alleged threats to his life and disruption of the company's operations.

Consequent upon the letter of complaint, the petitioners were arrested by a team of police officers from the Benue State Police Command led by one Superintendent of Police, Musa Omika. According to the petitioners, spurious charges of armed robbery and other fabricated charges including abduction and homicide were levelled against them by the Police in a bid to give legal backing to their continued detention. The petitioners were also unanimous in their claim that the police, at the instance of Mr. Nyagba, tortured them. Eventually, bail was granted to the entire petitioners in respect of all the charges against them by the then Chief Judge of Benue State. In a bid to circumvent the release order of the Chief Judge, the Police stopped the release of the petitioners by now claiming that their detention was effected pursuant to the provisions of the State Security Detention of Persons, Decree 2 of 1984.

The petitioners were then driven to Calabar Prisons in chains, where they were detained for over one year. The petitioners were later released in August 1996.

During the second Abuja session, Superintendent Musa Omika who was alleged by the petitioners to have headed the team, which had

arrested, detained and tortured them, was invited to state his own side of the story. Mr. Omika confirmed that the arrest of the petitioners was indeed done pursuant to the receipt of the said letter of complaint written by Engineer Solomon Nyagba, Managing Director of the Benue State Cement Company (BCC).

The witness further stated that even though he supervised the team that investigated the allegations against the petitioners, neither he nor any members of the team tortured any of the petitioners. He also denied the allegation of the petitioners that written confessions were extracted from them under torture. The witness also stated that the detention of the petitioners was lawful as it was done in compliance with the instructions of the Inspector-General of Police pursuant to his powers under Decree 2 of 1984. He also disclosed that following police investigation, the petitioners were detained and arraigned in court for alleged criminal conspiracy, criminal intimidation and publication of false news with intent to cause disturbance of public peace. He admitted that a no case submission made on behalf of the petitioners by their counsel in respect of the criminal charge had been upheld by the trial Magistrate but stated that the prosecution had appealed to the High Court. The appeal was yet to be disposed of as at the time of the hearing of the petition. He dismissed the allegations of torture by the petitioners as an after-thought since none of them had ever levied allegations of torture against him or any member of his team throughout their sojourn in the law courts.

During the cross-examination of Superintendent Musa Omika by the counsel to the petitioners, it was alleged by the counsel to the petitioners that Omika had been bribed with a Peugeot 504 Saloon car for his role in the arrest, detention and alleged malicious prosecution

of the petitioners. The counsel further claimed that the said car was still in the custody of Mr. Omika and was being used by him.

In order to get to the root of the matter, the Commission dispatched one of its lawyers, Mr. Ibrahim James Pam to Benue State to verify the veracity or otherwise of the claim. He visited Makurdi, Gboko and Yandev between the 27th and the 29th of June, 2001, and reported his findings to the Commission under oath as witness number 8 in the case.

In his testimony, the witness stated that from his investigations, the car had always belonged to the Benue Cement Company and was, in fact, in the custody of the company at the time of the investigation. All the registration documents showed that Benue Cement Company was the registered owner of the said vehicle.

Inspector Omika concluded his evidence maintaining that in arresting and detaining the petitioners, he was only carrying out his lawful duties as a police officer, a claim which was contested by the petitioners. A total of eight witnesses testified in this case and seventeen exhibits were tendered in evidence.

**PETITION NO. 393: PETITIONER: ALHAJI (DR.) UMARU DIKKO**

The petitioner was a former Minister of Transport in the government of Alhaji Shehu Shagari during the Second Republic between 1979 and 1983. The event complained of by the petitioner took place after the *coup d'etat* of December 1983, which toppled the government of Alhaji Shehu Shagari and brought the Buhari regime to power.

The petitioner started his testimony in the first Abuja sitting and finished during the third Abuja sitting. In his testimony, the petitioner stated that after the Buhari coup d' etat information reached him indicating that his life was in danger. He therefore escaped to London through Benin Republic. The petitioner disclosed that after his escape to London, members of his family, including his wives, children and ninety-four year old father were relentlessly hounded by the Buhari government as part of his persecution and in order to force them to disclose his whereabouts.

The petitioner further stated that the campaign against him arose from the strained relationship between himself and General Buhari before the latter became Head of State. According to him, because of this strained relationship, he became a target of the Buhari government, which declared him a wanted man. He stated that he was also portrayed to the world as a man who had looted the Nigerian treasury, and who as the Chairman of the Presidential Task on Rice was a corrupt government officer.

The petitioner further disclosed in his testimony that after all attempts by the Buhari government to repatriate him to face trial in Nigeria had failed; the government resorted to illegality and organized his abduction from London. The petitioner disclosed that he had been rescued unconscious from a crate in the cargo hold of a Nigeria Airways aircraft which was set to fly to Lagos. The petitioner also revealed that an Israeli mercenary doctor who had been injecting stupefying substances to keep him unconscious during the flight to Nigeria had been found with him. He also stated that doctors in London had said that he would not have survived the flight to Nigeria in view of the amount of substances injected into his system.

The petitioner went further to state that the failed kidnap attempt seriously dented the image of Nigeria within the international community and that his would-be kidnappers were arrested, prosecuted and jailed in London.

Apart from General Buhari, the petitioner blamed a number of other individuals as being responsible for his plight. These include: General Theophilus Yakubu Danjuma (rtd), Air Commodore Bernard Banfa, General Haladu Hannaniya (rtd) and Alhaji Mohammed Lawal Rafindadi, amongst others.

The petitioner urged the Commission to note the full and circumstantial involvement of the federal government of the day under General Buhari which had till date not sent him an apology for the kidnap attempt. He urged the Commission to hold that the kidnap attempt amounted to an infringement of his rights under the Nigerian constitution and also amounted to inhuman and degrading treatment. He concluded by urging the Commission to recommend compensation for him and members of his family in any way it deemed fit.

At the end of the petitioner's testimony, he was cross-examined by counsel to General T.Y. Danjuma. The petitioner stated under cross-examination that he may have stepped on the toes of certain military officers because when he was a minister, he had advised Alhaji Shehu Shagari to retire some of them. He reiterated his request to the Commission that General Buhari and the others mentioned in his petition be invited to testify.

Witness summonses had earlier been served on Generals Buhari and T.Y. Danjuma. At some point during the second Abuja hearings, counsel appeared for the former Heads of State and sought to participate in the proceedings, including cross-examining other witnesses without in turn producing their clients for cross-examination. Rigorous arguments were canvassed for and against this position. General Buhari was one of the former Heads of State whose counsel sought to participate in the proceedings. General Buhari had in the meantime instituted a civil action against the Commission at the Federal High Court, Abuja where he challenged the competence of the Commission to compel his appearance before it amongst other relief.

In a composite ruling delivered on the 3rd day of October, 2001, the Commission ruled that counsel to the former Heads of State could not participate in the public hearings of the Commission, while keeping their clients away from the same proceedings.

General T.Y. Danjuma, Honourable Minister of Defence, appeared at the hearing of the Commission and testified. In his testimony, he stated that the event complained of took place long after he had ceased to participate in government following his retirement as Chief of Army Staff and member of the Supreme Military Council in 1979. General Danjuma vehemently denied any role in the attempted abduction of the petitioner from London. He reiterated that at the time of the attempted abduction of the petitioner in 1984, he was engaged in private business. The witness also pointed out that following the diplomatic row between Britain and Nigeria over the kidnap incident, the government of General Buhari had denied involvement in the abduction attempt.

General Danjuma was cross-examined by counsel to the petitioner and counsel to the Commission. The petitioner and General Danjuma practically demonstrated their reconciliation by shaking hands before the Commission. The case was closed at this juncture.

**PETITION NO. 345: PETITIONERS: DENNIS OCHEJE OCHEGE AND JOHN OGORI ABOH**

The petitioners, Messrs, Dennis Ocheje Ochege and John Ogori Aboh wrote in their capacities as the President and Vice-President of the Agila Youths Development Association.

They stated in their petition that they were representatives of the Osiroko and Efofu Royal families of Agila District in Ado Local Government Council of Benue State.

The subject matter of the petitioners' complaint was the communal clash of April 1997, which pitched the royal class against the non-ruling class. The petitioners claimed in their testimony that the violence was precipitated by the non-ruling class, who sought to forcefully change the traditional set-up in Agila in which the members of the royal class monopolized administrative leadership to the exclusion of the other inhabitants of the town or the so-called non-ruling class. According to the petitioners, during the mayhem, at least one person was killed, one hundred and seventy-two houses, valued at over one hundred million naira, were burnt and property valued at over one hundred million naira was destroyed. According to the petitioners, many people were also maimed in the attack.

The petitioners asked the Commission to recommend the arrest and prosecution of a number of people who were the ring leaders of those who started the crisis. These include: Peter Ochonu Ochege, Godwin Otokpa Unogwu, Isaiah Oja, Samuel Ede Otokpa and officials of the Akpoge-Ogbilolo Association.

The petitioners also asked that the Akpoge-Ogbilolo Association be banned and that the police post in Agila be upgraded to a full-fledged police station. The petitioners further sought compensation for all those who had incurred losses as a result of the crisis and asked that all those who had been made refugees be re-settled.

During their testimony, the petitioners disclosed to the Commission that following the crisis, the Benue State Government set up a panel of inquiry, headed by Justice Terna Puusu. They also stated that till date, the government white paper on the Puusu report was yet to be released. They sought the release of the white paper in order to avert future crises.

The Chairman of the Commission conveyed the sympathy of the Commission to all the victims of the crisis and stated that the Commission had taken some steps towards the resolution of the problem. The Commission further informed the petitioners that it had been in touch with the Benue State government which had assured it that the white paper on the Puusu report would be released.

After advising the petitioners on the need to always seek peaceful solutions to all problems, the case was closed.

**PETITION NO. 654: PETITIONER: CHIEF YOMI TOKOYA**

The petitioner's complaint borders on alleged unlawful arrest, detention and torture on account of suspected involvement in the December 1997 coup plot.

The petitioner was absent during the first Abuja sitting necessitating the transfer of his case to the second Abuja sitting. For details of this petition, see the report of the second Abuja session.

## **CHAPTER THREE**

### **LAGOS CENTRE**

#### **INTRODUCTION**

3.1 This chapter covers all petitions whose hearing commenced at the Lagos centre from November 13, and ended 16th December 2000. The Chairman in his opening remarks emphasized the need for those who are to give evidence to take an oath to speak the truth, the whole truth and nothing but the truth. He said if this is done those who were victims will feel a bit relieved. He pointed out that if people go on prevaricating, “it does not help us, it does not help the cause for peace, and it does not help the cause of forgiveness”. He urged all those who are going to give evidence to feel free, as the Commission was not out to witch-hunt. He reiterated that the Commission just wants to find the means of reaching an accommodation with our past in order to reshape our future. He reassured every one that what they say at the Commission cannot be used as evidence in any court of law.

3.2 The Commission heard 62 petitions out of which 42 cases were concluded in Lagos, 1 in Port Harcourt, 2 in Enugu and the rest were concluded at the Abuja centre. At the Lagos centre, the Commission took time off to receive a delegation from a Swedish international non-governmental organization (IDEA) on Thursday, November 23, 2000. It also paid a visit to the “torture chambers” as well as paid a courtesy call on the Governor of Lagos State, Chief Bola Tinubu.

3.3 At the end of the hearing session in Lagos, the Chairman pointed out that the main object of the Commission was to effect

national reconciliation on the basis of truth. He said the objective was to evolve a better future for the nation from its bitter past. He pointed out that those who came before the Commission on charges of violations of human rights were supposed to show sufficient remorse for their guilt so as to bring about the desired reconciliation. He noted that unfortunately, many witnesses who were accused of violations of human rights were both insincere and not remorseful. He opined that such an attitude was probably informed by the natural law of self-preservation whereby the guilty would not admit his guilt without an assurance of forgiveness. He then expressed the hope that government would implement the recommendations of the Commission at the end of its work.

3.4 The Chairman thanked the lawyers who appeared before the Commission for their cooperation. The Chairman also thanked members of the public who came in large numbers to watch the Commission throughout its sittings in Lagos. The following is a summary of the Commission's hearings at the Lagos centre. It deals with all the petitions whose hearing started at the centre but concluded in other centres.

**A. PETITIONS STARTED AND CONCLUDED IN LAGOS.**

**PETITION NO. 20: DR. OLU ONAGORUWA**

This petition is in respect of the denial of the right to life of the late son of the petitioner, Toyin Onagoruwa. People suspected to be agents of the state murdered him.

The petitioner prayed the Commission to:

- i) Help find the killers of his son and ensure that they are punished; and

- ii) Use its discretion to award any sort of damages within its mandate.

Fifteen exhibits were tendered and admitted in evidence. Four witnesses testified in the case. The first witness, Dr. Olu Onagoruwa, was led in evidence by the Commission's lead counsel. He affirmed that people suspected to be state agents murdered his son. By the use of identity kits, the petitioner claimed that he could identify two suspects among those that committed the murder. These he named as, Sergeant 'Rogers' and Colonel Frank Omenka. He alleged that access to his son was facilitated by his son's childhood friend, Mr. Victor Ude, who kept making persistent telephone calls at different intervals during the period that the son was murdered. He further alleged that a white Mercedes Benz car was used and its number-plates were traced to a Honda car, which belongs to Colonel Larinde Laoye. He also alleged that the two cars: the Mercedes Benz and the Honda were parked at the Presidential Villa. The witness believes that, Coomasie, former Inspector-General of Police (IGP), has a hand in all the machinations surrounding his son's death. He pleaded with the Commission to invite the IGP to explain these mysterious murders.

The second witness, Inspector Ehigbaye, who was led in evidence by the lead Counsel to the Commission, testified that the Police arrested and interrogated four suspects by name Adebayo Akinola, Victor Ude, Prince Olu Haastrup, and Brigadier Laoye.

The third witness, Brig.-General Larinde Laoye, testified that he got to know that Dr. Olu Onagoruwa wrote a petition against him for the murder of his son in the media. He testified that when the petitioner's son was murdered, he did not have a Mercedes Benz car. He said he

bought the car on January 3, 1997. He confirmed that he has a Honda car with registration No. BB 844 SMK. The Chairman and members of the Commission took time and inspected both the Mercedes Benz and Honda cars in question and ordered that both the engine and chassis numbers of the vehicles be taken down.

The fourth witness, Major Hamza Al-Mustapha, said that he was Chief Security Officer to the late Head of State and explained that his duty was to provide protection against physical attack on the Head of State. He said he did not form the Strike Force (SF) but was in charge of it. He said the Strike Force was formed based on the recommendation of the National Security Agencies to check against a re-occurrence of the Major Gideon Orkar coup in 1990. He said structurally he was at the head of the Strike Force and that there were six units and seventeen sub-units all with their heads. He admitted that Sgt. Rogers was a member of the Strike Force but that the artist impression of the killer of Toyin Onagoruwa, admitted by the Commission as Exhibit 4b, is not "Sgt. Rogers". The witness averred that the Strike Force could not go on an assignment without his approval. He said Sgt. Rogers would be telling lies if he said he had sent him to go and kill anybody. Al-Mustapha said he knew Brigadier-General Laoye on professional basis for they served together at the Security Group in the eighties. He argued that the car that was used for the murder could not have been parked at the Presidential Villa in Abuja without detection from the numerous security agents in the Villa. He said he knew nothing about the cars of Brigadier-General Olaoye. He disclosed that the Strike Force was never sent on killing missions, although it was battle-ready to resist any attack on the presidency.

**PETITION NO. 116: COLONEL G. A. AJAYI.**

The petition is about the petitioner's unlawful arrest and detention, torture and inhuman treatment, unfair, unjust and unlawful death sentence. The petitioner alleges that he was tortured, brutalized, and dehumanized to the extent that he has a permanent disability for which he is still on medication.

He said he was arrested concerning the alleged coup in 1995. The petitioner affirmed that Colonels John Olu and Santuraki were behind his torture. The petitioner is seeking the following relief through the Commission:

- i) To quash the judgement of the coup tribunals;
- ii) To regard the period of his unjust and illegal incarceration (February 1995 – March 1999) as a period of captivity in a hostile nation's Prisoners of War camp;
- iii) His re-absorption into the Nigerian Army at the appropriate rank with effect from the date he was unjustly cashiered from the army without loss of seniority, status, honour and integrity;
- iv) Payment of all accumulated salaries and emoluments with effect from the date of stoppage from 1995 till date;
- v) Payments for medical examination and treatment for any lingering and debilitating ailment received as a result of the cruel torture and harsh prison conditions endured;
- vi) Restoration of all personal effects including passports, certificates, course works, etc.; and,
- vii) Payment of adequate financial compensation to assuage personal injuries.

Four witnesses and six exhibits were admitted in evidence. The case was concluded and closed awaiting the recommendations of the

Commission. The first witness, Colonel G. A. Ajayi, testified that he was arrested and detained for no just cause. He said he was tortured at No. 67, Alexander Avenue Ikoyi, by one Captain Bature, on the orders of Brigadier-General Mujakperuo. He said that though Zakari Biu was the Chief torturer, he had forgiven him because he (Biu) confirmed his innocence on the allegations made against him. The petitioner revealed that General Ishaya Bamaiyi ordered that even those of them not found guilty should also be earmarked for execution. He said he was found guilty of 'constructive conspiracy' and sentenced to death by firing squad because of his close relationship with Alhaji Ibrahim Dasuki, the then Sultan of Sokoto.

The second witness, Nosa Igiebor averred that he met the petitioner in Minna in a very bad condition, as he was always very ill because of poor feeding and ill-treatment while in detention.

The third witness, Anthony Ayodele Awoniyi, a junior security officer then, testified that he first met the petitioner at the Inter-Center in 1995 where he was a victim of torture.

The fourth witness, Major-General Mujakperuo, testified that he was not involved in the arrest and detention of suspects. He reiterated that throughout his tenure as head of the investigative unit, no one was tortured, humiliated, brutalized or dehumanized.

The case was concluded and closed.

#### **PETITION NO. 146: MODAKEKE PROGRESSIVE UNION**

The petition is about the violation of the human rights of the people of Modakeke. The petitioners alleged that the right to self-determination

for the people of Modakeke legally recognized by the Federal Government of Nigeria, by the creation of Ife East Local Government with Headquarters at Modakeke, was illegally disregarded and violated by the then Osun State Military Administrator, Lt. Colonel A. Obi (Rtd.). This led to the series of crises between Ife and Modakeke.

The petitioners alleged that their neighbours in Ile-Ife, with the active connivance of the then Chief of General Staff, Lt. General Oladipo Diya (Ex.) and the National Electoral Commission (NECON), illegally manipulated the headquarters of the Ife North Local Government to read Enuwa which is in Ilode ward of Ife Central Local Government Area instead of Modakeke as contained in the Decrees creating the Local Government..

They claim that the recent events and experiences have shown that it is not in the interest of peace, progress and political stability to put Ife and Modakeke in the same Local Government.

The petitioners' prayers to the Commission are as follows:

- i) Redress of the injustice arising from failure to implement the provisions of Decree No. 36 of 1996, Decree No. 7 of 1997 and Decree No. 36 of 1998 which created Ife East Local Government out of the Ife North Local Government with headquarters at Modakeke.
- ii) The removal of the seven wards illegally brought from Ife Central Local Government to the present Ife East Local Government which is expected to have been carved out of the former Ife North Local Government.
- iii) The prosecution of those responsible for the illegal manipulation of the electoral wards of Ife East Local Government, thus

depriving the people of Modakeke of their right to self-determination.

Following the directives of the Commission, counsel to the two communities, as well as counsels to the Commission, met and came up with a memorandum for peaceful coexistence between the two communities. The Commission endorsed this.

**PETITION NO. 160: COLONEL M. A. AJAYI.**

The petition bordered on unlawful arrest and detention, wrongful and undeserved death sentence, torture and in-human treatment, chronic ill-health and emotional trauma because of torture and in-human treatment.

He was detained at the instance of the Special Investigation Panel (SIP) concerning the alleged coup in 1995, from February 1995 to March 1999. He affirmed that he was chained on the hands and legs from February 1995 to October 1995 as a result of which he now has a deformed knee.

The petitioner is seeking through the Commission, the following reliefs:

- i) To be re-integrated into society;
- ii) Justice to be done to him;
- iii) Adequate medical treatment;
- iv) Employment; and ,
- v) Compensation for all losses incurred.

Three exhibits were admitted in evidence. The counsel to the Commission argued that the case was straightforward and should be closed. The case was then closed.

**PETITION NO.164: COLONEL C. P. IZUORGU**

The petition has to do with an alleged violation of the petitioners fundamental human rights, mental agony, truncation of a military career, dismissal from the Nigerian Army, stoppage of his salary during detention, brutalization and inhuman treatment while in custody, loss of all privileges attached to his rank and the stigma of dismissal and inability to get another job because of same.

The petitioner is seeking the following reliefs through the Commission:

- i) Re-instatement to military service for all deserving victims of the 1995 phantom coup and promotion to the same rank and seniority as their course mates, including Major Okoro and Captain Emelike;
- ii) Reversal of the dismissals of the above category of officers;
- iii) The officers desiring to retire should be paid salaries and other emoluments enjoyed by their mates. They should also be paid their retirement benefits in their new ranks and assisted with alternative employment commensurate with their professional qualifications;
- iv) All civilians and retired officers who were in business before their arrest, should be compensated by paying them their estimated annual income for the total period of their incarceration; and,
- v) Any future investigation panels should include representatives of international and local human rights groups, to ensure that only guilty suspects are convicted.

Two witnesses and two exhibits were admitted in evidence. The first witness disclosed that he was sentenced for an alleged coup which Ex-Major Akinyemi was planning. In the end, he was eventually charged for being in possession of a service pistol he was entitled to. He said he suffered severe mental and physical torture and ill treatment, which aggravated his blood pressure. In addition he was cashiered from the army on October 23, 1995.

The second witness, Captain A. N. Emelike, along with Major Okoro, who were implicated victims of the petitioner, said they have forgiven him but his attitude was not good enough. They embraced the petitioner. Captain A. N Emelike however prayed that the Commission should recommend his pardon; restoration of rank; and payment of salary.

The Commission assured the witnesses that their pleas were duly noted for consideration. The case was then closed.

**PETITION NO. 204: PROFESSOR J. ADEBAYO MOKUOLU**

The petition is about unlawful arrest, detention and violation of the fundamental human rights of the petitioner and the unlawful arrest and torture of his son, relations, and staff members. He claimed that he was arrested on June 4, 1994 by two armed mobile policemen, at gunpoint, while returning from the Obasanjo Farm. They refused to disclose to him why he was being arrested. At Zone 2 police station, Onikan, Lagos Island, he was subjected to all forms of inhuman treatment with no room to sleeps no bed and no official feeding. He spent nine agonizing days before he was released.

The petitioner claimed that his greatest ordeal came on April 23, 1996 when fierce-looking uniformed soldiers armed with machine guns and ammunitions swooped into his compound in large numbers, looking desperately to arrest him 'dead or alive'. Even though they were unable to locate him, they maltreated, arrested and put in military detention some of his children, staff and students who were around and removed his properties.

The petitioner claimed that he gathered that one Lt. Asade led the armed soldiers that besieged his premises on that faithful day on the instruction of Lt. Colonel Frank Omenka. The two officers were alleged to have kept a false witness to rope him in as a coup plotter.

He said he was on exile for three years as a result of the injustice he suffered in the hands of the agents of the government, and right now, he has no home in Lagos where he has his business. Besides, his business is in total ruins. He has no vehicle to move around. He is therefore asking for a modest compensation of the sum of one hundred million naira from the Federal Government to cover his losses. He prays that government should bring to book all the culprits involved in his ordeal to serve as a deterrent to others.

**PETITION No. 208: EX-LT. COLONEL MAJEKODUNMI**

The petition is about the unlawful detention and denial of food; the ordering of soldiers to follow the petitioner with guns; denial of fair hearing; denial of privacy; and denial of medical treatment for the petitioner.

He accused Major-General Patrick Aziza of being responsible for the violation of his rights.

The petitioner is seeking the following reliefs through the Commission:

- i) General Aziza should tell the Commission why he was Court-martial;
- ii) Reinstatement into the Army and promotion in line with his colleagues;
- iii) Straightening his records;
- iv) Payment of all outstanding salaries and allowances; and
- v) Public apology from General Aziza.

Four exhibits were admitted in evidence. The witness testified that Major-General Milton Patrick Aziza once told him that since he could not get him roped in for the coup of 1995, he would show him that he is the Alpha and Omega of Ibadan. He alleged that he was then charged with stealing a Maruti. This is the official vehicle assigned to the witness. He claimed that even the members of the court told him that they found nothing against him, but still Brigadier-General Victor Malu went ahead to jail him - just to dance to the tune of General Aziza. He lamented that overnight; General Aziza destroyed his 24 years of meticulous service.

When the witness requested that some persons be invited by the Commission as witnesses, the Chairman of the Commission objected and assured him that the witnesses will not be necessary since the Commission does not doubt the fact that he was arrested, detained and that he lost his rank. He also reassured him that they have heard his prayer, and the reliefs sought. The case was concluded and closed.

**PETITION No. 226: MR. G. REWANE & FAMILY**

The petition is about the murder of Chief Alfred Rewane and the need for justice for those involved. Chief Rewane was murdered by people

the family suspect to be state agents. The murderers used a sophisticated bullet that melts in the body leaving no trace. The petitioner alleged that only the state could procure such sophisticated bullets. The petitioner stated that the people arraigned before the court were not the people that killed Chief Rewane. Moreover all the six people arraigned in court are alleged to have ended up dead.

The petitioners said Chief Rewane was accused of funding The National Democratic Coalition (NADECO) and calling for the restructuring of the Federation and this might be the reason why the General Sani Abacha government assassinated him.

The petitioners are seeking justice from the Commission. The counsel for the Rewane family applied to the Commission to issue Witness summons to LT. Umar and the Provost Marshall of the Nigerian Army to give evidence in the case before the Commission.

Seven exhibits were tendered and admitted in evidence. Four witnesses testified in the case. The first witness, Mrs. Doris Rewane testified that on October 6, 1995 some strange people came to their house looking for her late husband, Chief Rewane. Soon after that they rounded her and some other members of the household up in a room and locked up the door. She affirmed that she later heard gunshots and when eventually they took her husband to the hospital, he had already died. She said that the police came and rounded up the driver and security men along with six others and arraigned them in court. Surprisingly, six of those arraigned in court are all dead now.

The second witness, Mr. Esijolomi Rewane, one of the sons of the deceased, testified that on October 11, 1996, the Chief Consultant

Pathologist of Lagos State in the presence of two other persons conducted a post-mortem examination on the corpse of the deceased. He said the report showed that the deceased was shot in the chest but the bullet did not exit and there was also no trace of the bullet in the body. The witness said the type of bullet used in assassinating his father made it clear that his killers were not armed robbers but state agents as only the State could procure such sophisticated bullets. The witness further testified that they were informed by the then Lagos State Police Commissioner, James Danbaba, in company of ACP Zakari Biu that the deceased was killed by his domestic servants who wanted to rob him to get some money to abort a pregnancy.

The third witness, Ms. Eriwu Rewane said they wrote several petitions to the Police and the Director of Public Prosecution, Lagos State Ministry of Justice because they knew that the people who were being arraigned before the court were not the people that killed her father.

**PETITION NO. 234: KUNLE AJIBADE**

The petition is about the unlawful arrest, detention and torture of the petitioner. He claimed that he was arrested in connection with a story of coup plot published in his magazine, *TheNews*. He was made to appear before the Special Military Tribunal (SMT) and was jailed for life. He was sent to the Makurdi prison on October 18, 1995 and released on July 1998.

He alleged that he suffered psychological torture. His wife was two months pregnant when he was arrested. He did not see the child until when they visited him in prison five months later.

The petitioner is seeking the following reliefs from the Commission:

- i) The Commission should get to the bottom of the alleged “phantom coup” of 1995; and
- ii) Justice for all those wrongly convicted based on the alleged coup.

Two exhibits were admitted in evidence. The Commission noted that it is not in dispute that the petitioner was arrested, detained and tortured. The Commission asked the journalists to come together and author a memo on how to change the system. Counsel to the petitioner, Femi Falana, made an application under Section 5 of the Commission’s mandate to make an order for the preservation of the detention and torture centres at Alexander Avenue, Security Group, etc, as they are. The case was then closed.

**PETITION NO. 263: PETITIONER: MAROKO EVICTEES COMMITTEE**

The petition is about the forced eviction from their traditional and ancestral homes by Lagos State Government agents and the dehumanization of 300,000 Lagosians of the Maroko Community. The petitioners claimed that on July 14, 1990, a fleet of about 30 heavy-duty bulldozers began pulling down houses and crushing the roofs and walls till the buildings fell. According to them, this action took eleven days with a lot of public outcry.

The petitioners’ prayers to the Commission are as follows:

- i) Permanent shelter should be provided for some of them who had been allocated the flats at Ilasan, Ikota and Epe housing estates. They should be given the necessary ownership documents to allay any future fears;

- ii) Flats that are uninhabitable should be completed and their occupants should be reimbursed;
- iii) Those of them not allocated houses should be provided with accommodation and rent subsidies; and,
- iv) The Commission should determine whatever general compensation it can give to Maroko evictees.

The Chairman of the Commission informed the petitioners and their counsel that he had taken up their case with the Governor of Lagos State and an assurance has been given that the State Government would look into their case with a view to making amends.

**PETITION NO. 296: PROFESSOR A. O. I. OSUNTOKUN**

The petition is about the alleged unlawful detention of the petitioner under very dehumanizing conditions. He affirmed that he was arrested on February 10, 1998 and was kept in detention and incommunicado, without his underwear, wristwatch, glasses and food for one hundred days, until his release in May 1998 for alleged bomb throwing.

He alleged that Chief Tom Ikimi, who had threatened to deal with him earlier, might have been behind his detention by the SSS and the DMI, for writing critical articles on him.

The petitioner is seeking the following reliefs through the Commission:

- i) Full investigation and explanation of the reasons for his detention and those responsible for it; and
- ii) Appropriate monetary compensation, restitution and redress.

Two witnesses and two exhibits were admitted in evidence. The case was concluded and closed.

**PETITION NO. 299: LT. COLONEL SAMUEL E. OYEWOLE**

The petition is about the unlawful arrest, detention and torture of the petitioner. He stated that Major-General Victor Malu, then GOC 82 Division, Nigeria Army, Enugu ordered him into a close arrest on the 27th of February 1995. No reason was given for the arrest. The petitioner disclosed that he was later accused of conspiracy because he moved a battalion from Ikom to Enugu. He argued that he could not have done that if he was not given instructions and logistics to do so. He said he faced the Special Investigation Panel (SIP) headed by Major-General Mujakperuo. Under the SIP, he was interrogated, chained, tortured, tormented, and was kept stark naked in handcuffs and leg chains. He was tried by the Special Military Tribunal (SMT) headed by Major-General Aziza and sentenced to death. He claimed that Colonel Shuaibu Habibu who was the chief witness at the SMT told lies just to implicate him.

He claimed that he suffered separation from his kindred; loss of family care; loss of material items; and loss of salary and promotion.

The petitioner's prayers to the Commission are as follows:

- i) That he should be promoted to the rank of Colonel to be at par with his mates whom he would have been promoted with had it not been for the "phantom coup" of 1995;
- ii) That he should be paid all entitlements to date;
- iii) That he should be given the option to voluntarily retire from the Nigeria Army;
- iv) That he should be paid financial compensation; and
- v) That the Federal Government, for the injustice and violation of his human rights, should write a letter of apology to him.

He accused Colonel Frank Omenka, Colonel John Olu, Colonel M. M. Santuraki, and ACP Zakari Biu of giving instructions for his torture.

The second witness, Colonel Kolawole John Olu, said he was shocked when the petitioner accused him of being one of his tormentors. He said nobody was tortured at the Security Group under his command. He said he was not present at any of the interrogations or any place where people were tortured though his boys were present at such places.

The Chairman requested the petitioner to give a write-up on how to reform the Military and Intelligence system. The petitioner reminded the Commission of his prayers and a member of the Commission assured him that they have taken note of them.

**PETITION NO. 322: SILIFAT FOLAKE IBRAHIM**

The petition is about an eight-month pregnant woman that was shot by a policeman, Ayoola Aborowa, on April 19, 1998 inside a bus while on her way to the hospital for antenatal care.

She testified that the bus driver offered the policeman twenty naira instead of the fifty naira, which was demanded. The policeman became angry and fired a shot into the bus, which caught her in the hand.

The petitioner claimed that her husband spent alot of money for her treatment. That she eventually gave birth to twins but could not breast-feed the babies properly, because she had lost the use of the affected hand as a result of the gun shot.

The petitioner is seeking the following reliefs through the Commission:

- i) Compensation from the government to the tune of ten million Naira for the injuries she suffered as a result of the gun shot; and
- ii) That the Police Officer who shot her, be brought to book for his action.

Two witnesses testified in the case and five exhibits were admitted in evidence. The second witness testified that the charge against the Police Officer in the Magistrate Court had been struck out and no charges have been filed against him in the High Court. He said that the police authorities found the conduct of the Police Officer wrong and he was dismissed from the Police Force after an orderly trial.

**PETITION NO. 323: PETITIONER: BAYO OSINOWO**

The petition is about an alleged unlawful arrest, detention and torture of the petitioner by security agents. The petitioner claimed that he was arrested in 1996 in connection with the murder of Alhaja Kudirat Abiola. After his release, men of the SSS for alleged undisclosed reasons, arrested him again on September 16, 1997.

He claimed he was arrested on the orders of Major Al-Mustapha and was kept in solitary confinement in handcuffs and leg chains. He claimed the soldiers of the Strike Force whipped him every morning during his detention. He said officers working under CSP Rabo Lawal who took instructions from the FCT Police Commissioner and the Chief Security Officer to the Head of State tortured him.

The petitioner said he has developed poor vision, damaged bladder and skin disease while in detention.

The petitioner is seeking the following reliefs through the Commission:

- i) Full compensation for losses and injuries he suffered;
- ii) Return of his properties and documents or payment of their current monetary value; and
- iii) The violators of his rights should be brought to book.

Witnesses testified in the case and ten exhibits were admitted in evidence. One of the witnesses was the former Chief Security Officer to the former Head of State, Major Hamza Al-Mustapha, who claimed that he never met the petitioner until at this hearing. He averred that such actions against the petitioner as alleged, could have been taken as a result of security reports. He said he neither ordered the beating of the petitioner nor his re-arrest and detention after Major-General Chris Garuba had released him. He tendered two security reports that had triggered the arrest and detention of some individuals: the first report was titled "Professor Dare's Revelations on Armed Struggle" was dated December 2, 1996; and the second report was titled "NADECO's Bombing Campaigns. Another witness in the case, CSP Rabo Lawal claimed responsibility for the detention of the petitioner and apologized. He confirmed that he never took instructions from Major Al-Mustapha.

In the spirit of reconciliation, the petitioner embraced Al-Mustapha and CSP Rabo Lawal. The petitioner exchanged caps with Al-Mustapha. The case was concluded and closed.

**PETITION NO. 325: PETITIONER: SENATOR OLABIYI DUROJAIYE**

The petition is about the unlawful detention, emotional trauma to the petitioner and family, and financial losses occasioned by his detention. The petitioner argued that though he was not physically tortured, he

suffered from mental agony because of his observation of brutality on other detainees. He affirmed that his detention affected the health of his wife and his children.

The petitioner affirmed that the authorities were vexed because he was said to be a NADECO member. He said although Lt. Colonel Frank Omenka claimed he was ordered from above to detain him, he did not reveal those who ordered him.

The petitioner is seeking the following reliefs through the Commission:

- i) The Commission should unearth the causes of human rights abuses in Nigeria;
- ii) The violators of human rights should be charged and if convicted should face appropriate punishment; and,
- iii) Monetary compensation to the petitioner to the tune of N60 million. He pledged to use any such compensation for charity

The case was concluded and closed pending the recommendation of the Commission.

**PETITION NO. 327: PETITIONER: CHUKS NWANA ESQ.**

The petition is about alleged unlawful detention, torture and violation of the rights of the petitioner. Counsel to General Musa Bamaiyi objected to the hearings on the grounds that the Commission lacked jurisdiction. However, the Commission ruled investigations, that it had the mandate to hear the case.

The petitioner claimed he was accused of sending Steven Nworah and Ike Nwadike to Niamey, Niger Republic to collect drugs on his behalf of which he denied. He said he was first detained for sixty days at the NDLEA complex in Lagos and later for sixteen months in Abuja under

Decree 2. He was later 'deported' to Niger Republic and put on trial. The judicial authorities in Niger Republic, however, observed that they had no case against him.

The petitioner is seeking the following reliefs through the Commission:

- i) The Commission to determine whether a lawyer should suffer for the alleged crime of his client; and
- ii) Whether his deportation to Niger Republic was legal

Five exhibits were admitted in evidence. Counsel to General Bamaiyi stated that Exhibits 2 & 5 showed that his detention was legal. The counsel to NDLEA also pointed out that the detention was legal as it was done under Decree 2. Counsel to the Commission argued that his arrest was initially legal but his latter detention for 60 days was illegal. The counsel also added that his torture was also illegal.

The Chairman of the Commission ruled that since the petitioner was granted bail by a court of law before the expiration of the sixty days, he was not detained under Decree 2 *ab initio*. The case was closed.

#### **PETITION NO. 328: APOSTLE TURNER OCHUKO OGBORU**

The petition is about the unlawful detention, torture, inhuman and degrading treatment and loss of money of the petitioner. He said he was humiliated, brutalized, and was compelled to sleep on the bare floor, only to be transferred to Kirikiri Maximum Security Prison where about eleven of them were kept in one small cell.

He disclosed that he got into trouble for escorting his brother, Great Ogboru to the border. He averred that although Major Hamza Al-

Mustapha was not personally responsible for his brutalization, he ordered his boys to do so.

The petitioner is seeking the following reliefs:

- i) Compensation and apology from Major Hamza Al-Mustapha and Alhaji Ismaila Gwarzo;
- ii) Alhaji Gwarzo should be made to explain why he kept the petitioner in jail despite a court order directing his release; and
- iii) The Babangida and Abacha governments should be made to return all his personal assets seized as a result of the 1990 Orkar coup in which he was not involved.

Three witnesses testified in the case and two exhibits were admitted in evidence. The second witness, Major Al-Mustapha, confirmed that Ogboru was actually beaten by soldiers spontaneously out of anger at the alleged coup. He accepted responsibility for the action of the soldiers. He further explained that to have stopped soldiers from beating him would have amounted to showing sympathy for him and this would have attracted the wrath of the soldiers on him (Mustapha). Further, he pointed out that the petitioner was arrested at the border between Nigeria and Benin Republic after escorting his elder brother across the border. He denied taking Turner Ogboru's money. He stated that there was no coup suspect that was not beaten on his or her arrival at the Security Group.

The third witness, Alhaji Ismaila Gwarzo denied ordering the re-arrest of Mr. Ogboru after his release. Gwarzo maintained that he could not remember whether Mr. Ogboru was considered by a committee set up to review cases of those detained under Decree 2, although he was a member of the committee. The case was then closed.

**PETITION NOS: 379 & 380: MR. OLADOTUN DURO EMMANUEL,  
AND PETER ARIGE**

The petition is about the unlawful arrest, detention and torture of the petitioners under inhuman conditions in various police cells in Lagos and Kano. While in detention, they alleged that they suffered economic losses which include two factories (a rubber and textile factory); two banks which were liquidated by the NDIC and thus they have been deprived of their means of livelihood.

The petitioners are seeking the following reliefs:

- i) The Commission should find out what happened to Pagade Textiles;
- ii) Compensation for the use of Pagade Textiles from August 1995 to September 1997, without any legal authority;
- iii) Return of the two factories: Pagade Textiles Ltd. and Pagade Agricultural Processing Industries Ltd. to them; and
- iv) Compensation for loss of revenue.

Chairman of the Commission requested that counsel address the Commission on whether or not the petitioners were arrested or detained legally and whether they were tortured. Counsel to the petitioners argued that although they were detained under Decree 2, detention under the Decree could still be illegal depending on the circumstances. He argued further that the petitioners were psychologically tortured, denied fair hearing, including the breach to their right to life and deprivation of their properties. The case was concluded and closed pending recommendations.

**PETITION NO. 540 CHIEF (MRS.) JOSEPHINE DIYA & CO.**

The petition is about the illegal/unlawful detention, threat to life, loss of money and other valuables, stress, pains and trauma of the

petitioners. The petitioners were held incommunicado for nine (9) months and three (3) weeks.

The petitioners alleged that they were so treated merely because they were spouses to a top government official who ran into trouble with the government.

The petitioners are seeking the recovery of their money and valuables from the government or its agents; they are seeking redress for the injustice done to them due compensation for their illegal detention and deprivation of their rights by agents; of the Federal Military Government.

Six exhibits were tendered and admitted in evidence. Brigadier-General Zidon informed the Commission that exhibits 2-6 which were properties belonging to General Diya and his family are in the store at the Lagos Garrison Command. These were later brought to the Commission intact and were confirmed by the petitioners to be intact. This drew applause from the audience and commendation from the Commission. The Commission further observed that an arrest, could be illegal, and that psychological torture could be self-evident without evidence of physical torture. The case was concluded and closed.

**PETITION NO. 575 MRS. CHRIS ANYANWU**

The petition has to do with the unlawful arrest and detention for four years, assault and battery, physical and mental torture, loss of freedom and property, financial losses estimated at 170. 6 million naira, damages to health, pain, trauma and loss of prestige suffered as a result of the ordeal experienced by the petitioner.

The petitioner was the publisher of *The Sunday Magazine* (TSM) that got into trouble by publishing stories of rumours of coup in the making on March 2 and 19, 1995.

The petitioner is seeking for the following reliefs:

- i) Full compensation for financial losses to the tune of N200 million suffered;
- ii) Adequate reparation and compensation for the brutalization and abuses she suffered;
- iii) A public apology from the Federal Government and the Shell Petroleum and a public acknowledgement by the Federal Government that she was never involved in any coup plot;
- iv) Payment by the Federal Government of her medical bills;
- v) Instructions by the Federal Government that her companies be paid all debts owed them with interest;
- vi) Re-allocation to her of all her plots seized while in detention; and
- vii) Investigation of Shell Petroleum's role in the propagation of lies against her.

She claimed that ACP Zakari Biu slapped her in the process of interrogation. ACP Zakari Biu could not remember slapping the petitioner, but stated that if he did, he was sorry. Thereafter, the petitioner and ACP Zakari Biu embraced each other and reconciled. The Chairman and other members of the Commission commended this gesture.

Two witnesses and four exhibits were admitted in evidence. The case was concluded and closed.

### **PETITION NO. 663: SADAU BABANGIDA**

This petition is about the wrongful detention, torture, and dismissal of the petitioner. The petitioner, a soldier, was summarily dismissed from the Nigerian Army on the allegation of assault on General Patrick Aziza. The petitioner alleged that on December 25, 1996, while driving away from Bonny Camp in company of Cpl. Jon Gaude and Dr Andrew Bala, there ensued a traffic problem involving Dr. Andrew Bala and another man, later identified to be General Patrick Aziza. After some exchanges, the General ordered their arrest and detention at 65 Bn in Bonny camp where they were tortured.

The petitioner claimed that they were later handed over to Colonel Frank Omenka at the Security Group where they spent 72 days with legs and hands in chains. He was later posted to 65 Bn where he faced summary trial and dismissal from service on the order of General Aziza for allegedly assaulting him. The petitioner said he did not directly or indirectly participate in the said alleged assault on the General. The petitioner insists that General Aziza gave the orders for his arrest, trial, conviction, and dismissal.

The petitioner is seeking the following reliefs through the Commission:

- i) That the Commission, quash his trial and conviction; and
- ii) That the Commission investigates the whole issue and allows justice to prevail.

Two witnesses testified in the case. The second witness, General Aziza, denied giving any directive for the arrest, trial, conviction and dismissal of the petitioner. The Commission noted that detention and torture of the petitioner is not in dispute. The arrest was noted to be

lawful but the detention and torture were unlawful. The case was then closed.

**PETITION NO. 664: LT. COLONEL FEMI MEPAIYEDA**

The petition is about the unlawful detention of the petitioner in February 1995. The petitioner claims that the reason for his arrest and detention are still unknown to him.

The petitioner is requesting the Commission to:

- i) Investigate the allegations against him;
- ii) Recommend his promotion to an appropriate rank and be given the opportunity to voluntarily retire;
- iii) Unearth all documents and videotapes pertaining to the 1995 coup in order to probe into the reasons for his arrest.

The Chairman of the Commission requested the petitioner to assist the Commission, to find out why he was arrested in February 1995. The case was concluded and closed.

**PETITION NO. 744: OLUSEGUN ADEBUSUYI**

The petition had to do with the unlawful arrest and detention, torture and inhuman treatment and physical assault of the petitioner. He said his wife and father were detained to compel him to cooperate.

He testified that he was compelled to make a confessional statement on January 8, 1997 to the Police that he knew General Alani Akinrinade.

The petitioner is seeking the following reliefs:

- i. Prosecution of all those involved in perpetrating abuses on the petitioner and others;
- ii. Return of the petitioner's international passport and that of his wife in the custody of the police;
- iii. Compensation of N10 million;
- iv. Adequate compensation to all those who were similarly abused; and
- v. Collective national resolve never to allow such bestiality again in our land.

**PETITION NO. 747: MR. LAYI ODUMADE**

The petition is about the unlawful arrest and detention, torture and inhuman treatment, mental and psychological trauma, financial indebtedness and untold hardship, stigmatization and ill health resulting from torture experienced by the petitioner.

He was accused of collecting N10, 000.00 from late Mr. Nelson for ulterior motives pertaining to bomb blasting. He said he was subjected to the above ordeal to compel him to admit that he did what he didn't do. He said Zakari Biu, A. S. Darma and Mrs. Adokie were involved in torturing him. He insisted that Mrs. Adokie prompted her co-torturers to use electric shocks on him.

He is seeking the following reliefs:

- i) Prosecution of all those involved in the violation of the petitioner's rights; and
- ii) Adequate compensation for the violations of the petitioner's rights.

Two exhibits were admitted in evidence. Those that were alleged to have been involved in his ordeal denied all the allegations made against them.

**PETITION NO. 748: MICHAEL OLORUNTOBA FALAYE**

The Commission noted that the petitioner was absent. It also noted that the petitioner could not be located at the given address. The petition was struck out.

**PETITION NO. 749: CHIEF ABIODUN OKUNUGA**

The petition is about the unlawful arrest, detention, torture, and inhuman treatment of the petitioner. He alleged that a week after the airport bomb blast, he was in bed in the guest chalet of General Oladipo Diya's official residence in Abuja, when at about 2.00 a.m. in December 21, 1997, he among others were woken up by soldiers and taken to the SSS office in Abuja where they remained till January 8, 1998. They were transferred to Gado Nasko Army Barracks, Abuja on January 8, 1998.

On January 15, they were handcuffed to one another and flown to Jos, where they appeared before the Special Investigation Panel (SIP). They were handcuffed and leg-chained and a team, which included Colonel Frank Omenka, interrogated him. On February 23, 1998, he was declared 'not guilty' and was told that he would be released on getting to Abuja. On reaching Abuja, however, they were locked up in an empty room in the barracks, still in chains, awaiting Al-Mustapha's final order. It was only on July 8, 1998, six months after their promise of release in Jos he claims, that he was released unconditionally. They were driven to town in an open van and dropped off without any money or means of getting home on the day of their release.

The petitioner is seeking the following reliefs:

- i) Compensation in the sum of fifty million Naira (N50,000,000.00) for the torture, agonies and dehumanizing treatment he received at the hands of the soldiers in Jos and Gado Nasko Barracks, Abuja and the SSS in Abuja;
- ii) Trial of Major Mumuni and his team, including Sergeant Rogers who handcuffed and leg-chained them and made them undergo such agony in Jos, for human rights abuses;
- iii) Return of personal effects and N450,000 cash, or in the alternative, two million in replacement;
- iv) Payment of N3.5 million for a contract already completed, and for a contract of worth N16.9 million from Lagos State Government, which was 60% completed.

The Chairman observed that the fact of the arrest and detention were not in dispute, so the various counsels should examine the surrounding circumstances of this Case, whether the arrest was legal/justified, whether the detention for 7 months — more than was due — was also justified. He asked the counsel to consider all these so that it could be taken along with the others in General Oladipo Diya's case.

**PETITION NO. 757: DR. FREDRICK FASEHUN**

The petition is about an alleged unlawful detention and torture of the petitioner by the state security agents. He claimed that he was arrested by a team of SSS officials, led by one Darman and Mrs. BMU Adokie, on December 18, 1996 for “throwing bombs”. He said he was detained for sixteen months.

He alleged that certain security officials exhibited base hostility and intimidation to him. He charged ACP Zakari Biu for dispensing torture on him; CSP Ogaba for carrying out ACP Biu's order on him; Mrs. Adokie for mercilessness; and Darman for his extreme ethnic bias and hostility.

The petitioner said his family suffered trauma, his business collapsed, and he now suffers an impaired vision as a result of his detention.

The petitioner is seeking the following reliefs:

- i) Perpetrators of the crime against him should be brought before the Commission to testify;
- ii) Compensation for the loss of property destroyed and carted away by the Police;
- iii) Compensation for income lost during his nineteen months detention period; and
- iv) Unreserved apology from the Government.

Three witnesses testified and four exhibits were admitted in evidence. The case was closed pending the recommendation of the Commission.

**PETITION NO. 834: MAJOR-GENERAL ABDULKAREEM ADISA**

This is a case of violation of human rights, unjust arrest, detention, trial and the conviction of the petitioner. The petitioner claimed that Major Adamu Argungu, acting on the instruction of General Sani Abacha on the allegation that they planned to overthrow his government, arrested him on December 21, 1998.

He claimed that he was subjected to severe torture, inhuman treatment, physical and brutal assault by Colonel Frank Omenka. A

military tribunal, under the chairmanship of Major-General S. V. L. Malu, found him guilty and sentenced him to death. On March 4, 1999 the Head of State, General Abubakar granted all the convicts pardon and released them.

The petitioner is seeking the following reliefs:

- i) Investigate the inhuman treatment and breaches on his fundamental human rights;
- ii) Set aside his conviction and sentence; and
- iii) Direct adequate compensation to be paid him.

In the alternative,

- i) investigate his complaints of unjust arrest, detention, trial, conviction and sentence;
- ii) proclaim his innocence; and
- iii) Make such recommendations as may be permitted by law to remove the records of conviction and sentence imposed on him.

The petitioner revealed that Lt. General Ishaya Bamaiyi assured him that he ordered the petitioner's properties to be kept after seizure but he is yet to recover all his properties including a Peugeot 505 car and a Peugeot 504-saloon car.

The petitioner revealed that General Diya told him about a four-point demand that was to be presented to General Sani Abacha nine days before his arrest. He claimed he also told him that the originators of the four-point demand were Bamaiyi, Idi Musa, Patrick Aziza, and Sabo Ibrahim. The petitioner said he told General Diya that he did not believe in the sincerity of those involved and that he did not believe in the four-point demand. He told the Commission that he looked at the

four-point demand as a coup attempt because the late Head of State was to be compelled to accept the demands.

Three exhibits were tendered and admitted in evidence by the petitioner. The case was then closed

**PETITION NO. 913 PETITIONER: SYLVESTER ODION AKHAINE.**

The petition is about the unlawful arrest, detention and torture of the petitioner. He claimed he was arrested on January 17, 1995 by security operatives. He was tortured and thrown out of a moving vehicle by the said security operatives and received serious injuries as a result.

The petitioner is asking for a sovereign national conference and the destruction of the apparatus that makes for oppression. Five exhibits were tendered and admitted in evidence.

**PETITION NO. 1296: PETITIONER: ADETOKUNBO FAKEYE**

The petition is about the unlawful arrest, detention and torture of the petitioner. He said he did not commit any crime but was punished because of the story carried by his paper. The petitioner averred that he did not contribute to the story of Abacha's failing health but he was arrested, tortured, and detained because his newspaper carried that story.

The petitioner confirmed that the SSS was not involved in his detention and ordeal. He stated that statements by Lt. Colonel Frank Omenka and others made him believe that Major Al-Mustapha was behind his ordeal even though Major Al-Mustapha was not one of those who captured him or was he arraigned before him.

The petitioner is demanding for an apology and two million naira compensation for his ordeal.

Counsel for the Commission submitted that the petitioner's arrest detention and torture was unlawful and illegal. The case was concluded and closed

**PETITION NO. 1302: PETITIONER: LEWIS AIMOLA**

The petition is about the unlawful arrest, detention and torture of the petitioner by agents of State Security. He testified that on December 16, 1997, while standing near Opebi/Allen Avenue junction, a convoy of the Military Administrator of Lagos State drove past and then he heard a loud blast. He found himself thrown into a nearby gutter and the Police brought him out of the gutter bleeding and in pains.

He said that he was taken into custody by the Police and charged for treason. While in detention he was tortured and hung with an iron bar until he became paralyzed.

The witness prayed the Commission that he be compensated for the loss of means of livelihood and for the torture he underwent while in custody.

Four witnesses testified in the case and nine exhibits were admitted in evidence. One of the witnesses, ACP Zakari Biu, denied ever torturing the petitioner. He stated that the petitioner was arrested because his name and particulars were found in the diary of one late Nelson Kazeem, who is alleged to be one of those responsible for throwing bombs across the country. The case was concluded and closed.

**PETITION NO. 1310: SOJI OMOTUNDE**

The petition is about the unlawful arrest and detention, inhuman treatment in detention resulting in aggravation of physical injuries, eye defect, psychological trauma and loss of livelihood of the petitioner. He claimed to have spent a total of 182 days in detention. He said he was dragged, beaten and physically tortured during and after his arrest.

The petitioner averred that he was given the impression that he suffered his ordeal because he published a story on “the highest authority of that time”, which he identified as Major Hamza Al-Mustapha. He said he did not personally see Major Hamza Al – Mustapha, but he felt his shadow.

The petitioner is seeking the following reliefs:

- i) Obedience to a court order for the award of damages of N100,000 to the petitioner;
- ii) Prosecution of all those involved in the abuse of the petitioner’s rights; and
- iii) Adequate compensation for the injuries suffered.

Under cross-examination, the petitioner said that though the Strike Force arrested him, he was later on handed over to the SSS.

**PETITION NO. 1342: MRS. OLUBUSOLA ARINOLA ADEBUSUYI**

The petition is about the unlawful detention of the petitioner. She said the Police arrested her husband on December 26, 1996. When her husband was brought home for a search, she was arrested, interrogated and detained by ACP Zakari Bui for three months in a female prison.

The petitioner is not asking for compensation but wished the violators of her rights would repent and show remorse. The case was closed.

**PETITION NO. 1402: MRS. FLORENCE OMOTEHINWA**

The petition is about the murder the husband of the petitioner, Rear Admiral Omotehinwa on May 23, 1996. That despite all efforts, neither the police nor the military authorities has carried out any investigations into the gruesome murder. She suspects the culprits to be agents of the State who claimed that Rear Admiral Omotehinwa was a member of NADECO due to his closeness to Lt. General Alani Akinrinade.

The petitioner is seeking the following reliefs:

- i) Fish out those who killed her husband; and
- ii) Assist her in raising her remaining three children that are still in school as the cost of putting them through the universities are becoming too much for her.

Five witnesses testified in the case. The first witness, Mrs Omotehinwa, widow of the late Rear Admiral Olugbenga Emmanuel Omotehinwa, said that her late husband was shot at on the largest artery of his thigh and he bled to death. She stated that Lt. Ahmed Bashir, the former Military Assistant to the late Admiral, appeared unexpectedly that evening. He was there in the House when the Admiral was shot at and he did nothing other than preventing them from going out. She suspects that he was privy to the murder. She pointed out that no police officer went to their house to conduct any interview since the case was reported to the police on May 24, 1996. She disclosed that it was largely believed in government circles that

her husband was the business partner of General Alani Akinrinade and that he was the connecting factor between the NADECO chieftains and NADECO in Nigeria then.

The second and third witnesses, Mrs Funmi Omotehinwa-Gbemudu, and Mr. Alex Omotehinwa, daughter and brother of the deceased respectively, both testified that the Police and Naval authorities have refused to investigate the murder of the Admiral till date.

Navy Lt. Ahmed Bashir also testified. He denied knowledge of, or complicity in the murder. He stated that he was close to both his boss and his wife and served them loyally and was in fact instrumental to conveying the wounded Admiral to the hospital where he was declared dead.

**PETITION NO. 1411: CHIEF OLU FALAE**

The petition is about the unlawful arrest and detention of the petitioner. He said the Panti Police Station first invited him on 9/12/1996 in connection with the bomb blast at Murtala Mohammed Airport. He was released only to be invited again after a month to the Force CID at Alagbon on the orders of ACP Zakari Biu. He was thereafter detained for 18 months.

While in detention, he was charged to court for treason and conspiracy along with others. The petitioner said he was told by some police officers that his arrest was political and that they were acting on orders from above. He attributed his ordeal to his membership of NADECO which, the government saw as a threat.

The petitioner is seeking compensation for the indignities and humiliation he suffered. He however left the amount he should be

compensated with for the Commission to determine. The case was closed.

**PETITION NO. 1516: GANIYU A. ADESANYA**

The petition is about physical assault, brutality, human degradation and torture for alleged involvement in the 1997 coup. He alleged that soldiers stole his personal effects and money contained in two big suitcases; one big radio cassette player; two new radio receivers; two passports, all from the Guest House of the then Chief of General Staff, General Oladipo Diya, where he was a guest.

He alleged that Major Hamza Al-Mustapha and soldiers under him, carried out the violations outlined above.

The petitioner is seeking the following reliefs:

- i) Compensation of sixty million Naira for the violations of his rights and sixty million for his stolen personal effects and money; and
- ii) Public apology;

There was no representation for Major Al - Mustapha. The case was closed.

**PETITION NO. 1580: MR. EMMANUEL KWAME APEDO**

The petition is about the alleged unlawful arrest and imprisonment of the petitioner who is a Togolese married to an American Jew. He claims to be an international businessman. The petitioner alleged that it was during a business trip to Nigeria, at the Nigerian border with Cameroon at Gamboru Ngala in Borno State, that security officials collected his money, arrested and detained him on January 27, 1989.

In addition, NIPOST Staff stole a cheque of Five hundred thousand US Dollars sent to him by his wife.

The petitioner is seeking the following reliefs:

- i) That the matter be re-investigated;
- ii) That all monies stolen i.e., 1.8 million US\$, 450,000 pounds, 310,000 CFAs, S300,000 should be refunded to him; and
- iii) Compensation of N10 million paid to him for unlawful imprisonment.

The Commission held that the case would be better handled through diplomatic channels. The Commission will write to the Togolese and Ghanaian Embassies to assist the petitioner.

The Commission recalled that the matter was partly heard at the Enugu sitting. It was told that the Ghana High Commission had replied to a letter written to it and had advised that the matter was a human rights case and should be treated as such. At that juncture, counsel for the petitioner reminded the Commission that the Nigerian Immigration Service had decided and advised that the petitioner be treated as a refugee seeking political asylum. He listed the various sums of money in different currencies the immigration claimed it released along with the petitioner. He added that the money was with the SSS because its staff, Messrs. Orji and Agbo collected the money.

The counsel for the petitioner claimed that the Lagos State Judge gave two judgments on the case because there was a directive from the State Chief Judge to substitute an earlier judgment, which had been lost. He added that there was an appeal on the case. He agreed that

Justice Belgore dismissed the case and the appeal court sustained his judgment.

**PETITIONER: MR. EMMAUNEL APEDO**

The first witness, Mr. Emmanuel Apedo, stated that he came to Nigeria in January 1989, to pursue an oil business. He disclosed that while he was to depart Nigeria for Cameroun on January 27, 1989, Nigerian officials at the Nigeria-Cameroun border arrested him. He said that while Mr. John Duru questioned him at Maiduguri, Mr. Orji interrogated in Lagos after which he was detained at the Inter-Center. The witness explained that though he was taken to Lagos to confirm whether he was actually a businessman, he ended up being beaten tortured and compelled to sign a written statement.

He alleged that the security officials who took him to NITEL to call his wife to send the sum of \$1 million later shot him. He explained that he was shot at because he spoke to his wife in Hebrew on the phone. He added that efforts were made to deport him but did not materialize because he had a bullet wound on his leg. The bank statement (i.e. bank passbook) was marked as exhibit 3 while the x-ray of his wounded leg was marked exhibit 4. He stated that he had been walking with a limp since he received the bullet injury though he was operated upon.

A letter written by the Nigerian Immigration Service to the UN to assist the petitioner was marked Exhibit 5. Also a letter from UNHCR asking the YMCA to accommodate the petitioner was marked Exhibit 6. The judgment at Justice Belgore's court was tendered and marked Exhibit 7. Also, the judgment at the appeal court was tendered and marked as Exhibit 8. Thereafter, counsel for Mr. Olubiyi of the immigration and

one of the respondents claimed that Exhibit 5 was a forgery. He tendered what he considered the genuine document, which was tendered, and marked Exhibit 9. Also a letter from the SSS to the Immigration Services dated February 21, 1989 was tendered and marked Exhibit 10. He explained that Exhibit 10 did not contain dollars or pounds but only CFA francs. The statement made by the petitioner at the SSS was tendered and marked Exhibit 11.

Under re-examination, the witness explained that while signing for 105,000 CFA, he objected that he was not being given all his money. He insisted that he was not convicted in Ghana and Togo as alleged in his statement to the SSS. He argued that although he signed the statement he did not write it.

The chairman then directed counsel for the petitioner and the SSS to submit within one week, to the commission's secretariat, written submissions on whether or not the commission could dabble into the case after it had been heard by two superior courts. They were also to address the issue of arrest (whether legal or illegal), detention and torture.

**PETITION NO. 1771: CAPTAIN A. A. OGUNSIYI**

The petition is about alleged unlawful arrest, detention, torture, humiliation and inhuman treatment of the petitioner by military personnel. He said he was arrested on March 5, 1995, and charged with being "an accessory after the fact" of the coup of 1995. He was later arraigned before the General Aziza Panel where he was sentenced to 2 years imprisonment. He argued that he was arrested because of his relationship with Colonel Bamgbose who was his boss in Jaji.

He accused Major-General Aziza, Major-General Mujakperu; Colonel Frank Omenka and Major Al-Mustapha of violating his rights. He claimed he lost his property and his career was truncated as a result.

He is seeking the following reliefs:

- i) Reinstatement into the Army;
- ii) Promotion to equivalent rank with his course mates;
- iii) Compensation for rights violated; and
- iv) Payment of salary arrears and other benefits.

Two exhibits were admitted in evidence during the hearings.

**PETITION NO. 1774: PETITIONER: BEN CHARLES OBI**

The petition is about the unlawful arrest, detention, torture and violations of the rights of the petitioner. The petitioner, a journalist with the *TELL* Magazine, testified that he was arrested as a result of a coup plot story in the *Classique* Magazine titled “Man who Betrayed Coup Suspects”. The story identified Colonel Habibu Shuaibu as the man.

The petitioner said he was tried for “accessory after the fact of treason” and was sentenced to life imprisonment. He spent three years in prison before he was released.

The petitioner is seeking the Commission to help quash the conviction and also assist him get compensation.

Colonel Olu denied giving orders for the torture of the petitioner. Major Mummuni Bashir denied ever speaking to or threatening the petitioner.

**PETITION NO. 1775: PETITIONER: GEORGE MBAH**

The petition is about the unlawful arrest, detention, torture and imprisonment of the petitioner. He claimed he is a journalist who was tried as a coup plotter because of what he wrote in his newspaper. He was in detention from May 5, 1995 to July 1998.

The petitioner was charged for “accessory after the fact of treason”. He was initially convicted and sentenced to life imprisonment. It was later reduced to 15 years. He claims his wife left him while he was in jail and that his health was also affected. Two exhibits were tendered and admitted in evidence.

**PETITION NO. 1761: PETITIONER: ALHAJI SANUSI MATO**

The petition is about the unlawful arrest, detention, and violation of the fundamental rights of the petitioner. The petitioner said he was arrested on March 8, 1995 by a team of Police and Army officers in Jos and was taken to Kirikiri Maximum Security Prison and under Decree 2. Thereafter, he was charged for “accessory after the fact of treason”. A Special Investigation Panel interrogated him and was tried by a Special Military Tribunal, which sentenced him to life imprisonment. This was later reduced to 15 years.

The petitioner alleged that Lt. Colonel Yakasai confessed to him privately when they were in detention that they were framed up to stop some of them from opposing the self-succession bid of the late General Sani Abacha.

The petitioner said he lost his grandmother during the period of his incarceration and his father became hypertensive. He also lost seven of his commercial vehicles as a result of his detention. All contracts

awarded to his company by State Governments were allegedly revoked on the orders of General Sani Abacha and his potential customers were scared away.

The petitioner is seeking the following reliefs:

- i) Official apology from the Federal Government of Nigeria for keeping him in prison for three years; destroying his business; and causing his family undue hardship;
- ii) Compensation for his imprisonment and for all the loses consequently suffered; and
- iii) A judicial panel should be set up to unearth the truth about the 1995 coup so that the guilty could be punished.

The second witness, Colonel Lawan Gwadabe was not present to give evidence in the case. The case was then closed.

**PETITION NO. 643: PETITIONER: MRS. MARIA IFEWEKWU**

The petition is about an alleged kidnapping, harassment and torture of the petitioner by Lt. Commander Awolabi. The case was reported to the Police and all attempts to get the said Lt. Commander Awolabi to respond proved abortive.

The petitioner alleged that N40, 000 was removed from her husbands' bedroom while property worth N500, 000.00, was destroyed in their house. Her health was affected and she is still undergoing treatment.

The petitioner is seeking the following reliefs:

- i) Refund of damaged and stolen property; and
- ii) Compensation of N5 million by Lt. Commander Awolabi.

The Commission concluded that the act was a personal action by Lt. Commander Awolabi and advised the petitioner and her Counsel to sue him in a court of law. The case was closed.

**B. PETITIONS STARTED IN LAGOS BUT CONCLUDED AT THE PORT HARCOURT CENTRE**

**PETITION NO. 313: PETITIONER: MRS. THERESA ELIKWU**

The petition is about the unlawful arrest and torture of her son, Chidi Elikwu. She claimed that policemen arrested her son, in their residence on June 4, 1998. The policemen claimed they were from the State Anti-Robbery Squad. She claimed her son was detained, beaten, and tortured by the police for 71 days before he was arraigned for robbery and later detained at Kirikiri Maximum Prison, Lagos. She revealed that she believes he was arrested because the Police suspected his involvement in the attack carried out on ACP Kehinde Oyenuga at the residence of one Joy Chukwuka, a girlfriend to Mr. Oyenuga, who happened to be his childhood friend.

The petitioner's prayers to the Commission are as follows:

- i) Order the immediate release of her son;
- ii) Payment of compensation for the unlawful detention, beatings and torture of her son; and
- iii) Prosecution of the culprits.

**C. PETITIONS STARTED IN LAGOS BUT CONCLUDED AT THE ABUJA CENTRE**

**PETITION NO. 50: BRIGADIER-GENERAL SAMUEL E. OVIawe**

The petition is about the petitioner's unlawful detention, ill-treatment and wrongful retirement from the army on July 29, 1998. He alleged

that the Security Group of DMI detained him for ten months without any charge.

The petitioner testified that he was a victim of the reckless use and abuse of state power by the regime of General Sani Abacha and General Ishaya Bamaïyi. During his detention, his wife received anonymous telephone calls threatening to kill her. He was informed that the Chief of Army Staff was responsible for all that was happening. He was accused of being a member of the *Pirates Confraternity*.

As a result of his predicament, the petitioner alleged that he lost his family life, was tortured and lost his investment and business. He also lost his promotion to the rank of General including, financial and terminal benefits. His son, a student in a university, was harassed and traumatized.

The petitioner is seeking the following reliefs:

- i) His detention be declared illegal;
- ii) His retirement be declared wrongful and he be re-enlisted into the Army; and
- iii) Compensation of N23 million for all the losses he suffered.

Eight exhibits were tendered and admitted in evidence. The case was closed and the Commission directed counsel in the matter to send written addresses.

**PETITIONS NO. 186 & 584: ALFA BELLO OYEDEMI, OLORUNKOSEBI AND ALHAJI RASHIDI A. SALAMI.**

The petition is about gross violation of human rights arising from pervasion of justice, misapplication of judicial power and extreme abuse of office in the desperate bid to cover up the assassination of late Chief Amuda Olorunkosebi – the Asipa of Oyo by the military regimes of Oyo State under Colonels Samuel Nwosu and Usman Mohammed.

The Chairman wished to know if the petition as it was titled falls under the mandate of the Commission. Counsel to the Commission argued that the real kernel of the petition is if the culprits of the murder have not been brought to justice, and that the State has deliberately refused to prosecute the real killers of the Asipa of Oyo.

The petitioners want the Commission to recommend a full investigation of the case; prosecution of those involved; and put a stop to threats to the life of Comrade Rashidi Salawu.

Counsel representing the Attorney-General of Oyo State informed the Commission that this particular case is pending before the Supreme Court and the number of the case was given as SC/88/2000. This matter, according to him, started from the High Court and went to the Court of Appeal before getting to the Supreme Court.

The Commission Chairman pointed out that even if the Commission went ahead to hear the case and eventually made its recommendation to the President on the issue, the Oyo State Attorney-General could decide not to prosecute the case at his discretion as he seemed to have earlier decided. In the final analysis, he pointed out that the petitioner

might just be wasting its time. The Chairman pointed out that the Commission was an inferior tribunal to a regular court and therefore a superior court could stop its proceedings. The case was then adjourned *sine die* pending the determination of the case on the matter in the Supreme Court.

**PETITION NO. 212: PETITIONER: MR. GODSON OFFOARO**

The petition is about the mysterious disappearance and possible death of the younger brother of the petitioner, Chinedu Offoaro. The petitioner testified that his younger brother, Chinedu, was working at the Business Desk of the *Guardian* Newspapers but made contributions on national issues by writing articles. He said he was last seen when he came to the village in Mbano and was seen off to the road to enter a vehicle to Owerri. He and the family suspect that security agents might have been following him and may have mistaken him for Chinedu Offor who was also working for the *Guardian* Newspaper and was noted for his critical comments on the Abacha regime.

After the disappearance of the brother; he wrote to the police, SSS, Walter Offonagoro and the DMI to look for his brother but made no headway.

The petitioner is seeking the assistance of the Commission to unravel the mystery behind the disappearance of his brother and also demanded ten million naira compensation.

The Chairman of the Commission directed that a letter should be prepared and sent to the Inspector-General of Police to open up

reinvestigation of the disappearance of Offoaro. The case was then closed.

**PETITION NO. 233: PETITIONER: OLAIWOLA BENSON**

This petition is about alleged unlawful detention, torture and extra-judicial murder of his nephew, Mr. Adesegun Benson, by officers of the Anti-Robbery Squad, Lagos Police Command in their office at Ikeja on or about October 7, 1996.

He said the police arrested his nephew on suspicion of robbery and tortured him to death. He averred that the autopsy report on the deceased also confirmed that he died from torture but nobody has been prosecuted for the murder. He claimed that he has written a petition to the Police but the Police just ignored him.

The petitioner prayed the Commission to ensure that those responsible for torturing the deceased to death are brought to book. Fourteen exhibits were admitted in evidence. The Police claimed that inmates of the deceased tortured him. The case was concluded and closed.

**PETITION NO. 289: PETITIONER: MRS. R. A. AKINYODE**

The petition is about the unlawful arrest, torture, conviction and death of the husband of the petitioner. The petitioner affirmed that her husband, late Lt. Colonel Akinyode was framed up as a having participated in the coup plot of 1977. He was said to have been convicted and sentenced to death but the sentence was later commuted to 20-year imprisonment. The husband died in Makurdi prison while serving the jail sentence.

She averred that it was not true that her husband was planning a coup and that her husband told her that he was tortured, brutalized and forced to inhale some chemicals to force him to implicate some superior officers the authorities wanted to rope into the coup plot. She said the husband was in good health while in prison until he suddenly took ill and died on December 28, 1998. She alleged she was maltreated along with her children and forcefully ejected from the official quarters of her husband.

The petitioner is seeking relief from the Commission to investigate the human rights violations suffered by her husband, which led to his death and also recommend compensation for the family. She also pleaded that Col. E. F. Zamani who ejected her and her children from their residence should be prosecuted for tormenting them and carrying away their belongings. She also wants the Commission to ensure that their property carried away be returned to them.

Sixteen exhibits were tendered and admitted in evidence. Five witnesses testified in the case. One of the witnesses wondered why if Col. Akinyode was in good health when he left the Jos Prisons on 8/6/98, his death in December, 1998 should be traced to his alleged torture of January to February, 1998.

The fourth witness, Colonel E. F. Zamani explained that the petitioner carted out everything from the house because she claimed that government did not furnish the house. He said the army authorities allocated the house in question to the deceased and was ratified by the Ministry of Works and Housing. He denied being involved in the arrest of the petitioner.

The fifth witness, CSP Nathaniel K. Nandevu, revealed that Lt-Colonel Akinyode was treated as a special prisoner at the Makurdi prisons.

The Chairman of the Commission directed the relevant counsel and other interested parties to agree on the list of properties belonging to government and the petitioner and submit it to the Commission. The Chairman requested further that relevant counsel should submit written addresses within one week not later than July 19, 2001. He asked them to concentrate on the cause of the death of Colonel Akinyode and the harassment and detention of the petitioner.

Both parties later signed the reconciled list of properties to be returned to the petitioner. The Chairman then ordered that the properties listed in exhibit 17 should be returned to the petitioner.

**PETITION NO. 408: PETITIONER: MRS. CHINYERE OHALETE**

The counsel for the Commission informed the Commission that all efforts to serve the petitioner had failed. She applied that the petition be struck out unconditionally. The petition was struck out but with leave to re-list since there was no proof of service on the petitioner apart from newspaper publications.

**PETITION NO. 486 B: PETITIONER: OLADIPO MOROHUNDIYA**

The petition is about the illegal arrest, solitary confinement and torture leading to the current use of eyeglasses, and wrongful dismissal of the petitioner.

The petitioner is seeking the following reliefs:

- i) Re-instatement into the NDLEA;
- ii) Compensation and restitution;

- iii) Public apology from Major-General Musa Bamaiyi; and
- iv) Probe of the tenure Major-General Musa Bamaiyi as the Chairman of NDLEA.

The Commission held that while an arrest might have been lawful, detention and torture were unlawful. The case was closed.

**PETITION: 416 & 537: CHIEF GANI FAWEHINMI, RAY EKPU AND OTHERS**

The petition is in respect of the brutal murder on October 19, 1986 of Mr. Dele Giwa, who at the time of his death was Editor-in-Chief of NEWSWATCH, a weekly newsmagazine.

The petitioner alleges that Dele Giwa, who was working on a story on Gloria Okon's drug connection with Mrs. Maryam Babangida, wife of President Ibrahim Babangida, was interrogated sometime in September, 1986, by Colonel Halilu Akilu, then Director of Military Intelligence. On Tuesday, October 16, 1986, the State Security Service (SSS) invited Dele Giwa for another interrogation. On Friday, October 17, 1986, Mr. Dele Giwa was subjected to an intensive interrogation by Lt. Colonel A. K. Togun over four serious allegations, one of which was treason. The petitioner averred that Dele Giwa had been falsely accused of holding discussions with some people with intent to import arms into the country and cause social unrest and destabilize the Government. The same day, Dele Giwa visited Chief Gani Fawehinmi his counsel at his chambers and narrated his ordeal in the hands of Colonel A. K. Togun. On October 18, Colonel Halilu Akilu phoned the house and demanded from the wife, Mrs. Funmi Dele Giwa, the full description of Dele Giwa's house to enable an ADC bring "something" to him. On October 19, at about 11.00am., Colonel Akilu phoned Dele

Giwa and told him that everything was settled. Forty minutes after the telephone discussion a parcel arrived for Mr. Dele Giwa, with an inscription: "From the C-IN-C" in front of the parcel and another inscription: "should not be opened by anybody else" at the back. The parcel also had the Coat of Arms, which made Dele Giwa to remark that: "this must be from the President". When Dele Giwa was about to open the parcel, there was a loud explosion, which blew him up from the lower abdomen and killed him consequently.

The petitioner prays that the Commission recommends that the principal suspects, General Ibrahim Babangida, Colonel Halilu Akilu and Lt. Colonel A. K. Togun, be charged for criminal prosecution for the murder of Dele Giwa, and to also recommend the payment by General Ibrahim Babangida, Colonel Halilu Akilu and Lt.-Colonel A. K. Togun of two billion naira as compensation to the mother, wife, children and other dependents and relations of Dele Giwa.

Forty-six exhibits were tendered and admitted in the case. The petitioner claims that General Ibrahim Babangida, Colonel Halilu Akilu, and Lt. Colonel A. K. Togun have not formally denied any of the revelations.

The Commission was informed that one of the respondents in the petition, General Ibrahim Babangida, had obtained a court injunction not to be compelled to appear before the Commission in Lagos.

Chief Gani Fawehinmi applied that the investigation into Dele Giwa's death be adjourned until the respondents appeared. He insisted that the person/persons he petitioned against could not be represented by counsel in their absence and be cross-examined accordingly in regard

to the murder of Dele Giwa and the payment of compensation, therefrom, to the family of Dele Giwa. He reminded the Commission that a deliberate refusal to appear before it was an act of disrespect and contempt, which was punishable under the relevant laws of the country. He said that the counsel to the respondent could not respond to the over 500 questions, which he intended to personally, ask General Ibrahim Babangida. He drew a distinction between appearance in a regular court and appearance in a Commission of inquiry, adding that civil proceedings were different from criminal proceedings which was what the case in question was all about.

Chief Clement Akpangbo, counsel for General Ibrahim Babangida, argued that presidential immunity could not be removed retroactively in order to enable General Ibrahim Babangida testify before the Commission. He urged the Commission to quash the witness' summons served on his client since it had to do with investigating something done when his client was Head of State and since the relevant laws of the country protect him from being so investigated. The counsel held the view that because Chief Olusegun Obasanjo waived his immunity and appeared before the Commission should not be a reason to compel his client to also appear before the Commission. He argued that his client could not be accused of being in contempt of the Commission because there was a case in court challenging the constitutionality of the Commission.

The Chairman of the Commission intervened and referred to section 5 of the Tribunal of Enquiry Act and reminded Counsel that the Commission had the power to summon anybody in Nigeria to attend its sittings and give evidence.

However, counsel for General Ibrahim Babangida noted that the section referred to by the Chairman was “subject to just exemptions”.

The Chairman, in his ruling, discussed the legal *pros* and *cons* for the non-appearances of some four head of states and top government functionaries who ignored the Commission’s summonses to attend and testify before it as well as the implication for such action(s). The Chairman remarked that if counsel could fix when their clients would appear, it would help the Commission and assured the counsel that their clients would be fully protected as provided for by the law. The Chairman also added that the case was closed but could be re-opened.

**PETITION NO 458: MR. KOLA ABIOLA AND DR. ORE FALOMO**

The petition is about the unlawful arrest, detention, inhuman treatment and denial of medical treatment leading to the death of Chief MKO Abiola. Late Bashorun MKO Abiola was arrested on June 23, 1994 and was detained and violently abused while in various detention centre for four years until he died on July 8, 1998 while in custody of the regime of General Abdulsalami Abubakar.

The petitioners prayed the Commission to:

- i) Find out the medical doctor who took over the treatment of Chief Abiola after Dr. Ore Falomo was barred from seeing his client.
- ii) Recommend full compensation to Chief Abiola’s wives and children; and
- iii) Make any other recommendation, which is just and fair in the circumstance.

Eight witnesses testified in the case. These were Dr. Ore Falomo, ACP Suleiman Abba, Major Hamza Al-Mustapha, Brigadier-General

Ibrahim Sabo, ASP Zadok, Lt. Colonel Richard Bangaje Tartar, Major A.S. Aliyu and Lt. Gen. Ishaya Bamaiyi (rtd). Fifty-seven exhibits were tendered and admitted in evidence.

The first witness, Dr. Ore Falomo affirmed that while Chief Abiola was detained and humiliated in custody, his businesses were closed down while the government cancelled his airline and oil licenses. In detention, Abiola suffered solitary confinement, cruelty, torture, and denial of access to his family, counsel and doctor, even though the government was aware that his health was failing. Abiola eventually died in the custody of the military junta on July 8, 1998.

The second witness, Major Hamza Al-Mustapha, in his response to the allegation against him by the petitioners, denied knowledge about the arrest of Abiola or his movement to various prisons. He stated that he never blocked attempts to treat Abiola abroad. He also denied being privy to the confiscation of his properties. He testified that the death of Abacha and Abiola were similar in nature and circumstances.

The fourth witness, Brig-General Ibrahim Sabo testified that General Bamaiyi told him that since General Abacha was dead, Chief Abiola should also be killed. He alleged that the Directorate of Military Intelligence (DMI) could not investigate the circumstances of Abiola's death because of the reorganizations going on in the Presidency after General Abacha's death.

The fifth witness, ASP Zadok, testified that before Major Al-Mustapha's appointment as Chief Security Officer (CSO), all security outfits in the villa were answerable to their respective headquarters. However, he asserted that Major Al-Mustapha changed this arrangement and made

all the security units in the villa answerable to himself. He revealed that Major Al-Mustapha used to give him N800, 000 quarterly for the feeding of Chief Abiola and the purchase of toiletries. He said that he tasted all food and drinks before Chief Abiola ate and drank them. He pointed out that when General Abdulsalami became Head of State, a new CSO was appointed by name Major A. S. Aliyu. He alleged that on June 7, 1998, Major A. S. Aliyu, the CSO to General Abdulsalami phoned and told him to take Chief Abiola to Aguda House for an interview. He confirmed that before they left Gado Nasko Barracks, where Abiola was detained, he was hale and hearty. He revealed that Major A .S. Aliyu came and met him where Abiola was detained and went with them to Aguda House. He testified further that on their way to Aguda House he received a phone call ordering him to go and see the Chief of General Staff, Admiral Mike Akhigbe. He said that after deliveries of Chief Abiola to Aguda House, he then left to see the Chief of General Staff using the CSO's car and leaving his own behind as ordered by the CSO. After seeing the Chief of General Staff, on his return, he was informed by Major Aliyu that Chief Abiola took some tea and was not feeling well. At that point, he alleged, Chief Abiola coughed and fell down and all attempts to revive him failed. They then transferred him to Aso clinic where the CSO phoned the Head of State that Abiola was dead. ASP Zadok then raised some posers: Who gave Chief Abiola tea in his absence? Who tasted the tea and in whose presence?

The sixth witness, Lt. Colonel Richard Bangaje Tartar confirmed searching and recovering certain items in Major Hamza Al-Mustapha's houses in Kano, Abuja, and Nguru. He affirmed that all the items recovered could fill eleven 'Ghana-must-go' bags and that they were currently in the custody of the government.

In his testimony, Major A. S. Aliyu, who was summoned from the United States, stated that Chief Abiola took a sip at his tea in the presence of himself and the two American officials that had come to see him. He stated that although he changed the arrangement put in place by Major Al-Mustapha for the care of Chief Abiola, he took adequate care of his welfare. He was of the view that there was no foul play in the death of Chief Abiola. He was however very evasive during cross-examination.

The fifth witness, General Ishaya R. Bamaiyi, led in evidence by his counsel, admitted that he was never mentioned in the petition, but because of the evidence of the fourth witness, he was summoned. He affirmed that his relationship with the fourth witness was not cordial. He also explained that Major Al-Mustapha was directly serving under the C-in-C then as CSO, but as officer in the Army, Al-Mustapha was his "subject".

Under cross- examination, he admitted he never held any political post when he was in the Army. He said Sgt. Rogers never linked him with Kudirat's murder as is being alleged. He said that there is a police report on his brother's accusations against him. He stated that he arranged a bail for Chief Abiola and was opposed to General Abacha's self-succession bid, which was the beginning of his problems. In response to Fadipe's statement that General Bamaiyi "was the prime mover of Diya's Coup," he admitted involvement in the coup planning but explained that he did so on the order of the C-in-C and so also did Generals Sabo, Magashi and Aziza. He said he had nothing to gain by Abiola's death. He admitted that he never saw the report of Abiola's death and did not know if Chief Abiola took poisoned tea.

Major Al-Mustapha, who was recalled to throw more light on the circumstances of Abiola's death, asked the following questions:

- i) Where were the clothes Abiola was wearing when he died? Who took them?
- ii) Why was the HOS's maiden address to the nation on the death of Chief Abiola delayed?
- iii) Why Chief Abiola was not rushed to the hospital or given first aid, but was left lying on his face by those who were there?
- iv) Why did General Abubakar keep sending his lieutenants to Abiola but avoided meeting him personally?
- v) Why was Zadok kept in detention?
- vi) Why did Abdulsalami and others refuse to appoint Rear-Admiral Ayinla, who was senior to Akhigbe, the CGS immediately after Abacha's death?
- vii) Who was afraid of Chief Abiola taking over power in Nigeria? The witness also recommended a book "The Confessions of a CIA Agent" to the Commission.

The Chairman instructed the various counsels to write very comprehensive addresses and among other things, and to proffer answers to the seven questions that the last witness posed, and added the question, "Did the prices of evidence point to any conspiracy"?

**PETITION: NO. 696: PETITIONER: LT.-GENERAL OLADIPO DIYA**

The petition is about an alleged set - up for a phantom coup plot; assault and battery; illegal arrest, detention and imprisonment of the petitioner; physical and psychological torture; abuse of fundamental human rights; theft of his property and property of his wives and

family members, friends, and guests; and harassment of his family and friends.

The petitioner alleged that all these acts were committed by General Sani Abacha, aided by Major-Generals Ishaya Bamaïyi, Bashir Magashi, Patrick Aziza, Air Vice Marshal Idi Musa, Brigadier-General Ibrahim Sabo, Alhaji Ismaila Gwarzo, Majors Al-Mustapha, Argungu, Mumuni and Sergeant 'Rogers' – all of the Nigerian Armed Forces.

He alleged that the very people who engineered the 'coup' plot, announced it, investigated it, set up a panel to try it and indeed tried it and also sat in the Provisional Ruling Council (PRC) to review and confirm the so-called verdict.

The petitioner's prayers to the Commission are as follows:

- i) To set aside the findings and verdict of the "Kangaroo court" as illegal, totally null and void for reasons of breach of the rules of natural justice and other related acts of injustice;
- ii) To order a full investigation into the alleged bogus plot and the circumstances surrounding the set-up;
- iii) To order investigations into the abuse of office which enabled General Sani Abacha and General Bamaïyi and company to set up such an elaborate hoax in order to cleanse the army and its top echelons of a particular ethnic group, using state and military machinery. The panel should make an order to deal with the perpetrators and to act as a deterrent in future;
- iv) To order full investigations into the assault and battery, as well as the torture he suffered at the hands of Majors Al-Mustapha, Mumuni, Argungu, and Sergeant 'Rogers';
- v) To order the trial of Mohammed Abacha, Captain Bature, as well as the above named officers and soldiers for:

- a) the attempted murder of staff employed at his official residence, that they arrested, detained and tortured; and
  - b) the murder of Lance Corporal Mohammed, one of his security guards, and Lt. Colonel Akinyode, both of whom died as a result of the torture undergone.
- vi) To order the trial of Lt. Colonel Yakassai, Major Argungu and Lt. Dagaji for the looting of his property, the property of his family, staff and guests;
  - vii) To compel them to return the looted property;
  - viii) To order Lt. Colonel (Dr.) Yakassai, Lt. Colonel Frank Omenka, Brigadier-General Sabo and Sergeant 'Rogers' under whatever name or alias he uses, and all others involved to give evidence about the matter in the light of their various 'confessions' from prison, and their sinister roles under General Sani Abacha;
  - ix) That the families of the two deceased victims of torture be compensated for the loss of their breadwinners;
  - x) To remove from office and retire immediately any officer who served as a member of the investigation panel and/or the tribunal in both the 1995 and 1997 bogus coup plots. The involvement of any officer in both investigations and/or trials suggests that such an officer has been compromised. Officers of integrity are usually not called back a second time for such work. Officers of questionable integrity should no longer serve in any meaningful capacity in the military, as they have nothing to offer;
  - xi) To order a full restitution of his rank and entitlements to him; and
  - xii) To pay compensation in the sum of seven hundred million naira to him, for unjust imprisonment, the debasement of life, degrading and humiliating treatment meted out to him, the

torture, assault and battery by General Sani Abacha's minions, during these 15 months of incarceration.

Nine witnesses testified in the case. One hundred and sixty-six exhibits were tendered in evidence. The nine witnesses included Generals Oladipo Diya, Ishaya Bamaiyi, Victor Malu, Patrick Aziza and Ibrahim Sabo; others are Majors Hamza Al-Mustapha, Seun Fadipe, and Mumuni Bashir.

The first witness, General Oladipo Diya, led in evidence by his counsel, disclosed that he never supported the late Head of State's self-succession plan. Under cross-examination by counsel to Major Al-Mustapha, he agreed that Mustapha did not torture him. He denied ever instructing that a deposit of seventy million naira be called and described the document as a forgery. He said he added the title Lt.-General to his name because nobody had officially communicated to him that the rank had been withdrawn. He said because he innocently invited Major-General Patrick Aziza to ride in a car with him to the airport while he was travelling out of Lagos, the latter accused him twenty one days later of discussing coup with him. He denied ever suggesting the recruitment of Major-General Magashi because he was the former Commander of the Brigade of Guards and from the north – Kano State, for proper balancing. He denied the need to involve the Lagos Garrison Commander, Major-General Aziza because he was a commander of troops. He alleged that Major-General Aziza was part of the 'arrangee' group that framed him for a coup. He stated that General Sabo was not one of those who arrested, detained, and tortured him.

Under cross-examination by counsel to Mohammed Abacha, General Diya agreed that Mohammed Abacha was not among those who arrested him. He agreed further that there was no Lance Corporal Mohammed attached to him among his security staff, so no Mohammed died, or was tortured by Mohammed Abacha. He also agreed that Mohammed Abacha was not in Jos and did not torture Lt. Colonel Akinyode in Jos.

Under cross-examination by Counsel to Lt. Colonel Yakassai, he stated that his relationship with Abacha became strained by mid-1997. He reaffirmed that of all the convicts for the 1997 coup, eight were Yoruba out of nine and that it was not true that they were six. On the one billion naira his finance officer lodged in a bank in Abuja, he said it was money meant for the building of Houses of Assembly in six States. It was lodged in the account of the CGS. He averred that Lt. Colonel Yakasai was not part of the group that made or presented the four-point demand to General Abacha. He said Yakasai was roped into the coup by the authorities. He agreed under cross-examination to have delivered a speech to some traditional rulers in Benin in which he said Chief MKO Abiola was a joker for insisting on claiming his June 12 Presidential election victory but that the counsel was quoting him out of context. The witness agreed that his former Chief Security Officer pleaded guilty in his trial for the coup but with reasons.

Under cross-examination by counsel to General Bamaiyi, he denied vetting any coup speech or funding the coup. He said he did not report the issue of the four-point demand to General Sani Abacha because he could be killed by those involved. Witness insisted that General Bamaiyi's threats to remove the late Head of State if he refused to abide by the four point demands did not amount to treason. He denied

neither crying nor kneeling down to beg General Abacha after his arrest in spite of the video film that appeared to have shown him does so. He denied vetting any coup speech or funding the coup. He stated that Lt. General Bamaiyi did not arrest, detain, torture and interrogate him because he was also supposed to have been arrested. Counsel to Major-General Magashi argued that the institutions under which General Diya was arrested, detained, tortured and convicted were established under his administration and therefore he was not deserving of the requests he was applying for.

The second witness, Major Hamza Al-Mustapha, denied arresting the petitioner, but that he was arrested by two officers. The witness testified that all the meetings the petitioner held with other coup plotters were taped and transcribed by the witness. He said he had two different interviews with the principal actors and it was video-taped secretly. He affirmed that the petitioner was arrested with a shirt during which the first interview was conducted. The second interview was held with the petitioner wearing another dress. He testified that after the petitioner was arrested, the computer used in typing the 1997 coup speech was found. A copy of the coup speech was also found under the pillow of the petitioner's bed. Under cross-examination by Counsel to Mohammed Abacha, he testified that there was no torture group headed by him and Mohammed Abacha. He reiterated that the coup that had the most overwhelming evidence in the history of coup making in Nigeria was the 1997 coup and it was master-minded by General Diya. Under cross-examination by counsel to the petitioner, the witness confirmed that the government, via the SSS, put Diya and the coup suspects under surveillance.

The fourth witness, Major-General Bamaiyi, affirmed that they held a meeting on December 14, 1997, after Diya survived a bomb blast on December 1997. He agreed that he was fed up with military government and wanted them to hand over to a democratic government. He agreed that he did not wear the “Abacha badge” neither did officers working in his office. He stated that General Abacha never told him that he wanted to succeed himself. He confirmed that Gen. Aziza reported their discussion with Diya to him and that he in turn reported to the C-in-C who directed him “to play along.” Under cross-examination by counsel to General Diya, Bamaiyi stated that the Chief of Defence Staff convened the coup trial of 1997, and to that extent, the 1997 coup trial was not a *Kangaroo* trial.

The fifth witness further testified that he got to know about the coup on December 9, 1997, which was the day of the bomb blast. He said the date of December 13, 1997 was agreed between General Diya and General Bamaiyi as D-day. He confirmed that General Diya gave him two million Naira for the coup, which he passed to General Bamaiyi. The witness said that General Bamaiyi called him about 3.00 am and said that he should go to Oga and get the coup speech for him. Under cross-examination, the witness said that he was shocked when he heard the testimony of Diya and Bamaiyi.

The fifth witness, Major Seun Fadipe, disclosed that he and General Adisa went to General Diya to tell him that the coup plot had leaked to the Head of State and therefore he should discontinue the plot, but General Diya dismissed them and insisted on going ahead. He also informed the Commission that he dispatched his boys to General Bamaiyi to assist in the arrest of Major Mustapha on the day of the coup. He also claimed that he had advised General Diya not to shed

blood during the coup and that while in detention in Jos he advised him to own up to the coup planning so that the innocent boys they used could be released.

Cross-examined by General Magashi's counsel, the witness stated that General Magashi did not attend all the coup meetings and that the General's attendance was on the invitation of General Diya.

The seventh witness, Brigadier-General Ibrahim Sabo, under cross-examination by counsel to General AVM Musa, agreed that he was a member of the 'play-along-team'. He also agreed that General Magashi was also in the team and was supposed to have read the coup speech. Witness however disagreed with counsel's view that if General Magashi had read that speech, it would have meant the overthrow of General Abacha. He argued that it was not meant to be read as they were only playing along. He however agreed that there was a coup plot. He confirmed that none of them in the play-along-team was co-opted to write the speech.

The witness testified that General Adisa was deliberately dragged into the coup plot by General Bamaiyi at the late hour in order to scuttle his being made Chief of Army Staff. He alleged that General Onoja was dragged into the coup of 1997 merely because he had opined that the Chief of Army Staff should be given to someone who was intellectually sound. This, according to him, did not go down well with General Bamaiyi, especially as he was his course mate and at that time had been tipped for the position. He argued that although General Onoja was cleared of complicity in the coup, he was still retired from service through the machinations of General Bamaiyi. He further said that it was not only General Diya that initiated a coup but also General

Bamaiyi, who had the ambition to be Head of State. He averred that General Bamaiyi hatched another coup plot after the failure of the Diya coup.

Cross-examined by counsel to General Diya, the witness explained that 'to play along' was to pretend to be together with coup plotters. The purpose of this was for them to know the real plans of the coup plot in order to avert it and any subsequent coup plots in the future. Those involved in the 1997 coup plot were according to him Generals Diya, Bamaiyi, Magashi, AVM Idi Musa etc. He said General Ishaya Bamaiyi assured Diya that all the GOCs had been informed about the coup except General Sarki Muktar. He also confirmed that the C-in-C gave his blessings for them to play along.

Under cross-examination by counsel to Lt. General Ishaya Bamaiyi, he disclosed that General Bamaiyi instructed him to order Sergeant Rogers to torture General Diya. He insisted that General Diya was tortured and added that Major Mumuni would not know. He opined that at the time he carried out the Chief of Army Staff's instructions on General Diya, he deserved the treatment he received. He said General Patrick Aziza was a very loyal officer. He agreed that General Magashi could not have set up General Diya.

The eighth witness, Major A. S. Adamu Argungu (Rtd), testified that he did not arrest General Diya. He disclosed that a few days after the arrests had been effected he was instructed to convey General Diya to the late Head of State, which he did. He insisted that he never arrested nor tortured General Diya. He explained that when the need to collate evidence arose, there was a need to search the residence of the Chief of General Staff. He added that during the search, he recovered the

sum of 1.2 million dollars and 600,000 pound sterling. He submitted that General Diya's petition was completely baseless and was the act of a drowning man. He confirmed that the dress that General Diya wore on the day he picked him was the same one he saw on the video clip he saw on the case. He said that in carrying out his duties of effecting the arrests of coup plotters, he did not do it with Mohammed Sani Abacha, as he was neither a soldier nor a staff of the SSS.

The fourth witness, Major-General Ishaya Bamaiyi, stated during cross-examination that Major-General Aziza did not conceal any coup. He said the P.R.C. investigated Major General Lawrence Onoja for financial impropriety, found him guilty and recommended his retirement from the Nigerian Army.

Following some prodding by the Chairman and a member of the Commission with counsel to Hamza Al-Mustapha acting as a facilitator, the witness shook hands with General Sabo. They both indicated their readiness to forgive each other and reconcile. The Chairman expressed the Commission's delight with the reconciliation effected. He then declared the case closed.

**PETITION: NO. 697: LT.GENERAL OLADIPO DIYA.**

The petition is about the alleged assassination attempt of the petitioner. He affirmed that on December 13, 1997, he was scheduled to travel to Makurdi but started off behind schedule. That on turning up at the presidential wing of the airport, he heard a loud bang. The source of the explosion was traced to a Peugeot 504 vehicle parked on one side of the driveway into the presidential wing of the airport. One of the two occupants of the vehicle had been burnt to death in the resulting inferno.

Their identification tags, bearing Major Al-Mustapha's signature, identified them as Sumaila Shaibu and Usman Sumaila, members of Major Al-Mustapha's private security force in the presidency. The survivor, Usman Sumaila, badly injured, was rushed to Gwagwalada General Hospital, where a few hours later he gave details of the failed assassination bid, fingering Al-Mustapha as their recruiting officer into the Strike Force and also as special bodyguards of General Abacha.

The petitioner alleged that on the instructions of the presidency, Usman Sumaila was moved to the Aso clinic where he 'conveniently' died. He further alleged that although the Head of State was not travelling that day, he saw Al-Mustapha heading back from the airport at the time he was heading to the airport. At the airport, at the time of the incident, he noticed the presence of Alhaji Ismaila Gwarzo, Alhaji Arisekola Alao, and the Commissioner of Police for the Federal Capital Territory, Alhaji Mustapha. He further alleged that some thirty minutes after the attempt failed, they were joined by Major-General Ishaya Bamaiyi.

Reliefs sought by the petitioner are as follows:

- i) To order and compel the Nigeria Police, in particular the Abuja Command, to publish the result of their investigations into the incident at the time as announced by the Commissioner of Police, Abuja in December 1997;
- ii) To order a full investigation into the circumstances of that bomb scare, with a view to bringing the culprits to book;

- iii) To summon Major Al-Mustapha and the members of his Strike Force and private security outfit as witnesses and compel them to shed more light on the incident;
- iv) To order Lt. Colonel (Dr.) Yakassai and all others involved to give evidence explaining their various roles in this matter in the light of his alleged 'confessions' from prison and his sinister role in the death of Usman Sumaila and others; and
- v) Punitive damages in the sum of N300, 000,000.00 (three hundred million Naira) for the mental agony and trauma his family and he, were subjected to throughout their trying period.

Led in evidence by his counsel, the first witness, General Diya, averred that despite the assassination attempt on his life and promises by the late Head of State to order a full investigation into the incident, nothing had been done. He said he was rather arrested seven days later, on charges of a coup attempt, all in an attempt to permanently silence him. Under cross-examination, the witness said he neither saw General Bamaiyi, or Major Al-Mustapha at the airport. He denied that he participated in meetings to unseat General Abacha on December 13, 1997. He said he was not aware of any coup to unseat General Abacha at any time. However, he said he was aware of a four-point demand, which was to be presented to the late Head of State. He admitted that he could not have heard the alleged confessions regarding Major Al-Mustapha by the bomb planters because he was neither at Gwagwalada Specialist Hospital nor at Aso Clinic.

The second witness Major Mustapha expressed surprise that the petitioner claimed ignorance of the Joint Intelligence Bureau. He went on to say that the petitioner headed the functional inner caucus. He added that Major-General Adisa was a member of the inner circle but

not that of the inner caucus. He disclosed that there was to be a coup on the eve of December 13, 2000. The witness alleged that his assassination, which was ordered by the petitioner, was to herald the coup. He said the centrality of control of security operatives put in place by him brought about one central authority issuing I.D. cards to all security staff of the State House. He claimed that he never sent the two Ismailas that died on any bombing assignment. He said that the Ismaila that died did so at Gwagwalada Specialist Hospital at the hands of the petitioner and not at the Aso Clinic. He urged the Commission to request for the relevant document from the hospital. He said the Strike Force and the BodyGuards (BGs) were some of the seventeen units under him. Under cross-examination, the second witness stated that his security duties were protecting the late Head of State and the seat of government which extended to the Abuja airport in 1995 when an outpost was created there. He said though he normally sends bodyguards on assignment he did not send the two Ismailas to the airport.

The third witness, Mohammed Labbo, said he is a reporter of the NTA posted to the State House in 1991. He said that in December 1997 he was a reporter on the entourage of the then Chief of General Staff. He said he interviewed the Police Commissioner of Abuja Police Command after the bomb blast after which his Director of News instructed him to do his story but not to mention the name of Lt.-General Diya or those burnt in the exploded car because their families were not yet aware. He said that to the best of his knowledge neither Major Al-Mustapha nor any official at the Villa edited or influenced the editing of his story on the airport incidence.

The fourth witness, Lt.-General Ishaya Bamaiyi, stated that he was never at the Abuja airport on December 13, 1997 as he was at Forte Ibrahim Babangida.

The fifth witness, Lt.-General Victor Malu, testified that there was no doubt that the petitioner plotted a coup in 1997. He denied that the trial was done in such a way as to eliminate persons of the Yoruba ethnic group in the Army. With regards to torture, the witness testified that only Major Mohammed complained that someone used to come to beat him in the night and he ordered that it should never be repeated. Apart from Mohammed, the witness said that no other person complained of torture. The witness further said that when the petitioner complained that the coup allegation was a set up, he brought all of them (accused and accusers), together but the petitioner could not substantiate his allegation. The witness said that as the President of the SMT, he gave the order that the properties of the petitioner and others convicted by the SMT should be confiscated. The witness testified that in all coup trials, it was customary to handcuff and leg-chain suspects. He also said that Major Al-Mustapha did his job well as CSO to General Abacha though by his rank as a Major he was given a task well above his capacity. He finally testified that the petitioner was obviously the architect of the 1997 coup plot and that by his trial and conviction he ceased to be member of the Nigeria Army, since he had been dismissed and cashiered from the Nigerian Army.

Another witness, Captain L. B. Mohammed, agreed that he signed exhibits 2-6, which properties were taken away from General Diya's house. He confirmed that the properties are with the Lagos Garrison

Command and that General Patrick Aziza ordered that they should be taken away.

The sixth witness, Major Mumuni Bashiru, testified that he was appointed as Security Officer at the SMT venue in Jos and he also liaised with the SMT and those detained on the coup plot. He said General Diya was brought to Jos on January 6, 1998. While in Jos he looked after the welfare of General Diya. The witness also testified that General Diya never reported any case of beating. That it was only Major Mohammed that complained that someone entered his cell and beat him up. He said that he thereafter warned all the guards never to beat up any detainee again. He also asserted that there was no reported case of death of any of the detainees in Jos during the SMT sitting and all the people that were brought to Jos left hale and hearty. Under cross-examination by the Chairman, the witness said that it was standard practice to handcuff and leg-chain detainees but to him this did not constitute torture. He also said that there was no law backing the practice.

The seventh witness, Brigadier-General Sabo, testified that General Bamaiyi asked him to tell Sgt. Rogers to “deal with Diya a bit” so that he will stop telling lies. Continuing, he said General Diya lied when he claimed that he wore the same clothes throughout the detention. He said that General Diya *defecated* in Mustapha’s office and had to change his clothes. He said he told General Abacha about the plot and he asked them to play along so that all the details would be gotten. He said he went to the meetings with recording devices and recorded all the discussions. He said a lot of dates were fixed as D-day but Abacha never attended the stated events and the plans were aborted. He alleged that the plot was contingent on the arrest or elimination of

Major Mustapha. The witness denied that the trial of General Diya and others over the 1997 coup was targeted at any tribe.

**PETITION: NO. 845    PETITIONER:    OTUNBA W. O. O. AJAYI**

The petition is about the unlawful arrest, detention and denial of rights of the petitioner. He alleged that he was arrested on July 15, 1995 and detained for 207 weeks.

He affirmed that he was denied the right to freedom, right to fair hearing, right to bail, right to life, right to hold and disseminate information, right to justice, right to ownership of properties and right to good health.

The petitioner is seeking the following reliefs:

- i) A thorough judicial enquiry into the activities of the NDIC, CBN, and FCID Department of the Nigeria Police;
- ii) Reimbursement of medical bills;
- iii) Revoked Licenses of his two banks to be returned to him;
- iv) N500 million compensation for loss of income; and
- v) Written apology by the government.

Two witnesses testified in the case and fourteen exhibits were admitted in evidence. The second witness claimed that the petitioner was the founder and Chief Executive of Republic Bank as well as Financial Merchant Bank and that the two banks were liquidated due to financial malpractice. The petitioner's involvement was reported to the Failed Banks Tribunal for which he was to be tried. Though he was granted bail, he could not meet the conditions for the bail. He was later prosecuted and convicted for the offences. The petitioner was said to have voluntarily surrendered his properties to off-set the amount that he was ordered to pay for payment to depositors whose

funds were misappropriated and this was in accordance with the law on such matters. The witness averred that there are two cases currently pending in the High Court and Court of Appeal of which the petitioner has failed to attend the court proceedings since 1999, purportedly, on ill-health. The petitioner said he was therefore surprised that the petitioner could attend the Commission's hearing in such a high spirit and good health.

The case was closed while the Chairman directed that counsel should submit to the Commission their written addresses on the matter.

**PETITIONS: NO. 896 AND NO. 539 ALHAJI IBRAHIM O. BAMIGBOYE**

The Commission noted that the petitioners were absent and were not represented by counsel. Counsel for the Commission applied that the petitions be struck out. It noted that Mr. F. O. Okejiji appeared for the Commissioner of Police. He did not object to the application by counsel for the Commission. The petitions were accordingly struck out with permission to re-list.

**PETITION: NO. 922: PETITIONER: MR. ELISHA OGBONNA**

The petition is about the arrest of Chidi Ogboko Onyeador who was arrested in 1998 and has disappeared since then. The family fears that he might have been killed in detention. They claimed they petitioned the A.I.G Zone 2 Headquarters and the A.I.G wrote a letter to the petitioner confirming his death. He claimed that the A.I.G assured him that 'action' had been initiated to unravel the circumstances of his death.

Eight exhibits were tendered and admitted in evidence in the case. Under cross-examination by the Police lawyer, the petitioner stated

that it was Inspector Amos that told him that his brother might have been tortured to death.

**PETITION NO. 932: PETITIONER: OLATUNDE F. SHITTU**

The petition is about the illegal shooting and eventual death of the wife of the petitioner.

The petitioner is asking the Commission to recommend compensation from the government to the tune of N5 million for the unlawful killing of his wife and for the expenses he incurred while she was in the hospital.

At the end of the evidence by the petitioner, the counsel for the Lagos State Attorney-General reported that the Lagos Attorney-General had paid the sum of N200, 000.00 to the petitioner as compensation and had also agreed to train three children of the petitioner to secondary school level. Counsel for the Commission suggested and it was agreed that the report should be in writing, while the Commission should write to commend the Lagos State Government. The Commission thus closed the case.

**PETITION: NO. 1564: REV. (DR.) F. A. FAPOHUNDA**

The counsel to the Commission informed the Commission that the counsel for the petitioner had informed the Commission that they wanted to withdraw the petition and had requested that the case be struck out. The case was struck out accordingly.

**PETITION: NO. 1645: MESSRS. FRANCIS AND GEORGE SHEEN.**

The petition is about a suspected unlawful detention and consequent death of the petitioner's father, Mr. George Oputa Sheen. He alleged that his father was arrested by security operatives and detained under

the regime of General Yakubu Gowon. His father, who was said to have been a security risk, died in detention.

The petitioner made a request for a compensation of N6 billion. The petitioner wondered why the deceased was held in detention from 1965 to 1968 and died without having an opportunity to appear in court.

The Chairman asked the petitioner to apply for a copy of the report on the deceased since it was now a public document and further ordered that the counsels submit written addresses on whether the petitioners were entitled to any compensation.

**PETITION: NO. 1773: PETITIONER: CHIEF OLU AWOTESU**

The petition is about the unlawful arrest, illegal detention, and inhuman and degrading treatment of the petitioner by security agents. He was first arrested on January 3, 1984 and was cleared. He was re-arrested, a few weeks later, and detained till October 1984.

The petitioner is seeking the following reliefs:

- i) Return of pictures taken of him in prison;
- ii) Apology; and
- iii) Justice which should be exemplified by confession of guilt and clear displaying of remorse by those who violated his rights.

## **CHAPTER FOUR**

### **PORT HARCOURT CENTRE**

#### **INTRODUCTION**

4.1 As pointed out in Chapter One, the Commission in the discharge of its onerous duties sat in the six geo-political zones of the Federal Republic of Nigeria, where public hearings were conducted in respect of petitions received by the Commission. Port Harcourt city was one of such zones.

4.2 At the Port Harcourt zone, 38 petitions were listed before the Commission out of which 3 were struck out. The highlight of the hearings in this zone was the petitions submitted by the Ogoni against the both the Federal Government of Nigeria and some of its agents as well as against the Shell Development Company. The climax of the hearings was the reconciliation effected by the Commission between the two factions of the Ogoni people – “the Ogoni 4” and “the Ogoni 9”. This culminated in the signing of a memorandum of settlement by the now christened “Ogoni 13” as contained in Exhibit 10 of the hearings on petition 24. What follows is a summary of the petitions heard in the Port Harcourt zone.

#### **PETITION NO. 4: PETITIONER: COL. SAM INOKOBA**

This petition that came before the Commission was filed by one Col. Sam Inokoba. In the petition, the petitioner complained about the unlawful killing of his son. The petitioner however withdrew his petition and same was struck out by the Commission.

**PETITION NO. 21. PETITIONER: PROFESSOR E. E. EZEWU**

The second petition heard by the Commission was filed by Professor E. E. Ezewu. The petitioner in his petition alleged that his son was killed at the University of Port Harcourt because of a petition he (the petitioner) had previously written against Professor Theo Vincent, the then Vice Chancellor of the University of Port Harcourt. He alleged that the police refused to conduct an investigation into the matter.

Under cross-examination by the counsel, to the former Vice Chancellor of the University, the petitioner denied the assertion that his son was a cult member and that he was killed by other cult members.

The Commission ordered the police to conduct proper investigation into the matter.

**PETITION NO. 149: PETITIONER: MR. J. B. PUTNOR**

This petition had to do with the factional differences that have featured among the Ogoni. The petitioner applied to withdraw his petition in the spirit of reconciliation and peace reigning in the community. The petitioner was commended for his and his petition was accordingly struck out.

**PETITION NO. 218: PETITIONER: MRS. KOBANI AND OTHERS**

The petitioners complained in their petition about the murder of their husbands and the destruction of their properties. They also complained about the persistent threat to the lives and properties of the families of the *Ogoni 4* as a result of which they were forced into exile by members of MOSOP/NYCOP.

They prayed for the release of the bodies of the *Ogoni 4* to their families for decent burial and payment of the sum of N100 million each to their families as compensation. The Commission was informed that the petitions and MOSOP have resolved their differences as evidenced by Exhibit 10, the terms of settlement tendered before the Commission.

The Commission commended the parties for the reconciliation.

**PETITION NO. 225: PETITIONER: G. E. DIRIKEBAMOR**

The petitioner testified before the Commission and his petition was admitted in evidence as Exhibit 1. In the petition he complained about the murder of two Dirikebamor brothers in 1997 and 1998.

The petitioner alleged that the matter was not properly investigated and also asserted that the Director of Public Prosecutions of Bayelsa State gave a fraudulent legal advice which led to the release of the murder of the Dirikebamor brothers. The petitioner prayed the Commission to make an order for the arrest of the suspects, re-investigation of the matter and the prosecution of the suspects.

Responding however to the allegations, Mr. Kofi Aba of the police informed the Commission that in respect of the first allegation, a case of murder was not established against the suspects hence the suspects were released. His evidence in respect of the second incident was that because the location of the offense could not be determined with certainty, the Nigerian Police Force Headquarters, Zone 5, took over the investigation of the matter.

The Commission ordered the Delta State Police Command to re-investigate the two cases. It was also ordered that the suspects be prosecuted by the Delta State Ministry of Justice.

**PETITION NO. 257: PETITIONER: MR. JUSTICE UWALAKA**

The petitioner, an employee of Central Bank of Nigeria, alleged in his petition that the former Military Administrator of Bayelsa State came to his place of work and ordered soldiers to beat him up with horse whip, as a result of which he received injuries which led to his hospitalization for eleven days. He further alleged that the doctor who treated him and his counsel who wrote a petition on his behalf were also arrested and detained.

He prayed the Commission to order the Bayelsa State Government to pay him compensation.

The Commission advised the petitioner liaise with his counsel and the doctor that treated him for the purpose of consolidating the petitions relating to the matter. The petition was then adjourned to the Enugu session of hearing.

**PETITION NO. 313: PETITIONER: MRS. THERESA ELIKWU**

This part-heard matter from the Lagos Centre. The petition was adjourned to the Port Harcourt Centre due to the absence of the star witness, Mr. Chidi Elikwu who testified before the Commission on the 30th of January, 2001. The statement of this witness made to the police was admitted in evidence by the Commission as Exhibit 3.

The witness asserted that he was arrested on the 19th of June, 1998 and was taken to the State Anti-Robbery Squad (SARS) office where he

was detained and tortured. He was detained at SARS office until the 13th day of March, 1999, when he was arraigned before the court and was remanded in prison custody on the orders of the court. He alleged that for a period of 18 months he was not allowed to receive visitors and as a result the injuries he received could not be treated.

Counsel to the Commission was directed to write to the Chief Judge of Lagos State to expedite action on the petitioner's case and that having regard to the fact that the accused has been in detention for a period of 3 years, the issue of his bail should be considered.

**PETITION NO. 377: PETITIONER: PRINCE SONNY OSON**

The petition was listed before the Commission on Friday, 19th January, 2001 but was adjourned to the 30th of January, 2001 on the orders of the Commission.

It was observed however that it was not listed for hearing on 30th January, 2001.

**PETITION NO. 383: PETITIONER: MR. ERES ORUOMAH**

The Commission was informed that the petition was about the disappearance of the petitioner's brother which was alleged not properly investigated by the police. The petitioner prayed for the payment of compensation for the disappearance of his brother.

The Commission, however, observed that the issue of compensation would not arise after it is established that there was criminal conspiracy in the disappearance of the victim. The Commission ordered that the police should investigate the matter and report back to the Commission.

**PETITION NO. 486B: PETITIONER: OLADIPO MOROHUNDIYA**

The petitioner, a former employee of National Drug Law Enforcement Agency (NDLEA), alleged that he was wrongly dismissed from service and further alleged that he was illegally arrested, tortured and detained for ten months without trial by the then Chairman of BDLEA.

He prayed the Commission for re-instatement, restitution and compensation.

The Commission found that while the arrest of the petitioner may have been lawful, his detention and torture were unlawful.

**PETITION NO 513: PETITIONER. JUSTICE J. J. UMORER**

This petition was adjourned to the Abuja session for hearing on the application of the petitioner.

**PETITION NO 535: PETITIONERS, YAKUBU MOHAMMED & OTHERS**

The petitioners were absent though they were served with a summons. The petition was struck out.

**PETITION NO 589: PETITIONER CHIEF G. O. AKINLUYI**

The petition was not heard due to the absence of the petitioner on health grounds. The petition was adjourned to the next session of the Commission for hearing in Abuja.

**PETITION NO 595: PETITIONER DR CHARLES EKANEM**

The petitioner alleged that he was arrested on an allegation of fraud by the Military Task Force on NITEL facilities in Akwa-Ibom State. He asserted that he was assaulted, humiliated and tortured by the Task

Force. He reported his ordeal to the police but the police was scared away by a major who was the head of the Task Force.

The Commission observed that the matter was earlier reported to the police but was poorly investigated due to the human rights posture of the military government. The Commission directed that the Inspector-General of Police should conduct a fresh investigation into the matter. It also ordered that the Commission should be duly informed about the outcome of the investigation.

**PETITION NO: 617: PETITIONER: MRS. L. WILLIAMS**

The petition is about the petitioner's elder brother Professor Claude Ake, who died in a plane crash involving A.D.C. Airline. In her petition, the petitioner alleged that the plane crash was planned by the General Sani Abacha Government because of the protest by Professor Ake over the trial and execution of Ken Saro-Wiwa. The petitioner further asserted that prior to his death, the late Professor Ake was being monitored by security agents. He was a leftist and a critique of the military. Professor Ake's letter addressed to the Director of State Security Services was admitted in evidence as Exhibit 3. In the said letter, the late Professor Ake complained about his constant harassments by the security agents. She alleged that it was the Government of late Gen. Sani Abacha that was responsible for the bombing of the A.D.C. Airline which was done purposely to eliminate late Professor Ake.

Under cross-examination the witness asserted that Shell Petroleum Company was privy to the bombing of the A.D.C. Aircraft.

The Commission ordered a re-investigation of the matter in line with

the petitioner's prayers as contained in Exhibits 1 and 2.

**PETITION NO. 672: PETITIONER, MR CHARLES EYAM**

The petition was tendered in evidence as Exhibit I. In the petition, the petitioner alleged that his brother was murdered and that a car with the sum of N20,000.00 was seized from his deceased brother. He complained about the denial of his freedom of movement and personal liberty.

He prayed the Commission for the payment of the sum of N50 million for the injuries he suffered. He also demanded for the release of the corpse of his deceased brother to the family and a re-investigation of the case.

The evidence of the petitioner was not controverted. The Commission therefore directed the police to re-investigate the matter in line with the petitioner's prayer.

**PETITION NO 673: PETITIONER: MRS. JENNY IWARA OSUAYA**

The petitioner was the wife of one Mr. Iwara Osuaya [deceased]. The petitioner alleged that her late husband was murdered by Mr. Usani Uguru Usani & Others. The assailants were arrested by the police Mr. Usani who was a member of the Cross Rivers State Executive Council used his influence to suppress investigation into the matter. The preliminary investigation report of the matter indicted Mr. Usani and others but the police did not prosecute them. The preliminary report was admitted in evidence as Exhibit 2.

The Commission ordered the Inspector-General of Police to constitute another panel to conduct fresh investigation into the matter.

**PETITION NO: 674: PETITIONER: MR. OMIMI ENO OTU**

The petitioner alleged in his petition which was admitted in evidence as Exhibit 1, that Mr. Omimi Eno Otu was brutally murdered by Sgt. Ike Eni of the Cross River State patrol team at Ugep on the 2nd day of February, 1998 as a result of gun shots. It was however revealed in evidence that that the deceased was actually shot by one Lance Corporal Suleiman Bello. The deceased was married and had three children.

The petitioner prayed the Commission for the payment of the sum of N50 million as compensation and for maintenance of the wife of the deceased and his three children.

The Commission directed Counsel to the petitioner to pursue the prosecution of Lance Corporal Bello with the Attorney-General of Cross Rivers State and the police and report back to the Commission.

**PETITION NO 639/369: PETITIONER: MR PETER ENEWARI**

Dr Augustine Enewari was a Director in Bayelsa State Environmental and Development Authority and was Secretary to the Bayelsa State Community Relations Committee, a body responsible for intervening in intra- and inter-communal conflicts arising between communities and oil companies operating in the State.

On 23rd of August, 1998, he together with the other members of the committee travelled on a speed boat to Nembe Local Government. Two hours after their departure, the other members of the committee came back and alleged that Dr Augustine Enewari fell off the speed boat in the course of the journey and was killed by the propeller of the

speed boat. On the 27th of August, 1998 his body was recovered from the waters.

An autopsy report conducted on the body of the deceased, Exhibit 4, ruled out the fact that the deceased died as a result of the propeller injury as asserted by the other occupants of the speed boat. The doctors certified the cause of death to be “MULTIPLE MATCHET AND STAB WOUNDS”.

From the nature of the evidence the petitioner argued, there is the need for proper investigation to be conducted into the circumstances of the death of Dr. Enewari, moreso as there is no explanation as to the circumstances under which he fell from the speed boat into the water.

The Commission ordered the arrest and prosecution of the survivors in the boat at the time of the incident.

**PETITION NO. 746: PETITIONER: KEN SARO WIWA MR.**

The first witness that testified before the Commission was one of the counsels that defended late Ken Saro-Wiwia before the Honourable Justice Auta Tribunal that tried and convicted the late Ken Saro-Wiwa.

His evidence was to the effect that the law established the law which established the Hon. Justice Auta Tribunal did not give a time limit within which the convicts could appeal against the decision of the tribunal and that there was also no time limit for the transmission of the record of the proceedings of the tribunal to the confirming authority. He alleged that the record of proceedings of the tribunal was

not transmitted to the confirming authority before the sentences of the convicts were confirmed by the relevant authority. This he asserted was due to the volume of the record of proceedings.

Mr. Ledum Mitee was the second witness that testified before the Commission. He was arraigned before Hon. Justice Auta Tribunal. He asserted that the convicts were not given an opportunity to make representations to higher authorities on their convictions. All the accused persons were detained in military cells.

According to this witness, the Chairman of the tribunal informed the convicts that they had 30 days to appeal against the judgment of the tribunal though there was no such provision in the law that set up the tribunal. However, he was discharged and acquitted by the tribunal.

**PETITION NO 760: PETITIONER: MR JOE MOUKORO**

The petitioner informed the Commission that his petition was about the murder of his brother by a Naval Officer named Hamidu Saliu. The matter was reported to the police, the suspect was arrested, but was later released and he was never prosecuted.

**PETITION NO 784: PETITIONER: CHIEF SAM EGBELE**

The petition was about the human rights violations of the people of the Niger-Delta by successive governments. He therefore prayed for the rehabilitation of the area and the payment of reparations.

In its response, the Commission directed that all abandoned properties in the area be documented and passed to the Niger-Delta Development Corporation [NDDC]. It is promised to draw the attention of the Federal Government to the plight of the people of the Niger-

Delta in its recommendations.

**PETITION NO. 861: PETITIONER: CHIEF FEMI ADEKANYE AND OTHERS**

In their petition, the petitioners complained about the arrest, detention and torture. The petition was however not heard at the Port Harcourt session as same was adjourned for hearing at the Abuja session of the Commission.

**PETITION NO 887: PETITIONER, LT. CDR. T. O. ESAN**

The petitioner, a former Naval Officer, he was compulsorily retired from the Navy on 24th December, 1996, on the ground that he had faced too many court martials and that he had lost two years' seniority. The petitioner further alleged that while in the Navy, he was assigned the duties of combating smuggling, piracy, illegal bunkering and fishing as a result of which he incurred the wrath of many people. After he was retired from service, he was detained for a period of thirty-nine days and was denied adequate medical facilities. This situation led to the deterioration of his health.

He prayed for re-instatement into the Nigerian Navy and payment for his illegal detention and the dehumanizing treatment he passed through while in detention. The case was subsequently adjourned to Abuja where the various counsels were ordered to submit addresses within 14 days focusing on: i) reasons for the arrest of the petitioner, ii) the validity/legality of the attack, iii) how long the petitioner was detained and the justifiability of the detention, and iv) whether there was any proof of the torture. The case then closed.

**PETITION NO: 908: PETITIONER: MRS. ROXANNA A SPIFF**

The Petition was not heard. It was struck out due to the absence of the petitioner.

**PETITION NO 942: PETITIONER: MRS. ROSE ROBINSON IWERE**

Petition was listed before the commission on the 6th day of January, 2001 but was adjourned due to the absence of the petitioner. The petition dealt with the murder of the son of the petitioner who prayed for a full investigation of the case.

It is observed that this petition was not listed before the Commission again during the session.

**PETITION NO. 948: PETITIONER: DR. TEMI A METSEAGHARUM**

The petition was about the murder of one Mr. Samuel A. K. Metseagharum Chevron, an oil company, was alleged to have been involved in the murder of the deceased person. An objection was taken by counsel to the petitioner to the appearance of counsel to Chevron company on the ground that he had earlier been briefed by petitioner to handle the matter but refused to handle same due to disagreement with the petitioner on professional fees.

The Commission ordered Counsel to the petitioner to depose to an affidavit stating the facts and serve same on counsel to Chevron Company who will also swear to a counter affidavit in reply to affidavit.

The matter was then adjourned to Enugu Centre for further hearing.

**PETITION NO: 1413: PETITIONER: ALBERT EFFIONG ATTEH**

The petitioner alleged in the petition that his uncle, Mr. Etim O. Atteh,

was murdered by his wife and brothers-in-law. He prayed the Commission to order the police to re-investigate the case and to release his brothers and sisters who had been arrested. Counsel to the Commissioner for Justice Akwa-Ibom State informed the Commission that the case was already in court. The Commission first adjourned hearings to enable the appearance of the petitioner and finally struck out the case when he did not appear.

**PETITION NO: 1498: PETITIONER: SGT. JULIUS UWOM**

The petitioner alleged that his nephew was murdered and that the father of the deceased was forced to swear to an affidavit withdrawing the case. The petitioner prayed the Commission for re-investigation of the case and the prosecution of the suspects.

The Commission ordered the Rivers State Police Command to re-investigate the matter.

**PETITION NO: 147/1420: PETITIONER: MR. LEDUM MITEE & MOSOP**

Petitions Nos. 420 and 467 were consolidated by the Commission on the application of the petitioner in petition No 420 on the ground that the two petitioners have the same substance.

Testifying before the Commission the first witness Mr. Ledum Mitee complained about the arrest, detention, torture and killing of the Ogonis by the members of the Task Force on Internal Security in Rivers State under the command of one Major Paul Okuntimo. He informed the Commission about the alleged complicity of Shell Petroleum Company in importing arms and ammunitions into the country for the purpose of suppressing agitation by the Ogonis about

the environmental degradation of their land by Shell Petroleum Company. The witness also testified about the communal clashes between Ogonis and the Andonis as a result of land dispute.

Evidence was also led before the Commission by some of the witnesses that the houses of some of the paramount rulers in Ogoniland who are members of the Conference of Ogoni Traditional Council were set ablaze by soldiers of the Task Force on internal security.

Other witnesses who testified before the Commission complained about the invasion of their villages by members of the Task Force on Internal Security and gave evidence of how they were raped by soldiers of the Task Force.

Evidence was also adduced before the Commission about the illegal arrest, detention and torture without trial of some of the leaders of the Movement for the Survival of Ogoni People (MOSOP) by the Task Force on Internal Security.

The last witness that testified before the Commission in support of the petition was one Mrs. Beremaki. Her evidence was to the effect that soldiers invaded her village and shot her daughter at the Assemblies of God Church and that when she got to the Church, she was also shot by the soldiers. She and her daughter were admitted at the University of Port Harcourt Teaching Hospital for a period of three months. She further said in her evidence that she knew it was soldiers who shot her and her daughter because of the type of guns the soldiers carried and their uniform.

Responding to the allegation in the petition, Lt. Col. Dauda Komo

(rtd.), former Military Administrator, Rivers State, testified before the Commission and denied the assertion that soldiers attacked communities to create disaffection among members of the community.

**PETITION NO. 1626: PETITIONER: MR. JOSEPH UZEROH**

The petitioner complained about the murder of one Cpl Samuel Uzeroh by the Divisional Police Officer for Omoku Local Government Area of Rivers State while on an official assignment. The petitioner further alleged that the police did not conduct proper investigation into the circumstances of the death of the deceased police officer and complained about the non-payment of compensation and entitlements to the family of the deceased police officer. He prayed for the prosecution of the assailant.

The Director of Public Prosecution in Rivers State at the time of the incident, Mr. Kofi O. A. Abah, testified as the second witness before the Commission. The legal advice written by him was admitted in evidence as Exhibit 6.

In line with the prayers of the petitioners, the Commission ordered that the case be re-investigated by the police.

**PETITION NO: 1637: PETITIONER: MR. K. IROANYA & OTHERS**

In the petition, the petitioners complained that the Igburuku/Okwarra people of Ikwerre tribe were displaced from their homeland after the Civil War. The Commission was informed that the matter was investigated earlier and the Government prepared a white paper wherein recommendations were made but the recommendations were not implemented.

Counsel to the Rivers State Government informed the Commission that the petitioners had been resettled in Port-Harcourt and other parts of Rivers State which the petitioners accepted. She asserted that the demand the petitioners to be re-settled in their pre-civil war location was impracticable.

Responding to the assertion by the counsel to the Rivers State Government, the petitioners' counsel informed the Commission that what the petitioners want is to be allocated land in their present places of abode and not to be re-settled in their pre-civil war places of abode. The Commission directed counsel to the petitioners and the Commission to write a letter to the Rivers State Government to accede to the request of the petitioners.

**PETITION NO: 1647: PETITIONER: LEGOR T. SENEWO**

The petitioner alleged in his petition that on the 12th day of September 1994, security agents under the command of one Major Okuntimo came to his father's house in search of his brother who was the local leader of MOSOP. His father was beaten and his father's house was set ablaze as a result of which he lost some documents and properties in the house. He alleged that his father died as a result of the psychological shock due to the incident. He prayed the Commission for the prosecution of Major Paul Okuntimo and payment of compensation of the sum of N30 million.

Under cross-examination however, the witness said he did not see Major Paul Okuntimo on the day the house was burnt and that he can not identify him.

The evidence of the petitioner was corroborated by that of the second witness who testified before the Commission H.R.H Theophilus Kerikpo confirmed that the petitioner's father's house was burnt by members of the Rivers State Task Force on Internal Security. Other witnesses that testified before the Commission confirmed the evidence of first and second witnesses.

Responding, however, to the allegations leveled against him and members of the Tasks Force on Internal Security, Major Okuntimo denied that the Task Force burnt the petitioner's father's house nor was it responsible for arson in Ogoni land. He opined that probably it was the Andoni's that were responsible for what happened as they were engulfed in communal land dispute with the Ogonis. He stated that he succeeded in brokering peace between the Ogonis and the Andoni's.

Lt. Col. Dauda Komo (rtd.) was the last witness that testified before the Commission on the issue. He informed the Commission that the Task Force on Internal Security, which he inherited, was set up to maintain internal security in the state due to the Ogoni and Andoni crisis. He denied that members of the Task Force were responsible for arson, killing and other atrocities in Ogoni land; rather, the Andonis were responsible.

**PETITION NO: 1710: PETITIONER: IHUNWU OBI-WALI AND OTHERS**

Witness No. 1 testified to the effect that on the 26th April, 1993, Senator Obi-Wali, his father was murdered in cold blood by some people. The petitioner alleged that preliminary investigation into the matter was manipulated to shield the culprits from prosecution Some

people including the 2nd wife of the deceased [Mrs. Nnenna Obi-Wali] were arrested with one Chief Omunaka Nsirim and detained for a period of four months. They were subsequently charged to court but were released from custody when a no-case submission was made by the D.P.P

The petitioner further alleged that the late Senator Wali was assassinated by the government during the regime of President Ibrahim Babangida because of his call for a confederation which did not go down well with the government. That the murder plot was executed with the assistance of the then Governor of Rivers State Chief Rufus Ada George. Mrs. Nnenna Obi-Wali was alleged to have confessed to her complicity in the crime for a reward of the sum of N8 million [eight million naira] out of which it is alleged she had been paid the sum of N5 million naira.

The petitioner prayed for the production of the case file before the Commission and the prosecution of the perpetrators of the crime and payment of the sum of N500 million as compensation.

The second witness who testified before the Commission was Williams Nwordi who alleged that he recorded the confessional statement of Mrs. Obi-Wali in two audio cassettes, where she confessed to being paid the sum of N5 million out of N8 million by Chief Nsirim.

Mr. A. T. O. Amasiemaka was the third witness before the Commission. He was the Director of Public Prosecution of Rivers State at the material time. The legal advice on the matter was admitted in evidence as Exhibit 2. He informed the Commission that police investigation into the matter was not exhaustive. The Commission

ordered that a new team of investigators be constituted by the Inspector-General of Police and that the case-files and the cassettes containing the confessional statement of Mrs. Obi-Wali be retrieved from Mr. Zakari Biu who led the initial investigation, and handed over to the new team of investigators.

**PETITION NO. 1717: PETITIONER: UMUECHEM COMMUNITY**

The petition was presented by counsel to the Umuechem community. The petition is about the civil disturbances that occurred in the community in which eight people lost their lives and about four hundred houses were burnt as a result of which several people were rendered homeless. The Commission was informed that the subject matter of the petition was pending before the Federal High Court by counsel to Shell Petroleum Company.

The counsel to the petitioner prayed that the Government White Paper prepared on the matter be implemented. The Commission directed that a letter be written to the Government to release and implement the white paper on the matter.

**SUMMARY/CONCLUSION**

The Human Rights Violations Investigation Commission sat in Port Harcourt zone between the 5th day of January, 2001 and 2nd day of February, 2001, and heard complaints from Nigerians on violations of their fundamental human rights by the military/government officials and organizations such as the Rivers State Task Force on Internal Security.

The nature of complaints varied from arrest, detention torture, murder, arson and rape of innocent citizens by security agencies that

ought to protect lives and properties

It is a matter of regret to note that the government that ought to protect lives and properties of its citizens turned against the people and severely suppressed their rights.

While it may not be correct to say that there was a deliberate state policy to violate peoples' rights by the government, it is, however, beyond doubt that the then government set up some organizations and institutions like the Rivers State Task Force on Internal Security and the Military Task Force on NITEL whose *modus operandi* was anything but humane.

From the nature of the evidence adduced before the commission, it was shown that the establishment of some institutions like the Rivers State Task Force on Internal Security though purposely established for the sake of maintaining peace and order in Ogoni land was counter-productive because the Security Agents (i.e. Nigerian soldiers) abused their positions to illegally arrest and detain innocent people and also raped women in the name of maintaining peace and order. Houses of some leaders were set ablaze and lives lost due to the protest by members of the MOSOP against environmental degradation in Ogoni land.

In order to bring peace, law and order to Ogoni land and other oil-producing areas in Nigeria, the government should embark on projects and provide social amenities in the oil-producing communities aimed at improving social amenities in the oil-producing areas.

It is also of importance that urgent steps should be taken to educate

our security agents on the need to respect human rights as most of the security agents see themselves as above the law.

## **CHAPTER FIVE**

### **KANO CENTRE**

#### **INTRODUCTION**

5.1 This chapter covers all petitions whose hearing commenced at the Kano Center from March 12, 2000. The Commission commenced hearing into 29 petitions at the Kano center between March 12 and 22. Some of the petitions were adjourned to the Abuja Center for continuation. All these have been covered in this chapter. The hearing was presided over by Hon. Justice Chukwudifu Oputa (rtd.) along with other members of the Commission.

5.2 The Chairman in his opening remarks observed that reconciliation is the key word in the president's address and our *quo warranto* is the search for this reconciliation. It takes two to quarrel and similarly it will take two to reconcile. There may be individual victims as well as individual perpetrators. There may also be communities who feel alienated by past political events. They also need to be reassured and reconciled with the rest of the country in order to restore harmony in our country.

5.3 He pointed out that during the public hearings in Abuja, Lagos and Port Harcourt, all alleged perpetrators blatantly denied any human rights abuses alleged by their victims. Because of this impasse, Justice Oputa observed, "it has not been easy to extract from those alleged perpetrators that measure of remorse and plea for forgiveness on which genuine reconciliation can be posited."

5.4 The Chairman averred that denial does not make any difference to the facts. He said that when so many witnesses from

different backgrounds, from different geographical areas allege unlawful arrest, illegal detention and torture against the same group of security agents, they cannot all be lying and the agents cannot all be witnesses of truth. In such a situation the Commission will be bound to read between the lines. Said the Chairman: “We have seen some handshakes and we have seen exchange of caps. These may be indicative of an intention to reconcile. Also, many of the security agents blamed the system. This may be an oblique admission that though we abused the rights alleged, we were merely carrying out orders. For one thing, a witness testified that it does take more than human courage to own up to one’s wrong doings. And so we found. The Commission has, however, recorded some modest gains in reconciling warring communities. During our session in Lagos, we reconciled the quarrelling inhabitants of Maroko village. We also recorded our first major break-through when the warring Ife and Modakeke communities came together, drafted and signed a Memorandum of Understanding and a Joint Declaration pledging to live in peace and harmony and to adopt only peaceful means in pursuing any of their rights and entitlements. It is rather unfortunate that the media did not give the Ife/Modakeke Reconciliation the prominence it rightly deserved. I am not criticizing them but I am saying that was a slip on their part. They have done marvelously well”.

5.5 During its session in Port Harcourt, Rivers State, the Chairman observed that the Commission succeeded in brokering a Peace Accord among the warring groups in Ogoniland. In particular, it managed to unite and amalgamate the Ogoni Four and the Ogoni Nine into the Ogoni Thirteen. The media did marvelously reporting this historic breakthrough. Both the media in Nigeria and the media overseas, reported and carried “the Ogoni Peace Treaty”, and some

tagged it “the Ogoni Peace Accord”. *The New Nigerian* of February 16, 2001 in its editorial observed: “The Peace Accord signed by the warring factions in Ogoniland will go down in the socio-political development and history of our country as one of the landmark achievements of the Human Rights Violations Investigations Commission”. That is the editorial and it continued: “*The New Nigerian* is enamoured by the series of warm embraces, huggings and back-slappings which permeated the signing proceedings of the Peace Treaty. They were symbolic expressions of the grace and magnanimity of a sober people willing to forget a bitter past and forge ahead.”

5.6 The Commission’s message, according to the Chairman, all along has been: “From our bitter past let us forge ahead to build a better future.” He said, “let us now, with the crossbow provided by the Human Rights Violations Investigations Commission, shoot each of this albatross and move freely in the interest of the peace and unity of Nigeria and the survival of our nascent democracy.”

5.7 Mr. Olaniyan, on behalf of members of the bar in Kano thanked the Commission for its sittings in Kano. He said they would have wished the Commission had had more powers and longer time to sit in Kano. He wished the Commission success in its assignment.

5.8 The Chairman responded that it was a pleasure for the Commission to sit in Kano. He recalled that about six groups and/or representatives of different communities who were at loggerhead pledged to work to bury their hatchets and work in harmony during the hearing session in Kano. He thanked all those who contributed to the reconciliation of the communities. He thanked members of the

various security agencies who have performed more creditably and the hearing in Kano.

5.9 On a final note, the Chairman thanked all that have participated in the Commission s hearings in Kano. The sitting thus came to an end.

**PETITION NO. 59: PETITIONER: ALHAJI (DR.) IBRAHIM  
DASUKI**

Counsel to the Commission informed the Commission that the petitioner had withdrawn his petition. The letter of withdrawal sent in by the petitioner stating that he was no longer interested in pursuing the petition was admitted and marked Exhibit 1. In it, the petitioner stated the following reasons for his withdrawal:

- i. He leaves the issue of his deposition from the sultanate to Allah's adjudication;
- ii. The issue of his entitlements is being considered by the current Sokoto State government; and
- iii. His case against Brigadier-General. Yakubu Muazu (rtd), the former Military Administrator of Sokoto State, when the petitioner was deposed, is a matter before the law courts.

The Commission accordingly struck out the petition.

**PETITION NO. 61: PETITIONER: ALHAJI MUSTAPHA GARBA**

The Chairman drew the attention of the petitioner and his counsel to their petition and pointed out that the relief they were seeking, which was the release of the petitioner's contractual documents to him, was outside the terms of reference of the Commission. He, therefore, advised the duo to withdraw their petition and redraft it in order to

refocus its subject matter on the detention and torture the petitioner suffered so that the Commission could attend to them.

The counsel to the petitioner, however, informed the Commission that his client having listened to and accepted the Chairman's call for forgiveness and reconciliation among aggrieved parties in his speech has decided to forgive all those responsible for his detention and torture. What the witness wanted now was the release of his contractual documents, which were taken away from him when he was arrested and detained, as the documents were needed for the payment of the contracts he had executed. The counsel therefore wanted the Commission to issue his client a letter to effect the release of those documents and the payment of his contract money.

Reacting to the request, a member opined that the Commission could only request the relevant authorities holding the contractual documents of the witness to return them to him, rather than asking the organization he worked for to pay him.

At this juncture, counsel to the Commission disclosed that the Commission had earlier written a letter to the Presidency requesting for the release of the contractual papers but the reply received was that the documents could not be traced.

However, the counsel to the respondents, pointed out that the petitioner was not tortured by his client, and he could not have proved that he was tortured, hence he (the petitioner), withdrew his claim on torture. He took exception to individuals (like the petitioner), who he claimed take advantage of the Commission to defame innocent persons like his client. He therefore demanded that it should be put on

record that the petitioner had abandoned his claims of being tortured by his client and that the (petitioner), should apologize to his client.

Ruling formally on the petition, the Chairman took the view that the petitioner had abandoned his claims for detention and torture and therefore his claims in those aspects were dismissed. He then directed the Commission's counsel and that of the petitioner to give him a draft letter for consideration and issuance to Dr (Mrs.) Awosika of the National Programme on Immunization (NPI) and other relevant authorities with respect to the petitioner's contractual documents. The case was thus closed.

**PETITION NO. 67: PETITIONER: LT. R.E. EMUOVHE**

It was observed that the petitioner was absent though there was no application to withdraw the petition.

The Commission struck out the petition but it could re-enlist on the appearance of the petitioner.

**PETITION NO.82: MALLAM NASIRU MOHAMMED TSANYAWA**

The petition has to do with unlawful arrest and detention of the petitioner, unlawful invasion of the petitioner's house, vandalization of his properties and the loss of his son. He said he contested the Chairmanship election of his Local Government on Saturday 5/12/98. As the collation of the votes went into the morning of Sunday December 6, 1998, the DPO, one Samuel Mapul, announced that he had decided to delay the completion of vote collation until 6.00am, creating a two-hour break. This decision, he claimed, he protested calmly. At 7.00am the next day, his house was attacked with teargas and later live ammunitions by a contingent of armed mobile police, led

by the DPO, from which his son and one other boy were shot dead. He claimed that he was thoroughly beaten to the extent that he went into a coma. He said that his house was vandalized and looted.

He requested for a full and detailed investigation of the entire incident and for appropriate redress.

Led in evidence by counsel for the Commission, the first witness, Mallam Nasiru Mohammed Tsanyawa, affirmed the contents of his petition. He disclosed that those killed by the accused, DPO Samuel Mapul, were refused autopsy but hurriedly buried in order to cover up the cause(s) of death. He said that he was not aware of any riot or breach of the peace following the election in his hometown.

Under cross-examination by counsel for the Nigeria Police Force, witness said that the current Chairman of his Local Government Council used the Police in his community and one Mr. Hammed Hamza of the SSS to commit the carnage that took place in his hometown after the local government elections. He further alleged that the corpse of his son was buried by his family the same day the boy was killed.

Led in evidence by his counsel, the second witness, Samuel Mapul, stated that it was not his duty as DPO to regulate the procedures for local government elections in the local government. So he could not have interfered with the electoral process. He explained that his duty at the scene of the election was to maintain law and order. Counsel for the Nigeria Police Force argued that it was actually the petitioner that instigated a riot in the community because he was losing the election. He added that the petitioner on realizing that he was losing the

election mobilized rioters and held both the electoral and security officials hostage at the scene of the election. He went on to say that the matter was actually investigated and certain persons were charged to court. He regretted that the petitioner stalled the court proceedings and the suspects were never prosecuted, just as the petitioner boasted to him in person.

In view of certain disclosures on the matter by the second witness, counsel for the Commission requested for an adjournment so that the Ministry of Justice could be contacted on the actual position concerning the case. However, a lawyer from the Ministry of Justice submitted that it was not always the case that cases from magistrate courts were always forwarded to the Ministry of Justice for prosecution. He challenged the counsel for the Nigeria Police to show proof that this particular case was ever forwarded to the Ministry of Justice for prosecution.

The Commission directed counsels to the Commission, the Police and the Ministry of Justice, to meet and determine the true position on the matter.

The counsel to the Commission informed the Commission that they held the meeting as requested by the Commission and the Counsel for the Ministry of Justice was present to brief the Commission.

Counsel for Kano State Ministry of Justice told the Commission that the case was filed at the Magistrate Court but that it had nothing to do with the contents of the petition. He added that the Police never prosecuted even those who were to have been arraigned at the Magistrate Court on the matter that appeared similar to the petition.

Counsel for the Nigeria Police reminded the Commission that the counsel for the Ministry of Justice had earlier told the Commission that in such matters it was only the Ministry of Justice that was allowed to prosecute. Counsel for the Ministry of Justice pointed out that the State Ministry of Justice could not prosecute because the Police did not arraign the suspects in court. Counsel to the Nigeria Police denied this and urged the Commission to compel the State Ministry of Justice to prosecute the suspects.

At this juncture the petitioner insisted that there was no riot in Tsanyawa on the day in question. He said that the Police was using the remote case of rioting to becloud the issues in his petition which had to do with the killing of his son, vandalism of his house and his illegal arrest and detention. He disclosed that the Tsanyawa Police Station was built through community efforts. He remarked that the people of the community were not so stupid as to destroy what they built. He urged the Commission not to fall into the ploy of the diversionary tactics being applied by the Nigeria Police.

The third witness, Idi Mairijiya, did not understand the testimony of the first witness because he did not understand English. He could recall the election at Tsanyawa and the fact that the son of the first witness was killed that day. He recalled that the boy was killed in the process of crossing a road in the town, when a policeman shot him. He said he told the policeman that he had killed the boy, but the officer asked him not to be bothered. From there the police went on to shoot another boy dead. He stated that he could identify the Police that did the shooting if he saw him and that his name sounded like Mapul. He could not recall witnessing any riot on the day prior to the shooting and stated that maybe the riot was after the shooting. He concluded

that Alhaji Nasiru, the first witness was in his house during the election, and as a candidate in the election he could not be expected to have caused the riot.

Under cross-examination by counsel to the Police, the witness testified that he works in the Local Government as a guard, which he does on shift basis. Under further cross-examination, the third witness said he knew the first witness was a candidate in the election but that he did not see him on the day of the incident. The third witness said that he was not a politician and was not at the house of the petitioner on the day of the incident but was returning from a visit when he witnessed the killing of the boys. He confirmed that there was a crowd of people on the day of the election, but could not say if there was any riot. He disclosed that on that day he saw some people surrounding the Police Station. He could not confirm if there was destruction of vehicles in the town on that day. He stated that he left the scene afterwards and did not know what happened thereafter.

Counsel for the Nigeria Police averred that the third witness was a liar and not a true witness. At that juncture the first witness requested to call more witnesses but the Chairman said there was no need and proceeded to ask the Counsel for the Nigeria Police to address the Commission. Counsel for the Nigeria Police insisted that there was a riot in the Tsanyawa on the day in question and that the matter was sent to court but the Ministry of Justice refused to prosecute the rioters.

Counsel to the Commission stated that from the evidence presented, it could not be stated categorically that there was a riot on the day of the election, but there were obviously some disturbances in Tsanyawa.

She also stated that she did not believe the petitioner was involved in any riots.

The Commission ordered that an independent investigation on the matter should be carried out. The Chairman also directed counsel for the Commission to include the petition amongst those to be referred to the Inspector-General of Police for independent investigations.

**PETITION 93: INDIGENOUS PEOPLES' FORUM, KAFANCHAN**

The petitioner was absent and was not represented by Counsel. The Chairman noted from subject of the petition that it seemed to have been overtaken by events. Counsel for the Kaduna State Government agreed with the view that the petition which had to do with the issues of self-determination and the creation of chiefdoms had been overtaken by events because the prayers of the petitioner had been granted by the Kaduna State Government. However, counsel for the Commission requested for an adjournment since the petitioner appeared not to have been served. The case was adjourned to the next Abuja sitting while efforts would be made to serve the petitioner and fresh hearing notices would be issued to the relevant parties.

At the public hearing of the Commission in Abuja, counsel for the Commission informed the Commission that the petitioner sent a letter to the Commission to the effect that the subject matter in the petition has been overtaken by events as a result of the creation of new chiefdoms in Jama'a emirate. The letter was admitted as Exhibit 1. The case was then struck out.

**PETITION NO. 109: PETITIONER: ISHAKU SHEDUL**

The petition is about alleged denial of access to life, fair hearing and inhuman treatment of the petitioner's son, Steve Ponzing Shedul,

while in the custody of the State Security Service in Jalingo, Taraba State. The petitioner testified that his son was arrested by the SSS in Jos on May 14, 1999 and was taken to Jalingo as a result of a business transaction between him and the Taraba State Government. He said he suddenly began hearing rumours that his son was beaten to death in custody. Upon inquiry, he alleged that the Taraba State Commissioner of Police and the SSS confirmed to him the death of his son. He said the DSS (Taraba) claimed that his son hanged himself while in their custody and that his remains were being preserved in a Yola Specialist Hospital. He affirmed that when the family delegation was led to the hospital, they showed them a near decomposed body of his son.

The petitioner is praying for the Commission's intervention to bring justice to him and members of his family.

At the public hearing of the Commission in Abuja, while responding to a question from the Chairman, the counsel to the petitioner alleged that investigation into the matter was deliberately stalled by the SSS. He said he had evidence to show that those he accused of the crime in question were actually culpable. The counsel later conceded to the suggestion by a member of the Commission that the case be referred to the IGP for re-investigation. The Commission accordingly ordered the IGP to re-investigate this case and report back to the Commission within three weeks.

**PETITION NO. 219: PETITIONER: ABUBAKAR SADIQ UMAR**

The counsel for Mohammed Sani Abacha informed the Commission that he had filed a preliminary objection to the petition. The Commission ruled that counsel should make a written submission.

Counsel for Mohammed Abacha submitted that the petition was not within the terms of reference of the Commission. He added that the petitioner was requesting for reliefs that could only be obtained from the regular courts. He added that the petition, if heard by the Commission, would amount to an abuse of the judicial process. He went on to say that the matter was *sub judice* because the same issues in the petition were also before a Federal High Court in the country. He argued that the 1999 Constitution should not be utilized as legislation in this matter because the alleged abuse of the petitioner's human rights occurred before that law came into force. In view of the submissions, he requested that the petition be struck out and dismissed.

However, counsel for the petitioner argued that the only aspect of the petition that was *sub judice* was the one requesting for refund of the money extorted from the petitioner by the respondent, Mohammed Sani Abacha. He held that the whole petition before the Commission was not *sub judice* since the parties at the High Court and those before the Commission were not the same. He added that the issues before the Commission and the Federal High Court were not the same. The counsel for the petitioner went on to say that the Commission had jurisdiction to hear the petition because the issues raised fell within the mandate of the Commission.

The counsel to the petitioner submitted to the Commission his written reply in respect of the objection raised against the hearing of the petition by Mohammed Sani Abacha's counsel which was presented before the Commission the previous day. He went on to read out the submission. Parts of the submission were that the petition was not

*sub judice* it was not an abuse of court process and that the Commission had the jurisdiction to hear the petition. The case in the High Court, he argued, was between the petitioner and Selcon Tanery while that before the Commission was between the petitioner and Mohammed Sani Abacha and Major Al-Mustapha. He further averred that the subject matter in the case before the High Court was different from that brought before the Commission. Continuing, he stated that the subject matter in the case at the High Court was the payment of salaries and allowances to the petitioner while the issues of detention and torture were the issues before the Commission.

The counsel further submitted that the claims in the two cases were also not the same, for while the claim in the High Court case was substantially monetary, those in respect of the petition were the demand for the reprimand of the accused for his detention and torture. Furthermore, the counsel stated that the Commission was just an investigating body, while the court was an adjudicator and therefore the two bodies were not the same. He went on to say that the terms of reference of the Commission and the period given to it to investigate issues of human rights violations gave it the jurisdiction to hear the case. He also pointed out that based on a Supreme Court ruling to the effect that erroneous reliance on a wrong law could not inflict a fatal damage to a submission, he argued that the erroneous reliance or reference to the 1999 Constitution by his client in his petition did no fatal damage to his case. The counsel also opined that his client's action could not be an abuse of judicial process because the parties in the two cases were not the same. He then concluded that the application for preliminary objection was baseless and should therefore be struck out.

The counsel to the Commission on her part aligned herself with the submission of the petitioner's counsel in its entirety. On the other hand, counsel to Major Al-Mustapha submitted that he was in support of the application for the preliminary objection and therefore aligned himself with the arguments of the applicant's counsel in that regard. The parties were then informed by the Chairman that the Commission's ruling on the application for preliminary objection would be delivered at its next hearing session at Abuja on a date to be announced later.

At the Commission's public hearing in Abuja, the Chairman responded to the preliminary objection raised by the counsel to the respondent at the Commission's hearing in Kano. First, the Chairman pointed out that the proceedings of the Commission were not adversary proceedings. He pointed out that there are no parties in dispute as such and that the Commission's proceeding do amount to a trial. Base on that, he argued that the Commission cannot find any person guilty or not guilty and since the Commission are witnesses before the Commssion. He argued that since the petitioner is not a litigant and has not filed any writ before before the Commssion, he could not have abused the process of Court since there are no actions or parties before the Commission and every person before the Commission was a witness.

Continuing, the Chairman pointed out that there was no law that justified torture, even the torture of persons in war let alone the petitioner who was a mere robbery suspect. In conclusion, the Commission ruled that the petition was not an abuse of court process that the case falls within the terms of reference of the Commission.

The Chairman then struck out the preliminary objection of the respondent.

The counsel for the respondent informed the Commission that there was a motion before the Kano High Court asking for an interlocutory injunction restraining the petitioner from presenting his petition before the Commission. However, the Chairman recalled that a similar objection had been over-ruled earlier on the grounds that the issues before the Commission and the Court were not the same. He therefore overruled the objection.

The original petition of the first witness, Abubakar Sadiq, and the amended petition were tendered and marked Exhibits 1 and 2 respectively. The 1st witness affirmed the contents of Exhibit 2. He stated that his petition had to do with abduction, illegal detention, and denial of fundamental human rights and torture. He added that he was teargassed, denied food and terribly tortured. He disclosed that he was detained both in Abuja and Lagos and moved about in handcuffs. He narrated how he was made to appear before the Task Force on Financial Crimes in Lagos. He recalled that though efforts were made and money paid to facilitate his release after being accused of financial malpractices at Selcon Tenary Ltd he was never released even after those efforts. He stressed the severity of the torture experience he went through and added that he was later treated for the injuries he received. He prayed that Mohammed Abacha, Hamza El-Mustapha and the Federal Government be reprimanded for the action. He also wanted Mohammed Abacha to pay him the sum of N60 million for false accusation. He also sought for adequate compensation for the ordeal he went through.

Led in evidence, the first witness stated that he kept a diary in detention to enable him keep track of events while there. The diary was tendered and marked Exhibit 3. Also, a photocopy of the detention order dated September 18, 1997 was tendered and marked Exhibit 4. In addition, a copy of the release order upon which he was released on bail was tendered and marked Exhibit 5. The first witness recalled that he wore only one dress for 125 days while in detention. He added that he was detained with late Chief MKO Abiola and the Sierra Leonian rebel leader, Foday Sankoh. He admitted that Major Hamza Al-Mustapha did not personally torture him. He added that the security men that moved him from Kano to Abuja were members of the security outfit at the Villa because they went around wearing their name tags.

The second witness, Major Hamza Al-Mustapha, agreed that he was told the story of the problem between the first witness and Alhaji Mohammed Sani Abacha. He said he was told that the first witness masterminded a fraud in Mohammed Abacha's company to the tune of about seventy million naira. He added that the personal issues of the first family did not come within his jurisdiction and he therefore referred the matter to the Police at the Villa. He recalled advising Mohammed Abacha to do all he could to settle the matter amicably and recover his money and reconcile with the petitioner because Kano was a small family. He recalled that the petitioner even opted, if possible, to settle the matter out of court. He advised that Rabo Lawal should be invited to testify since he may know more about the matter. He opined that the petitioner may have spent a long time in detention because of the length of time it took to investigate the matter. He alleged that the petitioner became a bit sensational by alleging that there was blood - which he claimed, belonged to previous detainees -

where he was detained. He agreed that he was in charge of the overall security of the late Head of State and the first family but added that security personnel were assigned specific duties from time to time such as the bodyguards who were attached to Mohammed Abacha. He added that such security personnel took orders from the immediate superior officer in charge of the team and the specific member of the first family they were detailed to protect. He reiterated that the Police and the Presidential Task Force on Financial Crimes were in a better position to say who owned the money that was alleged to have been stolen by the first witness.

The counsel for the respondent revealed that there had been an intervening factor — the case was at the Federal High Court [FHC], which he presumed had served an order on the Commission. The Commission, however, had not received any order, and the counsel for the respondent refused to tender his own copy of the order to the Commission.

The Chairman directed that the order be tendered so that he could refer to it. The order was tendered and marked Exhibit 7. The Chairman ruled that the order was of “*little avail and of little consequence*” and affirmed that the Commission would go on with the case. The Chairman also drew attention of the counsel of the respondent to the mandate of the Commission and also informed the counsel of the preliminary ruling on this matter. The Chairman closed the case and asked for written addresses to be submitted within two weeks.

**PETITION 259: PETITIONER: MR. FEDELIS O. AIDEIOMON**

The petition had to do with the wrongful arrest, detention without trial for over seventeen months, total deprivation, torture and humiliation of the petitioner by the State Security Service (SSS).

He sought for a thorough investigation into the matter, appropriate redress and rehabilitation.

Led in evidence by counsel to the Commission, the first witness, Mr. Fedelis O. Aideiomon affirmed the contents of his petition. An amended copy of Exhibit 1, which contained the petitioner's prayers, was tendered and admitted in evidence as Exhibit 2. The first witness asked for appropriate compensation for the period of seventeen months of his incarceration.

Under cross-examination, the first witness stated that officials of the State Security Service arrested him.

The Commission adjourned the case to enable counsels for the Commission and the State Security Services present written addresses on the case.

The Commission recalled that counsels for both parties were requested to submit written address on the petition. Counsel for the Commission and the State Security Service thereafter submitted their written addresses for the Commission's consideration. The Commission ruled that it would consider the written submissions accordingly and make its recommendations thereafter.

**PETITION 343 PETITIONER: IBRAHIM BURAIMA MUHAMMED**

The petition is in respect of the alleged unlawful killing of his younger brother, one Adamu Mohammed, a former Senior Inspector of Customs. The deceased Customs Officer was stationed at Maiduguri at the time of his death. The petitioner alleges that the deceased was on official duty at Biu with other colleagues on August 15, 1999, when he was intentionally shot and killed by one Captain E. O. Igoma of the Nigerian Army Corps of Artillery, Biu, along with other soldiers. According to the petitioner, the Army Captain is yet to be prosecuted in any court of law.

The petitioner is praying that the Commission finds and recommends the prosecution of the killers of his brother.

Counsel to the Commission informed that the problem of the petitioner is that the police investigated the case and at the close of the investigation, the case file was forwarded to the DPP for legal action. The Commissioner of Police said that in view of the above facts, suspects were charged to court under Section 224 of the Penal Code. The problem is that the court released the suspects on the third day. Not only were they released on bail, they were never arraigned before a competent court.

The counsel to the Commission reported that the Director of Public Prosecution (DPP) of Borno State who was summoned in respect of the petition was present and had relevant information to give on the subject matter.

The DPP who gave his name as Mr. B.U. Yerima, stated that the Police was yet to send the case to his office and therefore he did not have any

case file on the matter. He pointed out that although it was stated in the Police report on the matter that the case diary was in the process of being duplicated to be sent to the DPP there was no record that such document was ever received by the DPP: and this was as far-back as in 1990. Reacting, the counsel to the Nigeria Police Force (NPF) stated that it was curious and surprising that the case had not reached the DPP after so many years.

In the circumstance, the Chairman directed the counsel to the Commission, the NPF and DPP of Borno State to meet after the day's sitting to jointly look at the relevant documents on the case and report back to him the next day on what they could understand about the case.

The petitioner drew the Commission's attention to the difficulty in tracing the culprits (accused), in this case and advised that since they were Nigerian Army personnel they could be reached through the office of the Chief of Army Staff. He therefore requested the Commission to explore this suggestion to locate the accused. Accepting the suggestion, the Chairman directed the Commission's counsels to issue summons to the accused through the Chief of Army Staff.

Counsel for the Commission reported that there was a meeting with counsel for the Police and the DPP of Borno State. She added that the DPP asked for more time to contact the Borno State Police Command to find out the position on the case. She also suggested that a letter should be written to the Nigerian Army to find out if the suspects were still in service.

At the public hearing of the Commission in Abuja the Chairman of the Commission recalled the decision at the last public hearing in Kano, concerning the case, and inquired if there was any development.

Counsel to the Commission stated that all efforts made to get the officer's involved to appear had been to no avail. The DPP of Borno State corroborated that statement and added that four bench warrants had earlier been effected to get the officers involved to appear in the conventional court, but to no avail. At that juncture, counsels for the Commission and the petitioner requested that bench warrants be issued against the officers involved.

This was a part-heard petition on the alleged killing of a customs officer by one Major Igama. It was adjourned to enable the appearance of Major Igama before the Commission.

Under cross-examination by counsel to Lt. Colonel Igama, the first witness, Ibrahim Mohammed, stated that he was not present when the event took place or when the two reports by the Customs and Police were written. He however stood by his earlier position on the case that Major Igama was the killer of his brother.

The second witness, Lt. Colonel Igama, affirmed the contents of his response in the petition, which was tendered and marked as Exhibit 2. A copy of the affidavit sworn to by the second witness which explained his absence at the previous sittings was tendered and admitted in evidence as Exhibit 3. The second witness urged the Commission to unravel why certain people wanted him dead which he attributed to the fact that he was the then Chairman of the Task Force for clearing the area of armed bandits.

Under cross-examination, he said that after making a brief statement to the police he was never invited by the police on the matter. He recalled that he was taken to a magistrate court and released on bail after which he was deployed to serve in ECOMOG. The second witness said that thereafter the police took no further actions against him. He said the police never invited him before it wrote a report on the case.

Counsel for the Commission opined that the Attorney-General of Borno State should be invited to explain why the case file had not been received in his office. She disclosed that there has been buck-passing between the Ministry of Justice and the Police in Borno State. A member of the Commission suggested that the Attorney-General of Borno State should be requested to re-open the case.

Counsel for the Commission applied for a witness summons to be served on the police and the Director of Public Prosecution of Borno State and for the case to be adjourned to enable them appear before the Commission in chambers for further direction regarding the speedy prosecution of the case.

**PETITION NO. 348: PETITIONER: MUSTAPHA D.S. WAYA**

Counsel to the Commission, informed that there was a notice of withdrawal received from the petitioner for personal reasons. She accordingly applied that the petition be struck out. The petition was accordingly struck out.

**PETITION 386: PETITIONER: MUHAMMED GIMBA ALFA**

The petition is a case of denial of the right to life of the deceased, Mallam Adamu Isiyaku, under custody of the Tudun Wada Police

Station, Zaria. The deceased was reportedly detained in the cell, handcuffed and hanged upside down. He was then brutally beaten with police baton and had teargas sprayed on his face, until he became unconscious. The deceased aged father and his younger brother were equally beaten up mercilessly. The deceased gave up after one Sergeant Jimoh Zubairu, Sgt. John Donald and Sgt. Ishaya Erastus had given a last round of beatings on his head and chest with batons.

The petitioner is demanding for the following reliefs:

- i) That the culprits be brought to justice; and
- ii) Payment of adequate compensation to the family of the deceased in accordance with the Islamic law.(i.e *Diyah*)

Led in evidence by Counsel for the Commission, the first witness, Mohammed Gimba Alfa, testified that following a message that Mallam Isiyaku had a case at the Tudun Wada Police Station, Zaria, he went to the police station only to discover that his friend, Mallam Isiyaku, had been beaten into a state of unconsciousness. He said he made efforts to take his friend to the hospital for medical attention but was denied it by the Police. He disclosed that his friend died thereafter due to lack of the necessary medical attention. He said that the younger brother of his friend, who had also been beaten by the Police, died later on, due to lack of medical attention. He went on to say that he instituted a legal action to seek justice but he could not continue with the case due to lack of funds. He disclosed that Mallam Isiyaku got into trouble for being interested in a case, which his father had at the Area Court, Zaria in 1993.

Counsel for the AIG Zone 1 said that Zaria where the offence was alleged to have been committed was now under Zone 7 and no longer under Zone 1. He added that the relevant documents had been transferred to Zone 7 under which jurisdiction Zaria was currently. He requested for an adjournment to enable him secure the relevant documents from Zone 7. However, counsel for the Commission requested that the case be closed since the relevant Police officers invited did not appear before the Commission. Nevertheless, counsel for the AIG Zone 1 pleaded for a short adjournment of one week to enable him assist in contacting the relevant police officers to appear.

Counsel for the Commission disclosed that the Attorney-General of Kaduna State was present and could comment on the matter. Surprisingly, however, the Attorney-General of Kaduna State said he was just hearing about the case.

The counsel to the Police reported that he had been able to obtain the report of the Police investigation and recommendations on the case as well as the Kaduna State's Ministry of Justice legal advice on it. Reading from the Police report, the counsel stated that four policemen were involved in the case and it was established that there was sufficient evidence to prosecute them for culpable homicide. Continuing, he said the investigation report recommended among others that one Sgt. James should be given orderly room trial and be dismissed from the NPF thereafter. The report also found the officer in the Police Station Mrs. Agoyi guilty of negligence of duty for failing to take the suspect to the hospital. The officer was to be issued a query for this gross negligence. However, when the case was referred to the Ministry of Justice, Kaduna State, for legal advice, the Ministry advised that one of the culprits, one Williams, should be discharged for want of evidence; Mrs. Agoyi should be issued a query for

negligence of duty; Sgt. James should be issued a query for failing to take the suspect to the hospital; and that the other parties should be dealt with administratively. The ministry also stated in its recommendation that no one individual could be identified or held responsible for the death of the suspect. Thus they concluded that there was no case of culpable homicide.

At the public hearing of the Commission in Abuja, the Attorney-General of Kaduna State informed the Commission that they received the case diary and have informed the police that they are going to prosecute the alleged murderers. The state counsel, reporting on behalf of the Attorney-General of Kaduna State, informed the Commission that they have prepared a case against the respondents. According to him, the case has been assigned to a court and it has been fixed for hearing.

The Case was adjourned to enable the Attorney General of Kaduna State to file a charge, which the Counsel to the petitioner had appeared and notified the Counsel to the Commission that it had been done. The Case was closed.

**PETITION NO. 388: PETITIONER: TUMBA LABBO**

The petition is about alleged unlawful killing of the petitioner's son, Nuru Abdullahi, by agents of government.

The petitioner was once again absent. Counsel for the Commission reported that the matter was previously adjourned because the petitioner was said to be indisposed the previous week. However, no reason was given for the petitioner's current absence.

**PETITION 415: ALHAJI ABUBAKAR UMARU ABBA TUKUR**

The petition has to do with the illegal arrest, detention, deposition and eventual death of the former Emir of Muri in Jalingo, Taraba State. Counsel for the petitioner disclosed that the matter went to court but was struck out at the Supreme Court on the singular action frustrated the request for a compensation of six million naira (N6, 000,000.00) only, for the deceased family. He conceded to the plea for an adjournment by counsel for Colonel Yohanna Madaki (rtd), if that would enable him to come and personally apologize for the wrongs done.

Based on the application made for an adjournment, the petition was adjourned to the next Abuja sitting. The petition was also to be consolidated with ***petition 587***. It was also decided that fresh hearing notices would be issued to all concerned, while in the meantime the Honourable Attorney-General of Taraba State should file a response to Exhibit 1.

**PETITION NO. 471: MAJOR B.M. MOHAMMED**

The counsel to the petitioner reported that his client was down with malaria and therefore could not be present for the hearing. He thus applied for the adjournment of the case to the next hearing of the Commission at Abuja. The application was not opposed by any counsel. The Commission accordingly granted the application and the case was transferred to the next hearing session of the Commission in Abuja.

At the hearing session of the Commission in Abuja, the petitioner informed the Commission that he was withdrawing the petition. The

Commission ordered that the petition be struck out and it was struck out.

**PETITION 482A, 763 AND 508/10 -ALH. DANLADI JUBRIN, & I.W. BUBA**

Counsel for Major Hamza Al-Mustapha explained that the petitioner of petition 763 was absent because he had travelled for the *Hajj*. Counsel for the Commission requested that the petitions be struck out since the petitioners had not shown enough interest in their petitions. However, counsel for Al-Mustapha requested for stay of action on petition 763 to enable the petitioner appear.

The Commission struck out petitions 482A and 508/510. Counsel for the petitioner, later appeared and informed the Commission that he had instructions from the petitioner to withdraw the case. Accordingly, petition 763 was struck off.

**PETITION No 561: MALL. SHUAIBU AHMADU**

The petition is about an alleged unlawful torture and the extra-judicial killing of the son of the petitioner, Mohammed Awwal Shuaib, by the police. The petitioner alleged that his son was arrested for an alleged assault against a fellow community member on October 4, 1998 and was taken to Gwangwarwa Divisional Police Station. He claimed that when he went to bail his son at the station, he saw him being tortured, beaten, and dangerously kicked on the head and body, by the Divisional Police Officer, one Mr. Solomon Ngodo, until his son lost consciousness. He was later rushed to Murtala Mohammed Specialist Hospital, Kano, by the Police, where he was allegedly confirmed dead.

The reliefs sought by the petitioner are as follows:

- (i) That CSP Solomon Ngodo who killed his son should be brought to book; and
- (ii) The police to pay him adequate compensation for the extra-judicial killing of his son. The petitioner left the issue of compensation at the discretion of the Commission.

The counsel to the Commissioner of Police rose to inform the Commission that the petition was in respect of a culpable homicide case, which was already pending in the court, and therefore it was *sub judice*.

The counsel to the Commission pointed out that the accused in the case had never appeared in the court. He said the court had even directed the Police to declare the accused wanted for failing to appear in court. He further averred that there was no evidence that the Police had declared the accused wanted as directed.

The Chairman of the Commission pointed out that, legally, when an accused had not been arraigned before a court, his pleas taken and parties joined issues on the matter, it could not be said that a trial had commenced. The Chairman, therefore, directed the counsels to look at the Legal issues involved in the matter and address the Commission the following day on whether trial can be said to have commenced on the case.

On the next day, both counsels were in agreement that since the respondent had not been properly arraigned in court the case was not *sub judice*. The Commission then ruled that the case was not *sub judice* so the hearing should commence.

The first witness, Mallam Shuaibu Ahmadu, testified that his son, Mohammed Awwal Shuaibu, was unlawfully tortured and killed by the police. He was detained for an offence of assault against a fellow member of the community on October 4, 1998, at the Gwagwarwa Police Station. The deceased was tortured, beaten, dangerously kicked on the head and body by the Divisional Police Officer CSP. Solomon, until he lost consciousness and later died at the Murtala Mohammed Specialist Hospital Kano, where he was confirmed dead. Efforts by the community and the petitioner to bring CSP Solomon to book has failed as the police has not been able to arrest him and bring him to trial.

The Commission was informed that the body of the deceased was still in the mortuary.

The Commission ordered that the Inspector-General of Police should arrest and prosecute CSP Solomon Ngodo. Progress on the case should also be made known to the Commission within one month. The Commission also appealed to the petitioner to collect his son's corpse from the mortuary for burial.

**PETITION NO. 562: PETITIONER: MR. COLUMBA OPARA**

The petition is about the extra-judicial killing of Angus Opara, and the unlawful detention without trial of Mathew Abaraonye and Columba Opara the petitioner.

The complaint was that the petitioner and two others, late Angus Opara and Mathew Abaraonye were arrested, though separately, and detained by the police. He said Angus Opara was eventually killed in detention without trial. He said though he and Mr. Mathew Abaranoye were later charged to court and got discharged and acquitted by the

court, late Mr. Angus Opara was never charged to court. He attributed the genesis of their travails to a group who accused them of insubordination. He said this group recruited a police informant to report to the police and claimed that the petitioner and his late brother were armed robbers. He asserted that Mr. Angus Opara died in detention as result of torture and up-till date his body had not been released for burial. He said the death of Angus Opara had caused him the loss of a relation, and that he was suffering from pains, stress and trauma as result.

The reliefs sought by the petitioner were:

- i) That the circumstances that caused Mr. Angus Opara's death should be investigated and determined;
- ii) Individuals who were involved in causing the death should be brought to book;
- iii) An end should be put to extra-judicial killings by the Police in Kano;
- iv) Compensation of N100 million should be paid to him for the death of Mr. Angus Opara; and
- v) Mr. Angus Opara's body should be released for burial.

The first witness, Columba Opara, suggested when asked by the Chairman, that both the government and individuals involved in causing the death of the deceased should share the payment of compensation being demanded. The witness went on to tender a copy of the court order issued for the production of his brother in court which the police disregarded, and it was admitted as Exhibit 2. A copy of bail order granted to the petitioner that was disregarded by the police was admitted as Exhibit 3. A copy of the charge to the Magistrate Court in which the petitioners were accused of armed

robbery was admitted as Exhibit 5. The affidavit sworn to by a staff of the Kano State Ministry of Justice indicating for the first time that Mr. Angus had died was admitted as Exhibit 6.

The counsel representing the Commissioner of Police of Kano State deposed that the DPO that was at the Police Station then, Supt. Muktar had died. He said there was no trace of the case file of the matter. He said since there was no record to show that Mr. Angus Opara was arrested, detained or charged to court, he was of the view that Mr. Opara was never arrested nor detained and as such he was non-existent.

However, the Chairman of the Commission and some members pointed out to the counsel that the affidavit sworn to by the Ministry of Justice official alluded to the fact that Mr. Angus Opara was arrested and died in police custody. He was also reminded that since he said he was still looking for the case file it was better he asked for time to locate it than making a conclusive statement on the matter.

Led in evidence by the petitioner's counsel, the second witness, Mathew Abaraonye said he was an apprentice of the first witness. He said three policemen in company of two other people visited him and the late Angus Opara and had their shop and residence searched. Thereafter, they were arrested and detained all on March 10, 1993. He said they were accused of stealing but they vehemently denied it. He averred that they were beaten, tortured and hanged in an upside-down manner in the police cell. The late Angus Opara's leg was broken in the process of the torture, he said. He claimed that one Kojo who was a police informant told him that some people, for the purpose of implicating them, gave him N5, 000.00. He (Kojo) said that the first

witness had also given him the same amount to secure their release and he would do so. He said four policemen later took Mr. Angus Opara from their common cell and he never saw him since then. He claimed that one of the four policemen that took Angus Opara out of the cell, PC Shuaibu Abdulkarim, was among the police personnel deployed to the venue of the Commission's hearing. The policeman was called before the Commission and was identified by the witness. He was requested to prepare to give evidence in the case whenever called upon. The police counsel informed the Commission that the witness had earlier fingered a police Inspector as one of those who took the deceased out of the cell but later he changed to say that it was PC Shuaibu Abdulkarim. He said the PC was at the time of the incident at Zaria Road Station. The Commission's Counsel countered that the actual station the police served then would have to be indicated in the relevant service records.

The witness stated that he spent about six months in detention. He identified himself with the reliefs sought by the first witness and prayed that the reliefs be granted.

Counsel to the petitioner informed the Commission that the witnesses were apprehensive that the police, because of their evidence before the Commission, might victimize them. He therefore sought for protection of the witnesses. The Chairman called out the most senior police officer in the venue, SP Zakari Aliyu, the DPO of Fagge Police station, and asked him to give an undertaking to guarantee the safety of the witnesses. The SP accordingly gave an undertaking to guarantee the safety of the witnesses.

Counsel to the Commission reported that a letter in respect of the case had been received from the Kano State Ministry of Justice. The letter was handed over to the Chairman who after reading it wondered whether the letter was of any help in the case. The content of the letter was that the two petitioners were discharged on bail, as there was no case against them. The deceased was never arraigned before the court. The case was apparently stalled with the demise of Armed Robbery Tribunal on the advent of democratic government. The case was supposed to be taken to a regular court for determination.

Counsel to the petitioner saw no reason for contemplating transfer of the case to a regular court because the petitioners had been discharged and acquitted by the tribunal. The said court order was given to the Chairman for perusal.

Counsel to the Commission pointed out that the letter had not addressed the issue of the disappearance of Mr. Angus Opara; the subject of the petition. He reminded the Commission that a policeman was identified in the last hearing as one of those who took Mr. Angus Opara from the cell after which he was never seen again.

The Chairman directed the lawyers to look at the letter and all the other related documents and come up with suggestions on what was left for the Commission to do in the case. The petitioner's counsel argued that the kernel of the petition was the disappearance of Angus Opara and it should be addressed. But the Chairman pointed out that the counsel's position was at variance with the reliefs sought by the Petitioner. He then asked whether the counsel was satisfied with police investigation of the matter. The counsel answered that he was not satisfied with the police investigation of the case and also

expressed disapproval that the police should investigate the issue again in view of their early questionable role in the matter.

The petitioner in his own reaction said he wants the police to produce Angus Opara, dead or alive. He opined that it was apparent that Angus was dead, deducing from the letter and admission of Kano State Justice Ministry. Therefore, he wanted the production of Angus Opara's corpse for proper burial, and a compensation of ten million naira to be paid for the killing of the deceased.

A member drew the attention of counsel to the petitioner to the fact that there was no where the police had admitted being in possession of Angus Opara. In the circumstances, therefore, he said the appropriate order to make was that the police should investigate the whereabouts of Angus Opara. He pointed out that the issue of the production of his body and compensation could only follow the determination of the first issue; the whereabouts of Mr. Opara. Another member was of the view that the policeman who was accused of taking Angus Opara away should be called to state what he knows about the missing Angus Opara.

The Chairman, however, ruled that the Inspector-General of Police should set up an independent team to look into the alleged disappearance of Angus Opara to establish whether he was dead or alive and report back to the Commission and also prosecute the culprits if criminal case is established against them.

At the Abuja sitting, counsel for the police affirmed that the Inspector-General of police had ordered re-investigation into the case. However, the petitioner feared that the police might frustrate the investigations.

The petitioner's observations were noted and the case was adjourned for a feedback on police investigations.

Counsel for the Commission recalled that the case was for re-investigation but the police had not forwarded any report. The counsel requested the Commission to close the case. The request was granted.

**PETITION NO 580: PETER EZENWA**

The petitioner was absent. The petition was struck out with liberty for the petitioner to re-enlist it when he is ready to prosecute the petition.

**PETITION NO. 587: YOHANNA MADAKI/MRS. GAMBO**

The petition is about the unlawful killing of Bulus Gambo, the son of the petitioner, Mrs. Gambo, allegedly by the police. Mrs. Gambo disclosed that her son's assailants were policemen as they drove in a police vehicle. The petitioner prayed that the killer of her son should be prosecuted in a court of law.

The first witness, Mrs. Gambo, added that Bishop Jatau advised her to report the incident to Col. Yahanna Madaki to handle, which she did and the lawyer took up the matter. Copies of pictures of the corpse of the deceased were tendered and marked exhibits 2A-F. Copies of letters written by Col. Yohanna Madaki to the Commissioner of Police Kaduna State on the case were tendered and marked Exhibits 3 and 4. Other letters written to the Attorney-General and the then Military Administrator of Kaduna State were tendered and marked Exhibits 5 and 6. In addition, another letter written to the Deputy Inspector of Police, Bureau of Public Investigations and to the Inspector-General of Police were tendered and marked exhibit3, 7 and 8.

The first witness stated that Hamza, the alleged assailant of the deceased was arrested and taken to court but never prosecuted. She added that the person in question was even present in the Commission. At that juncture, receipt of payments by the first witness for the medical examination of her late son was tendered and marked Exhibit 9.

The second witness, Dr. E. O. Afolayan, recalled that while he was at Ahmadu Bello University (ABU), he was requested to perform an autopsy on the late Mr. Bulus Gambo. He regretted that the autopsy report appeared to be missing. However, second witness recalled that there were gunshot wounds on the deceased, which indicated to him that the late Mr. Bulus died of brain injuries received from gun shot wounds.

Counsel for the Commission referred to Exhibits f, d and e showing gunshot wounds on the deceased and sought to know whether the pictures depicted a fleeing suspect. The second witness replied in the negative. He reiterated that he had made a copy of the autopsy report available to the police. He explained that he was not aware then of the letters written by the Police to the authority of ABU teaching hospital requesting for the release of the autopsy report on the matter. He regretted that he even misplaced his personal diary where he had made some notes on the medical report.

The third witness, Maryamu Emmanuel, recalled that she was in her kitchen where she was cooking when she heard people shouting outside and was told that somebody had entered her room. She recalled that the person who had entered her room refused to come out and was shot by the police. She added that the clothes in the room

were smeared with blood because of the shooting. She went on to say that the victim was then dragged out by his assailant. The third witness narrated that she challenged the assailant and told him that what he had done was not good. She added that the policeman shot under her bed at the deceased.

The Chairman opined that the oral evidence was as good as any missing written report. A member of the Commission urged the officials of the Kaduna State Attorney-General's office to facilitate the proper prosecution of the case. The Commission recommended that a case be filed in court within one month by the Kaduna State Attorney-General against Mr. Hamza, the policemen who shot Mr. Bulus Gambo.

**PETITION NO. 484 ALHAJI MAMMAN DUTSE; PETITION NO. 591 DR. OLUSEGUN ADELEYE & PETITION NO. 645 MRS. HAFSAT AL-MUSTAPHA**

All the petitioners were absent and there were no appearances for them. The counsel for the Commission informed the Commission that all the petitioners were served and applied that the petitions be struck out. The chairman ordered that since the petitioners have been served and they failed to appear before the Commission and also since the cases were *sub judice*, the petitions should be struck out.

**PETITION 623 - DR. ALAMVEABCE C. IDOYOROUGH & PETITION 629 - MR. BEN AKOSA**

Counsel for the Commission explained that petitions 623 and 629 were related. She therefore applied for the consolidation of the two petitions. The application was granted. At that juncture, counsel for the petitioner of petition 629 applied to substitute the name of Mr.

Nankin Bagudu with that Mr. Ben Akosu who was the witness that would testify. He also applied to replace the original petition with a more comprehensive petition that had been written by Ben Akosu. The applications were granted.

Petition 623 was tendered and admitted in evidence as Exhibit 1. Led in evidence by his counsel, the first witness, Dr. Alamveable E. Idyorough, affirmed the contents of his petition. The petition had to do with the brutal police killing of Mr. Isaiah I.Ikereve and two others on July 14, 1995.

The amended version of petition 629 was tendered and admitted in evidence as Exhibit 2. Led in evidence by his counsel, the second witness affirmed the contents of his petition. The petition had to do with the extra-judicial killing of Mr. Andrew Akosu, a 400 level student of the University of Jos, by men of the Nigeria Police Force in Bukuru, in July 14, 1995.

The petitioner demanded for proper investigation to unravel the circumstances that led to the death of Mr. Andrew Akosu and two others. In addition, he requested for adequate compensation for the family of the deceased.

Counsel for the Nigeria Police Force did not dispute that the police shot the deceased persons. He also agreed that even if the deceased persons were armed robbers, the police had no right to shoot them. They could only have arrested them for trial. Also, counsel for the pastor affirmed that there was a dispute between the pastor and the church, which resulted in a demand by he congregation for the transfer of the pastor. He also affirmed that the pastor and the

deceased persons had to travel out of station together though under different circumstances.

Under cross-examination, the first witness said he was not aware whether his church had any constitution. Counsel for Rev. Ijor, one of the respondents, tendered a copy of the Nongou Kristu Usudan Hen Tiv (NKST), Jos constitution. The constitution was admitted in evidence as Exhibit 3. Counsel for the pastor stated that what the deceased persons did was unconstitutional.

Under further cross-examination, the witness admitted that he signed an advert in the defunct *Broom* Newspaper of Monday September 11, 1984. The paper was admitted and marked Exhibit 4. In the said exhibit, the witness identified the petition he sent to the Commissioner of Police. The witness also said that in the petition he linked the pastor with the killing of the deceased.

The witness confirmed that Emmanuel Oziyi was in the petrol station when the deceased persons were shot. He also confirmed the allegation that the pastor was the person who contacted Noel C. Uzor who now contacted the Police.

When asked by the Chairman about the source of his information, the witness identified the minutes of the meeting held on 20 July 1995 which was marked as Exhibit 5 (pages 4-5).

The Chairman ordered that the police counsel should ensure that all police witnesses appear at the next hearing in Abuja.

At the public hearing of the Commission in Abuja, the third witness, Sergeant Emmanuel Oziyi, appeared before the Commission and was

led in evidence by counsel for the Commission. He testified that on July 14, 1995, he was one of the policemen invited to rescue a man allegedly attacked and kidnapped by supposed armed robbers. He said they met the suspected-armed robbers at a filling station with the station wagon of the kidnapped pastor. He said he chased one of the robbers who shot at him and attempted to run away by jumping a fence. The witness added that he shot the suspected-armed robber on the knee to defend himself. The robber later died on the way while being taken to the hospital. He informed further that the said armed robbers were said to have earlier stolen the sums of N13,000.00 and N53,000.00 respectively.

The third witness explained that no further investigation was carried out because he was convinced that the person he shot was an armed robber because the person was in possession of a locally made pistol. He informed the Commission that the name of his colleague that accompanied him on the rescue mission was Corporal Remi Gaya.

Under cross-examination, the third witness said he was never aware of any affidavit sworn to opposing the granting of bail to some of the persons involved in the case. He also affirmed that pastor Jonathan never spoke to him at the scene of the incident.

Led in evidence, the fourth witness stated that he was a taxi driver. He said on July 14, 1995, a passenger approached him to hire a taxi to Gboko. He disclosed that he proceeded to the church compound with his client to carry the church elder and certain members of his family. He recalled that after carrying his passengers, they stopped at a filling station to buy fuel where they were accosted by policemen on the allegation that the occupants of the taxi cab were armed robbers.

He narrated how some of the occupants of his vehicle were brutalized and later shot. He disclosed that the third witness was one of the policemen that shot his passengers. He lamented that the police, because of that incident, tortured him. He added that the occupants of his vehicle never carried or shot any guns. He recalled that his vehicle was detained for one month after which it was released to him.

Under cross-examination, he affirmed that the pastor pointed to one of the deceased as one of the persons involved in kidnapping him.

The fifth witness, Rev. Jonathan Ijor, led in evidence by counsel, claimed that his efforts to reform the church made him to incur the wrath of the petitioners and the deceased. He adduced that the deceased persons committed a lot of atrocities. He recalled that members of the Plateau State Police Command who miraculously intervened gunned down three of his abductors at a filling station. He denied the allegation of corruption as levelled by his accusers. He claimed that he regretted the death of the deceased persons and added that he never wished them to die. He denied ever pointing out anybody to the police at the filling station where the police intervened. He stated that he was not the one that labelled the deceased persons armed robbers. A copy of a letter by the secretary of the church, Rev. Ameto, affirming the deceased persons were not armed robbers was tendered and admitted in evidence as Exhibit 11. Under further examination, he said he did not know the names and identities of all the persons that came to abduct him in his residence. He insisted that he told the police at the time that his abductors were not armed robbers.

At the commencement of its sitting, after adjournment, counsel to the Commission recalled that this case was adjourned to enable the police to bring the case file. The chairman opined that the case file would be of little or no use, more so that it did not contain a legal advice. He solicited for evidence from witnesses. However none was present. The counsel to the Commission disclosed that at the last sitting, the first suspect promised to get the second suspect to appear. However, the latter was said to be hospitalized as a result of an accident.

The counsel to the Commission explained that some individuals, other than the two deceased persons, survived the incident, so the case file was ordered to be brought in order to know what happened to them — whether any action was taken against them by the Police or not. He added that the Inspector-General had already ordered a re-investigation but that the outcome was not evident. The Chairman instructed the counsel to the Commission to confirm the identity of the two suspects, and prepare an order to the Attorney-General to initiate charges against the duo. The Chairman added that the counsel should get the transcript of the hearing on this matter and send it to the Plateau State Attorney-General who is to charge the case in court and fix a date. The Chairman further observed, as he had done in several other similar cases, the dastardly attitude whereby the Police would kill human beings and label them armed robbers. The case file was tendered from the bar and marked Exhibit 12.

**PETITION 624: MR. I. M. MOHAMMED (MAIKUDI)**

Counsel for the Commission applied for the consolidation of this petition with other related petitions that would be heard. Counsel for Major Hamza Al-Mustapha appealed to the Commission to assist in ensuring the physical presence of his client to make the defense more

meaningful. The Commission replied that there was not much it could do in that regard.

Counsel for the petitioners applied for a substitution of the petition with a better version and also requested to call two other vital witnesses on the matter.

The petition is about an alleged unlawful arrest, detention and torture.

The Petitioner's complaints were that men of the Strike Force personnel arrested him in his official residence in Abuja on 23 December 1997. He was handcuffed, beaten and detained at Gado Nasko Barracks. One Lance Corporal Madara gave him 85 lashes. He said he was informed that Major Hamza Al-Mustapha ordered his arrest on the grounds that he is the junior brother of Major Bilyaminu Mohammed who was implicated in a coup plot. He said he was later transferred to Jos prison where he was thoroughly investigated and interrogated by the Special Investigation Panel, which he said cleared him. Despite that, he said he was arraigned before a Special Military Tribunal and charged with being accessory to treasonable offences. Although he was discharged and acquitted of the offence on 28/4/1998 he was still not released until July 1998. He said he spent a total of 216 days in detention. He complained that a number of properties and vehicles were removed from their family house in Kaduna. The sums of \$376,000, DM 75,000 and N25, 000 which were kept in custody of his brother by their uncle, one Prof. Ayuba Sarki, in the United States of America were also taken away by the authorities, he said. He claimed that his house was looted of 1 no 20 inches colour television, 2 no video recorder, super multi-system compact disc, 1 no ABG cable satellite system, double burner gas/electric cooker the sum

of N68, 000.00, Certificate of Occupancy for his lands in Jos and Kaduna; car stereo; battery; spare tyre; clothes; shoes; kitchen utensils; etc.

The reliefs sought by the petitioner are refund of his confiscated properties and reinstatement into service.

Answering questions from his counsel, the first witness, Maikudi, stated that although he was not a soldier, he was allocated residential quarters at the Sani Abacha Barracks in Abuja because he was then a staff of the presidency. He confirmed that he relocated his brother's properties to a different place when he heard his name was mentioned among the alleged coup plotters to prevent them from being looted. He averred that although he was discharged and acquitted by the Special Investigation Panel which interrogated and tried him in respect of the coup plot, Major Hamza Al-Mustapha refused to release him and insisted that he must be tried by the Special Military Tribunal. He said Major Al-Mustapha took that action against him simply because he (witness), was the brother of Major Bilyamin who was said to be involved in a coup plot. He said his dismissal from the civil service was conveyed to him verbally. He submitted a copy of his letter of temporary appointment and his identity card as a staff of the presidency to prove that he was a civil servant. The letter and ID card were admitted as Exhibits 2 and 3 respectively. His counsel claimed that the witness letter of confirmation of appointment was taken away with other items when some of his personal effects were carted away by the security personnel. He said he had written to the Secretary to the Government of the Federation (SGF) and Head of the Federal Civil Service for his reinstatement. He said he knew those who arrested him were men of the Strike Force because he knew their identities and

secondly that the vehicle they used was the operational vehicle of the force. He said Major Al-Mustapha was the one in-charge of the Strike Force.

On the issue of torture, he averred that while in detention, he was stripped of his clothes and beaten with a horsewhip. He said he was whipped 45 times at first which made him unconscious. He was later revived and given another round of beatings after that. A L/Cpl. Madara administered the beatings, he said.

While being cross-examined by counsel to Major Hamza Al-Mustapha, the witness confirmed that the petition he read to the Commission was an amended version of the original copy he earlier submitted to the Commission. The amended copy was then admitted as Exhibit 4. The witness admitted knowing Major Bilyamin and Col. Yakubu Bako as his brother and brother in-law respectively. He said he only knew that Major Bilyamin was an administrative officer in the presidency. He said it was because he was Major Bilyamin's brother that moved away his properties on hearing his name among alleged coup plotters. Answering another question, he said he did not know whether Major Bilyamin was in charge of administering oath to members of the Strike Force. At this juncture a videotape was tendered by the counsel and admitted as Exhibit 5. The counsel deposed that the tape contained film showing Major Bilyamin administering an oath on members of the Strike Force. The videotape was played for the Commission to view.

On further cross-examination, the witness admitted that he moved away a total of twelve cars from Major Bilyamin's house on hearing of the coup. He said he did not know whether Major Bilyamin owned all the cars. He stated that the vehicles were later taken away to the

presidency on the order of Major Al-Mustapha. He said he did not know that the action of the security personnel that took away the vehicles was in accordance with the oath of office they took. He further said he did not know that the vehicles were taken away on the instruction of the Special Investigation Panel. The counsel at this stage tendered from the bar a letter dated 23/3/98 and entitled letter on recovery of fund, which he said contained the instruction for the recovery of the vehicles among others. The letter was admitted as Exhibit 5 and the counsel read it out to the Commission.

On further cross-examination the witness admitted that he was not arrested detained nor tortured by Major Al-Mustapha personally but those who did so were his boys and they acted on the Major's instructions. He said he knew that Major Al-Mustapha was responsible for his ordeal because some security personnel with whom he interacted in detention stated that the Major had said he would never release him. Responding to a question, he said he did not see it as an offence to have gone to remove his brother's properties to safety on hearing his name among coup plotters. Concluding, he said he gathered from Sgt. Rogers that Major Al-Mustapha ordered his trial by the SMT.

Examined further by his counsel, the witness stated that he was interrogated and charged for being accessory to the facts of reason. He said that although he was discharged and acquitted by the SIP, he remained detained until the death of General Sani Abacha.

Counsel to Major Al-Mustapha at this stage stated that there was the need for his client to be present at the hearing of the case in order to present his own side of the story.

At the Abuja public hearing of the Commission, the petitioner informed the Commission that he is withdrawing his petition and apologized to the Commission for the inconveniences that he caused the Commission. The petition was then struck out.

**PETITION NO 625: ALHAJI MUSA MOHAMMED SALLAH**

The lead counsel for the petitioner informed the Commission that his client intended to withdraw his petition and therefore requested that he should be so allowed. The Chairman granted the request.

Before withdrawing his petition, the petitioner expressed gratitude to Almighty Allah for surviving the harrowing experience of arrest, detention and humiliation that he and some other members of his family went through. He said in the spirit of his gratitude to Almighty Allah he was withdrawing his petition, preferring to leave the whole affair to Allah to judge. He also thanked the Commission for the work it was doing and for granting him audience. The Chairman thanked him in return.

**PETITIONS NOS: 794 AND 742 MAJOR-GENERAL ZAMANI LEKWOT AND OTHERS, AS WELL AS ATYAP YOUTH FORUM AND-BARR. FRANCIS KOZAH**

Counsel for the Commission applied that petition 794 and 742 be consolidated. There was no objection to the consolidation of the two petitions.

Petition 742 is about alleged unfair conviction, non-compensation and vandalism of Kataf Community, Technical/Vocational College by the Nigerian Police.

Counsel for the petitioner disclosed that the democratic government in the state was addressing some of the communal clashes that occurred in Kaduna State. Specifically, he disclosed that the state government was addressing the issues in petition No. 794 and he was hopeful that an amicable resolution would soon be reached. In view of that, he stated that he had instructions from his clients to apply for an adjournment of the petitions to Abuja by which time it was hoped that the issues would have been resolved amicably. Counsel for the Kaduna State Government corroborated the statement by counsel for the petitioner. He added that chiefdoms had been created and this had partly satisfied the wishes of the people in the area. He went on to say that a committee was looking further into the other issues raised in the petitions. He agreed that the petitions should be adjourned to Abuja. Other counsels associated themselves with the application for adjournment.

The Chairman in his response recalled that the *New Nigerian Newspaper* that had challenged the petitioners appearing before the Commission in Kano to take a cue from the peaceful initiative embarked upon by petitioners in the Port Harcourt zone. He thanked the petitioners and all parties to the issues in petitions 794 and 742 for the peaceful initiatives they had undertaken. He promised to make available to the parties involved the memoranda of understanding reached by the Ogonis and the Ife/Modakeke communities. Thereafter, petitions 794 and 742 were adjourned to the next Abuja sitting while fresh hearing notices would be issued to petitioners in due course.

At the Commission's hearing in Abuja, counsel for the petitioner reported that though both parties had made written submissions to

aid reconciliation, the case could still be heard as listed. It was explained that the case was two-pronged and that petitioners were interested on the aspect that dealt with the violation of the human rights of Zango Kataf by agencies of the Federal Government of Nigeria. He added that the other party was making impracticable demands to the matter in the area in question, and that has informed the request to hear the case.

Counsel to the Attorney-General of Kaduna State stated that he was briefed that efforts at reconciliation were still on course and therefore re-opening the case for hearing was premature.

A member of the Commission however opined that there were various dimensions of the case, which have to do with the Kaduna State Government while the other aspects related to the Federal Government of Nigeria as a party.

The first witness was Major-General Zamani Lekwot. An addendum to petition 794 was tendered and marked Exhibit 1 while petition 794 was marked exhibit 2. Thereafter, the first witness affirmed the contents of Exhibits 1 and 2. A copy of a letter threatening the beginning of a *jihad* in Zango Kataf if nothing was done about the Muslims who lost their lives in the Zango Kataf market riots was tendered and marked Exhibit 3. The first witness stated that he and his kith and kin were illegally arrested, detained, tortured and sentenced to death because of the Zango Kataf crises. He recalled that his conviction to death was later commuted to a lesser sentence. He recalled that the sum of N25 million provided as compensation for the damage done during the riots was only enjoyed by the Muslim settlers of the area while the actual indigenes were denied benefit therefrom.

He explained how his people were discriminated against even in comparison to the various communities in the area. He noted that the government of Alhaji Ahmed Makarfi has been implementing policies aimed at restoring peace to the area. He sought for the quashing of all the sentences passed on him and his colleagues during the two trials, which he and his brethren were subjected to. He also sought for sufficient rehabilitation of all the victims of the episode. He requested that each Kataf victim should be paid N10 million and that adequate infrastructure should be provided in the community's new layout. He also requested the release of the proceedings of the trials of those concerned.

The third witness, Major James Atomic Kude (rtd.), recalled that on May 14 1992, he received a letter from the Secretary of the Zango Kataf Local Government inviting him to a special security meeting. That letter of invitation was tendered and marked Exhibit 28. The third witness recalled that the security committee meeting held on the May 15, 1992 with about seven or more persons in attendance. The original letter to the Sultan of Sokoto on the purported *Jihad* to be executed in the area was tendered and marked Exhibit 29. He referred to Exhibit 5 which was the minutes of the security meeting of the October 15, 1992 and stated that he did not thereafter go to Zango Kataf to fight anybody.

He recalled that on the 19th May, 1992 he travelled to Kaduna to see his family in the barracks and returned to the temporary office of the local government area on the 20th October, 2001. However, he added that he travelled to Kaduna to confirm whether General Zamani Lekwot had been arrested, which he confirmed. He recalled that he

travelled back to Zonkwa to attend a scheduled meeting of the Katafs after which he was eventually arrested. He disclosed that seventeen of them were initially arrested after which the Isaiah BaIat and Dominic Yahaya joined them in detention. He stated that he spent several weeks in prison and later had to make statements to the police.

The third witness explained that he was charged before the Okadigbo Tribunal in 1992. He recalled that after his second trial, the Okadigbo Tribunal condemned him and General Zamani Lekwot to death by hanging and discharged and acquitted the Chairman of the Zango Kataf Local Government on the grounds that he was at a security meeting when the crisis started. However, the third witness regretted that even though he was at that same security committee meeting, he was not similarly discharged and acquitted. He also regretted that the district head that was also at that meeting was never charged. He thanked God that after his conviction, it was thereafter commuted to five years imprisonment, which he fully served out. He recalled that even though his lawyers appealed against the conviction not much came out of it.

At that juncture, the full report of Air-Vice Marshall A. B. Muazu's committee report was tendered and marked Exhibit 30. He recalled that the May 15, 1992 riots were the aftermath of the February 6, 1992 riots and the dissatisfaction of the Hausa/Fulani community over the siting of the new market. The in-patients register of A.B.U Teaching Hospital for the period May, 1992 was tendered and marked Exhibit 31. The third witness affirmed that many of those admitted from the period in May 1992 were Katafs and the diagnosis indicated gun-shot wounds, machete cuts and lacerations. He affirmed that while most of the victims of the May, 15 1992 were Katafs, it was on

the May 16, 1992 that there were Hausa/Fulani victims and with lesser injuries, like burns.

At that juncture, a copy of *Details* magazine regarding an interview on Zango Kataf which the third witness granted in 1997 was tendered and marked Exhibit 32. The third witness insisted that it was not true that the Hausa/Fulani citizens in Zango Kataf were being asked to leave the area or face the consequences. He said the documents being circulated to that effect could not have emanated from the Katafs. A statement purported to have been released by the President of the Atyap Youth Forum threatening the Hausa/Fulanis was tendered and marked Exhibit 33. A letter dated October 23, 1996 written by the District Head of Zango Kataf implying that after the Hausa/Fulanis returned to the area they were still being harassed, was tendered and marked Exhibit 34.

The third witness said Exhibit 34 was tantamount to blackmail, as there was no iota of truth in it. A document titled "Day of Atonement" regarding the programme of events of a Christian Association of Nigeria (CAN), meeting at Kafanchan on September 20, 2000 involving the thirteen local government areas of Southern Kaduna was tendered and marked Exhibit 35. Also, a video tape where the witness attended a party where statements were made to the effect that the liberation of Kataf people was a must and young children initiated to that effect was tendered and marked Exhibit 36. Counsel for the Hausa/Fulani community tendered in evidence a copy of the *Citizen* magazine of April 1993, which was marked Exhibit 37. A copy of the *African Guardian* on "Lekwot's Trial Tribunal under Fire" was tendered and marked Exhibit 38.

The third witness affirmed that both Katafs and Hausa/Fulani suffered losses in the 1992 Zango Kataf crises. He regretted that despite that, no Hausa/Fulani person was arrested and charged to court for the murder of the Katafs who died. He recalled that while the federal government rebuilt Zango town and allocated newly built houses to the Hausa/Fulani and paid them compensation after the crisis, the Katafs did not benefit from this. At that juncture, an advertorial in the *Weekly Trust* on the issue was tendered and marked exhibit 39. The third witness recalled that while relief materials were sent to the Hausa community in Zango, the Katafs were denied this largesse. He recalled that the federal government did not rebuild a Kataf school, which was destroyed during the crisis, when the houses of the Hausas in Zango were being rehabilitated. A document on efforts by Atyap Youth Forum to rehabilitate the said school was tendered and marked Exhibit 40. He estimated that it will cost the Katafs over N35 million to rehabilitate the said Technical College.

He lamented his inability to complete his tenure as a councilor because the local government council was dissolved since the Chairman was a Kataf man. He supported his position by stating that other local government councils were not similarly dissolved in the wake of the crisis, the fact being that their Chairmen were not Kataf citizens. He agreed that those killed in the crisis deserved justice and that the culprits, rather than innocent citizens, should be charged. He said that the census and enumeration figures used in determining development in the area were not correct and were to the disadvantage of the Kataf people. He said that Exhibit 33 was an anonymous publication.

The fourth witness, Inspector Timothy Adams, stated that he was the station officer of the police station in the area at the time of the crisis. He lamented that in the course of the crisis, the Commissioner of Police asked the fourth witness to strip his uniform and accompany other Kataf suspects in a Black Maria to Kaduna. He said that on getting to Kaduna, twenty of them were put in a detention cell for one month without food from the police but that only his family fed him. He narrated that thereafter, he was arraigned before the Okadigbo Tribunal and charged for fighting and instigating the crisis. He recalled that at the end of the trial, he was discharged and acquitted but rearrested by Superintendent of Police, Mohammed Dan Kano and taken to the Kaduna Central Prison where he stayed for about ten months after his acquittal.

He recalled that in October 1993 he was released from Kaduna Central Prison and asked to go home. He regretted that he was not allowed to go back to his job. A letter of request to be reinstated by the witness was tendered and marked Exhibit 41. Also, a signal of suspension of the witness was tendered and marked Exhibit 42. He lamented that he had never received any salary since that signal was issued. A letter on the case of fourth witness from the Kaduna State Police Commissioner was tendered and marked Exhibit 43. The fourth witness noted that despite Exhibit 43, he was not reinstated. Another related letter on the case to the Deputy Inspector General of Police and dated February 1994 was tendered and marked Exhibit 44. Also, a letter written by Counsel to the fourth witness to the Inspector-General of Police was tendered and marked Exhibit 45 while the reply to it was tendered and marked Exhibit 46. A copy of the court ruling in regard to the application by fourth witness regarding his loss of job was tendered and marked Exhibit 47. The Commission noted that the court ruling

was in favour of the witness. The case was struck out because of non-appearance of petitioners and now re-listed, but the respondents were absent.

The fifth witness, Tonad Dabo, was a farmer who lived at Zanzan in Zango Local Government Area. He admitted that he knew when the riot in Zango area occurred. He admitted that the District Head, who was an Atyap, was living in Zango town and resided with his family and 6 others. He disclosed that when the riot broke out, the family escaped; meanwhile the District Head had gone to Zonkwa the Local Government Headquarters. He said that the riot started at the old market when the Hausas insisted that nobody should go to the new market. This led to a fight and two persons were killed instantly. He said that some dignitaries whose names he did not know came from Kaduna and announced that a Commission of Inquiry would be set up. The District Head [DH], he said, did not go back to Zango town after the riot broke out. He admitted that he was at his house in Unguwar Wakili, not quite a kilometer from Zango, when the riot broke out.

The fifth witness remembered that the police came from Kano and asked the DH to invite members of his Traditional Council to a meeting at Zonkwa. He joined them and was transferred to Kaduna in the same group. He said that he was in the prison at Kaduna and only learnt that General Ibrahim Babangida visited Zango town. He admitted he was also tried and sentenced to 15 years with an additional fine of N1000.00, but General Babangida commuted the sentence to 5 years, which he served and returned home. He said that when he came back, he saw that many houses were damaged. Meanwhile, when he was in prison, he had heard that General

Babangida had ordered the old town rebuilt and people were asked to identify their houses. He said that the Kaduna State Government [KSG] set up a committee made up of 6 Hausas and 2 Katafs including himself to oversee the resettlement and they counted over 1,000 houses rebuilt which belonged to the Hausas. He admitted that the houses were rebuilt for the Hausas, but none for the non-Hausas, and added that money [over N3,000.00 each] was also shared to the Hausas owning houses but nothing was given to the non-Hausas.

The fifth witness disclosed that he knew a Hausaman called Aliyu Jibril who had lived for over 20 years in Zango town before the crisis, and was the Qu'ranic teacher who used to lead the daily moslem prayers. He affirmed that the son of Aliyu Jibril had a hand in the "Jihad Letter." He disclosed that he was 88 years old now and at the time of the riot could not have participated. He was also a member of the Traditional Council of the District.

Under cross-examination, the fifth witness explained that Ungwan Wakili was in Zanzan and only less than a kilometer from Zango town. He admitted that he gave evidence before the Kudjoe Judicial Commission and led the Commission to Mabarado [Zango] to see the sacred "hoe". He admitted that there was an argument between a Hausa and a Kataf, but there was no fight. He also denied that it was fear that kept the Hausas from returning to their houses in Zango, and added that it was rather their reluctance. He admitted that two of the Chief's family members houses were rebuilt; the house of one was rebuilt while the other was given N25,000.00 to rebuild his house. The fifth witness confirmed the names of the various quarters in Zango town and admitted that the non-Hausas lived in some of these areas and constituted only 1% of the total population of Zango. He also

confirmed names of Hausas who had left Zango and its environs to elsewhere. The fifth witness stated that he did not know of any Hausa or Fulani that was killed but only heard of the names of Kataf killed.

Under further cross-examination, the fifth witness admitted that he knew of the Technical School at Zango that was burnt during the riot. He admitted, also, that the Kataf had just repaired the Technical School. The fifth witness also admitted that he knew of AVM Mu'azu's Report and agreed that the headquarters of the Atyap Chiefdom as Samaru Kataf was not in accordance with that report.

The counsel for the petitioner observed that the documents they requested from the Cabinet Office, were, still, not available, and suggested that the subpoena should be issued to a name, not an office, and lamented that the non-availability of these documents had prevented his client from getting relief from the Supreme Court.

The sixth witness, Muktar Mohammed Dodo, was the Chief Registrar of the Supreme Court. He identified the document he brought on summons to be the Record of Proceedings in the case between Zamani Lekwot vs. Supreme Court, which was tendered and marked Exhibit 4. The Chairman observed that the document needed was the Record of Proceedings and Judgment of the Okadigbo Tribunal, not what the sixth witness had brought. After some arguments, it was established that the sixth witness would be of no use to the Commission. He was therefore discharged.

The first witness, Zamani Lekwot, agreed that the Okadigbo Tribunal called 12 witnesses and closed their case, whereas the defence called only 9 witnesses. He disclosed that the Attorney General of the

Federation sent an order that terminated the case, as a result of which they were discharged, but they were re-arrested and taken to Kaduna Prison. A “Motion on Notice” filed at the Supreme Court was tendered and marked Exhibit 50. Court of Appeal Records were also tendered and marked Exhibit 51, while the judgment of Akpabio J.C. was tendered and marked Exhibit 52 [pg 18-19 of Exhibit 51].

The first witness admitted that he had appealed to the Kaduna High Court but the High Court said it lacked jurisdiction to adjudicate over the matter. The witness further stated that he filed another application at the High Court of Appeal where he got a dissenting judgment of 2:1 in favour of the Kaduna High Court’s position of “no judgment”. However, the minority judgment led by Justice Akpabio debunked this position on the supremacy of Section 5 of the new Decree 21 of 1990 to which the counsel to the respondents had no reply, and which nullified all other decrees of the Federal Military Government, 1990.

The first witness agreed that he went further to appeal to the Supreme Court to intervene and contended that Justice Akpabio’s judgment was the correct one. He also agreed that he applied for a stay of the proceedings at the Okadigbo Tribunal pending the determination of the appeal at the Supreme Court, but his appeal was not even listed for hearing up till when the second trial of the Okadigbo Tribunal started with an additional charge of culpable homicide. The witness stated that Decree 55 of 1992 was then promulgated by the Federal Military Government to offset Justice Akpabio’s judgment and was backdated to 1983 in order to ‘catch the accused [the first witness and his kinsmen]. He admitted that it was on the basis of this decree 55 that their lawyers withdrew from the second Okadigbo trial when it was apparent to them that the Federal Government was all out to

convict their clients. Consequently, he further disclosed, they applied for a day's bail in order to find other lawyers but Okadigbo replied that only the government at Abuja could grant them bail. Thus their application for a bail mounted to a case of No-Submission. They were subsequently offered a lawyer from the floor, which they rejected knowing fully well that Okadigbo was just a tool used by the Federal Military Government [FMG].

The first witness further disclosed that none of the accused persons gave evidence but Justice Okadigbo went ahead on the 3rd February 1993 to sentence them, under Decree 2 of 1987, to death by hanging with the exception of the 2nd accused. The first witness said that, he, again, filed a motion at the Supreme Court to set aside the proceedings of the Okadigbo Tribunal. From the moment he applied for stay of proceedings up till the day of the judgment, the Supreme Court did not respond. He disclosed that the Supreme Court responded to all motions filed in December 1992 except his own which they responded to only much later on 2nd June 1993 after the FMG had achieved its purpose. The 1st witness agreed that the Constitutional Rights Projects [CRP], a non-governmental organization, complained on his behalf, in February 1993, to the African Commission on Human and People's Rights (ACHPR) on the violation of his human rights. He said that the ACHPR held a hearing at which the FMG failed to appear, although it was served. A letter from the ACHPR to Chief G. O. K. Ajayi, dated 11/10/99, was tendered and marked exhibit 53.

Exhibit 53 contained the certified true copies of the proceedings and judgment of ACHPR's hearing. The 1st witness read Exhibit 53. The ACHPR's judgment based on Articles 56.5 7 sub 1 a, 7 sub 1 c, 7 sub

d7 and 26 condemned, inter alia, the closure of any avenue for appeal, harassment of accused counsel with their consequent withdrawal and subsequent trial without counsel for the accused, and the composition of the tribunal. A document of the National Defence Security Council that confirmed the Okadigbo Tribunal was tendered and marked Exhibit 54. Letters recently communicated from the Army and Airforce to the first witness addressing him in full rank, were tendered and marked Exhibit 55 and Exhibit 56 to prove that the first witness had not been de-ranked and was still held in honour by the military. The counsel disclosed that other intended exhibits would be discussed in their address.

The Chairman observed that the Commission could not set aside the judgment of the Okadigbo Tribunal, although the proceedings and Judgment of the Okadigbo Tribunal was against all norms of justice.

Under cross-examination, the first witness affirmed that he had no problem with the Hausa-Fulanis and, as for tendering an apology for whatever wrong he might have done to them, he stated that the wrong he had committed needed to be established first. He admitted that he called the Zango Hausas “strangers” in a BBC radio programme. He also admitted that he gave his complimentary card to one Alhaji Babajo after a meeting at Zango with the latter, but the Alhaji did not visit his home. The complimentary card was tendered and marked Exhibit 57. The Counsel read the memo attached to the complimentary card in which the first witness was alleged to have made unfriendly and provocative remarks about the Hausa community in Zango, but the first witness denied the allegations and demanded for the minutes of that meeting with Alhaji Babajo and others towards the development of Zango town.

Still under cross-examination, the first witness admitted that he was fond of Ambassador Jolly Tanko Yusuf and often visited his house, but denied that he attended a caucus meeting of the Northern Christian Elders Forum in his house. The minutes of the caucus meeting was tendered and marked Exhibit 58. The counsel read Exhibit 58 which revealed the plan of the first witness and others to destroy the mosque at Samaru as a counter move to the 'Islamisation' of the area. After some prevarication the first witness admitted that he was detained under Decree 2 signed by Vice Admiral Augustus Aikhomu when the SSS invited him over Exhibit 58. The first witness agreed that he stated in his petition that General Babangida cried when he visited Zango, but did not know the reason. A *Hotline Magazine* was tendered and marked Exhibit 59. The Counsel read Exhibit 59 in which General Ibrahim Babangida stated that he was moved to fears by the sheer carnage. The 1st witness admitted that he had never seen the mass grave at Zango.

Still under cross-examination, the 1st witness admitted that he would still recognize the rebuilt Zango town and identified Yuri Baba Ayo and others jubilating, in video pictures. The first witness agreed with Colonel Madaki's assertion that one could not mention 15 names of important people in the Zango Local Government without including his name and added that it was a fact. To corroborate the fact of the importance of the first witness, *The Citizens* magazine was tendered and marked Exhibit 60. The first witness disagreed that violence was a means of pressing fourth their demands and would not encourage jubilation to celebrate violence as in the Zango case. He added that the promotion of goodwill was his business as a community leader. The 1st witness acknowledged that he knew His Grace, Bishop P.Y. Jatau,

and admitted that he was one of the 15 most important people in his Local Government. The statement of Bishop Peter Jatau in an interview he granted in a magazine was tendered and marked Exhibit 61. The counsel read the Exhibit 61 in which the Bishop was alleged to have jubilated over the Zango killings and said that they now had respect having stood back and fought and that others should follow suit.

Still under cross-examination the first witness stated that he disapproved of demolishing peoples houses to settle scores, as was the case with Adamu Bako in Manchok. He denied knowledge of Alhaji Agebu's case in Kachia where the latter was killed because of a land dispute. Documents pertaining to Alhaji Agebu were tendered and marked Exhibit 62. The 1st witness admitted that he knew Alhaji Aliyu Zango, a gentleman who the counsel said made peace overtures to the Katafs. A letter dated 23/3/92 written by Alhaji Zango was tendered and marked Exhibit 63 while the Court judgment on Alhaji Aliyu Zango, was tendered and marked exhibit 64.

The Kataf Youth Development Association's letter notifying members of Atyap Day celebration was tendered and marked as Exhibit 65. The counsel read the letter, which listed branch offices of the Association in various towns around, but excluding Zaria. The counsel then demanded to know whether the Katafs did not live in Zaria. But the first witness replied that something was wrong with the list, as there were branch offices of the association even as far as Lagos. The first witness acknowledged that most of the Hausas now lived outside Zango. The first witness affirmed that he had no problem with the Hausas and added that the Hausas were accepted as settlers by the Kataf ancestors, but today they accepted the Hausas as brothers and

sisters because they were born and brought up in Zango. Thus, the Katafs would live with the Hausas provided the latter were of good behaviour. However, there were some of the Hausas who behaved like an army of occupation. The first witness agreed that God saved him from prison because he had a role to play for the peace of Zango and its inhabitants, both Katafs and Hausas.

Under further cross-examination, the first witness agreed that a lot of non-Hausas resident in Sabon-Gari, Zaria had no separate jurisdiction, but the Hausas in Zango had a district and a District Head. An advertorial by Alhaji Abubakar Zango was tendered and marked Exhibit 66. The first witness admitted that the advertorial by Alhaji Zango was insulting and provocative.

As a panacea for peace, the first witness recommended mutual respect, tolerance and acceptance of one another. He however condemned divisions, which he claimed were fostered by the Zazzau Emirate in Zango LGA. He also recommended that ethnic differences should be forgotten, but added that the Hausas discriminated against the Katafs and mentioned for instance that while the Katafs accepted the Hausas and gave them their daughters in marriage, the Hausas never reciprocated. The witness asserted that the clamour for a separate chieftdom for the Hausas would not hold, and added that implementation of AVM Muazu's Report would bring peace.

The seventh witness, Alhaji Ibrahim Bisallah, was the representative of the Hausa-Fulani of Zango. The Hausa-Fulani response to the Kataf petition was tendered in evidence and marked Exhibit 67. The seventh witness read Exhibit 67. He started his testimony with the quotation, "peace is not the absence of conflict but the presence of justice." The

seventh witness highlighted that after the riots of Zango Kataf, Commissions were set up, especially the Kudjoe Judicial Commission, which submitted a report to the government. However, government had not implemented the report. He observed that if the 'White Paper' had been implemented, the parties would not be at the Commission. Secondly, he argued, the verdict of Justice Okadigbo had done justice to the Zango case, but he alleged that the same people who even had their sentences commuted were still agitating for justice whereas it was the Hausas who were killed. Three video tapes were tendered as exhibits: [ii] "Zangon Kataf Town Before and After May 15&16, 1992" was marked Exhibit 68. [ii] "Meetings of Katafs and Hausas" was marked Exhibit 69. [iii] "The Parley at Zango" [11-8-95] "was marked Exhibit 70. Two audiotapes of the second parley between the Military Administrator (MILAD) and elders from both sides were also tendered and marked Exhibits 71 and 72.

The seventh witness discussed the conditions for peace: He said that compensations needed to be paid to the Hausas and added that the main dispute about compensation was with respect to the new market where compensations were only paid to a few individuals. However, the main problem with Zango he asserted was self-determination that needed to be accorded to the Hausas. He also mentioned that the reconstruction of Zango town should be completed.

Seeing that despite all efforts peace had eluded Zango town, the Chairman asked the seventh witness to give a recipe for peace in Zango including what the Government and the parties should do to bring peace to Zango and sustain it. The seventh witness referred the Commission to page 45 of Exhibit 67 [the Hausa Response]. The seventh witness stated that Government should carry out

rehabilitation in the full sense and consider that the contract for the reconstruction of houses was not properly executed. Government, he said, should also provide security to Zango town and pay compensations to all those affected. He also stated that Government should grant them self-determination, through the creation of a district, since only 1 % of Zango dwellers were non-Hausas.

The seventh witness admitted that the Hausas were killed *en mass* and disclosed that on the second day of the riot, his father who was the Chief Blacksmith of Zango, was marched along with some other Hausa people to the new market site, and matcheted to death by the Katafs. He admitted that there was a mass grave in Zango where the riot victims were buried but due to the manipulation by the other side, the Commission was not taken to the mass grave, and lamented that, although the visit was to the Hausa community, they were not allowed to lead the Commission to the important places. The seventh witness observed that the issue of compensation to a few individuals for the land acquired for the new market presupposed that the Hausas owned the land, and would want the Commission to note that fact. The seventh witness disclosed that the AVM Muazu Report, stated that there should be public enlightenment before the siting of the market and the authorities concerned should built the market at a different place other than the suggested one which had become controversial.

The seventh witness further disclosed that parleys were held between the then MILAD Colonel Ja'afaru Isa, and the parties at which the issue of land ownership was settled by the creation in 1995 of the Atyap Chiefdom and the Zango Urban District with the Headquarters of the Atyap chiefdom at Samaru Kataf. However, the 7th witness said, the Katafs were still occupying the Hausa community's land such as

the location of the Agwatyap's palace that the Commission visited. He also disclosed that at the parleys, the Hausa's accepted to live under the Atyap Chiefdom and the Chief himself, promised to look after the Hausa community on trust, but it had never been the case. Rather the Hausas have been frequently harassed and intimidated, so that they had never had peace. Three letters of complaint by the Hausa were tendered and marked Exhibits 73, 73a and 73b.

The seventh witness explained that they needed a separate jurisdiction, like the Atyap, under the same Local Government because the problem was that the Zango community being 99% Hausa did not share the same culture and religion with the Katafs. He also added that since the creation of Ikulu chiefdom in the year 2,000 by the Makarfi Government, they had been left with the katafs and had been undergoing horrifying experiences. With regard to the exhibit that was titled: "The Major-Major one" which is a video tape, the seventh witness agreed that he had seen where it was said that after the Emir of Jema'a died, the indigenes should take-over in Kafanchan and other indigenes should follow suit to eliminate the Hausas from Southern Kaduna. The seventh witness said that he did not consider General Zamani Lekwot as a leader of his people, but if his people decided to make him one, he would parley with him. He affirmed that reconciliation must come from the people. However, he alleged that Gen. Lekwot had never made any peace overtures to the Hausas since he came back from prison but rather dictated to his people what they should do.

Under cross-examination, the seventh witness disclosed that his family originated from Kano and, partly, Borno. He disagreed with other sources that were mentioned in an advertorial by the Hausa

community of Zango. The witness admitted that anywhere the Hausas settled, that place was called Zango as was the case with “Sango” in Yoruba land. However, the witness would not agree that he was a settler or stranger since he was born and brought up in Zango. He asserted that he was an indigene as defined by the Constitution, and disagreed with counsel to the petitioners that his interpretation of the Constitution was twisted. The witness claimed that the Katafs were also strangers who came after the Hausas, but dominated the area because of numerical strength. The witness disclosed that not more than 30% of the Hausas were resident in Zango town presently and refuted the claims that they did not want to go back to Zango. He added that despite all that had happened; they would want to go back if their security is guaranteed. However, he explained that if circumstances warranted them to leave, they would leave as there was ‘no big deal about Zango - there was neither a gold mine nor petrol’ he asserted. He denied that they were up to some “pranks” to extort money from the government in the form of compensation.

Under further cross-examination, the seventh witness admitted that he knew the authors of Exhibit 39 in which the first witness was vilified. He also believed that the Okadigbo Tribunal was fair, but admitted that no one was tried for killing the Katafs. The witness agreed that he signed the AVM Mu’azu Report but disagreed that the Kaduna State Government in sitting the headquarters of the Local Government did not follow the report. He did not support the view that other communities such as Sabon Gari, Zaria, should have separate jurisdictions as the Hausas in Zango, because those other communities were not homogenous while the latter was.

The Chairman at this point remarked that the Commission aspired towards a Nigeria where there would be no Sabon Garis or settlements, but a Nigeria in which any Nigerian was a Nigerian anywhere in Nigeria. For the addresses, he asked the various counsels to examine the fact of “our unity in diversity” as portrayed in the old anthem: “Though tribes and tongues may differ. . .” He also asked the counsel to bring out the ugly facts of ethnicity and to also examine how the various groups in the nation can be integrated. The counsel was asked to state any additional facts discovered in the course of research, whether the facts were in evidence or not. Addresses should be submitted within two weeks.

The eighth witness Jolly Baba Ayok, lived at Masamiya in Zango Local Government Area [ZLG] as a retired Assistant Commissioner of Police, held a public office as Chairman of ZLG with effect from January 1990. In his capacity as Chairman, he was also the Chief Security Officer [CSO] of ZLG at the time of the Zango riots. The counsel for the petitioners stressed the need to give the background into the remote and immediate causes of the Zango riots. However, the Chairman remarked that these were matters of history. He pointed out that after the riot, a committee was set up consisting of seven members from either side, which made recommendations and signed.

“That should be the starting point”, opined the Chairman. The counsel for the petitioners argued that the committee advised government to set up a tribunal that would determine land ownership as well as the remote and immediate causes of the Zango riots, but the AVM Mu’azu Commission did not address those issues. A Commissioner recalled that the Justice Kudjoe Commission had also dealt with the issues and also observed that the issues which had to do with the Federal

Government and its agencies, in the Lekwot petition, were being addressed by the Kaduna State Government. So, he advised the counsel to narrow down to the issues that were still outstanding.

The counsel for the petitioners, however, posited that the question of land ownership was the main contentious issue, but the Federal and State Governments could not resolve the issue. Rather, they continued to oppress the Katafs. The Chairman interposed that both sides would have to decide to live together. A plan of Zango Kataf was tendered and marked Exhibit 4. It depicted Zango town entirely surrounded by Kataf land. The witness agreed that originally belonged to the Katafs. He attributed the first Zango riot of the February 6, 1992 to attempts to prevent the relocation of the Zango market, which caused bloodshed and serious fatality as a result of which the Justice Kudjoe Commission was set up.

The counsel for the petitioners argued that the committee advised government to set up a tribunal that would determine land ownership as well as the remote and immediate causes of the Zango riots, but the AVM Mu'azu Commission did not address those issues. A Commissioner recalled that the Justice Kudjoe Commission had also dealt with the issues and also observed that the issues, which had to do with the Federal Government and its agencies, in the Lekwot petition, were being addressed by the Kaduna State government. So, he advised the counsel to narrow down to the issues that were still outstanding.

The Kudjoe Commission however did not finish its assignment before the second riot broke out in May 1992.

The witness attributed the second riot in Zangon-Kataf to a “*Jihad* letter” written on May 9, 1992, which provoked religious dichotomy. He received as the Chairman of Zango Local Government a copy of the letter on the 14th May 1992 and convened a security meeting the next day, 15th May 1992. It was at the meeting that the report of the second riot came to him. The minutes of the security meeting was tendered and marked as Exhibit 5. The witness disclosed that as the Chief Security Officer (CSO) of the LG, he sent a radio message to the Kaduna State Government [KDSG], dispatched a police team to Zango town and personally followed up shortly. A copy of the radio message was tendered and marked Exhibit 6. Altogether, seven Save Our Soul radio messages were sent, which were separately tendered and marked Exhibit 6— Exhibit 12. The witness had Police reinforcement on May, 16,1992 in response to his SOS messages. It was the reinforcement of two units of Mobile Police [MOPOL] that helped to finally quell the riot. A KDSG delegation came on the 17th May 1992, met the witness in his office and together visited Zango town. Meanwhile his arrest was already planned. When the team came back, he was arrested by a team of MOPOL and taken to Kaduna. At Kaduna, he met his kinsmen who had equally been arrested. They were taken to the Magistrate Court and remanded in Prison custody and were later served with a detention order [under Decree 2] and prosecuted.

The witness was the second accused of the trial in court while Major Atomic Kudeh [rtd] was the first accused. He disclosed that about sixty-one of them were imprisoned and the list included District Heads, Village Heads - excluding that of Zango town - Pastors and other Kataf elites, who were all charged with unlawful assembly and rioting before the Okadigbo Tribunal. The witness revealed that the

prosecution called 12 witnesses whereas they were allowed to call only 9 witnesses and had fresh charges of “culpable homicide” added on them, as a result of which their lawyers withdrew. He admitted that there was an appeal to stay proceedings at the Okadigbo Panel, pending the hearing of the case in the Supreme Court. However the case was never heard.

The witness stated that it was clear that government took sides in the arrests, detention and trials that resulted from the Zango Kataf riots. A letter by the KDSG to the Sole Administrator who took over, after his arrest, as the Head of ZLG, listed 62 suspects. The letter was tendered and marked Exhibit 13. Other letters listing names of suspects in connection with the crisis were separately tendered and marked as Exhibit 14 to Exhibit 16. The witness also wrote in his capacity as the Chairman and CSO of ZLG, four [4] letters to the KDSG copied to the Commissioner of Police and the Emir of Zazzau to inform them of the security situation then. The first letter dated 8th February 1992 was tendered and marked Exhibit 17. The second letter dated 31st March 1992, was tendered and marked Exhibit 18; the third letter dated 3rd April 1992, was tendered and marked Exhibit 19, while the fourth letter dated 16th May 1992 was tendered and marked Exhibit 20. The witness admitted these letters were proof that he was performing his duty as Chairman and CSO of Zango Local Government.

Under cross-examination, the witness admitted that he was recently involved in the reconciliation process at Zangon-Kataf and also agreed to have signed, the A.V.M Muazu Report as reflected on page 102 of Appendix A to Exhibit 1. The witness conceded that the Zangon-Kataf conflict could not be resolved unless the land ownership of Zango town was amicably settled, as stated on page 63 of Exhibit 1 [the

Addendum]. He also agreed, as alluded to on page 19 of Exhibit 2 that compensation would presuppose the ownership of the land for which compensation was paid. The witness admitted that he was not aware of any amendment of the 1995 Edict No 7 of the KDSG. This Edict No 7 created the Kataf Chiefdom and designated Samaru Kataf as capital, and would not stand to prohibit the shifting of the capital to Zango town. The Edict No 7 of KDSG [1995] was tendered and marked as exhibit 21. The witness also admitted that he knew the *I F I* Development Association of the Kataf. This Association also wrote to the Agwatyap protesting the shifting of the capital of the Kataf chiefdom to Samaru-Kataf. The letter dated 19-8-2000 was tendered and marked Exhibit 22.

The witness agreed that the “*Jihad* letter” contained in exhibit 1 was not signed by anyone but claimed that it was endorsed by a name and need not to have borne a signature before he could act on it. He denied that the second crisis of Zangon-Kataf was as a result of a meeting the Kataf’s held during the Easter break of that year. The witness agreed that he attended a party in Kafanchan but disagreed that the agenda of the party was to wipe out the HausaFulani from Jema’a Emirate after succeeding with Zango. He admitted that he got a fair trial at the Okadigbo Tribunal and added that he was not only discharged but acquitted. The witness also agreed that the petitioner got a fair trial, too, and admitted to be aware that the petitioner applied before the High and Supreme Courts to stay proceedings of the Okadigbo’s Tribunal but the request was not granted, and that the case was still at the Supreme Court.

The witness also admitted that a Commission was set up which called for memoranda but stressed that, while the Hausas were fully

represented on the Commission, the Katafs were not represented. He also would not concede that his reference to Hausa-Fulani meant reference to a religion and neither agreed that the problem of the capital of Kataf chiefdom was the Central Mosque at Samaru-Kataf. *Details Magazine*, which bore the photograph of the mosque, was tendered and marked as Exhibit 23.

The witness sneered at the allegation that he never did send any security reports to Kaduna State Government on the security situation in Zango Kataf. He also did not agree that the Deputy Governor then, who was indigenious to ZLG, was his friend. However he admitted that he knew the Deputy Governor who had met both the Katafs and the Hausas on the Zangon-Kataf conflict. He denied that he had discussed the security of ZLG with the Deputy Governor whom he knew and could identify in a photograph. A magazine, *New Impression* containing photographs of the Deputy Governor, was tendered and marked as Exhibit 24. Another publication, *Weekly Trust* newspaper, was tendered and marked Exhibit 25. The witness did not agree that the petitioner had re-opened old wounds. However the counsel put it to the witness that an agenda was well-articulated as reflected by the petitioner in his petition and this agenda was to eliminate the Hausas from the scheme of things in the entirety of Southern Kaduna and asked the witness to read from Leviticus 19. Witness disagreed vehemently, with all his assertions.

In the re-examination, the attention of the witness was drawn to AVM Mu'azu's reference to the status of Zango town on page 66, paragraph 18 of exhibit 1 [Addendum to the new Memorandum], and the witness agreed that 1995 Edict No 7 of the KDSG violated the submission by Mu'azu. He also agreed that the "Jihad letter" was not signed but

addressed with a name. The Chairman asked if the edict by KDSG could go beyond agreements by both parties.

**PETITION 850: PETITIONER: SAYAWA COUNCIL OF ELDERS**

Counsel for the petitioner's stated that there was encouraging development towards reconciliation and that the petitioner's sent him an addendum regarding the peaceful initiatives, which were taking place. Counsel requested that the matter be adjourned to the next Abuja sitting to enable a conclusion of these initiatives. Counsel for the respondents corroborated what the other counsel earlier said and hoped that a peaceful solution would have been reached by the parties even before the next Abuja sitting of the Commission. The Chairman promised to make available to the relevant parties, memoranda of understanding reached by similar parties in other places, so that they could use them to prepare a similar memorandum of understanding.

A member of the Commission thanked the parties for the peaceful initiatives and hoped that in the spirit of democracy, the various state governors would continue to encourage peaceful co-existence among various ethnic groups in their States.

The matter was adjourned to the next Abuja sitting by which time the Commission hoped that a copy of the parties' memorandum of understanding would be made available to it. The Chairman thanked all the relevant counsels for the efforts being made for peace and reconciliation in the area.

At the Commission's hearing in Abuja, counsel for the petitioner disclosed that all parties had almost reached an agreement but for one outstanding point on which he wanted to adduce evidence. A counsel

for the Bauchi State Government averred that it would not be convenient for him to lead evidence on the outstanding issue on Tuesday, October 16, 2001 because he would want to meet with his clients who were not here present on the subject. He added that his client had already conceded the so-called outstanding issues, which is the creation of a chieftom for the Sayawa people. He remarked that the only contentious issue was where to locate the headquarters.

At that juncture, a member of the Commission opined that the issue of where to locate the headquarters of the proposed chieftom should not warrant an adjournment because it could be taken care of in the written addresses of counsels. The Chairman remarked that the decision on the location of a new headquarters was that of government at the end of the day and not that of the counsel. Another member recalled that in the past, influential citizens determined the sitting of the capitals of newly created states and local government areas. He said that in the present democratic dispensation, however, in the sitting of new headquarters, the sensibilities of the citizens should be taken into consideration to avoid creating new problems. Counsel for the Bauchi State Government opined that the sitting of a new headquarters was not an issue bordering on fundamental human rights.

The petitioners filed an addendum to their petition, where they said that all other issues, except one, were being resolved. However the only one issue left was the centre of all the other issues. The counsel for the petitioners thus requested to tender all documents and address the Commission later. The petition titled "Memo on Human Rights" and the addendum were tendered from the bar and marked Exhibit 1 and Exhibit 2, respectively. Four other documents were tendered and

marked as Exhibits 3, 3a, 3b, and 3c. The Chairman called for addresses and asked all the counsels to look at the documents tendered to find out the areas of disagreement and proffer solutions. A counsel disclosed that the issue was the location of chieftdom headquarters. When the Chairman learnt that the issue was both factual and legal, he asked the counsels to explore both sides and examine: [I] who should locate the headquarters? [ii] What to take into consideration for the location? Addresses should be submitted within two weeks.

**PETITION 1276: PETITIONER: HAUSA-FULANI COMMUNITY IN KAFANCHAN**

Counsel for the petitioner requested for an adjournment to Abuja to enable him serve the other parties an addendum to the petition. He informed the Commission that reconciliatory efforts had reached an advanced stage. Counsel -for the Kaduna State Government corroborated what counsel for the petitioner said on peaceful initiatives.

The petition was therefore adjourned to the next Abuja sitting and fresh hearing notices would be issued to all parties concerned.

**PETITION NO. 1393: PETITIONER: MR. MENON BAGAUDA**

The petition is about alleged grievous violations including long detention without charge or trial, and a possible unlawful killing, by the State, of James Bagauda Kaltho, the senior brother of the petitioner and a former correspondent with *TheNews* magazine.

The petitioner alleged that his brother came home sometime in December, 1995, and informed them that his life was in danger as a result of an article that he wrote concerning the alleged coup plot involving General Olusegun Obasanjo, late Shehu Yar'adua, Lawan Gwadabe and others which the government did not like. After Christmas his brother left home for Kaduna but was not seen again by the family. The petitioner averred that although they have been in touch with the police, they did not give them any useful information only to read from the papers that their brother died in bomb blast in Kaduna.

The petitioner wondered how a person that was declared missing and was later arrested could be declared dead. He also wondered why Zakari Bui whom he alleged was in contact with his brother could declare him dead. If he (Kaltho) was truly dead why did he (Bui) not inform them but through the media? The petitioner alleged that Kaltho could not be the person that was alleged to have died at the Durbar Hotel attack in Kaduna as the person who died wrote his name as Y. Y. Yusuf and not Baganda Kaltho. The petitioner further alleged that the report of Zakari Bui is in conflict with that of the Commissioner of Police, Kaduna.

The petitioner claimed that they have suffered the trauma of looking for Baganda Kaltho and have been subjected to psychological and mental torture, and many hardships, which he James Baganda Kaltho, being the bread winner of the house would have solved save for his disappearance.

Reliefs sought by the petitioner are as follows:

- i) Full investigation into this matter to discover:

- a. Whether Mr. Kaltho is still in police custody and to effect his immediate release;
  - b. Whether Mr. Kaltho is dead and the circumstances of his death; and
- ii) In the event of 1(b), prosecution of all those involved in the unlawful killing of Mr. Kaltho; and
  - iii) Compensation of N25 million be paid to members of the Kaltho family and dependants to alleviate their sufferings.

The first witness, Mr. Menon Bagauda, testified that the search for their brother took them to Kaduna and Lagos, where they came to the conclusion that perhaps he had been arrested by the security operatives. The witness under cross-examination testified that the rumour of the disappearance of his brother started in April 1996, but that he heard nothing connecting Kaltho with a bomb blast until 1998. He further said that after he heard that his brother was killed in a bomb blast, no person invited the family to identify the body as that of Bagauda Kaltho. He only read in the papers that Zakari Biu said that the person who died in the bomb blast was his brother. He averred that it was the same Zakari Biu who told him that his brother was in detention and requested him to cooperate with him to effect the release of his brother. That he further told them eighteen files had been sent from the presidency and out of which Kaltho's was one of them. He alleged that Zakari Biu assured them that his brother would be released. Given this scenario, how could he possibly die in a bomb blast at the Durbar Hotel Kaduna? Under further cross-examination, the witness said that his brother informed him when he was alive that the Police, SSS and DM1 were all jointly looking for him.

The second witness, Mrs. Martha Bagauda Kaltho, wife of Bagauda Kaltho, testified that her husband left home back to Kaduna after the Christmas holidays but before he left, he assured them that he would come back home after one month. She became worried after she did not see him and started making inquiries as to his whereabouts. After she heard that he was in the custody of the state she sent a letter to the late Head of State, General Sani Abacha pleading that her husband be released. She also on August 10, 1998, sent another letter to the then Head of State General Abdulsalami Abubakar, pleading for his release.

The witness further testified that while she was at Billiri, she got an invitation from the police to visit Alagbon Close in Lagos. At Alagbon Close, she met Zakari Biu who informed her that they received 18 files from the Police Force headquarters and that her husband's file was one of them. He assured her that the detainees will all be released bit by bit. She said in evidence that she read in the papers about the bomb blast when she was returning from Lagos with the petitioner. She was shocked to read in the papers that her husband died in a bomb blast. More so since she had earlier pleaded with Zakari Biu to tell her what had happened to her husband but he was not forthcoming.

The third witness, ACP Zakari Biu, testified that he had read the petition against him and had also listened to the testimony of the witnesses. He produced his reply to the petition in writing. He testified that he had never met, arrested or interviewed Bagauda Kaltho while he was in service. He affirmed that on the order of the Inspector-General of Police, the D.I.G Force CID then Mr. Archibong Nkana directed him to take over the investigation of the case. In summary,

he stated, in his reply that Bagauda Kaltho was used by the management of *The News* magazine, particularly by Messrs. Dapo Olorunyomi and Babafemi Ojudu, to bomb the Durbar Hotel and that he died in the process. He said inquiries revealed that following the blast, the management of the *The News*' deliberately covered up the incident and falsely declared Kaltho as missing and deceived his wife into believing that he had been arrested by security agents. He said further that following the bomb blast, Olorunyomi surreptitiously left for the United States on self-exile, while the Kaduna Bureau Chief of *The News*, Timothy Bonnet, visited Bagauda Kaltho's wife and informed her that Kaltho was arrested by DMI operatives. He stated in his reply that the police neither arrested Kaltho nor detained him.

The counsel to the first witness applied to recall his client to tender an addendum to Exhibit 1, and the Chairman granted the request. The first witness was thus called to the witness box and the addendum was admitted by the Commission, and tendered, as Exhibit 2. The witness read the addendum in which he stated that the subject of their petition, Mr. James Bagauda Kaltho, left behind, after his disappearance, a wife, two daughters, two aged parents, three brothers and three sisters, who were all his dependants. These dependants of his have been going through psychological and mental trauma, as well as suffering material deprivation since his disappearance, he stated. He therefore prayed that a compensation of N25 million be paid to members of the Kaltho family and dependants to alleviate their sufferings. The witness was shown Exhibit 8, which contained four different pictures alleged to be of Mr. James Bagauda Kalto to identify. He identified only the first two photographs as those of Mr. Kaltho, He was also shown two pictures in Exhibit 10 and asked to identify them. He stated that the first of the pictures was Mr.

Kaltho while the second was not. Two other pictures in Exhibit 5 were also shown to the witness and he identified the first to be that of Mr. Kaltho's wife and her two children and the other as that of Mr. Kaltho.

Under cross-examination by counsel to Zakari Bui, the witness stated that he and Mrs. Martha Bagauda Kaltho had been to Kaduna where they visited the office of *The News* magazine in search of his missing brother. He said the boss of his brother in Kaduna, Mr. Bonnet, told them he thought Mr. Kaltho was in hiding in his (Kaltho's), village. Mr. Bonnet was said to have promised them then that he and the management of *The News* magazine would make efforts to trace Mr. Kaltho. He said the second trip in search of his brother was to Lagos and there he met some officials of *The News*, among who was one Mr. Bayo Onanuga. He said Mr. Kaltho's name had been published among those being detained by *Tell* magazine then. It was during this trip that *The News Magazine's* management approved to be paying Mr. Kaltho's salary to his wife. Responding to a member of the Commission's question, the witness asserted that nobody had ever told him that his brother had died except what he read in the newspapers to that effect. He then stated that his position on the matter was that security agencies that his missing brother had alleged were after him must have finally dealt with him. He said Zakari Bui had told him that if he did not cooperate with him he would never know the whereabouts of his brother. Secondly, he said Mr. Bui told him that his brother was one of the detainees that were about to be released. For these reasons he said he believed that Mr. Bui knew about the whereabouts of his brother. Finally, he concluded that Mr. Bonnet told him that he had reported the disappearance of his brother to the police.

The second witness, Mrs. Kaltho, was recalled by her counsel to the witness box. The witness was shown Exhibit 8 containing 4 different pictures. She identified the first two as those of her husband and the other two as not his.

Under cross-examination by counsel to Zakari Biu, the witness confirmed that she made a statement to the police at the Alagbon Police Station but denied that the statement in Exhibit 8 was hers, because the said statement was signed by one Mr. Caleb. She confirmed another statement that was shown to her as hers and it was admitted as Exhibit 17. She read it out to the Commission. The witness further stated that Mr. Bonnet had visited her once in Biliri village. She said she met with Mr. Bayo Onanuga in Lagos and expressed her displeasure to him about the unsatisfactory efforts of *The News* magazine's management to find her husband. She said *The News* magazine's management offered to be paying her husband's salary while he was still missing.

Answering another question, the witness said that some agents of the State Security Services (SSS) went to her in 1998 in Gombe to take away some pictures of her missing husband on the claim that they wanted to use them to trace him. She also said that Mr. Biu never mentioned nor linked her husband with any bomb blast on all the occasions she met him over her husband.

In response to some questions from his counsel, the third witness averred that he never signed any detention order for Mr. Kaltho. He further explained that it was professionally impossible to detain someone without making an entry into the relevant record book. He further informed the Commission that cell guards were those charged

with the protection of detainees in cells. These guards were regularly changed he said. He further said there were several record books in which entries about detainees were made at Force CID Alagbon Police Station and such record books included station diary, Blackboard, Detention Order, Cell register. He said Bagauda Kaltho's name would be found in these record books at the station if he was ever detained there. A letter by the SSS to the Inspector-General of Police in which Mr. Bagauda Kaltho was alleged to have died was tendered by the witness and was admitted as Exhibit 19. He said his press statement and conclusion on the case was based on the letter, (Exhibit 19), and other considerations and factors.

Under cross-examination by counsel for Independent Communications Network Limited (ICNNL), publishers of *The News*, the witness said he neither saw the person nor the corpse of Mr. Bagauda Kaltho. He said no forensic nor were DNA tests conducted on the bomb blast victim before he was buried. The family of the victim of the bomb blast was not called to identify the body, he admitted. He said the victim's body was marked as an unknown person. He said he was not aware that the Commissioner of Police in Kaduna, then, stated at a press conference that the body of the bomb blast victim was burnt beyond recognition, although he was aware that the Police issued a statement on the incident. The witness admitted that there were a series of bomb blasts across the country around the same period the Kaduna bomb blast occurred. He said Chief Olu Falae and some others were arrested and charged to court for the bomb blasts. He said neither the Independent Communications Network Nigeria Limited nor Femi Falana was implicated in the bomb blasts. He admitted that Mr. Femi Falana was the lawyer of the accused of the bomb blasts. The witness admitted that sometime in July 1993, he arrested and took to Abuja

Messrs Femi Falana, Gani Fawehinmi and Dr. Beko Ransome Kuti. He said the trio was not interrogated for any act of terrorism. He admitted that Mr. Femi Falana was detained in Nagawashi village in Jigawa state between 14 February and 20 November 1996, the period the bomb blast occurred in Kaduna. He said Mr Babafemi Ojudu was once interrogated by him at Alagbon but was never detained there. He said he was not sure then and now, whether Mr. Bagauda Kaltho acted on his own or in concert with Independent Communications Network Nigeria Limited in the bomb blast saga. He admitted interrogating about nine members of staff of the ICNNL on the whereabouts of Mr. Kaltho and the company's management staff. He said the nine members of staff were not charged to court but released to the counsel (Femi Falana). He said he had never come across any report that stated that the body of the bomb blast victim was burnt beyond recognition. He averred that it was in the letter of the SSS dated 22/12/97 to the Inspector-General of Police that the bomb blast victim was identified as that of Bagauda Kaltho. He said the body of the victim was never exhumed after its burial. The witness acknowledged that he was sued by the ICNNL for libel but did not know that his lawyer denied that ICNNL was linked with the bomb blast. He said it was only Ojudu that he had met among ICNNL management staff but that he was not aware of the latter's detention. He claimed to know about the imprisonment of Kunle Ajibade of *The News* magazine. He pointed that the best person who could make an authoritative pronouncement on the identity of the victim of the bomb blast was the author of the SSS letter to the Inspector-General of Police and not him. He admitted that he could not confidently say he knew what happened to Bagauda Kaltho because various security agencies engaged in uncoordinated arrests of individuals at the time he got missing.

The fourth witness, Mr. Babafemi Ojudu, led in evidence by the counsel of ICNNL the witness disclosed that he was the Group Managing Editor of the ICNNL, and that Mr. Bagauda Kaltho was also an employee of the company. He said the company lost contact with Kaltho in 1995. He said that in a reaction to the press conference held by ACP Hassan Zakari Biu in 1998 on Mr. Bagauda Kaltho, he, on behalf of his company, issued a press statement in which he questioned and debunked Biu's assertion and conclusion on Bagauda Kaltho that he died in the process of planting the bomb that exploded in Kaduna in 1996.

Cross-examined by counsel to Zakari Biu, the witness said his company reported the disappearance of Mr. Kaltho to the police and Human Rights Commission through their representative in Kaduna, Mr. Timothy Bonnet. He agreed that Mr. Kaltho's wife had once expressed displeasure over the nonchalant way the company was handling the disappearance of her husband. He said when all efforts to trace the whereabouts of Mr. Kaltho failed; the company started publishing it in its publications in June 1997. He said the public notification of the detention of Kunle Ajibade in the publications of the company immediately he was arrested was because the arrest was effected on the company's premises and it was clear that he was taken away by security agents. He said the conduct of Mr. Biu gave him the impression that he (Biu) might have been involved in Mr. Kaltho's arrest.

Answering questions from the petitioner's counsel, the witness said Mr. Kaltho joined the ICNNL from its inception in 1993 and worked there till his disappearance in 1996. He said Mr. Kaltho was a very

brilliant journalist. He said he believed Mr. Biu knew about the whereabouts of Mr. Kaltho. He said his company still paid Mr. Kaltho's salaries to his wife and was exploring ways to set up a Trust Fund for the welfare of his children.

The witness, answering questions from the Commission's lawyer, stated that Mr. Bonnet was released three days after his arrest in Kaduna. He said Mr. Bonnet informed the company that he was released on the condition that he would produce Mr. Kaltho for the Police. He said for that reason the company felt that the heat was on the journalist and asked him to relocate to Lagos for sometime. He said Mr. Bonnet did relocate to Lagos for a month or two and pointed out that it was not the time Mr. Kaltho was arrested. He said it was after the return of Mr. Bonnet to Kaduna that he sent a report on the disappearance of Mr. Kaltho to the company.

At this juncture, the Chairman wondered if it would be possible and useful to carry out a forensic or DNA test on the body that was purported to be that of Mr. Bagauda Kaltho. All the counsels in the matter agreed that if such tests were possible, it could be useful and therefore, worth exploring. The Chairman also pointed out that it would be necessary to first find out from the police where and how the body was buried. Mr. Femi Falana volunteered to inquire about the possibility of carrying out the tests for the Commission and asked for a letter of support in that regard to the police. The Chairman agreed to issue him such a letter.

The fifth witness, DCP Muktari Ibrahim, testified that the case was reported on 18/1/96. He claimed that he was informed by the D.P.O. that there was an explosion at Durbar Hotel Kaduna and that there

was an unidentified body lying at the scene. The witness testified that he and some policemen went to the scene of the bomb blast and that the bomb disposal unit came and joined later. He said that he carried a camera with which he took some shots of the scene. According to him, the expert told him that he discovered an unexploded bomb and a video-cassette at the scene. He said the corpse was later taken to the Teaching Hospital where he filled the necessary coroner's forms so that a post-mortem examination could be carried out on the body. He affirmed that on January 27, 1996, Zakari Biu came with a team from the Force C.I.D. in Lagos, to take-over the investigation of the case. He then handed over the case file to Zakari Biu on January 26 together with exhibits. The witness identified five photographs, which he took at the scene of the incident and agreed that the body was not burnt beyond recognition.

The seventh witness, Godson Eberechukwu Uzowulu, led by counsel to the Nigeria Police stated that he was a member of the bomb squad in Port Harcourt, Rivers State Police Command. He gave a run-down of his educational experiences and qualifications. He confirmed that he was head of bomb disposal unit in Kaduna Police Command in 1996 and that he was at the scene of the bomb blast at Durbar Hotel that year. He stated he was informed of the bomb blast when it occurred on January 18, 1996. He said that the blast was in the balcony and he found a corpse lying there when he went there. He said the corpse belonged to a male between 5 feet and 5 feet 6 inches and that it was blown. The groin had a deep cut, the right hand was damaged, the eye had multiple injuries and the hair had some burns on the right hand side.

He testified that he ordered everybody out when he came and that after studying the body it was evacuated. He alleged that on further investigation it was discovered that the blast occurred in a toilet, which shared a wall with the balcony. Further search revealed some torn clothes in the wreck. Hard textured plastics were also found as well as some cables, a cellophane bag with a video-cassette with the title: "Buhari's Interview". There was also another one bearing "Masters Broadcast; a book titled: the Man Died; a receipt in the name of Y. Y. Yusuf; a leg of brown sandals, a trousers belt and expanded Duracell batteries.

He revealed that on further observation the video-cassette titled "Master Broadcast" contained explosives. It was eventually detonated in his office. He concluded that it was after this that he made a report to the Commissioner of Police. The report was tendered and admitted as Exhibit 27.

Led by his counsel, he admitted that he had the defused video-cassette, which was found with explosives at the scene of the blast. The witness showed the device to members of the Commission and the public. He was asked to demonstrate his imagination of what happened by counsel. In the process, he stated that the evidence before him showed the possibility that the victim was in the process of placing the device under the toilet seat when it blew up and threw the victim off. He stated that the victim must have been affected by the "wave bang" of the explosion.

On the issue of the nakedness and completeness of the corpse, he argued that the absence of metallic fragments in the explosion meant the body could be intact but the flash of the explosion was capable of

tearing off the victim's clothes. The witness at this juncture identified the picture of the victim as well as the scene of the explosion. He also confirmed that the Banquet Manager of the Hotel Mrs. Sarah Luka was wounded and treated at the Belmont Hospital Kaduna. After reading from paragraph 9 of his report, the victim was Y.Y. Yusuf. He also agreed with counsel that he believed the body was that of the victim who was carrying the explosive.

Cross-examined by counsel to Major Hamza Al-Mustapha and A.C.P. Zakari Biu, he stated that it is possible for one to carry two explosives and for one to detonate without affecting the other. He explained further that it could only explode when opened to the extent where the explosive is activated.

Asked to compare the bomb blast in Kano and Kaduna, which he both dealt with, he stated that he reached his conclusion based on their similarities. He agreed that another professional of his standing is likely to reach the same conclusion as he did.

He agreed with counsel that an S.I.I.B team led by A.C P Zakari Biu was sent to investigate the blast and he handed over all exhibits to him. He also confirmed that Mr. Biu could not have seen the corpse on the day of the blast, as he was not there. He also agreed that the S.I.I.B came in because of his own limitations as bomb expert as opposed to an investigative expert.

He stated that he had no evidence that the victim he found at the blast scene was Bagauda Kaltho. Cross-examined by the petitioner's counsel, he stated that his job in relation to the blast was limited to the scene of the blast. Witness stated on further questioning, that he

could not confirm or identify that the victim was Bagauda Kaltho and that he had never met Mr. Kaltho in his life.

Asked to compare the case he handled in Kaduna and that of Dele Giwa he stated that there was a difference in the sense that Dele Giwa had the explosion on his lap i.e. close to him. Secondly, the contents of the explosion that killed Dele Giwa is not known to him. In the case of the Kaduna bomb blast there was an evident distance between the victim and the explosion and the explosion did not seem to have fragments.

He denied counsel's view that only an expert could handle the kind of explosive used in Kaduna.

Asked to explain the fact that ACP Mukhtar did not mention any sandal in his testimony, but he the witness did, he explained that he found it because Mukhtar did not and he could not explain the latter's inability to find the sandals.

On further query on the nakedness of the corpse, he said the wave band was enough to remove even his pants. He explained that it is possible that the exhibits found in the polythane bag could not be affected by the blast because the bag had to be placed somewhere to enable the victim lay the other bomb he had.

Witness disagreed with counsel that there was a conspiracy by the Police and the SSS to hoodwink the public on the case.

Cross-examined by counsel to the Commission, he stated that he did not have anything to do with the corpse after carrying out his

professional assessment. He said that he did not know whether or not the corpse was buried. The witness re-stated his view that the “wave band” bomb blast was enough to tear the clothes the way it was found and that he could not confirm with certainty whether or not the bomb that blasted Dele Giwa was a hand made bomb.

Cross-examined by counsel to the Network Communications Ltd., he agreed that he came to the scene some hours after the blast and that anything could have occurred in-between. He also agreed with counsel that his findings did not show that the body was burnt beyond recognition as stated in the press statement given by the Kaduna Police Command on January 19, 1986. He also agreed that his report dated January 23, 1986 was concluded after the said press conference. Counsel to the SSS in the process of cross-examination presented seven pictures, which were identified by the witness. The pictures were tendered in evidence and admitted.

Cross-examined by counsel to the SSS he agreed that there was a difference between “identity” and “recognition”. He also testified that to his knowledge, nobody ever reported that any Y.Y Yusuf was declared missing or dead. He also restated his view that a non-expert could detonate an explosive but he could not say how long it would take to carry out such a detonation.

Asked by the Chairman to explain some inconsistencies in the evidence before the Commission, witness stated that the dress on the victim were possibly a European-shirt and trouser. A member of the Commission made some observations on the theory of body swapping. He asserted that it could be swapped in hotel vicinity without witnessing the act.

Led by counsel to the SSS, the eighth witness, Samuel Fola Caleb, stated that he was an officer with the State Security Services. He confirmed that he once served in Kaduna. He also confirmed he knew Bagauda Kaltho because he used to visit a colleague who shared a flat with the witness. He testified that Mr. Kaltho eventually squatted with his colleague between 1992 and 1993. He testified that he saw him last in June 1995 and cannot say where he is now. He also stated that he could not say exactly where Mr. Kaltho moved to after leaving their flat in 1993. Witness also confirmed making a statement to the Police on the disappearance of Mr. Kaltho. He identified the statement and was asked to read the first two paragraphs. After reading it, he restated his position that Mr. Kaltho left them in 1993.

Asked if he could identify Mr. Kaltho in a picture, he replied in the affirmative. He was then presented some pictures already tendered to so identify. He stated that he couldn't conclusively identify them as Bagauda Kaltho because the pictures are not clear.

He also confirmed that he knew Mr. Kaltho's wife and that she stayed with them for between 10 and 14 days in 1993. He stated that the next time he saw her was in 1996 when she came to him to complain that she could not locate her husband. He testified that she told him that she heard that her husband was being detained by the SSS and he assured her that if he was with the SSS he would know. He then directed her to proceed to Lagos to continue further investigations. Witness reiterated that Mr. Kaltho was not arrested by SSS and that to the best of his knowledge Mr. Kaltho had no problem with the SSS.

Witness was then cross-examined by counsel to the Police. He confirmed that he related professionally with Kaltho as he was a source of information for him (witness) and the SSS. Counsel at this juncture presented witness with a document that is an exhibit before the Commission. Witness refused to read it as the document was not his own.

The ninth witness, Mr. Gadzama, was the State Director of SSS in Kaduna from 1993 to October, 96 - the period when the Durbar Hotel bombing occurred. He stated that he was at the Commission to testify about the incident. He stated that he had not known or ever seen Bagauda Kaltho. The ninth witness admitted that he was aware of the bomb blast on the January 18, 1996, but did not go there till the following day. He stated that he was alerted about the incident by Assistant Director Operations, who told him he had dispatched a team who had reported that a body was found at the scene of the bomb blast together with an unexplosive device and a copy of the book, "The Man Died" by Wole Soyinka. The ninth witness admitted that he would be able to identify photographs of the body, but could only identify two of the pictures when they were presented to him. (Exhibit 24a and Exhibit 24b). He recalled that they recorded over 27 exposures and immediately forwarded the "incidence report" to their headquarters. The ninth witness identified Exhibits nineteen and nineteen.two as the letter he sent to the Inspector-General then and the attached brief he asked Darma? to prepare, respectively. He admitted that the letter to the IG of Police was mandated by the Director General of SSS. It was tendered and marked as Exhibit 29. He disclosed that Darma was the Schedule Officer at the Counter Terrorism desk, then in January 2001. The ninth witness agreed that he was aware that there was a terrorism investigation team in place

headed by Zakari Biu. He also admitted that the IG had acknowledged in Exhibit 22 and receipt of the letter he sent (Exhibit 19). With reference to Exhibit 22, the ninth witness claimed that the Inspector-General and the Task Force were fully aware of the facts. He would not accept Zakari Biu's conclusion in Exhibit 24 (pg. 18 - 19). The counsel for the SSS observed that while SSS reports were not conclusive, the Police report was, yet Biu claimed he based his conclusion on the SSS reports.

Under cross-examination by the counsel for the petitioner, the ninth witness replied that he did not share the view of Biu. He said there was no clue as at the time of the incident being investigated and that even now he still could not say that the person that died at the scene of the Durbar bombing was Kaltho. Counsel recalled that the letter on which Biu based his conclusion was from the SSS. The ninth witness denied knowing any other security group operating, then, apart from the Counter Terrorism Team, which he requested the Inspector-General to direct them to take over the investigation. A Commissioner observed that Major Hamza Al-Mustapha's evidence claimed that the Inspector-General positively identified Kaltho as the deceased to General Sani Abacha in his presence should be looked at seriously. Counsel drew attention to the fact in Exhibit 1, page 1, paragraph 1, that Kaltho had sat his family down and told them that his life was in danger because he was being hunted by security agents but the ninth witness stated that it would be unfair for him to comment on that as he was not there. The ninth witness also disclosed that Darma, the Officer who wrote the intelligence summary of the report died earlier this year, as a result of sickness.

In another cross-examination by counsel for Independent Communications, the ninth witness said he was surprised that Zakari Biu claimed to have relied on the SSS reports because they (the SSS) had not investigated the claims or allegations from Lagos as referred to in Exhibit 19. He also said he was aware that Femi Falana was incarcerated for ten months after Kudirat's death. The ninth witness was also not aware that Prof. Wole Soyinka had claimed funding the pirate "Freedom Radio". He was also not aware that Yomi Tokoya was the informant on that issue. The ninth witness in the course of re-examination stated that the police were not bound to adopt the SSS reports.

The counsel for the petitioner requested for the summoning of the former Inspector-General of Police, Alhaji Ibrahim Coomasie and Kunle Ajibade whose cross-examination was stopped midstream, to be brought for cross-examination. He argued that Coomasie's presence was necessary considering the evidence given by another witness that a day after the said blast, the Inspector-General went to the late Head of State with a photograph of Kaltho. A Commissioner suggested that Al-Mustapha and Zakari Biu should also be re-called to clarify this matter. The Chairman asked the counsel for the Commission to serve Alhaji Ibrahim Coomasie and Zakari Biu summons through counsel for the police.

**PETITION NO. 1506: PETITIONER: AKINMO A. ADESHAKIN**

The petitioner was absent and was not represented by any counsel. The petition was therefore struck out while the petitioner was granted the liberty to re-list it if he so wished whenever he showed up.

## **PETITION NO 1761: ALHAJI SANUSI MATO**

The petition is about alleged unlawful arrest, detention, torture and trial for being accessory to the facts of treason by a Special Military Tribunal in 1995. The petitioner's initial petition was heard at the public hearing at the Lagos centre but the petitioner applied to replace his earlier petition with another one which he said was slightly different from the other. His request was granted and the new version of the petition was admitted as Exhibit 2.

Led in evidence by the Commission's counsel, the petitioner read his petition in which he alleged he was unlawfully arrested, detained, tortured and tried for being an accessory to the facts of treason by a Special Military Tribunal in 1995. He said he was not allowed a counsel of his choice to defend him during the trial but a military lawyer was forced on him as his defence counsel. He said he was consequently convicted, initially jailed for life and later the sentence was reduced to fifteen years. He asserted that his real offence was that he obliged the request of his cousin Colonel, Lawan Gwadabe, to inform some individuals that he (Col. Gwadabe), had been arrested and detained for no offence. He said he was also told that he was arrested because he went to see Col. Gwadabe where he was detained, whereas he visited the Colonel with the permission of the security personnel. He said he was physically tortured by way of being slapped by Col. Frank Omenka during interrogation. He said he was subjected to psychological and mental torture in detention, and was subjected to interrogation sixteen times. He said he was denied medical attention in prison when he was sick and the only time he was given medical treatment, it was done under duress and crudely too. He claimed that his grandmother who brought him up developed high blood pressure and eventually died of the complication due to his incarceration. He

said he lost seven of his commercial vehicles and the government revoked all contracts that had been awarded to his company. He submitted a list of the losses incurred by his company as a result of his ordeal and it was admitted as Exhibit 3.

The petitioner claimed he met one Colonel Ibrahim Yakassai in prison and the latter confessed that he (witness) and others were deliberately framed-up by top security authorities for the offence they were convicted for. He said Colonel Yakassai disclosed to him that there was a plan to eliminate General Yar Adua, General Obasanjo, and Colonel Gwadabe among others in prison.

He said he met General Yar Adua in prison and the latter told him that he had been injected with a lethal substance.

The prayers of the petitioner were that the Federal Government should tender an apology to him for the ordeal he went through. He demanded compensation for the losses he incurred in his business as contained in his Exhibit 3 and wanted to be compensated for the psychological and mental trauma he went through in any form the Commission deemed fit. He also wanted those who tortured him to be prosecuted.

At this juncture, the Chairman pointed out that although the Commission would not hesitate to recommend compensation to victims of human rights violations where necessary, it was a different kettle of fish for the Government to accept and effect the compensation. He pointed out that the National Assembly would have to be involved for the Government to be able to effect such compensation. He said petitioners would have to bear these facts in

mind in their expectations over their demands. The Commission and Counsels agreed that since no one had come up to contradict the deposition of the petitioner, it did not need any corroboration from anybody. The case was thus closed.

## **CHAPTER SIX**

### **ENUGU CENTRE**

#### **INTRODUCTION**

6.1 The public hearings at the Enugu centre were held from 18 April 2001 to 7th May 2001. The venue was the Old Enugu House of Assembly, State Secretariat, G.R.A. Enugu. The first day commenced with an opening ceremony attended by several dignitaries. The Chairman of the Commission delivered a keynote address, in which he highlighted the desire of the Federal Government in setting up the Commission, notably to effect reconciliation in the polity and heal the wounds of the past. He added that the Commission was mandated to suggest ways of preventing a reoccurrence of such vices in the future. He called on those present to freely discuss and contribute to the proceedings. He further requested the people to help answer three key questions: What caused the 1966 coup? Why was there a civil war? What caused the pogrom?

6.2 A goodwill speech was also delivered by the Chairman, Enugu State Chapter of the Nigeria Bar Association. He commended the brief of the Commission and its composition, and hoped that government would accept and implement the recommendations of the Commission. The Attorney-General and Commissioner for Justice,

Enugu State, were also in attendance. While lamenting the violations of the fundamental rights of Igbo people since 1966, he urged the Commission to address these abuses. A similar goodwill address was made by the Chief Judge of Enugu State.

6.3 The Acting Governor of Enugu State welcomed members of the Commission to Enugu State. He highlighted the importance of reconciliation, stressing that rehabilitation, restitution and compensation were all critical to the process. The Commission assured the audience that it would do its best to achieve its mandate.

6.4 The opening ceremony ended at 12.30 p.m., after which the Commission began its public hearings. The following cases were taken in the course of the Commission's sitting in Enugu. The cases are arranged sequentially based on the HRVIC reference numbers of the various petitions.

**PETITION NO. 83: PETITIONER: BONIFACE AMADI**

The petition was about harassment, intimidation, unlawful detention and psychological torture caused by the Police. The reliefs sought include: an investigation of the allegations, vetting the Police files, publication of the legal advice of the Imo State Ministry of Justice, restraining the Imo State Police Command from further harassing the petitioner, and payment of adequate compensation. The Commission's counsel hinted that this case was before a court. Even though counsel to the petitioner denied it, the Chairman ruled that the petition was outside the terms of reference of the Commission. It was struck out.

**PETITION NO. 88: PETITIONER: PAUL ALLANAH**

This was a case of intimidation, wrongful arrest and prolonged detention without trial by the Police. The petitioner said he was arrested and detained for 16 days in Benin and 40 days in Lagos on account of theft, and allegedly based on false information. The prayer of the petitioner is for redress, public apology from the Police, and compensation.

The Police in their response argued that the petitioner was detained for only three days, and granted bail, but nobody was around to bail him. The petitioner stood his ground. The Chairman stated that it was unlawful to detain anyone for more than a day for any offence, let alone stealing. The Police noted that the DPO who handled the case was not served any summons. The Chairman directed that the Inspector-General of Police should re-investigate the case and report back to the Commission at the second Abuja. **(adjourned to the next Abuja).**

**PETITION NO. 118: PETITIONER: CHIEF F.N. UWANDU**

It is a case of illegal shooting of Paschal Uwandu, son to the petitioner, by a Police officer, Corporal (now Sgt.) Emmanuel Okoroafor. The petitioner, in pursuing this case, was himself arrested by the Police over alleged trailing of the culprit. The prayer of the petitioner is that the culprit should be brought to justice.

Emmanuel (Emmason) Okorafor, the respondent and second witness, maintained that the deceased was an armed robber, who was killed during exchange of gun fire between the Police and a gang of five armed robbers. He added that the deceased had a history of armed robbery, a charge denied by the petitioner.

The Administrator-General of Imo State Judiciary, third witness, hinted that when the case came before him, he advised that the victim be charged for receiving stolen goods rather than armed robbery, while the Policeman involved should be charged for manslaughter and not murder. Cross examinations showed a number of irregularities in the management of this case from both the Police and the Imo State Ministry of Justice. For instance, the Imo State Ministry of Justice was said to have been relating closely with the petitioner, while the name of the suspect was said to have been missing on the charge sheet. Sixteen exhibits were admitted, and 3 witnesses testified. While calling for additional facts from the petitioner and former Attorney-General of Imo State, the Commission closed the case by requesting counsel to submit written addresses.

**PETITION NO. HRVIC 180: PROF. OLEKA K. UDEALA AND MRS. GRACE UDEALA**

The petition had to do with the attempted assassination of Professor and Mrs. Udeala, and the violation of the human rights of his family. The Professor said he was persecuted by Professor Umaru Gomwalk, former Vice-Chancellor of the University of Nigeria Nsukka; and Col. Lucky Torrey, then Enugu State Military Administrator. His official lodge was allegedly invaded, and an attempt on their lives was made. He added that he was illegally removed as Vice-Chancellor and denied his salaries and other entitlements due to him. He prayed as follows:

- a) Those who attempted to assassinate him should be called to order and disciplined in accordance with the law,
- b) Full restoration of his position to complete his term as Vice-Chancellor, and thereafter retire voluntarily in the spirit of reconciliation,

- c) The University of Nigeria, Nsukka to pay his full entitlements, including medical fund (looted at his residence) to his wife, and out of pocket expenses and compensation and reparations for property looted at the lodge and those destroyed through arson,
- d) Varied sums in monetary compensation, as follows:
  - i) N50 million to his first son for disrupting his studies
  - ii) N20 million to his other children for traumatic experiences
  - iii) N100 million for his unlawful removal as Vice-Chancellor
  - iv) N100 million for the traumatic experience he encountered
  - v) N100 million for looting his wife's medical funds
  - vi) N100 million for what the family went through
  - vii) N100 million for character assassination
  - viii) N100 million for looted documents and pictures

The total monetary relief asked for is **N670 million**.

The Commission was informed by respondents that there was no plan to assassinate the petitioners, and that the VC's removal was caused by a report of an investigation panel which found his administration to be fraudulent. All those accused denied the charges of planning to kill the Professor and his wife. Counsels were called upon to present addresses which should take note of the petitioner's prayers, and whether they are within the jurisdiction of the Commission's terms. All relevant legal issues were also to be addressed. The case was adjourned to next Abuja because petitioner was absent on 7th May

when addresses were to be taken. Six witnesses testified, and seven exhibits were admitted.

**PETITION NO. HRVIC 201: OGBUESHI PARTICK C. ISIDI**

The subject matter of the petition was the unlawful killing of Rev. Fr. Emmanuel N. Isidi on a day he was meant to appear in court over the issue for which he was killed; and the alleged refusal of the police to investigate, arrest and prosecute the culprits. The petitioner was also worried by the undue harassment of the family of the deceased by the police. The petitioner prayed for the release of recording gadgets belonging to the deceased and which are relevant to the investigation. These include a mini-tape recorder with recordings, and a wrist watch with close circuit built-in recorder, all held by the police and the Issele-Ukwu Diocese respectively. The petitioner's prayers include proper investigation, identification and prosecution of the killers of the deceased.

The Commission encouraged parties through their counsel's to settle out of court. The Asagba of Asaba, who was invited by the Commission as a witness, was called upon by the Chairman of the Commission to intervene and attempt to resolve the civil matters of the case. A meeting was summoned for this purpose, even though the first witness expressed fears based on the claim that the Asagba had taken sides. The Commission still called on parties to cooperate for a settlement. The Commission ordered the Inspector-General of Police to re-investigate the murder aspect of this case and report back to the Commission. It encouraged the various quarters in Iyagba to try and reconcile among themselves. Three witnesses testified in this case, and three exhibits were tendered and admitted.

**PETITION NO. 212: PETITIONER: GODSON OFFOARO**

This petition was based on the disappearance and possible murder of the brother of the petitioner, Chinedu Offoaro, who worked for *The Guardian* Newspapers. The petitioner believes his “disappearance” was perpetrated by the General Sani Abacha regime based on his critical comments on national issues. He believed that Dr. Walter Ofonagoro and the Directorate of Military Intelligence (DMI) were responsible for the disappearance of Chinedu. He said he wrote Dr. Ofonagoro about the disappearance of his brother without any response from him. The petitioner likened the case of his brother to that of Bagauda Kaltho of *TheNews* magazine. He decried the lack of interest shown by *The Guardian* Newspapers, employers of his late brother. He was praying the Commission to help him unravel the mystery of the disappearance of his brother, Chinedu Offoaro. He also demanded for a compensation of 10 million naira.

Dr. Walter Ofonagoro, in responding to the petition, argued that the petitioner was sponsored to assassinate his character. He denied receiving a letter from the petitioner, adding that he never caused the arrest of any journalist during his tenure as Minister of Information. He also informed the Commission that he was not aware that Chinedu was missing.

The DMI also responded to the petition in writing, stating that it knew nothing about the case.

A member of the Commission prayed that the petitioner’s brother would be found alive, and suggested that the Police be ordered to open up investigation of the disappearance of the petitioner’s brother. The

Commission directed that a letter should be prepared and sent to the Inspector-General of Police of Police to re-investigate the matter. The case was closed on this note. Nine exhibits were presented and admitted, while two witnesses testified.

**PETITION NO. 256: PETITIONER: EMMANUEL CHUKWUDI NWAFOR**

This was a case of the killing of Obinna Peter David Nwafor, in which suspects were arrested by the Police but later set free. The petitioner prayed that those who committed the murder should be arrested and prosecuted.

The Commission directed its counsel to write the Inspector-General of Police requesting him to investigate the murder and report back to the Commission at its next Abuja sitting. The Police complied and sent in a report of their re-investigation to the Commission at Abuja. The report was read to the Commission. The Chairman, however, noted that there was no eye-witness, or any witness linking the suspect with the killing, and so the allegations remained a mere suspicion. The Commission was advised by its counsel to send the entire casefile and statements of witnesses to the Director of Public Prosecutions of Edo State for legal advice.

**PETITION NO. 262: PETITIONER: CHIEF ISAAC ODERINDE AND 2 OTHERS**

This case is about the murder of six persons by persons who are still walking about freely. The petitioner claimed that the matter was investigated, but they did not know anything about the outcome of the investigations. He came to the Commission to request for a release of the report of the special Crack Squad set up by the Inspector-General

of Police. He wants the report to be made public and petitioners should be served copies. They want the matter properly investigated, and the culprits prosecuted. A compensation of 20 billion naira was demanded to be paid to the families for the death of the six persons.

Even though it was revealed that a crack squad was set up by the Inspector General of Police on this case, the report was not being sighted. The Commission granted that the case should be investigated by the Police if it was not, and should be re-investigated if it was improperly done, with a view to charging those against whom a *prima facie* case is made, to court. The Commission's counsel will write the Inspector-General of Police to institute this investigation. The issue of investigation will be looked into only after the criminal proceedings.

**PETITION NO. 264: PETITIONER: PRINCE JOHN I. MADUKASI**

The petition was over the assassination of His Royal Highness, Eze John I Madakusi, and the subsequent failure of the Police to fully investigate the assassination. The petitioner, son of the deceased, is seeking an order from the Inspector-General of Police to set up a Special Squad to investigate the murder of the deceased, and, thereafter, prosecution of those behind the assassination of the Eze. The Police informed the Commission that some of the suspects questioned denied any knowledge of the killing. The Commission deplored the attitude of the Anambra State Ministry of Justice and the Police, stating that it was wrong for them to attempt to usurp the powers of the High Court. The Commission granted the prayer of the petitioner and ordered a reinvestigation. There were three admitted exhibits and two witnesses. The case was closed.

**PETITION NO. 307: PETITIONER: UGOEZE FIDELIA AHUMIBE**

The petition was over the unlawful assassination of Prince Emeka Ahumibe, brother of the petitioner, by men of the “*Operation Bang*”, Abia State. The petitioner was seeking an unspecified amount of monetary compensation for this killing. He also wants the culprits arrested and tried. It was explained in the course of deliberations that the deceased was killed by an Army officer, Gunner Hassim Ibrahim, who served at the 32nd Brigade, Obinze, and not a Police man.

In his response, the respondent claimed that he mistakenly shot the deceased, but his aim was to deflate the tyres of suspected criminals. He stated that the suspected criminals refused to stop when ordered to do so.

The Commission was informed that there was a pending charge against the culprit who shot the deceased, but the problem was that of handing him over to answer the murder charges prepared against him. The Commission handed over the suspect to the Director of Army Legal Services, and ordered him to further make him available to the Abia State High Court to answer the murder charge against him. Following this development, counsel to the petitioner applied to withdraw the petition. The application was granted, and the petition was struck out. Four exhibits were admitted.

**PETITION NO. HRVIC 396: NNAEMEKA CYRIL OWOH**

The issues in this petition were the execution of the brother of the petitioner (Bartholomew Azubuike Owoh) under a retroactive decree promulgated by the Buhari regime in 1984, whereas his brother was arrested in July 1983 ahead of that decree. The deceased was also denied the right to appeal against the judgment. The reliefs asked for

by the petitioner include: condemning the action and declaring that the trial and sentence of the Tribunal which sentenced him, and the Supreme Military Council that endorsed, it was repugnant to the rule of natural justice, equity and good conscience; and a gross violation of fundamental human rights of the deceased. A compensation of one billion Naira from the Federal Government is also being asked for. The respondent on his part explained that the deceased violated a decree with stiff penalty, and that retroactive decrees were in vogue then. The Commission demanded for the composition and proceedings of the minutes of the Supreme Military Council on the case for additional information. General Mohammodu Buhari was also expected to appear and shed more light.

At the third Abuja sitting where the case continued, the Commission was informed that the proceedings of the Supreme Military Council could not be found. Furthermore, General Mohammodu Buhari refused to appear before the Commission to shed more light on the case. The Chairman closed the case by asking for addresses within two weeks.

The Commission also permitted a counsel for *Interights*, London, to make an address. The counsel stated that this was a case of death through the use of the instrument of the state. He reiterated the fact that the deceased was arrested in 1983, tried and sentenced before the military took over power in December 1983. The backdating of Decree No. 20 of 1983 was responsible for the execution of the deceased, who would have been out of prison within six months were he was tried under the subsisting law when he was arrested. He described the act as indescribable negligence, willful murder which was wrongful and unlawful. He discussed extensively and cited many

legal authorities to back his stand. He gave the Commission some reference materials on the issue.

**PETITION NO. 404: PETITIONER: LAZARUS J. OPARA**

This petition was the case of an unlawful detention for eleven days, of Oji Oma by the Police at the Umuahia Central Police Station, leading to his death in detention. The petitioner alleged that the deceased was left to die because the family did not give the police the money they demanded. The petitioner demanded 50 million Naira compensation, and investigation of the circumstances surrounding the death of the deceased, as well as prosecution of the culprits. The Police Counsel argued that the arrest was lawful, but the prolonged detention was unlawful.

The Commission came to the conclusion that the duration of the detention made it unlawful, and that the particular Police officer responsible for that unlawful detention should take responsibility. The Commission advised the Police to go through their records in order to determine which officer was responsible for this illegal detention. Three exhibits were tendered and admitted. The case was closed.

**PETITION NO. 409: PETITIONER: CHIEF THOMAS UDENCHUKWU IDU**

The petitioner made a case for his late brother (Chief Emmanuel Idu) who was eliminated because of a chieftaincy dispute in their community. The deceased was said to have told his son, before he died, the names of those who shot him, and their sponsors. Those arrested and charged to court had been on bail for a year, and the case file was said to be missing. He believed there would be no justice.

The petitioner requested for Police protection for himself and members of his family.

The Chairman of the Commission directed the Police to give the petitioner protection. The Chairman noted that the case was already in court and so the Commission could not take it. However, the Commission would write the court to give accelerated hearing to the case. The Commission further advised the petitioner and his lawyer to explore the means of bringing about reconciliation between them and their adversaries. The case struck out because it was in court.

**PETITION NO. 427: PETITIONER: CHIEF B.O. BEREDUGO  
AMBULE AND OTHERS FOR THE OKPAOMA/EWOAMA  
COMMUNITY**

The petition was about the alleged violation of the human rights of the Okpoama community of Brass Local Government Area (LAG), Bayelsa State by the Armed Forces of the Federal Republic of Nigeria on January 4th 1999. The background was a community conflict between Okpaoma/Ewoama and Twon communities which occurred on 3 August 1998. The Armed Forces personnel guarding Agip installations were said to have attacked and devastated Okpaoma town, allegedly in support of the Bayelsa State Government, capitalising on the sour relationship between the rival communities. Agip Oil Company was accused of supporting the attack and providing logistical support to the soldiers. Agip Oil denied involvement in the attack on the communities.

The prayers of the petitioners were for the victims of the Okpoama/Ewoama communities to be given relief materials, and for a 100 million Naira compensation to be paid to the communities by Agip

Oil Company. Those who lost property are also to be compensated for physical, mental and psychological agony. In addition, Agip should be reprimanded; and a secondary school science laboratory destroyed during the fracas be rehabilitated. The case was closed in Enugu, and written addresses were asked for.

At the third Abuja sitting, however, the case continued with Col. Charles Omoregie, as third witness, testifying before the Commission. He insisted that as leader of the team charged with the internal security of Bayelsa State, he could not affirm that there was no attack on the Okpoama/Ewoama community. Rather, certain Ijaw youths were fond of attacking and sabotaging oil installations. He posited that the troops in the area were deployed to secure oil installations. A member of the Commission noted that learning from the Ogoni saga, the fact that the third witness was unaware of an attack does not necessarily mean that there wasn't one. Thirteen exhibits were tendered and admitted. The matter was closed, and written addresses asked for within two weeks.

**PETITION NO. 474: PETITIONER: TIM AKPAREVA**

This petition was filed by the National Association of Sea Dogs, alleging human rights abuses and torture to their members in Enugu and Port Harcourt. It cites the example of Ifeanyi Onochie who was arrested and detained along with others for eleven and half months. Other members in Port Harcourt were said to have been detained, tortured and flogged with horse whips, and their names were published in *The Guardian* newspapers. They were later taken to the Miscellaneous Offences Tribunal where they were discharged and acquitted, only to be re-arrested and arraigned before a High Court in Port Harcourt. The petitioner testified that the organization was

registered with branches worldwide. He added that the group was a social organization with safe and good objectives.

The reliefs sought include: the determination of the extent of the violation carried out against members of the Confraternity in Enugu and Port Harcourt, a public apology in a national daily to the group by the former Commissioner of Police in Rivers State, Abdulkadir Musa, and the release of the group's documents seized by the Police. In addition, the Police should be restrained from further harassing the members of the group. They should be paid 50 million naira for general damages.

Ifeanyi Onochie, who was the second witness, told the Commission that he was tortured at the Enugu barracks by daily whippings and made to roll on the floor in what the torturers referred to as "operation hot tea".

DSP Festus Nwamae spoke for the Rivers State Police Command, and as a representative of the Rivers State Panel of Inquiry on Secret Cults. He said the investigation of the cult activities of the petitioners was carried out by a joint team of the Army, SSS and the Police. He said the detainees were students of the Rivers State University of Science and Technology, Port Harcourt and the University of Port Harcourt. He added that apart from their confessing to being members of a secret cult, their initiation rites in the night, marked with bonfire, blood and other items, indicated they were cultists. A skull belonging to one of the petitioners named "Evil Surgeon", was said to have been impounded and submitted as an exhibit. The suspects had been provisionally charged before a Magistrate Court. Under cross examination, the third witness maintained that even though the

suspect from whom the skull was recovered was a medical student, the skull was not kept for study, adding that the University he attended disclaimed ownership of the skull. The third witness told the Commission that if the activities of the National Association of Sea Dogs were known to the Internal Affairs Ministry, it would not have registered the association. He further recommended that their registration be revoked and the members be tried in a court of law.

The Chairman addressed two issues. First was whether or not the rights of the suspects were violated. The second was whether such associations should be encouraged in the universities. He added that cult membership notwithstanding, suspects should not be tortured. The Chairman, in closing this case, asked for written addresses to be submitted on the following issues:

- a) Could the National Association of Sea Dogs be described as a secret society under the law?
- b) Could the Association be described as a cult vis-à-vis the evidence before the Commission?
- c) If both positions above are correct, could the accused be prosecuted?
- d) Suppose the accused were cultists, is it justified to torture them?
- e) Was the arrest of the suspects legal or not?
- f) Would the period of detention be justified under the law?

A total of 18 exhibits were tendered and admitted in this case.

**PETITION NO. 564: PETITIONER: CHIEF GABRIEL MBANISI**

The petitioner testified at the Commission through his son as a result of ill-health. Six exhibits were tendered and admitted. The case is about the murder of the son of the petitioner, Anthony Mbanisi, at the

Onitsha General Hospital on 11 November 2001 because he gave evidence against arsonists at Onitsha market at the Panel of Inquiry investigating the market fire episode. The suspects who were charged to court were later discharged and acquitted by a High Court under allegedly questionable circumstances. The petitioner has been trying to appeal, but the records of court proceedings could not be obtained. The court allegedly blocked access to the proceedings. The petitioner had written to the Minister of Justice about the case, and in reaction, got a writ of summons where the Chief Judge of Anambra State sued him for 30 million Naira for defamation of character. The prayer of the petitioner is for the investigation and prosecution of the culprits.

The Chief Registrar of the court had earlier declined to come to the Commission, claiming he knew nothing about the case and had no information to give the Commission. He later appeared and apologized. The Chairman had earlier directed that a bench warrant be issued to compel him to come. *(Witnesses absent. Case adjourned to 3rd May, but absent from records).*

**PETITION NO. 594: PETITIONER: ERIC MBADUGHU**

The petition was against the illegal invasion of the residence of the petitioner on the 3rd of February by one Captain Zubairu, then leader of “Operation Storm”, Imo State, along with his “boys”. He explained that the soldiers stripped him naked and beat him after shooting his friend (Mike Naze) in the house. Mike Naze narrowly survived after some major operations and was still receiving treatment at the time the petition was being heard in Enugu. The petitioner added that he passed out when he was being beaten, and has since then been having intermittent blackouts and serious headaches. They later arrested and illegally detained him for five weeks at the 34 Artillery Brigade

barracks, Obinze. The petitioner claimed that he lost valuables during the assault, among them cash, electronics, travelling documents, and jewelry. The petitioner's prayers include a redress of the violation of his human dignity, and an unspecified amount in compensation.

**PETITION NO. 720: PETITIONER: COMRADE EMEKA UMEH**

This was a case of a man, Paul Adibe, said to have been killed in Police custody as a result of alleged torture by the Police in Awka. The father of the deceased and the Civil Liberties Organization (CLO) were the principal witnesses.

The Police counsel explained that the deceased was arrested and charged to court, but took ill and died of cerebral malaria. He said the Police obtained two separate medical reports to establish the cause of the death. The Commission wanted the petitioners to establish that the deceased died as a result of torture. Counsel to the petitioner was permitted to produce an amended version of his petition as he had requested. The case was later adjourned to the next Abuja sitting. There, the doctor who conducted the autopsy responded in writing. He attributed the death to cerebral lesions in the head, possibly caused by tear gassing. The Chairman concluded that the autopsy was not enough evidence on which to charge the Police. He called for addresses to be submitted by counsels within three weeks. Three exhibits were admitted.

**PETITION NO. 848: PETITIONER: MRS. UCHAA IRO OLUA**

The subject of the petition was the mysterious death of Iro Olua on January 1 1999. The petitioner prayed for investigation and justice. The Commission was informed that the case was in court, and that two of the suspects were military personnel, and there was difficulty

apprehending them. The Commission directed that the Chief of Army Staff be written to produce the two military suspects on 3 May 2001. The Solicitor-General of Abia State and counsel to the Commission were to liaise with the relevant High Court to get concrete facts on the case.

**PETITION NO. 859: PETITIONER: MRS. UZOMA EZIKPE**

The case was one of acid attack against the son of the petitioner, Rev. Ogba Okoro Ezikpe, which eventually led to his death. The deceased identified and named the attackers and their sponsors. They were arrested, but the influence of their sponsors stagnated the case. The Inspector-General of Police waded into the matter and fresh investigations were conducted, but the sponsors have made it impossible for the case to see the light of the day.

The reliefs sought include: that the Police confirm the outcome of the investigations; the Director of Public Prosecution of Abia State be compelled to say what had been done to bring about justice; and culprits be re-arrested and prosecuted. In addition, a grant of 500 million Naira compensation from the state, police protection for the petitioner's family, and an order that the suspects should be compelled to respect peoples' rights.

The Chairman directed the Police to give protection to the petitioner and her family. The Commission was informed that the case was pending in the Ohafia High Court. The Director of Public Prosecution, Abia State also stated that in view of the discovery that the victim died, the case would be re-filed in the court. The attackers are to be arrested and charged with murder and the case is to be tried before

the Abia State High Court. The Commission ordered that it should be kept posted of developments in this case.

**PETITION NO. 1599: PETITIONER: INSPECTOR LEONARD AKPAN INWANG**

This was a petition against dismissal of the petitioner from the Nigeria Police. The petitioner prayed for 5 million naira compensation from SP Joseph Effiong, 10 million naira from Zakari Biu, and 300 million naira from the Federal Government. Counsel to the Commission alerted the Commission that the prayers of the petitioner were outside the terms of reference of the Commission. Counsel to the Police agreed. In addition, the case was pending in court. The petitioner requested to read his petition and amend his prayers. The Chairman accepted the observations of the Commission's counsel, and struck out the case.

**PETITION NO. HRVIC 1648: BEN NWABUEZE AND OTHERS (OHANEZE NDI-IGBO)**

This was one of the most celebrated cases before the Commission. It was a petition by Professor Ben Nwabueze and others, on behalf of *Ohaneze Ndi-Igbo*. The hearing was also one of the longest. It started at Enugu and terminated at the third Abuja sitting. The case was well-represented by counsel, and towards the end, it brought in responses from other parties mentioned in the petition, as well as others who though not mentioned, wished to react to some of the issues raised in the petition. There were 35 witnesses in this case. A total of 151 exhibits were tendered and admitted in this petition.

The crux of the *Ohaneze Ndi-Igbo* petition was the felt marginalisation of the Igbos, atrocities alleged to have been committed against them

from 1966 to 1999, and, therefore, the violations of the human and civil rights of *Ndi-Igbo* in the Nigerian Federation from 1966-1999. These include: marginalization in the polity, violation of Igbo rights before the civil war, alleged genocide against Igbos, territorial dismemberment which split and fragmented Igbos into non-Igbo states through states creation from 1967, and war crimes committed against Igbos during the Nigerian Civil War. The petition also alleged social strangulation through mass dismissal of Igbos from the public service, economic strangulation via the denial of pre-war savings and the policy on abandoned properties, and political strangulation through the manipulation of demographic figures which exclude the *Ndi-Igbo* from key political offices. Igbos are also said to be denied social infrastructures and are victims of inequitable resource transfers. The petitioners referred to the several riots in all parts of Nigeria which targeted Igbos and their property for destruction. The *Ndi-Igbo* petition sought the following reliefs:

- a) Public apology to the Ndi-Igbo
- b) Prosecution of the perpetrators of war crimes during the civil war
- c) Payment of accumulated salaries and allowances from May 1966
- d) to 1970, as well as N100,000 per person for inconveniences suffered by Igbos displaced from their jobs
- e) Construction of schools, churches and hospitals, etc., in Igbo states
- f) Restoration of bank accounts, with interest, of the Igbos who had been operating such accounts as at 29th May 1967
- g) Restoration of all Igboland carved into Rivers and Akwa Ibom states

- h) Implementation of all reports of Commission of Inquiry into all ethnic riots affecting the *Ndi-Igbo* in Nigeria between 1980 and 1999
- i) Compensation for the discrimination in the implementation of the PTF programme in the South-East zone by providing necessary infrastructure in the zone, commensurate with the provision in other geo-political zones
- j) Appointment of *Ndi-Igbo* in key government positions to reflect the Federal Character principle
- k) The reversal of the discriminatory citing of federal industries to the disadvantage of the *Ndi-Igbo*

Monetary compensation of **N8,680,150,000,000**.

Among the many witnesses in the *Ohaneze* petition were former Ministers of the Federal Republic of Nigeria, retired justices, retired Professors, retired Army officers and civil war veterans, lawyers, Bishops, Prison Officers, etc. By the end of the Enugu sitting, 24 witnesses had testified in this petition with 39 exhibits admitted. There was much discussion of the 1966 coup and the events which followed, leading to the civil war and afterwards.

Within the *Ohaneze* petition, witnesses made other separate prayers. They include:

- i) Third witness, Ben Gbulie, a former military officer alleged to be one of the key actors in the planning and execution of the 15 January 1966 coup, prayed for rehabilitation,
- ii) Fourth witness, Patrick Anwuna, a retired Colonel, prayed for restoration of his rank and promotion to the rank of

General as his course mates and payment of his salary arrears and other entitlements.

- iii) Sixteenth witness, Barrister Ukpabi, prayed that the Federal Government acquires land in Port Harcourt to build and resettle Aro- Ikwere displacees from the civil war, pay them compensation, and provide farmland for them.
- iv) Twenty-fourth witness, Emeka Onyinwe, prayed that disabled war veterans (like him) should be reintegrated into the wider society through proper rehabilitation, as they presently share a camp with leprosy patients.
- v) The case of Gideon Akaluka, who was beheaded in Kano was brought by the 9th and 10th witnesses.

They prayed for monetary compensation to the family, and the summoning of two persons from Kano relevant to the case. The Commission accepted the latter.

Abandoned property of Igbos from the war was a main highlight in the testimony of the witnesses. The Commission decided it would use the case of the 7th witness, Mrs. Cecilia Ekeme Obioha as representing others on the issue, making it unnecessary for witnesses with similar cases to testify.

At the end of the Enugu sitting, the Commission requested all lawyers involved with the petition to prepare briefs on the case. It was adjourned to the next Abuja sitting.

At the second and third Abuja sittings, the case became enlarged and extended as there were new parties responding to the *Ohaneze Ndi-Igbo* petition, namely the Arewa Consultative Forum (ACF), Joint

Action Committee of the Middle Belt (JACOM) Rivers State Government, the Ogbakor Ikwere Convention and the South-South Consultative Forum. All of them insisted that the Commission should give them time to respond to the *Ohaneze* petition because it is central to the history of Nigeria and bringing out the truth will enhance reconciliation, which the Commission sought to achieve. Individual respondents to the *Ohaneze* petition include General Yakubu Gowon, Alhaji M.D. Yusuf, Alhaji Shehu Shagari, Alhaji Maitama Sule and Alhaji Inuwa Wada.

The **Rivers State Government**, represented by counsel, was at the Commission to respond to the issue of abandoned properties in the state. The government stated that the issue of abandoned properties was covered by a law (Rivers State Edict No. 8 of 1969) which provides that the action cannot be contested by any court or tribunal. The Chairman then requested the government to brief the Commission on the issues in contention.

Third witness, Ben Gbulie, was cross-examined by the ACF counsel on the January 1966 coup and the dominance of Igbo officers in that coup, the structure of the coup, the civil war, and marginalization of Igbos in Nigeria. He was also cross-examined by counsel to JACOM on the January 1966 coup and the alleged massacres in Tiv land. Counsel to Rivers State Government also cross-examined the witness on marginalisation of minorities in Nigeria.

The **Arewa Consultative Forum (ACF)** explained that it came to the Commission because of allegations against it by the *Ohaneze*, and that had the Federal Government responded to the petition, the ACF would not have bothered to come. ACF responded to the *Ohaneze* petition in

writing. Lead counsel to the ACF told the Commission that the Igbos had an agenda of dominating Nigeria, and the January 15, 1966 coup was part of this agenda. He asserted that there was no pogrom in the north and that General Yakubu Gowon's attempt to stabilise the country was frustrated by then Colonel Ojukwu. Arewa is of the opinion that the 1966 coup was an Igbo coup targeted against northern leaders, a charge denied by Igbo representatives. He added that the Arabic insignia on the cap badge of Nigerian soldiers had both Christian and Islamic roots, and was crafted by the military. He disclosed that Gideon Akaluka's action in Kano was provocative, and that over 20 northerners were arrested and extra-judicially executed in connection with this issue; and that no amount of monetary compensation could compensate the North for the murder of its leaders, both military and civilian, in the 1966 coup. Finally, he announced that reconciliatory moves have been made towards the ACF, and that ACF was responding positively. The submission of the ACF was that the Igbos was not marginalized. Rather, based on documentary evidence showing the distribution of senior positions in the Nigerian public service, it was the north that was marginalized.

The Kano State Commissioner of Police was represented at the Commission by ASP Ikechukwu Nwosu, who came to answer questions about the death of Gideon Akaluka. The State Command explained that before they could investigate the murder, the case was taken over by Force Criminal Investigations Department (CID) Lagos, and nobody could be charged in connection with it.

The **Middle Belt** petition was about marginalization. It stated that there was collective human rights abuses and dehumanizing treatment meted out to the people of the area. It added that Middle

Belt men constituted the bulk of the West African Frontier Force, the Nigerian contingent to the Second World War and to peace keeping missions, as well as the Nigerian Civil War. It noted that 60% of the Nigerian Army as at 1970 was made up of Tiv men, with the Middle Belt accounting for 80%. It drew attention to the Tiv crisis of 1960-64, when troops sent by the Northern Peoples' Congress (NPC) decimated Tiv land through the use of maximum force. The petition complained about the marginalization of the Middle Belt through systematic neglect and impoverishment, which left about 90% of the people living below the poverty line. It added that there was a systematic Islamisation of the area even though it is mainly Christian, and alleged that Middle Belt officers were denied promotions. The petition complained about the killing of Middle Belters in riots, and the reluctance to exploit resources in the Middle Belt, including oil. The petitioners came with a map of the Middle Belt as understood by them, and argued that the creation of states had not resolved the Middle Belt question. They sought to clarify that the Middle Belt, often lumped with the north, did not marginalize the *Ndi-Igbo* since the region was itself marginalized.

The prayers of the Middle Belt include: an identity of their own, stressing they were not part of the north. They also want a 3-trillion naira compensation to Middle Belters who fought in the civil war, reinstatement of Middle Belt soldiers who were stripped of their ranks and retired from the Army, and payment of their emoluments up to date. Furthermore, Middle Belters who lost their lives in riots in the north should be compensated to the tune of 5 trillion naira; a withdrawal of Nigeria from the Organization of Islamic Conference (OIC); and the restructuring of the country to meet the needs of Middle Belters.

The **Ogbakor Ikwere** in Rivers State also responded to the *Ohaneze* petition. They disclosed that their grouse was with the *Ohaneze*, and not the entire Igbo people as such. The petition stated that the rights of Ikweres had been violated by Igbos, and that the Aros (Igbos) were settlers and not indigenes of Ikwere. It added that the Igbos used their position in the then Eastern Region to marginalize, and colonize the Ikweres into abject poverty, disease and death. In addition, Aros allegedly spear-headed the ethnic cleansing which decimated Ikweres. In the First Republic, Igbos allegedly monopolized scholarships, admission, employments and contract awards. The Ikweres were shocked that ironically, Igbos in turn complained of marginalization, adding that such a lack of vision by the Igbos contributed to the Nigerian Civil War.

The prayers of the Ikweres were that: the Commission should facilitate the payment of 500 million Naira to the Ikweres for the loss of 5,143 lives and 2,537 houses, and the dehumanization of the Ikweres by the *Ndi-Igbo*; as well as a rent of 150 million Naira from the Aros as rent for occupying the Igbuta school and church premises. The 33rd witness maintained that the Rivers State Government had paid full compensation to Igbos with proven claims on abandoned properties.

There was another memorandum from the **South-South Zone**, presented by Bright Niemogha. The memo argued that the people of the zone were used as pawns during the civil war, in a fight of the big three ethnic groups in Nigeria. The sole objective of the civil war, according to this submission, was the control of the resources of the South-South zone. The memo alleged that Col. Emeka Ojukwu and

Chief Obafemi Awolowo had agreed before the civil war, to share the Niger-Delta between the Republic of Biafra and Republic of Oduduwa.

The prayers of the South-South presented before the Commission include the following:

- a) Payment of reparations to the people of the South-South zone as a result of losses from the civil war;
- b) Niger Delta should be allowed to control its resources;
- c) Reparation to the tune of 50% of the resources exploited from the Niger Delta from 1967 to date;
- d) The inclusion of the continental shelve to the states where they relate in computing their derivation entitlements; and
- e) A compensation of 20 billion naira for the damages and deprivations done to the area over the years.

**Afenifere** was the next respondent to the *Ohaneze* petition. They opined that Nigeria had persecuted the Yorubas over the years. They pointed out that that they were responding to the invitation of the Chairman of the Commission to submit a petition, and to straighten records where other respondents had mentioned them.

The grievances of the Yoruba, according to them, include the declaration of a state of emergency in Yorubaland on 25 May 1965; the aftermath of the 1966 coup; the emergence of General Yakubu Gowon as Head of State over his Yoruba seniors; the annulment of June 12 1993 election results; and the detention of Yoruba people which followed; the bombing, acid attacks and assassination of Kudirat Abiola. Others are the arrest of Pa Michael Ajasin who never recovered as a result of his brutalization; the marginalization of the Yoruba in all facets of Nigeria; and the presence of the Islamic logo on the N20

currency note. They also complained about the fact that no Yoruba man ever headed the Nigeria Security, Printing and Minting Company and nine other government ministries and parastatals, and the incursion of the north into Yoruba land in Kwara and Kogi States. Counsel to ACF put it to the presenter of the *Afenifere* petition (35th witness) that based on positions occupied by the Yoruba in the Federal Government and its agencies, as shown by documentary evidence, they were not marginalized.

The prayer of the Yoruba was for a Sovereign National Conference to be convened for all ethnic nationalities to air their grievances and set the foundation for a solid Nigeria based on true federalism.

This case came to a close following the *Afenifere* response on 11 October 2001. The Chairman requested lawyers to consider all the points and arguments that have been made in this case, and try to identify common grounds. He remarked that “once it can be established that Nigeria is our country and we are all Nigerians, then our greatest enemy is ethnicity.” This problem was traced to the country’s colonial roots and the divide-and-rule tactics of colonialists. He appealed to counsels to invent ways of turning the sectional groups into Nigerians, and decried that nobody was complaining of being marginalized as a Nigerian, but as an ethnic group. Counsel should brainstorm and provide answers as to what should be done to redeem the situation. Addresses of Counsel should be submitted within six weeks.

**PETITION NO. 1653: PETITIONER: A.G.E. NWACHUKWU (IDU WEST AUTONOMOUS COMMUNITY)**

The petition was about the destruction of property, arson and the detention of some members of the Idu community by the Police, in collusion with some indigenes of that community. There was a prayer for the investigation and prosecution of the culprits. The case was struck out because the petitioner was absent, even though he was personally served with the order to appear before the Commission. This was with leave to re-list if need be.

**PETITION NO. 1673: PETITIONER: O.E. OMENE (JESSE ADVANCEMENT MOVEMENT)**

The petition was about the Jesse fire disaster of 17 October 1998, arising from oil spillage and fire explosion from Nigeria National Petroleum Corporation (NNPC) pipes. None of the witnesses testified in Enugu where the case was listed, and so it was adjourned to Abuja. Counsel to the petitioner was advised at Enugu to amend the petition to fall within the terms of reference of the Commission. He had not done so by the time the case came to the third Abuja, and he instead wanted to amend it during his presentation. The Commission ruled against this, and the case was struck out, but with permission to re-list.

**PETITION NO. 1685: PETITIONER: MR. ONUOHA U. UKPO (FOR AMAEKE ITEM DEVELOPMENT UNION)**

The petitioner wrote on behalf of himself and his town development union of Ameke Item. The petition is about trauma, looting, arson and murder caused by attacks from the Federal Troops during the civil war, specifically 5 January 1970. The petition stated that the village was destroyed by men of the 26th Battalion of the Nigerian Army, and

over 400 people killed, including men, women and children. The people were first deceived and lured into a meeting at the village square, after which the soldiers killed them. The prayers of the petitioner include the following:

- a) N4,455,000,000 as damages for the 485 houses destroyed, at N3 million per house
- b) N2,000,000,000 as damages for properties destroyed
- c) N8,000,000,000 as damages for the 400 lives that were lost
- d) N3,545,000,000 as general damages.

A second witness from the community, Chidi Ikwuagwu Abali, also made personal claims based on personal injury suffered, and loss of property. His prayer was for the release of his properties in Port Harcourt and compensation in line with his petition.

In closing this case, the Chairman noted that it should have been presented along with the *Ohaneze* petition. The case was closed, and counsel asked to present their addresses at Abuja.

**PETITION NO. 1714: PETITIONER: MR. AND MRS. S. O. NWADINOBI**

This petition had to do with the killing of Ikechi Nwadinobi Jr., son of the petitioner, at Enugu on 24 February 1994. The deceased, according to the father, was a student at the Abia State University. He added that the Police report, which he described as full of lies, has suggested that his son was an armed robber, but he rejects the claim. He queried why the son was shot at close range with the bullets piercing from his frontal view to the back. He said he wrote to the Inspector-General of Police and other relevant persons, but the letters were never replied. The prayers of the petitioner were for the Police to

re-investigate the case, apologize to him, and pay him adequate compensation.

The Police response from its earlier investigation posited that the deceased was a suspected armed robber who was found to be in possession of some weapons. He was said to have been shot by the Police in an attempt to escape. However, A.S.P. Okpe who testified for the Police at the Commission (as third witness) hinted that on the day of the incident, a car approached the police with full speed. It was stopped on routine search, but the vehicle refused to stop. When the passengers were ordered to disembark, only two of them submitted themselves for search, while the other three refused to be searched. One of them reportedly opened fire on the policemen. The police also opened fire from about two poles away, and killed three of the passengers in the car. The police added that after the exchange of fire arms were recovered from the car and taken to the Police Station.

The Commission asked for written addresses from Counsel within one week. 18 exhibits were tendered and admitted, and 3 witnesses testified.

**PETITION NO. 1751: PETITIONER: ENGINEER AKUZU NWOKEDI**

The petitioner informed the Commission that his petition was a corroboration of the *Ohaneze* petition. His prayer was that the post war policy of rehabilitation, reconstruction and reconciliation should be implemented in earnest. The issues will be considered along with petition No. HRVIC 1648. Case closed.

**PETITION NO. 1772: PETITIONER: FRANCIS EDE AND CHUKWUMA MBA**

The Commission, the petitioner and the Police Force were all represented by counsel. Fourteen exhibits were tendered and admitted. The subject-matter of this petition is that the two petitioners were unlawfully arrested, detained and tortured on trumped up charges that they intended, as members of National Democratic Coalition (NADECO), to bomb the NNPC depot at Ejigbo in Lagos. They were allegedly pressurized into signing prepared statements which implicated them and other Nigerians. They were in detention for eight months before they were charged to the Miscellaneous Tribunal. The petitioners lost family members as a result of shocks from their arrest. One petitioner claimed to have lost his manhood from an injection administered on him in detention by the Police. Relief sought is a 150-million naira compensation as damages caused. Counsel to the Police tendered reports of the Police investigations conducted. The case was closed at this point.

**PETITION NO. 1778: PETITIONER: UMODE COMMUNITY**

The petition was about violations of the rights of the Umuode community by the Orukus, both in Nkanu East LGA of Enugu State. The Umuodes alleged discrimination against them, ostracization and displacement of members of their community from their ancestral home based on the OSU caste system in Igboland. This was perpetrated by the Orukus. The petitioners were given a new homeland in 1999, only to be attacked, killed and driven out again by their new neighbours.

The petitioners prayed that the Commission should help guarantee their fundamental rights as citizens of Nigeria by ensuring a

resumption of the murder trials, which had been suspended, of suspects; payment of compensation of 5 billion Naira for violations they suffered; proper investigations of atrocities committed against their people; and stoppage of continuous killing of their people. In addition, government should provide adequate shelter for those displaced, while those who are refugees should be resettled.

The counsel and traditional rulers of the parties in this dispute were assigned to work towards reconciliation. The progress made on the case before it was brought before the Commission, was the offer of Abali land to the Umodes by the Orukus. The Igwes also came to the Commission to announce the outcome of their meeting. However, the land on offer was undoubtedly in dispute, as three different parties came to the Commission, represented by counsel, to argue that the land did not belong to the Orukus, nor did the Igwes have authority over it. The land had been a subject of litigation. The Commission appealed to the parties to be considerate in finding a solution, rather than insisting on the legality of the issue. Finally, counsel to the parties announced that they were still holding negotiations. The Commission asked them to go ahead with such talks and then report to it afterwards.

At the second Abuja, it became evident that there was no headway in the attempt by the counsel to work out a settlement in this case as agreed at Enugu as no meeting was held. The Committee resolved that since the two communities could not resolve the outstanding issues, the case was stood down and closed. Counsels were requested to submit written addresses to the Commission. Five exhibits were tendered and admitted.

## 6.5 **PLACARD CARRYING CHILDREN**

While the Thomas Idu case (petition 409) was being considered, the Chairman took note of four children carrying placards in the audience. He invited them to state their grievances. The children led by their father, claimed they were being persecuted, and they had written to the Commission. However, their case was not slated for hearing. The Chairman directed counsel to the Commission to include it.

## **CLOSING**

6.6 The Enugu sitting came to an end on the 8th of May 2001. The victims of the Nigerian Civil War at the Orji River Rehabilitation Home came to the Commission to re-present their petition which they had earlier been requested to reduce to writing. It was accepted by the Commission. The Commission is to study their submission with a view to making recommendations.

6.7 The Chairman of the Nigeria Bar Association, Enugu State, made some remarks, thanking the Commission for doing a good job. He used the opportunity to call on the law courts to borrow a leaf from the volume of work which the Commission did within the period.

6.8 The Chairman of the Commission also thanked the Enugu State Government, the press, the security agencies, members of the Commission, and the public for the support given to the Commission. Members of the press were also permitted to ask questions. There were questions about the case of the Umode community and whether or not the Commission was satisfied. The Chairman responded to the effect that it was prejudicial, since the issues were being discussed by the parties.

## CHAPTER SEVEN

### ABUJA II

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## **INTRODUCTION**

7.1 During the Commission's public sittings in the various zones across the country, a good number of petitions were not concluded in the zones they were originally listed for hearing. Even The effort of the Commission in extending periods of its sittings in some of the zones with the hope of, at least, concluding hearings in respect of all part-heard petitions in each zone did not improve the position either. Part of the reason for this is the growing public interest in the work of the Commission, culminating in the desire by witnesses (comprising both petitioner and those individuals or institutions petitioned against) to present their claims and responses

in accordance with the due process of law, often with the assistance of their lawyers.

7.2 As at the 8<sup>th</sup> of May 2001 when the Commission concluded its last zonal sitting in Enugu, the Commission had a total number of 103 petitions yet to be concluded. The Commission had to adjourn these part-heard petitions for continuation of hearings at Abuja, hence, the second Abuja sitting.

7.3 This hearing commenced in Abuja on Monday the 25<sup>th</sup> of June 2001 with a total number of 112 petitions listed for hearing. This number excludes the special hearings with relevant government institutions and Commission's researchers. The second Abuja sitting was programmed to end on the 31<sup>st</sup> of July, 2001 and also to signal the end of the Commission's public hearings of petitions relating to the gross violation of Human Rights committed in Nigeria between January, 1966 and May 1999.

7.4 However, the Commission could not conclude the public hearings on the 31<sup>st</sup> of July 2001 as planned for two main reasons. First, the Commission had to adjourn the hearing of some petitions '*Sine die*' or indefinitely to enable some key and vital witnesses appear before the commission on a more convenient date. Second, the Commission proceeded on break on the 27<sup>th</sup> of July, 2001 to enable the Commission attend a conference in London and also to enable the lawyers representing the various witnesses participate in the annual Nigeria Bar Conference in Calabar, Cross River State.

7.5 Although the Commission subsequently reconvened on Monday, the 23<sup>rd</sup> of September 2001, this segment of the report only

covers the period of the Commission's sittings in Abuja from the 25<sup>th</sup> of June, 2001 to the 26<sup>th</sup> of July, 2001. During this period, about 112 petitions were presented before the Commission.

7.6 Out of this number, about 15 petitions were struck-out from the Commission's hearing lists. The Commission also concluded hearings in respect of about 32 petitions and adjourned about 67 of petitions for continuation of hearing, which was finally done at the third Abuja session.

**PETITION NO 654: PETITIONER: CHIEF YOMI TOKOYA**

**FACTS:** The petitioner filed a petition dated 22/7/99 alleging that he was unlawfully arrested, detained, tortured and thoroughly humiliated by some former and serving public officers/soldiers under the defunct late General Sani Abacha regime in connection with the alleged coup of December, 1997. He further alleged that his properties were in the process looted and vandalised while the sum of two thousand naira was stolen from the booth of his car. The petitioner specifically named Lt. Gen. Ishaya R. Bamaiyi, Air-Vice Marshal Idi Musa, Majors-General Patrick Aziza, and Bashir Magashi, Alhaji Ismaila Gwarzo, Ambassador Zakari Ibrahim, Brig-Gen Ibrahim Sabo, Col. Frank Omenka, Majors Hamza Al-Mustapha and Adamu Argungu, Alhaji Mohammed Doba, Captain Laman, Lt. I Ibrahim Lt. Sabiu Dagari, Sgt. Barnabas Jabilla a.k.a Sgt. Rogers, L/c. Gani Mohammed and W/O Hassan Baba as being collectively and individually responsible for the violations of his fundamental human rights. To buttress his allegations, he referred the Commission to the proceedings and report of a Board of Inquiry headed by one Group Captain S. Disu which was set up by General Abdulsalami Salami

Abubakar to investigate all allegations of looting and vandalism of properties of those of December 1997 by some security operatives.

***Evidence during Hearing***

On the 27<sup>th</sup> of June 2001 when the petition was fixed for hearing, the petitioner was absent and was also not represented by counsel. He, however, sent a letter dated 22/6/01 informing the Commission that he is now a born-again Christian and has decided to put the past behind him by forgiving all those responsible for his ordeal and predicament. He accordingly requested to withdraw his petition against all those he named as being responsible for the abuse of his rights.

This request was vehemently opposed by all, except one counsel representing all those that allegedly violated the petitioner's rights on the ground that the petitioner has, through his petition, wilfully and gravely defamed his clients before the Nigerian public. He accordingly requested the Commission to give his clients the opportunity to present their respective responses to the petitioner's damaging allegations. The Commission after a very long deliberation reluctantly acceded to this request and directed all those named by the petitioner to present their responses in the overall interest of justice.

The Commission's counsel first presented the petitioner's petition which was admitted in evidence as Exhibit 1 while the controversial letter requesting for the withdrawal of the petition was admitted as Exhibit 2. In his own response, Major Hamza Al-Mustapha tendered six exhibits and gave graphic details of how he came to know the petitioner through the late General Sani Abacha during the Interim National Government of Chief Ernest Shonekan.

Recalling the antecedents of the petitioner, Major Al-Mustapha described him as a notorious security informant whose singular objective is just to make money by whatever means through praise-singing and undue association, with any government in power, right from General Ibrahim Babangida to date.

He stated that the petitioner was previously sending constant security reports of several coup plots by Lt. General Oladipo Diya and his group to late General Sani Abacha. The witness, however, observed that the petitioner started having problems with the regime of late General Sani Abacha when he could not get money which the late General promised him through the then National Security Adviser, Alhaji Ismaila Gwarzo. From thence on, the petitioner began a systemic campaign against the then National Security Adviser and was in the process easily recruited by Lt. Gen. Sani Abacha which subsequently led to his involvement in the alleged coup plot of December, 1997.

On the issue of the petitioner's arrest, detention and trial, Major Al-Mustapha stated that the then Chief of Defence Staff and former Head of State, General A.A. Abubakar was the convening authority at the time and was accordingly responsible for that. The witness noted that he was not even allowed to appear before the Disu Panel which was referred to by the petitioner, despite his efforts and insistence. The witness finally advised that people in government should not be like the petitioner whose stock-in-trade is to promote hatred and vengeance between successive governments just for their own personal gains.

The second witness Brig.-Gen. Ibrahim A. Sabo described the petitioner as someone who lacks integrity and is highly addicted to money. He denied the allegations of the petitioner stating that he only became aware of his arrest on the day he was arraigned before the Special Military Tribunal in Jos. The witness tendered Six Exhibits to show that the petitioner initiated the campaign for the self-succession bid of late General Sani Abacha and sustained same mainly for monetary benefits.

Following the damaging allegations of Major Al-Mustapha and Brig-Gen Ibrahim Sabo, the petitioner subsequently appeared before the Commission and gave evidence describing both witnesses as habitual liars. He described Al-Mustapha in particular as an unrepentant sadist. He tendered his written response to the allegations made against him and also nineteen different pamphlets and other publications to prove his revolutionary zeal and political record. He admitted that he supported previous administrations. He rejected the appellation of a patron of '*Any Government in Power (AGIP)*', emphasising that it is on record that he was a critic of both Generals Gowon and Obasanjo military regimes for which he was arrested and detained by security agents.

Under cross-examination, he admitted that he was the former Chairman of Nyanya Community Bank but denied having any criminal records for financial impropriety. He, however, stated that he removed the former manager of the bank because she had a psychiatric problem and was taking sides with disgruntled members of the Board of Directors. The petitioner admitted that he supported the late General Sani Abacha regime in different ways but explained that he did that in the overall interest of the nation.

**PETITION NO. 1328: PETITIONER: PROFESSOR FEMI ODEKUNLE**

The petitioner was a Special Adviser and Chairman, Advisory Committee on Socio-political and Economic Matters to the then Chief of General Staff, Lt. Gen. Oladipo Diya when he was arrested in his residence at about 3.30am on the 21<sup>st</sup> of December 1997 in connection with the alleged coup plot of December 1997 on the orders of Major Hamza Al-Mustapha. He alleged that he was severely beaten and brutalised by hooded security operatives who bundled him into a vehicle and took him to Aso Rock in the early hours of that morning. At Aso Rock, he was again severally beaten from all conceivable directions, with boots, fists and gun-butts. The petitioner further alleged that Alhaji Mohammed Abacha, the second son of the late Head of State, General Sani Abacha, came into the scene and started torturing him with an electric prod while one of the security operatives doused him with cold water in the early morning harmattan. He was first detained at Gado Nasko Barracks from where he was moved to Jos prisons with leg chains and subsequently arraigned before the Special Military Tribunal headed by Gen.Victor Malu. At the conclusion of the trial, the petitioner was discharged and acquitted on each of the two separate charges against him but was not released until two and half months after his acquittal. The petitioner named Major Hamza Al-Mustapha, Alhaji Mohammed Abacha, Major Adamu Argungu and the Nigerian Army for being directly responsible for the violation of his fundamental rights. He accordingly urged the Commission to recommend:

- i. Prosecution of all those responsible for his underserved suffering.
- ii. Compensation for the violations of his and his family's rights which suffered while he was in detention.

- iii. Return of all properties documents, money and valuables illegally impounded/stolen from his house by security operatives.

***Evidence during Public Hearing:***

During the public hearing of the petition on the 27<sup>th</sup> of June, 2001, senior counsel representing Alhaji Mohammed Abacha notified the Commission that his client has obtained an injunctive order from the Federal High Court, Abuja, restraining the Commission from hearing any aspect of the petition involving or affecting Mohammed Abacha pending the determination of the substantive suit. The senior counsel read out the relevant portions of the courts order and accordingly requested the Commission to suspend proceedings in relation to any complaints against Alhaji Mohammed Abacha. The Commission acceded to the senior counsel's request, emphasising that the Commission is bound to comply with a specific order of court. The Commission while sympathising with the petitioner, directed him to present his petition without reference to any human rights violations he suffered in the hands of Alhaji Mohammed Abacha.

The petitioner testified as the first witness. He identified his petition dated 30/7/99, which was admitted in evidence and marked as Exhibit 1. In his evidence-in-chief during the public hearing, the petitioner identified his petition which was tendered and admitted in evidence as Exhibit 1. He read the petition and recounted how he physically and emotionally broke down before Major Mustapha and later Colonel Frank Omenka when he enquired to know about the conditions of his wife and children. He remarked that the special torture sessions and ordeals he experienced in the hands of Sergeant Rogers while in Jos prison resulted in the high blood pressure he has

today. The petitioner tendered a picture, which was admitted in evidence as Exhibit 2 to show his terrible physical condition immediately after his release from prison. He also tendered a report of a brain scan he did in London after his release, which established that he received serious brain injury. This report was admitted as Exhibit 3 while the x-ray itself was produced and sighted by the Commission. The petitioner repeatedly lamented the mental and agonising tortures his family members went through in the hands of the security operatives, the severe restriction of their movements without visitation by family members, the detention of his wife for one day and the fabrication of charges against him before the General Victor Malu Tribunal. Commenting on the impact of torture on him, the petitioner stated that 'torture' is not just physical but is equally mental, social and psychological. He emphasised that the impact is not limited to the person directly tortured but extends to his family, his wife, children and even friends, noting that the effect and duration is life-lasting.

The petitioner further called two witnesses, to corroborate his evidence. First was his wife, Mrs Rukiat Odekunle, who recounted the ordeals of her husband on the date of his arrest, her anguish and the sufferings of her children, the uncertainty as to the whereabouts of her husband, the restrictions of movement of family members without visitors, the trial and acquittal of her husband and his subsequent release after spending seven months in detention. Both the petitioner and his wife were not cross-examined by counsel to Major Al-Mustapha.

The third witness, DSP Isaiah Adebowale, a State Security Service operatives and a Chief Detail to the then Chief of General Staff, Lt.

Gen. Oladipo Diya, also gave evidence confirming that the petitioner was tortured in his presence by security men. On his part, Major Hamza Al-Mustapha gave evidence explaining the reason and circumstance of the petitioner's arrest, detention and experiences in Jos in connection with the coup plot of December, 1997. While apologising to the petitioner and his family for the sufferings they went through, he maintained that he never ordered anybody to torture him even though he witnessed the torture himself. He explained that the situation at Aso Rock Villa at the time of the torture was tense and confusing as everybody was eager to show or prove that he was not a party to the coup plot, hence the general beatings by security agents of those arrested in connection with the coup plot. He linked the petitioner's arrest to an incriminating memo he wrote in 1995 against the government of late General Sani Abacha, his diary of events against the government and himself potential list of ambassadors to be appointed after the change of government with him as the Minister of Foreign Affairs. Under cross-examination, he stated that the petitioner could not be prosecuted successfully because of the interception of necessary incriminating documents by the then Chief of Defence Staff, General Abdulsalami Abubakar, emphasising that General Abubakar intercepted those documents for his own safety because they could have implicated him.

**PETITION NO. 274: PETITIONER, DR BEKO RANSOME KUTI**

The petitioner, a medical practitioner and a well-known human rights activist, submitted a petition dated 24/7/99 alleging multiple violations of his fundamental human rights by successive Military regimes spanning over two decades. He also referred the Commission to the February, 1997 invasion of their family house by officers and men of the Nigerian Army under the regime of General Olusegun

Obasanjo which resulted in total destruction of their family property, assault, torture, confiscation of their landed property by the government, culminating in the death of his mother a year after. The petitioner further lamented the unfortunate incident of his framed trial by a Special Military Tribunal for his alleged complicity in the alleged coup plot of 1995 – a process, which left him with the stigma of an ex-convict. The petitioner named those responsible for the alleged violations to include General Olusegun Obasanjo in his capacity as the head of the Federal Military Government in 1977, General Muhammadu Buhari, General Ibrahim Babangida, the regime of late General Sani Abacha, Lt-Gen. T.Y. Danjuma, Major-General Felix Myakperu and Patrick N Aziza, Lt-Gen. Salihu Ibrahim, Mr Clement Akpangbo S.A.N. Colonels John Olu and Frank Omenka, the then Inspector-General of Police Alhaji Ibrahim Commassie, ACP. Zakari Biu, the State Security Service, the Nigeria Police and Director of Military Intelligence.

He requested for full investigation, adequate compensation and public apology from the federal government.

### ***Evidence during the Public Hearing***

At the public hearing of the petition on the 28<sup>th</sup> of June, 2001, the petitioner testified before the Commission and tendered his petition which was admitted in evidence as Exhibit 1. He read Exhibit 1 and noted that he was constrained to present the petition before the Commission because of the persistence of these violations by successive military regimes right from the administration of General Olusegun Obasanjo. Specifically, he referred to the great injustice his family members suffered in 1977 following the invasion of their family house by some members of the Nigerian Army. He also referred to his

arrest and detention by the Buhari/Idiagbon regime in connection with the industrial action embarked upon by members of the Nigerian Medical Association (NMA). The petitioner further enumerated the several arrests and detentions he suffered in the hands of the security agents under the regime of the General Ibrahim Babangida following public demonstrations over the Structural Adjustment Programme (SAP) imposed by his regime and finally referred to his arrest, detention, torture in prison by the regime of late General Sani Abacha and his subsequent trial on spurious charges before General Patrick Aziza's Military Tribunal in connection with the alleged coup plot of 1995. The petitioner lamented that this flawed trial subsequently resulted in his wrongful conviction and sentence to life imprisonment. He was released after four years imprisonment, following the demise of General Sani Abacha. He lamented his excruciating prison experiences and insisted that the Comptroller General of Prison should be subpoenaed to produce copies of 'Special Instructions' that were allegedly issued to prison officials for the maltreatment of those convicted for the alleged coup plot of 1995, The petitioner finally tendered all the ten appendices attached to his main petition and they were admitted in evidence and marked as Exhibit 2.

Under cross-examination by various counsel representing those responsible for the alleged violations of his rights, the petitioner stated that he did not like the military and would not be surprised if the military never liked him. He stated further that he was detained in Kuje prisons by the State Security Service under Decree No.2 of 1984 as amended and was tortured several times. The petitioner vehemently rejected the suggestion that his activities as the then Chairman of Campaign for Democracy (CD) (an umbrella human rights organisation) impacted negatively on law and order. He

explained that his allegations against Mr Clement Akpangbo in respect of his alleged treasonable acts in 1992 were based mainly on newspaper reports and agreed that he was treated very kindly by Brigadier-General Ibrahim A. Sabo when he was in detention for the alleged coup plot of 1995.

While admitting that General Patrick Aziza neither arrested nor detained him, the petitioner consistently maintained that the General and his Judge-Advocate conducted themselves in a most unwholesome manner during the proceedings of the Special Military Tribunal of 1995. He therefore insisted that the Commission should procure and play the video tape recordings of the Military Tribunals sittings to confirm his assertions. The petitioner further stated that ACP Zakari Biu played different roles at different times in the process of the violation of his rights by the regimes of General Ibrahim Babangida and late General Sani Abacha.

The second witness to give evidence was President Olusegun Obasanjo, who appeared before the Commission to defend himself on the allegations of his involvement in the invasion of the family house of the petitioner by some officers of the Nigerian Army in 1977 which resulted in massive violations of the rights of the petitioner's family members. The President denied any involvement in the incident and tendered five exhibits to show that the government at that time took necessary steps to address the matter, ranging from setting-up of a Commission of Inquiry, to issuing of a White Paper by the Lagos State Government. He further testified that the petitioner's family members also filed a civil action in respect of the matter and the case was litigated up to the Supreme Court. A copy of the judgement of the Supreme Court was tendered and admitted as Exhibit 3. While

emphasising that he was not in any way involved in the violation of the petitioner's rights, the President emphasised that he appeared before the Commission because of his belief and respect for the rule of law and due process.

Under cross-examination, President Olusegun Obasanjo admitted that he was the head of the Federal Military Government at that time and also admitted setting-up a Commission of Inquiry to look into the matter. He however vehemently rejected the suggestion that his government subsequently compensated the Chairman of the Commission of Inquiry (Justice C. O. Anya) with a judicial appointment for submitting a favourable report to his government.

**PETITION NO: 1364: PETITIONER, CHIEF CHUMA NZERIBE**

By a petition dated 19<sup>th</sup> of July, 1999, the petitioner alleged that he was deliberately framed-up, arrested and detained for ten months without trial at the Directorate of Military Intelligence (DMI) underground cell and mercilessly tortured by officers of the Directorate of Military Intelligence in liaison with their civilian collaborators. Explaining the circumstances leading to his ordeal, the petitioner stated that large quantities of bombs, explosives, live ammunitions and dangerous bomb-making agents were secretly planted in his uncompleted and inhabited building in Ihiala (his home town) Anambra State by officers of the Directorate of Military Intelligence in conjunction with some civilians in a well-rehearsed plot aimed at eliminating him. These explosives were few days later 'recovered' from his home by the same people who planted them. The petitioner was on account of these 'recovered' explosives arrested, detained, tortured and accused of being responsible for the spate of bomb blasts that rocked the nation under the late Gen. Sani Abacha

regime. He named those responsible for this wanton abuse of his rights to include: the Director of Military Intelligence, Brig.-Gen. Ibrahim A. Sabo (then substantive Director of DMI), Col. Steve Idehenre Col. O. Majoyeogbe, Col. Frank Omenka, Capt. F.B.Y. Dulagha, W/O Rasaq, late Victor Okafor (alias Eze-ego), Messrs Ifeanyi Nwabuike, C.Y. Obunadike and Charles Maduka. The petitioner accordingly prayed the Commission to recommend:

- i) that the Federal Government should issue a letter of apology, clearing him of the bomb blast accusations;
- ii) prosecution of all the DMI officers involved in the sordid frame-up and subsequent cover-up along with their civilian agents.
- iii) payment of the sum of one hundred million naira to him as compensation for his suffering, damages to his health and family name, loss of personal liberty, trauma and total loss of business.

### ***Evidence during Public Hearing***

During the public hearing of the petition, six witnesses gave evidence while thirty three exhibits were tendered. In his testimony, the petitioner reiterated the facts contained in his petition and urged the Commission to recommend the reliefs he is seeking in view of the extreme sufferings he went through in the hands of the DMI operatives and their civilian collaborators. The second witness, one captain F.B.Y. Dulagha admitted that he led his Surveillance Operation Team to the petitioner's home in Ihiala, Anambra State on the instructions of Col. O. Mejoyeogbe. While noting that there were some over-statements and exaggerations in the petitioner's claims, Captain Dulagha in his written submission (Exhibit 2) admitted further that his team responded to a false petition by one Chief Victor Okafor alias "Eze-ego" (King of money) who was a political opponent of the

petitioner in their home town, Ihiala. He painfully regretted his involvement in the episode which he described as “messy” and unfortunate.

On his part, the then Acting Director of DMI, Colonel Steve Idehenre, tendered many exhibits stating that the operation by some DMI officers at the petitioner’s home was illegal and unauthorised. He accused Colonel O. Majoyeogbe the then Director, Intelligence Production Centre, DMI, of masterminding the entire episode for personal monetary gains from his surrogate friend late Chief Victor Okafor. He went further to state that he subsequently ordered the immediate release of the petitioner after conducting a preliminary investigation into the unfortunate incident. Col. Idehenre also accused Brig.-Gen. Ibrahim A. Sabo, the then substantive Director of DMI of being responsible for the subsequent arrest and detention of the petitioner at the DMI’s underground cell for ten months. The witness noted that the case of the petitioner (whom he noted to be a trouble maker) and the sufferings he went through, offered a classical insight into the dirty intrigues at DMI under Brig. Gen. Ibrahim A. Sabo. He concluded by tendering a Legal Advice from Army Headquarters (Exhibit 21) which indicted Col. O. Majoyeogbe and subsequently culminated in his compulsory retirement from the Nigerian Army (Exhibit 24).

Col. Majoyeogbe also gave evidence, and tendered a written submission (Exhibit 22) denying the allegations of the petitioner and Col. Steve Idehenre. While admitting that he ordered the operation at the petitioner’s home in Ihiala based on a petition he received from late Chief Victor Okafor, he emphasised that the operation was carried out in good faith with the full knowledge and authority of Col. Steve

Idehenre. He accused the petitioner of outright falsehood, exaggerations and a victim of “rural politics”. The Commission further received evidence from one Major M.I.U. Adeka in the matter. The Officer tendered a written submission (Exhibit 25) and informed the Commission that his preliminary investigation into the incident revealed that the operation was illegal and unauthorised. He emphasised that the illegality of operation became more apparent when Col. Majoyeogbe unsuccessfully attempted to surreptitiously register late Chief Victor Okafor’s false petition at a time (24/7/97) when the operation was already declared illegal.

Brigadier-General Ibrahim A. Sabo was the last witness to give evidence. He tendered the re-investigation report of the Security Group on the matter. He vehemently disclosed the allegations of Col. Steve Idehenre describing them as sponsored and most unfortunate. He however admitted full responsibility in his capacity as the then Director of Military Intelligence. He accordingly apologised to the petitioner for the improper use of the facilities and personnel of DMI against him. Brig-General Sabo then embraced the petitioner publicly before the Commission and repeated his words of apology.

**PETITION NO 289: PETITIONER: MRS. R. A. AKINYODE**

The petitioner, a widow of late Lt. Col. Oluwole Akinyode and mother of four children sent this petition alleging gross violations of the rights of her husband in connection with the coup plot of December, 1997 which subsequently led to his death in Makurdi Prisons on the 28<sup>th</sup> of December, 1998. The petitioner recalled to the Commission her late husband’s military career and good medical history and also the circumstances leading to his arrest, detention, investigation, trial, conviction and sentence to life imprisonment of his alleged role in the

coup plot of December, 1997. This sentence was however, commuted to twenty years imprisonment. She further recalled that her late husband told her that he was badly tortured and forced to inhale certain chemicals between 14<sup>th</sup> January, 1998 and 28<sup>th</sup> April 1998 during the Special Investigation and Panel Session in Jos. She concluded that it was these severe tortures that impaired her late husband's sight, led to his ill-health and subsequently resulted in his death in prison custody. The petitioner lamented that she was thoroughly harassed with her children and detained while their official residential quarters was immediately taken over by Col. E.F. Zamani whom she accused of confiscating their personal/family properties. She named those responsible for violations of her late husband's fundamental rights to include: Major-General Patrick Aziza, Col. Frank Omenka, Col. E.F. Zamani, Major Bashir Mumuni, Sergeant Barnabas Msheila a.k.a. Sgt. Rogers) and the prison authorities particularly at the Makurdi Prisons. The petitioner accordingly urged the Commission to:

- i) investigate the matter;
- ii) clear her late husband's name and restore his military ranks;
- iii) recommend that the Nigerian Army apologise to their family for their undue harassments and sufferings;
- iv) invite Mr. N.K. Nandevé the then officer in charge of Makurdi Prisons to explain the circumstances of her husband's death;
- v) direct Col. E.F. Zamani of the Nigerian Army to return their family properties; and
- vi) award the sum of fifty million naira as monetary compensation.

### ***Evidence during Public Hearing***

At the public hearing of the petition, five witnesses testified while sixteen exhibits were tendered and admitted in evidence. In her

evidence-in-chief before the Commission, the petitioner reiterated the facts contained in her petition (Exhibit 1), emphasising that her late husband was a loyal officer with a good record of service in the military and could not have been involved in a coup plot. She maintained that her husband enjoyed good health and never had a history of heart or eye problem. Yet, her late husband started using eye glasses in prison while the Authority Report (Exhibit 4) indicated that he died of Hypertensive Heart Disease and Acute Myocardia Infraction. She insisted therefore that it was the severe torture of her husband in Jos that resulted in his health problems, culminating in his death in prison. The petitioner charged the prison authorities of negligence, claiming that they kept him for six hours before taking him to hospital. She accused Col. E.F. Zamani of high-handedness and finally urged the Commission to assist in recovering her personal properties from him.

Under cross-examination, the petitioner denied her husband drafted the proposed coup speech. She however admitted that she was not in Jos when her husband was allegedly tortured, emphasising that she relied solely on what her husband told her before he died.

Major Abubakar Mummuni Bashir of the 82 Division, Enugu also gave evidence. He denied ever torturing the late Lt. Col. Akinyode. He maintained that he was not the one guarding the detainees in Jos explaining that his function then was mainly to liaise with those that were kept in Jos Prisons and the Special Investigation Panel or the Military Tribunal. Major Mumuni traced the sources of these false allegations against him to *Tell magazine* publications (Exhibits 6 and 7) and Lt. Gen. Oladipo Diya. He noted that Gen. Diya had to retract a similar allegation under cross-examinations during the Commission's

public sitting in Lagos. The third witness, Mr. Kunle Ajibade, who was once an inmate of Makurdi Prisons testified on the conditions of the Prison.

Describing the conditions of Makurdi Prisons as horrible and lacking in medical facilities, the witness claimed that inmates of the prison sleep in hundreds on the bare floor resulting in high incidence of deaths. Col. E.F. Zamani also gave evidence on his alleged involvement in forceful ejection of the petitioner and the confiscation of her family properties. He tendered his written response (Exhibit 13) denying the allegations. Col. Zamani explained that late Lt. Col. Akinyode's residential quarters was officially and formally re-allocated to him and that he took necessary and proper steps in moving out the Akinyodes from the premises. While noting that he has never met the petitioner in his life, Col. Zamani denied ever confiscating any of the properties belonging to the Akinyodes or even removing Lt. Col. Akinyode's military accessories he said that would be absurd and ridiculous in view of his seniority to the deceased Lt. Colonel. The witness disclosed that some of the petitioner's properties are at the Lagos Garrison Command of the Nigerian Army. He emphasised that the petitioner caused the problem herself by removing government properties from the house. He referred to the inventories signed by all the parties involved including the petitioner and stated that the petitioner can collect her properties at the Lagos Garrison Command after verification of inventories.

Based on this evidence, the Commission ordered immediate reconciliation of inventories for the purposes of returning the petitioner's properties to her. This order was complied with on the 4<sup>th</sup>

of October, 2001 when the parties filed a list of 58 items to be returned to Mrs Akinyode.

The last witness to give evidence was Mr. N.K. Nandevé, a Chief Superintendent of Prisons, in charge of Makurdi Prisons. He tendered a written response (Exhibit 14) which he read before the Commission. He enumerated his duties as the officer in charge of Makurdi Prisons and explained that late Lt. Col. Akinyode was received in his custody on the 16<sup>th</sup> of July, 1998 from Jos Prisons. He stated that the deceased was treated as a Special Prisoner because of his status as Senior Military Officer and was also allocated a separate cell on the recommendation of a Medical Doctor who examined him and found that he had a history of hypertension. The witness further disclosed that the deceased was given supplementary feeding and was provided honey (on his request) instead of sugar, garlic and vegetables everyday while a Doctor from Benue State Ministry of Health, Dr. J.U. Kwagbtsule, attended to him weekly. He tendered the weekly medical reports (Exhibits 15(a) – 15(i)) on the petitioner and denied petitioner's allegation of negligence against the Prison authorities. He admitted that the deceased complained to him of poor eye sight, consequent upon which he procured a pair of glasses for him. CSP Nandevé emphasised that the medical condition of the deceased was very stable as at 24/12/98 and noted that the deceased was very stable as at 24/12/98 and noted that the deceased did not complain of any health problem as at the final lock-up time of Prisons (6 pm) on the 27<sup>th</sup> of December, 1998. He disclosed that when the Prisons cells were opened as 7.30 am of 28/12/98, Lt. Col. Akinyode did not respond to greetings as a result of which he sent for the visiting Doctor, who after careful examination certified him dead (Exhibit 16).

**PETITION NO: 1298: PETITIONER: MR FEMI FALANA**

Mr. Femi Falana, human rights activist alleged that he suffered numerous instances of abuse of his fundamental rights under the regimes of General Ibrahim Babangida, Chief Ernest Shonekan and late General Sani Abacha on account of his struggles for a just and democratic Nigeria. He further alleged that the authorities of the National Youth Service Corps Scheme NYSC had withheld his NYSC Discharge Certificate since 1983 after he had completed the service on schedule on the grounds that he embarrassed the government and the Corps by challenging the illegal detention of some undergraduate students of the University of Ibadan which was reported in the decided case of **Andrew Ogo & 5 ors vs. Kolawole (1983) 1NCR at page 342**. The petitioner urged the Commission to hold the regimes of General Muhammadu Buhari, General Ibrahim Babangida, Chief Ernest Shonekan and late General Sani Abacha accountable for these multiple violations of his rights. He alleged that these regimes implemented a programme of human rights violations as a deliberate policy of the state and accordingly requested the Commission to ensure that the perpetrators are brought to book. He further asked for the sum of one hundred million naira as compensation a public apology from the Federal Government.

***Evidence during Public Hearing***

At the public hearing of the petition on 5/7/01, two witnesses testified while five exhibits were tendered and admitted in evidence. In his evidence-in-chief, the petitioner relied on his petition (Exhibit 1) and recounted several instances of his arrest and detention by the State Security Service (SSS), the Nigeria Police and the Directorate of Military Intelligence under successive military regimes and also the Interim National Government of Chief Ernest Shonekan. Specifically,

he recalled that he was unlawfully harassed, arrested and detained on twelve different occasions under the regime of General Ibrahim Babangida between 1985 and 1993 while the regime of late General Sani Abacha arrested and detained him on nine different occasions between 1994 – 1994. He narrated his ordeals in the hands of the security operatives and lamented the severe sufferings he went through during his detention for 10 months by the regime of late General Sani Abacha in 1996. He deplored the Prison conditions describing Nigerian Prisons as torture centres and emphasised that the Nigerian Prison Act remains the most antiquated in the whole of African continent. The petitioner further depreciated the subservient and partisan role of the office of the Attorney-General and urged the Commission to recommend wholesome structural reforms. He also gave evidence on the non-release of his NYSC Discharge Certificate since 1983 despite the fact that he completed his service on schedule. The witness's Discharge Certificate was to make sure that he was employed by anybody in the country since the possession of the Discharge Certificate is a condition precedent for any graduate employment in Nigeria. He accordingly requested the Commission to direct the authorities of the national Youth Service Corps Scheme to release his NYSC Discharge Certificate forthwith.

Under cross-examination, the witness admitted that he was never physically tortured since he enjoyed tremendous goodwill from the security operatives whenever he was arrested. He emphasised that the people that were directly responsible for the abuse of his rights were the military rulers and not really the security operatives. While admitting that he was aware that he was always detained under the State Security Detention of Persons Decree No. 2 of 1984 as amended, the witness disclosed that the military authorities never complied with

the requirements of that Decree. He stated that his worst moments in prison were periods he was not released after a court had made an order for his release. The second witness that gave evidence was Mr. Gregory K. Enegwea, the Director Corp Mobilisation of the National Youth Service Corps in Nigeria. He denied the petitioner's allegation of withholding his NYSC Discharge Certificate, explaining that the petitioner himself failed to collect same in accordance with the scheme's procedures. The witness stated that the NYSC scheme encourages Corps members who are Legal Practitioners to defend or assist indigent litigants in court instead of punishing them. He noted that the NYSC authorities would have commended the petitioner if they had known of the case he handled in court and maintained that there was no link whatsoever between the petitioner's handling of the case and the non-release of the petitioner's Discharge Certificate. The Commission subsequently ordered the witness to produce the Discharge Certificate and present same to the petitioner before the Commission. The witness complied with the order while the petitioner promised to appear before the NYSC Secretariat to comply with other requirements. The petitioner thanked the Commission for achieving this feat after eighteen years of fruitless efforts on his part.

**PETITION NO. 1403: PETITIONER: PROF: WOLE SOYINKA**

The petitioner, a renowned writer, playwright and Nobel Laureate, filed a petition dated 13/8/99 alleging multiple violations of his rights by the late Gen Sani Abacha's government and his agents through severe damage to his character and reputation, vandalism of his property and arbitrary attacks on his associates, friends and relations. While admitting that his case is not at par with other victims of gross human rights violations like the purge of Ogoni leadership and the gruesome murder of Kudirat Abiola etc., the petitioner referred the Commission

to the provisions of Article 12 of the Universal Declaration of Human Rights which recognised an area of potential damage to the human persona.

The petitioner recounted the unprincipled manner the late General Sani Abacha regime, utilizing the full machinery of the state, embarked on a sustained campaign of character assassination character assassination of his person, honour and reputation through sponsored publications in a magazine Conscience International of March 1997 published by one Chief Abiola Ogundokun.

He disclosed that these publications were systematically distributed all over the world through the Ministries of Information, Foreign Affairs and all Nigerian Missions/Embassies abroad, resulting in severe psychological turmoil to his person and damage to his character and reputation.

### ***Evidence during Public Hearing***

At the public hearing of the petition, only the petitioner gave evidence and was cross-examined while about thirteen exhibits were tendered and admitted in evidence. In his evidence-in-chief, the petitioner tendered his petition (Exhibit 1) and supplementary petition (Exhibit 2) which he read before the Commission. The petitioner also tendered the offensive publication of the Conscience International magazine (Exhibit 3) and narrated how it was effectively distributed world – wide by one Emmanuel Agbeji on the instructions of Chief Tom Ikimi, then Minister of Foreign Affairs. He further recounted the many instances of the late Abacha regime’s abuse of the rights of hundreds of innocent people whose only crime was their association with him. He said he deprecated the manner of the attack on his person, his life history,

achievements and associates, emphasising that even in war there is limit to the degree of calumny that one can heap on one's enemy.

The petitioner also made an extensive submission of his formation and membership of an organisation called *The Pyrates Confraternity*, explaining that the association was a perfectly loyal and open organisation that was founded in 1952 while he was a student at the University College, Ibadan, in order to raise social and political consciousness among Nigerian students in the colonial days. He referred to the documented history of victimization of its members by the various security agencies ranging from routine harassment, arrest, tortures to murders as in the Umuluku massacre, merely on account of deliberate disinformation as to the activities and objectives of the organisation and its members. While enumerating the achievements of the organisation, the petitioner deplored the tendency of the ill-informed public and even the media to fall victims of mass hysteria and sweeping generalization by routinely demonising the organisation and confusing it with the notorious campus killer-cults.

The petitioner accordingly requested the Commission to recommend that the Federal Government should issue a formal apology to him for the savage attack on his person, honour and reputation, through the sponsored publication and distribution world-wide of the offensive *Conscience International* magazine. He emphasised that he was not asking for any monetary compensation or just any kind of apology, but an apology that would be agreed upon (in terms of its wordings), between the government and himself and will be compulsorily pasted on all Nigerian Missions abroad for a period of not less than one year in view of the magnitude of the damage to him. He also requested the Commission to accord adequate monetary compensation to all those

who suffered human rights violations on account of their association with him, particularly the members of the *Pyrates Confraternity*.

Under cross-examination by various counsel representing those named as being responsible for the abuse of his rights, the petitioner maintained that the *Pyrates Confraternity* was a harmless organisation and denied any charges of laying the precedent that subsequently led to the emergence of other dangerous cult groups in the country. He vehemently denied the allegations of embezzlement and misappropriation of public funds levelled against him by Chief Abiola Ogundokun, explaining that he has refrained from commenting on those allegations because he has filed a libel suit against Chief Ogundokun at a Lagos Court of Justice in Suit No. LD/2910/98 in respect of the matter.

The copy of a written response of Prof. Ibrahim Gambari confirming that the copies of the offensive magazine were sent by air parcel to the permanent Mission of Nigeria to United Nations in New York was tendered and admitted in evidence as Exhibit 4.

**PETITION No. 725 PETITIONER: MRS HADIZAR PINDAR AND OTHERS**

The petitioners Messrs Hadizar Pindar, Doshima Adaa, Franca Odache and Nwano Eze-Ukagha are representatives of the widows and families of one hundred and eighty six officers of the Nigerian Armed Forces who died in the Nigerian Air-force C-130 plane crash in September, 1992, while participating in the 15<sup>th</sup> Course of the Senior Division of the Command and Staff College, Jaji. The petitioners alleged that the military authorities have completely abandoned them to their fate by failing to implement the pledges and welfare packages promised them

on the 6<sup>th</sup> of October, 1992 by the then Chief of Defence Staff, late General Sani Abacha. They further claimed that their entitlements under the terms and conditions of service for officers of the Nigerian Army in respect of officers who died in active service were totally ignored and lamented that it is ironical that the same Nigerian military authorities provided adequate welfare for the foreigners who died on the same C-130 crash.

Most importantly, the petitioners wondered why the report of the panel of inquiry that investigated the cause of the crash was not released and given to the families of the victims as promised. While acknowledging and thanking the Federal Government for the help and welfare packages so far given to the families of the victims, the petitioners lamented that the refusal of the military authorities to accord them their due entitlements and fulfil the pledges made, has occasioned extreme hardship for most of the families, resulting in the death of eight of their members.

### ***Evidence during Public Hearing***

During the public hearing of the petition on 17<sup>th</sup> July, 2001, counsel representing the parties informed the Commission that they were exploring the possibility of amicable settlement of the issues at stake. They requested the Commission to grant them an adjournment to enable the parties agree and file and acceptable terms of settlement. The Terms of Settlement were agreed upon and signed by all the parties and submitted to the Commission on the 19<sup>th</sup> of September, 2001. In the Terms of Settlement, which was also counter-signed by the Chairman of the Commission, the military authorities as represented by the Ministry of Defence agreed as follows:

1. To harmonise the school fess due and payable to the children of the deceased officers at par with that paid by the Nigerian Navy effective form September 2001.
2. Pensions and gratuities will be paid to widows and children as provided for in the provisions of the Armed Forces Decree and also the Terms and Conditions of Service in the Military.
3. That the Ministry of Defence shall ensure that the Federal Government directives and, or pledges, as it relates to cars and houses are implemented.
4. That the report on the cause of the crash of NAF C-130 plane will be made available to the petitioners as soon as it is received by the Chief of Air Staff from the manufacturers of the C-130 Hercules aircraft.

**PETITION NO. 1421: PETITIONER: DR. B.O. BABALAKIN**

The petitioner was the former Chief Executive Officer of Commercial Trust Bank Nig Plc. He alleged that he suffered numerous violations of his rights in the hands of the Nigerian Police Force, The Nigerian Deposit Insurance Company and the Central Bank of Nigeria following the liquidation of the bank.

On the 17/1/2001 when the petition was called for hearing, counsel representing the petitioner informed the Commission that he was instructed by his client to withdraw the petition. The request for withdrawal was not opposed by counsel representing the other parties in the matter. The petition was accordingly struck-out by the Commission.

**PETITION NO: 1532. HON NWABUEZE UGWU**

The petitioner filed a petition alleging that his elder brother, Mr. Ugwu Sunday Ugwu, was murdered in cold blood while he was driving out of his apartment on the 8<sup>th</sup> of September 1999. The petitioner who was an elected member of Enugu State House of Assembly claimed that the circumstances of the murder coupled with his political antecedents gave him enough room to suspect the officials of Enugu State Government as being responsible for the murder. He prayed the Commission to thoroughly investigate the matter with a view to identifying and punishing the culprits.

When the matter was called for hearing on the 16<sup>th</sup> of July, 2001, objection was raised by counsel representing the Enugu State Government as to the competence of the Commission to hear the petition. First, he informed the Commission that the matter has been severally investigated at different levels by the Nigerian Police and that part of the grievances of the petitioner before this Commission is the subject of a pending suit at the High Court of Enugu State. Most importantly, the counsel argued that the Commission does not have the power to investigate the matter since the murder of the petitioner's brother took place on 9/9/99, which is outside the period contained in the Commission's Terms of Reference which is 28<sup>th</sup> May, 1999.

After hearing arguments from both counsel, the Commission noted that even though its duty is a fact-finding one, the fact-finding must be done within the ambit of the law. The Commission accordingly held that it lacks the power to hear the matter in view of the express limiting date contained in its Terms of Reference. The Commission further advised the petitioner to pursue the matter before the law courts. The petition was accordingly struck-out.

**PETITION NO: 471. PETITIONER: MAJOR BILYYAMINU MUSAH MOHAMMED (RTD)**

The petitioner was a former Administrative Officer in the Presidency under late General Sani Abacha regime. He alleged that he was maliciously implicated in the alleged coup plot of December, 1997, by Major Hamza Al-Mustapha. He was subsequently arrested, detained and severely tortured by Major Al-Mustapha and his security boys (Strike Force). He traced the motive of this wicked frame-up and his subsequent ordeal in the hand of Al-Mustapha and his security boys to a long existing discord between him and Al-Mustapha towards the end of 1995, a few weeks after his promotion to the rank of a Major. The petitioner disclosed that the alleged coup plot of 1997 provided a cover for Major Al-Mustapha to persecute and ruin him for life.

On the date fixed for the hearing of the petition, the petitioner, after a mild drama with Major Al-Mustapha and one I. M. Mohammed Maikudi, his cousin, informed the Commission of his desire to withdraw the petition. Retired Colonel Yakubu Bako, a relation of the petitioner who intervened in the case, explained further to the members of the Commission that there were moves by family members to reconcile the petitioner with Major Hamza Al-Mustapha. Based on that information, the petition was struck-out by the Commission.

**PETITION NO:186 PETITIONERS: ALFA BELLO O. OLORUNKOSEBI, L.A AYANKOJO, ALHAJI RASHIDI A. SALAWU & THE FAMILY OF THE LATE ASHIPA OF OYO, CHIEF AMUDA OLORUNKOSEBI**

This case first heard in the Lagos Zone. The petitioners are the family and community members of the late Ashipa of Oyo, Chief Amuda Olurunkosebi, who was murdered in cold blood by hired assassins on

the 26<sup>th</sup> of November, 1992. Recounting the circumstances of the murder, the petitioners gave a detailed account of their long search for justice from 1992 to date. They disclosed that various Police Investigation Reports point accusing fingers to the Alaafin of Oyo, Oba Lamidi Olayiwola Adeyemi 111 as the master-minder and prime suspect. They lamented however that efforts made to prosecute all the suspects have been severally hampered and frustrated by the prime suspect in collusion with the office of the Attorney-General of Oyo State.

The petitioners charged the then Attorney-General of Oyo State, Alhaji Yusuf Akande, of undue perversion of justice in that he deliberately refused to charge the Alaafin of Oyo as recommended in the Legal Advice of the Director of Public Prosecutions. The family members refused to bury the corpse of the late Ashipa of Oyo demanding that justice must be done in the matter.

**Public Hearing:** When the matter was called for hearing in Lagos on the 13<sup>th</sup> of November, 2000, several objections were raised by the Attorney-General of Oyo State and the senior counsel representing the Alaafin of Oyo. They argued that the subject matter of the complaint is currently on appeal before the Supreme Court of Nigeria. It was further argued by counsel that the Attorney-General of Oyo State is constitutionally empowered to decide on whom to charge to court in respect of any criminal indictment.

After arguments were taken from counsel representing all the parties on these issues, the Commission noted that the matter which is on appeal before the Supreme Court is materially different from the subject matter of the complaints. The Commission accordingly held

that it had power to hear the petition and adjourned the matter for hearing at Abuja.

On the resumed hearing of the matter in Abuja on the 10<sup>th</sup> of July, 2001, the Alaafin of Oyo, Oba Lamidi O. Adeyemi 111, served a writ of summons from the Federal High Court, Ibadan on the Commission through his senior counsel. In the said writ of summons, Oba Lamidi O. Adeyemi, was urging the court to restrain the Commission from hearing the matter in view of constitutional provisions on the powers of the Attorney-General in criminal matters and also the provisions relating to fair hearing. After hearing arguments for the second time from counsel representing the parties on the effect of the civil suit at the Federal High Court, Ibadan, the Commission decided to adjourn the matter indefinitely pending the determination of the suit filed by the Alaafin of Oyo.

The Commission however expressed reservations over the awesome and often over-bearing powers of the Attorney-General under the Constitution, observing that it can easily be abused as can be seen in a number of cases before the Commission.

**PETITION NO. 59: PETITIONER: MR BAMIDELE OBAKOYA**

The petitioner was a Special Assistant to Lt. Gen. Oladipo Diya, then Chief of General Staff under late Gen. Sani Abacha's regime. He alleged that he was arrested mercilessly tortured and detained in the wake of the alleged coup plot of December, 1997 by soldiers under Major Hamza Al-Mustapha. The petitioner claimed that the only reason for his arrest and detention was because of his closeness to then Chief of General Staff, Lt. Gen. Oladipo Diya.

When the matter was called for hearing during the Lagos public sittings, the petitioner did not appear or send a representative despite due service of notice of hearing. The matter was then adjourned to Abuja to afford the petitioner a second opportunity to present his case. On the 9<sup>th</sup> of July when the petition was called up for hearing, the petitioner did not appear despite service of the notice of hearing for the second time. The matter was accordingly struck-out for want of appearance.

**PETITION NO: 270: PETITIONER: MR RAYMOND INYANG**

The petitioner was the Managing Director of one MFC Savings and Loans Ltd, a licensed finance house. He stated that one Mr. Udo Essien Akpan deposited money with the Finance House and was issued with a Certificate of Deposit. This deposit was subsequently rolled over in accordance with an agreement the depositor had with the company. However, the petitioner alleged that the then Chief of Air Staff, Air Vice Marshall Nsikak Eduok, demanded the deposited money as well as the accrued interest claiming that he lodged the sum in question under the assumed name of Udo Essien Akpan. The petitioner disputed the claims and asked for proof, consequent upon which he was arrested, tortured and detained at the Directorate of Air Intelligence, Ikeja for seven months without trial.

**Public Hearing:** On the date fixed for hearing of the petition, the petitioner was absent due to the inability of the bailiffs to effect service on the address he provided. The matter was subsequently adjourned to Abuja to enable the bailiffs attempt a second service. On the 9<sup>th</sup> July when the petition was mentioned for hearing neither the petitioner nor his counsel appeared before the Commission despite

due service through his solicitors. The petition was accordingly struck – out.

**PETITION NO: 861 PETITIONER: CHIEF FEMI ADEKANYE & RALPH OSAYEMEH**

The petitioners were former Chief Executive Officers of Commerce Bank Ltd, now in liquidation. They alleged that they were unlawfully arrested and detained by the Nigerian Police on the instigation of Central Bank of Nigeria and Nigeria Deposit Insurance Corporation for alleged financial impropriety in the management of the bank.

When the matter was called for hearing on the 4<sup>th</sup> of July 2001, the counsel to the petitioners sent a letter expressing their intention to withdraw the matter before the Commission on the ground that they were looking at other options for redress for the injustices they suffered. The request for withdrawal of the petition was not opposed by counsel representing the other parties. The petition was accordingly struck-out by the Commission.

**PETITION NO: 607. PETITIONER: NASH N. HARUNA**

The petitioner alleged that his brother, Sergeant Momoh Arumah, was murdered in cold blood by one Major Charles Olufemi Macaulay along Ekenwan Road, Benin-city on the 30<sup>th</sup> of November, 1993. The petitioner lamented that the then Commissioner of Police in Edo State refused to apprehend the suspect for prosecution in line with the Legal Advice of the Director of Public prosecution on the matter.

When the petition was called for hearing on the 4<sup>th</sup> of July 2001, petitioner was absent due to non-service of notice of hearing. The

Commission was informed that the bailiffs could not locate the petitioner at the address he supplied for service after several attempts.

The petition was accordingly struck-out.

**PETITION NO: 1482. PETITIONER IDRIS ABDULKADIR**

The petitioner alleged that he was unlawfully arrested and detained for seven months without trial by one Capt. H. Buba on the instructions of Col. Frank Omenka, the then Commanding Officer of the Security Group. He claimed that his arrest was sequel to an argument he had with one Mrs. Mayaki concerning the probe of former NITEL chief executives and other government parastatals.

On the 1<sup>st</sup> of November, 2000 when the petition was fixed for hearing, the Commission was informed that it was not possible to locate the petitioner at the address he provided for service. The matter was adjourned at the instance of the Commission to enable bailiffs attempt substituted service on the petitioner. On the 26<sup>th</sup> of June, 2001, when the petition was again mentioned for hearing, it was still not possible to effect service on the petitioner as a result of the obscure address he provided. The matter was accordingly struck-out.

**PETITION NO: 620. PETITIONER: MR AUDU OGBE**

The petitioner, a politician and former minister during the Second Republic, alleged that a gang of hired assassins invaded his home in Makuridi on the 7<sup>th</sup> of December, 1998 at about 1.00am shouting that they were sent to kill him. The gang started firing gun shots in all directions of his home and succeeded in hitting him severely from behind. He received serious injuries on his skull, jaw, nose and lower lips and had to undergo several surgical operations at the Makurdi

Medical Centre. He alleged that his political opponents from his area were behind the plot to assassinate him as the incident happened immediately after he had returned from the Local Government Elections in his area. The petitioner lamented the failure of the Benue State Police Command and other security agencies in the state to investigate the incident, emphasising that it suggests complicity on the part of the then Benue State Government.

On the 3<sup>rd</sup> of November 2000, when the petition was originally fixed for hearing, the petitioner was absent due to non-service of notice of hearing. The then Military Administrator of Benue State, Brigadier-General D. Oneya and the then Commissioner of Police, Alhaji Mairamri, were both present and ready to respond to the allegations. The petition was however adjourned by the Commission to enable the bailiff attempt a further service on the petitioner.

When the matter was finally called for hearing on the 27<sup>th</sup> of June, 2001, the petitioner sent a letter to the Commission expressing his desire to withdraw the petition on the ground that he has forgiven all those that were involved in the attempt to assassinate him. This was not opposed by any of the parties. The Commission accordingly struck-out the matter.

**PETITION NO: 122 PETITIONER MRS OLUBUKUNODA A. OSHODI**

The petitioner is the widow of late Mr. Oladimeji B. Oshodi who was a passenger and a victim of the ill-fated Nigerian Air Force C-130 plane that crashed in Ejigbo, Lagos State on the 25<sup>th</sup> of September 1992. The late Mr. Oshodi was a participant in the Senior Military Officers Course in Jaji at the time of the incident. The petitioner strongly suspects that her husband and other victims of the plane crash were

killed by the authorities at that time as they were deliberately ordered to fly a faulty C-130 Air Plane.

On the 3<sup>rd</sup> of November 2000, when the petition was originally fixed for hearing, the petitioner was absent due to non-service of notice of hearing. The Commission consequently adjourned the matter to enable the bailiffs effect service on the petitioner. When the matter was subsequently mentioned for hearing on the 26<sup>th</sup> of June, 2001, the petitioner was absent and was not represented by counsel despite due service of notice of hearing. The matter was accordingly struck-out by the Commission.

**PETITION NO. 309:            PETITIONER:            BRIG.-GEN. FRED B. CHIJIUKA (RTD)**

The petitioner was the former officer in charge of Army Public Relations Office. He alleged that soon after his retirement from the Army, he was invited to the office of Directorate of Intelligence and subsequently detained by Col. Frank Omenka without any explanation. Col Frank Omenka claimed that he was instructed to detain him based on the allegation that he was fraternizing with the media. After his release from detention, he contacted the then Head of State, late Gen. Sani Abacha, to find out the reason for his detention but General Sani Abacha feigned ignorance of his detention and apologised to him for the embarrassment.

When the petition was called for hearing on the 29<sup>th</sup> of June, 2001, the petitioner sent a letter to the Commission requesting to withdraw his petition on the ground that the person who violated his rights (Col Frank Omenka) has fled the country. The petition was accordingly struck-out by the Commission.

**PETITION NO. 408: PETITIONER: MRS CHINYERE OHALETE**

The petitioner alleged that she was unlawfully arrested, tortured and detained by officers of the National Drug Law Enforcement Agency (NDLEA) on the instructions of Major-General Musa B. Bamaiyi. The petitioner, who claimed to be a close friend and associate of Gen. Musa Bamaiyi, alleged that she was mercilessly tortured and flogged by one Lt. Col. D. Abel on the orders of retired General Bamaiyi for no just cause. She claimed that it was after she had smuggled out a petition to the press from her detention camp in Yola that the former Chairman of NDLEA, General Musa Bamaiyi, hurriedly arraigned her before a tribunal on charges of impersonation.

When the petition was mentioned for hearing on the 4<sup>th</sup> of December 2002, the petitioner was absent due to non – service of notice of hearing on her. The matter was then adjourned to enable service be effected on the petitioner. On the 29<sup>th</sup> of June 2001 when the petition was called for definite hearing, the Commission informed that it was not possible to locate the petitioner at the address she supplied for service. The matter was accordingly struck-out by the Commission.

**PETITION NO: 384. PETITIONER: JOE BILLY EKWUNIFE**

The petitioner was the former Managing Director/Chief Executive of Ivory Merchant Bank Ltd. He alleged that he was maliciously arrested, detained and wrongfully arraigned before the defunct Failed Bank Tribunal on five count charges of aiding and abetting one Dr. Edwin U. Onwudiwe (erstwhile non-executive Chairman of the Bank) to steal about N16.56 Million from the bank. He claimed that his arrest, detention and wrongful arraignment were based on false allegations and corporate conspiracy between the Nigerian Deposit

Insurance Corporation and a company named Partnership Investment Ltd.

**Public Hearing:** on the 4<sup>th</sup> of July, 2001, when the petition was mentioned for hearing, both the petitioner and the representatives of the NDIC requested for an adjournment of the matter. The NDIC requested for time to enable it brief counsel properly and respond to the petition.

The petitioner on the other hand requested for indefinite adjournment to enable him travel to the United States of America for medical treatment for his son. The matter was accordingly adjourned *sine die*. The petitioner did not however notify the Commission of his return and his interest in the matter.

## **CHAPTER EIGHT**

### **ABUJA III**

#### **INTRODUCTION**

8.1 The third Abuja session took place between 3 September 2001 and 18 October 2001. The Commission sat for a total number of thirty four (34) days, and took one hundred and twelve (112) cases. Of this number, only seventeen (17) may be considered as fresh cases that were started and concluded at the third Abuja sitting. The rest were continuation of cases from other centres, including the first and second Abuja sittings. The third Abuja was the final lap of the Commission's sittings. A visit was paid to Zangon Kataf where meetings were held with the two conflicting parties in that community, as part of the reconciliatory efforts of the Commission. Special hearings also took place for the human rights community in Nigeria, and for the security agencies in the country.

8.2 Below is a list of the petitions heard at the third Abuja, arranged sequentially in line with the HRVIC reference numbers.

#### **PETITION NO. 136: PETITIONER: CHRISTOPHER EZEMA**

This was a case of wrongful dismissal from the Navy, and illegal detention of the petitioner in a naval cell for seven months, after which the petitioner was handed over to the NDLEA for possessing *marijuana* (Indian hemp), and was tortured. The Nigeria Navy announced at the Commission that it was already responding to petitions from the Navy through the Commission, by attempting to review cases of dismissal into retirement with full benefits. The counsels were instructed to agree to, and facilitate a settlement and report to the Commission. The

Chairman also called for addresses, noting that they should address whether or not the detention of the petitioner was extra legal. One Exhibit was admitted.

**PETITION NO. 400: PETITIONER: ENGINEER. MADUKWE I.A. KANU**

This was a case brought forward against the detention of the corpse of the petitioner's brother. The prayer was for the release of the corpse to the petitioner. Counsel to the petitioner informed the Commission that the corpse had now been released. The other issues raised in the petition were withdrawn by the petitioner. The case was then struck out.

**PETITION NO. 413: PETITIONER: HON. MOHAMMED INUWA ALI**

Two exhibits were tendered and admitted for this case. The petitioner went to the Commission with a case of illegal arrest, detention and torture. The petition was earlier struck out because the petitioner maintained repeated absence. It was, however, re-listed and heard. The Commission heard the respondent in the absence of the petitioner. The respondent, a former Military Administrator of Kaduna State, explained that the petitioner was a fraudulent character having been involved in the falsification of files and irregular allocation of plots in Kaduna. He added that he had tried to use blackmail to get N5 million from the Kaduna State Governor to drop the case. The respondent believed that the petitioner went ahead with the case because his demand was not met by the Governor. The case was closed because the petitioner was not there to be cross-examined. Counsel was asked to submit addresses within two weeks. The address should reflect the improper approaches of the petitioner to the

former MILAD (first witness) and consider a probable report of the matter to the “appropriate authorities”.

**PETITION NO. 451: PETITIONER: CHIEF (DR.) MRS. ADA ESTHER MADU**

This petitioner stated that she and her daughter were unlawfully detained for 26 days at Rahama Hotel Makurdi by men suspected to have been directed by the Benue State Commissioner of Police. They were under guard for 24 hours a day during the period of detention. They suffered continuous interrogation, psychological and mental torture and were later treated for “post traumatic stress disorder”. They eventually escaped from the hotel, leaving behind valuables like jewelry, research materials and her daughter’s school books. Five exhibits were presented. She prayed the Commission to help her retrieve her research materials, and make her torturers pay for the mental torture and the setback in her research to which she claimed she had invested up to ten million naira (N10 million). The case was adjourned to the next day **(no record of continuation/conclusion of this case on the next day’s proceedings, or anywhere else. Verbatim report not available).**

**PETITION NO. 741: PETITIONER: LINUS A. NDIOYEMA**

The case, which was originally listed at Enugu, had been struck out because the petitioner was absent, but was re-listed upon their appearance. The petitioner alleged that his problem began with a publication in *The Rising Sun* of 2 to 9 August 1999. Counsel to the Commission was instructed to write the Commissioner of Police. The Police should submit a written response. Counsel should also submit written addresses within two weeks.

**PETITION NO. 1292: PETITIONER: SAMUEL IGRA**

This was a case of alleged extra-judicial killing by the police on account of armed robbery. Compensation was demanded by the petitioner. The police maintained that the deceased was a self-confessed armed robber, and was shot in an attempt to escape. Addresses were to be presented within three weeks. Counsel to the petitioner is to highlight the issue of compensation, and whether the Commission could recommend compensation if the deceased was indeed, an armed robber. Counsel to the respondents should list their concerns.

**PETITION NO. 1295: PETITIONER: SAMUEL ABRAHAM**

The petitioner wrote on behalf of his younger brother who was arrested by the Police and his property removed. The brother later died in Police custody. The late brother had been sighted alive by another person who went to inquire from the Police. The inquirer was equally detained by the Police. The Police explained that the victim was a self-confessed armed robber who was shot in an attempt to escape, and later died in the hospital. The petitioner prayed for the release of his brother, and that he should then be properly charged to court. The Commission noted that the brother was already dead and there was nothing it could do. The case was struck out.

**PETITION NO. 1404: MAJOR NYA I. NYA**

The case was struck out at Enugu because the prayers were outside the terms of reference of the Commission. In addition, the case had been concluded at a regular court. The petitioner thought he did not have a fair hearing at the court and thus brought his case to the Commission. The petitioner was, however, allowed to re-list at the third Abuja.

The subject-matter is illegal detention, torture, inhuman treatment wrongful removal from the Army by General Ishaya R. Bamaiyi and others. The petitioner believes his ordeal was based on orders given by General Ishaya Bamaiyi. He prayed for an apology from those who tortured him, compensation to the tune of 100 million naira, and payment of his outstanding emoluments and benefits, as well as proper retirement from the Army. He also wants a national award for service to his motherland.

Two exhibits were tendered and admitted. The Chairman closed the case by calling on Counsel to send addresses within one week, on the legality of the petition, as well as the arrest, detention and torture of the petitioner.

**PETITION NO. 1428: PETITIONER: KING RICH**

This was a petition alleging unlawful detention totaling six months, torture (injected with a stupefying substance, tear gassing and three stokes of the cane daily), vandalism and outright looting of equipment and properties; and intimidation of the staff of the *Congress Newspaper* by the late General Sani Abacha's Task Force on Financial Malpractices. The petitioner added that while in detention, varying amounts of money were extorted from him by his captors. The petition stated that a total amount of N233, 717,000 was lost by way of extortion, vandalism, confiscation of his products, equipment, etc. In addition, he lost 10 Billion Naira for being out of business from 1994 to 2001. He prayed the Commission to assist in bringing the culprits to book, getting his properties returned to him. He also asked for security from the Commission as he believed his life was still in danger.

Counsel to the Police argued that the newspaper he claimed he was running was false. The petitioner failed to bring any supporting documents to buttress his case. The case was adjourned to give him time to present relevant documents supporting his claims that he was a genuine publisher and a business man. He was absent on the slated date. The Commission ended the case by asking for addresses to be written within two weeks.

**PETITION NO. 1473: CHIEF AKIN OMOBORIOWO**

This was a petition against illegal detention (at Victoria Island for seven weeks, and at Kiri-Kiri Maximum Prison for one month), deprivation, humiliation and business losses caused by the Buhari military administration which detained the petitioner. After he was released by the Justice Uwaifo Panel of Inquiry, he was arrested again by the Oyo State Military Administrator and incarcerated at the Owo Medium Security Prison for another sixteen months. General Mohammadu Buhari, the principal witness, failed to show up to respond to the petition. As such, the case was closed pending when the respondent would appear to testify.

**PETITION NO. 1776: CHRISTIAN OKONGWU**

The petition is against extra-judicial killing of six Igbo traders by the Police at Panteka market, Kaduna. It alleges that the victims were extorted of their goods, personal properties and substantial amounts of money by the Police. The petitioner prayed for compensation. The Director of Public Prosecutions of Kaduna State had maintained that it was an armed robbery case, and had further advised that since the suspects were all dead, the case should be terminated. The Commission directed that a letter be written to the Commissioner of Police and the Attorney-General to charge those who killed the

suspects to court. Counsel to the petitioner is also to assist in charging the case to court. The Commission ordered that all the policemen involved in the killing of the suspects should be charged to court. The issue of compensation was to be looked into after that. When the case came up again, it was clear that the directive of the Commission to prosecute the culprits was not followed. The Commission was displeased with this development and further directed that a letter be written to the Police Inspector-General to convey its feelings. The Commissioner of Police and Ministry of Justice in Kaduna State were to be copied the letter. Counsel to the petitioner was requested to submit an address within two weeks, noting all that transpired, and the claims.

**PETITION NO. 1779: MRS. S.O. OLUSEMO**

The petition was against unlawful detention. However, the petitioner wrote to the Commission to state that the substance of the petition had been overtaken by events. The Chairman struck out the petition having been withdrawn by the petitioner.

**PETITION NO. HRVIC 1783: MAJOR Y. W. HARRY**

The petitioner prayed for his reinstatement into the Army. The Chairman informed that he had sent a list of such names to the Army for administrative action, but asked for confirmation that the petitioner's name was included. The case was closed.

**PETITION BY PASTOR KAYODE WILLIAMS**

The petitioner was the Director General of the Prisons Reactivation Ministry, Ikeja. He made suggestions to aid the reformation of the Nigerian prison system. The case was closed.

## **SPECIAL HEARINGS FROM THE HUMAN RIGHTS COMMUNITY**

These hearings took place on the 19th day of the third Abuja sitting, specifically on the 27th of September 2001. It involved presentations by civil society groups and the National Human Rights Commission. The Chairman of the Commission commended the human rights community for the work they had been doing before the Commission came on board. He explained that the Commission stood to gain from their work. He stressed the centrality of civil society in the struggle for human rights.

a) **The National Human Rights Commission** was the first to make its presentation (marked Exhibit 1). It observed that human rights violations had become synonymous with military rule in Nigeria, and added that it would no longer go un-addressed. The Commission advocated for better forms of justice than retributive justice, pointing out the need to examine the causes of human rights violations. It opined that violations were perpetrated by government at all levels, and also by government agencies, and tribal militias. The National Human Rights Commission advocated the teaching of civic education and human rights norms in schools. Transparency was also advocated as a solution to corruption.

b) **The Constitutional Rights Project** followed (marked Exhibit 2). They opined that the great distortion of the Nigerian polity by the military and the use of decrees as opposed to constitutional processes were key causes of human rights violations. It decried the military justice system and called for non custodian methods of punishment for convicted offenders. It argued that the present Nigerian constitution was handed down by the military: it is thus devoid of

legitimacy and credibility. It called on the Commission to compel three former heads of state who were dictators, to appear before it.

c) The **Prisons Rehabilitation and Welfare Action (PRAWA)** made a presentation titled “Prisons and Penal Reforms Issues: Human Rights Violation and Recommendations”. The paper drew attention to the hidden and voiceless nature of prisoners. It examined issues of death in custody, torture and overcrowding. It advocated that all prison deaths should be investigated. The paper stated that torture occurred during interrogation in order to elicit confessions. It added that evidence-based policing should be practiced, rather than confession-based policing. The paper attributed overcrowding to Awaiting Trial cases.

Other areas considered include the lack of facilities for juvenile convicts, female prisoners, mentally ill prisoners and prisoners with disabilities. Reformation and rehabilitation of prisoners, lack of planning and coordination by the criminal justice system lack of funding for prisons, irregular use of prison funds and inadequate community involvement in the justice system were also considered. The paper finally examined measures to improve Awaiting Trial Prisoners and the administration of prisons.

d) The **Centre for Free Speech** made the next presentation, marked Exhibit 4. The paper did a comprehensive documentation of the draconian laws promulgated in Nigeria since 1968. It highlighted some of the major human rights violations on persons, especially journalists.

e) The **Civil Liberties Organization (CLO)** made the final presentation titled “The Epoch of Impunity”, marked Exhibit 5. Other publications were also presented to the Commission for reference. A petition from one Mohammed Sule was also presented, as typical of cases from ordinary Nigerians who would not be able to present their petitions before the Commission.

The presentations were discussed generally. A contributor drew attention to the need to tie environmental rights to human rights, as people have a right to a safe environment. He advocated for Environmental Audit. He added that the Bakolori incident should be considered by the Commission as an act of human rights violation under a democratic regime, and recommendations for redress should be made. The Chairman of the Commission observed that such issues were outside the mandate of the Commission. However, following a suggestion from a contributor that most persons whose rights were violated would want compensations, there was a discussion about compensations and where the funds would come from. A discussant suggested that Nigeria’s looted funds should be recovered and used for this purpose. Another was of the opinion that those individuals responsible for the violations should be compelled to pay for the compensations so that it can serve as a lesson to others in the future.

Another contributor drew attention to the conditions of prisons in Nigeria, describing them as the worst in the world. He suggested that recommendations in the research papers presented should be implemented. Another discussant attributed the problem of prison congestion to faulty legal processes. He added that whereas Section 35 of the Nigerian Constitution requires speedy trial of cases, the police

would normally take accused persons to courts which lack jurisdiction over their cases.

Finally, there was a discussion on the meaning of “death by natural causes”. Another participant commented on the atrocities committed by security agents in the name of “duty”. He added that terms like “accidental discharge” and “stray bullet” should be examined closely.

The Chairman expressed his appreciation on behalf of the Commission, and assured them that the Commission would avail itself of the views and materials from the human rights community.

### **SPECIAL HEARINGS FROM SECURITY ORGANISATIONS**

On the 5th of October 2001, there was a special hearing session for security organizations. The organizations represented were the State Security Service (SSS), The Nigeria Police, The Nigeria Army, The Nigeria Prisons, and the National Intelligence Agency (NIA).

a) The SSS made a presentation titled *The Constitutional Role of the SSS* (marked exhibit 1). It covered a definition of national security, fundamental human rights, and the relationship between national security and fundamental human rights. It deliberated on the functions of the SSS, its mode of operation, the legal functions of its operations, and the environment within which the SSS operates. The paper also delved into the threats which the SSS was facing, challenges facing the organization, the activities of the SSS under the Commission’s terms of reference, repositioning the SSS, and a conclusion.

b) The presentation by **The Police** was made by Commissioner of Police C.J. Akaya, who is in charge of the Legal Department at the Force Headquarters. The paper was titled *Improving the Police Image/Performance* (marked Exhibit 2). The paper opined that among the factors that give the Police a bad image are the quality of personnel, poor conditions of service, inability to attract good calibre of persons into the service, poor quality of training facilities, poor quality of directing staff at the Police Colleges and improper handling of firearms. Others are extortion and corruptive tendencies, police involvement in civil matters, inadequate manpower, difficulties of logistics and equipment, and funding problems. The paper examined the effects of prolonged military rule on the police and made recommendations. It gave the Police a pass mark.

c) The Nigeria Army presentation was made by Dr. Bello Fadile for the COAS. It was titled *The Nigeria Army: A Call to Duty* (marked Exhibit 3). The paper noted that in charting a new course for the Army, it was committed to the ideals of democracy. In addition to discussing the role of the Army, it delved into military incursion into politics, the rule of law in the Army, military justice system, human rights in the Nigeria Army and the petitions and allegations of human rights violations in the Nigeria Army. Other areas are the illegal arrests of civilians, torture, misuse of task forces, trials by court marshal, trials before tribunals, illegal deployment of troops, etc. The paper also discussed civil-military relations and the lapses of the media, civilian collaborators in military rule, the distinction between military government and the Army, and the effects of military adventurism. The vision of the current COAS for the Nigeria Army were presented. It concluded by stating the faith of the Nigeria Army in justice and the judiciary.

d) The **Nigeria Prisons** presentation was made by O. Ibrahim and O.W. Orakwe. It was titled *The Overview of Human Rights Violations and Professional Hazards in the Nigerian Prisons* (marked Exhibit 4). It defined the objectives of the Nigeria Prisons. It attributed human rights violations in the nation's prisons to two sources, the first being prison congestion due to delays in the justice system, and overbearing state policies (e.g. bringing people to the prisons without warrants); and ouster clauses that incapacitate the prison. Violations also result from punitive treatments and lack of rehabilitation, transfer and removal of prisoners from custody, violation of prison officers' rights by the state, professional hazards faced by the prisons staff, the effects of military rule on prisons and human rights violations and prison reforms. Recommendations were also made.

e) The **National Intelligence Agency** (NIA) presentation was titled *Perspectives on Institutional Reforms and National Reconciliation* (Exhibit 5). It articulated the mandate and objectives of the NIA. It also examined new relationships for a new order, the need for social justice to create a positive impact on Nigerians. The engagement of the unemployed as well as sectarian crisis and its effects on citizenship were considered. The paper advocated that the directive principles of state policy should be made justiceable. The presentations were followed by a general discussion.

## **CLOSING**

8.3 The third Abuja came to an end on Thursday 18th October 2001. The Chairman of the Commission gave a closing address titled *In Recincilione Stat Progressio Humana (Restoration is the Foundation of Human Progress)*. He recalled the reference made by Mr.

President, while inaugurating the Commission, to the principles of openness and transparency in government, healing the wounds of the past, reconciliation of those previously alienated, and restoration of harmony. Chairman stated that the Commission had tried to bring the message of hope and reconciliation to Nigerians in its public sittings, and did so by moving to different zones in the country. The Chairman stated that a number of reconciliations had been brought about by the Commission, involving individuals, groups and communities. Even though old wounds were opened, the Chairman, explained, the purpose was to get to the truth so that permanent healing could be achieved. The Chairman called for input from the public to enrich the final report and recommendations to be made to government. He also thanked security agencies, the media, and the audiences for the support they gave the Commission in the course of its work.

## **CONCLUSION**

8.4 Having gone through the hearings petition-by-petition and centre by centre, what is our assessment of what transpired at the hearings? From the context of the Commission's mandate, could the public hearings be said to have lived up to expectations? Before we address these issues, we may need to avert our minds to what appeared to be an inadvertent dominance of particular petitions – types in the centres, giving rise to the dominance of particular issues in such centres. For instance, the hearings in the Abuja (1) and Lagos Centres were dominated by military matters. In Abuja, it was the issue of the 1995 alleged coup attempt and its fall-outs, while in Lagos the focus was the 1997 coup attempt and the in-fighting at the top echelons of the military.

8.5 The dominant theme in Port-Harcourt was the Ogoni issue in its various ramifications, while Kano featured various cases of communal clashes between the Jukun – Kuteb; Kataf – Hausa/Fulani and Sayawa-Hausa/Fulani. In Enugu, it was the resounding echo of the 15th January, 1966 *coup de'tat* and the resultant Civil War and its aftermath that filled the hearing hall. While the echo of the communal rancour started in Kano continued in Abuja (II) and (III) The two sittings here were however dominated by reactions and responses by various sectional groups to the *Ohaneze Ndigbo's* version of the history of the Civil War and the claim of Igbo marginalization in the Nigerian Federation.

8.6 Apart from these zonal patterns there were some petitions whose subject matter and/or the information unraveled during the hearings, evoked much national interest. First of these were the series of petitions from soldiers who were arrested, detained, convicted and later retired from the Armed Forces, for alleged involvement in the 1995 attempted coup attempt. Without exception, all the petitioners claimed ignorance of the coup, claiming they were either victimized or set up. Contradicting them however, were the duo of Major-General Patrick Aziza (rtd) the Chairman of the Special Military Tribunal that tried them and Major-General Felix Mujakpero (rtd) the Chairman of the Special Investigation Panel that investigated the matter. The two officers maintained that given the evidences before them, their verdicts were not only just, and fair but incontrovertible. This thus means the controversy over the 1995 alleged coup attempts still stands unresolved.

8.7 Second and related is the issue of the 1997 alleged coup attempt, which discussion revolved mainly round the petitions. of Ex.

Lt.-Gen Oladipo Diya (Petition nos: 696 and 697) and Major-Gen. Abdulkareem Adisa (Petition No: 834). While ex-General Diya claimed there was no attempt at a *coup de'tat* and that he was set up, all the other witnesses and respondents to the case controverted his assertion and presented ample evidence to confirm that indeed there was a plan for a coup and that Diya was fully involved.

8.8 Other revelations on the military were unfolded in the hearings on the Diya petition, the Kola Abiola and Dr. Ore Folomo petition (no: 458) the petition by Chief Yomi Tokoya (no: 654) and the petition by Mr Chuma Nzeribe (no: 1364). Collectively the hearings on these petitions gave the nation not only an insight into the seamier side of military governments, but they presented, in nauseating details, the in-fighting, greed, vaulting ambition and kleptomaniac tendencies that characterized the military leadership during the era of military rule. Also exposed, were the crass nepotism and sectionalism that informed some military postings and retirements. The cumulative effect of all these was that they rendered nugatory considerations of national interest in the conduct of military affairs and jeopardizing military ethics, professionalism and discipline in the process. However, as Major Fadipe former Chief Security Officer to Diya and a key witness in the hearings on the Diya petitions and a major key witness in the Chuma Nzeribe petition show, the Nigerian Army could still boast of honourable, dedicated, professional and loyal officers even at the nadir of its disgrace.

8.9 The hearings on the petition of Kola Abiola and Dr. Ore Falomo which dealt with the death and circumstances surrounding the death of Chief M. K. O. Abiola, is significant in its own right given the national and international interest in the subject of the petition

8.10 After a lengthy hearing that started in Lagos and went through Abuja II and III, the hearings on the petition ended without any conclusive proof of who was responsible for the death of the Chief. However, the hearings exposed enough information to show that the official verdict of “death by natural causes” was rather hasty. Indeed, this was the view of virtually all the key witness in the case. The only exception on this score was Major A. S. Aliyu the former Chief Security Officer to the then Head of State General Abdulsalami Abubakar (rtd). His effort to exonerate the former Head of State and his government from complicity in the death was however presented in such an incoherent and unconvincing manner that it ended up raising more questions than providing answers. Indeed, before the matter can be laid to rest, some convincing answers and explanations are needed in response to the horde of unanswered questions and posers thrown up by key witnesses such as Major Hamza al-Mustapha and A.C.P Zadok on the conduct of Gen Abdulsalami Abubakar and his government, before, during and after the death of Chief Abiola.

8.11 Mention must also be made of the petition by Professor Ben Nwabueze et al, on behalf of the *Ohaneze Ndigbo* (no: 1648) and the resultant reactions and responses to it. While individually these reactions articulated the respective views of the ethno-sectional and regional groupings on the experiences and existential plight of their people in the Nigerian Federation, collectively, they encapsulate the dilemma of Nigerian existence as a national entity. As eloquently captured by the Chairman of the Commission in rounding off discussions on the petition, it was significant that everybody felt marginalised and oppressed as an ethnic or sectional group, but not as a Nigerian.

8.12 Another issue of note about the hearings has to do with the refusal of some former retired military Heads of State and officers to appear before the Commission in response to summons issued to them to appear to respond to some allegations made against them in some petitions before the Commission. General Ibrahim Babangida was to respond to allegations in petitions nos: 274:416:537 and 1782. General Muhammadu Buhari was summoned with respect to the following petitions: 274:396; 1773 and 1782. General Abdulsalami Abubakar was to appear to respond to allegations in petitions nos: 458 and 695; while Colonel Halilu Alilu and Lt. Col. A. K. Togun were to respond to petitions nos: 416 and 537 respectively.

8.13 Their refusal to appear before the Commission was viewed seriously by the Commission as evidenced by the amount of time it devoted to the issue. After hearing Counsel to both petitioners and respondents argue the case for their respective clients, the Commission made a seminal pronouncement on the issue. Citing the instrument establishing it, the Commission argued that it had the power and the legal basis to summon anybody in Nigeria to appear before it and these officials were therefore no exceptions. On the reason(s) why these former government officials refused to appear before it, the Commission opined thus:

*The former Heads of State who refused to attend might have been motivated by motivated by the feeling of pride and arrogance, or through fear. Dictators govern an unwilling citizenry through fear. By the setting up of the Human Rights Violations Investigation Commission, fear changed sides. The erstwhile dictators are now*

*afraid of exposure, afraid to appear and give evidence relating to their period in office.*

8.14 While pointing out that Section 10 of the Tribunal of Inquiry Act empowers the Commission to issue a warrant to arrest any person failing to respond to its surmons, the Commission stated that it was not invoking that power in this instance, as “discretion is usually the better part of valour” but most important, because “the Commission is on a reconciliation process and one does not reconcile under duress”. The Commission however barred Counsel to these officials from cross-examining witnesses on behalf of their clients, on the argument that “the right to examine or cross-examine witnesses of the Commission is an absolute right qualified by attendance of the person seeking to examine or cross-examine”.

8.15 Despite the dark clouds that sometimes covered the public hearings of the Commission, however, it was able to make the sun shine in some instances as some persons accused of violating the rights of their countrymen showed remorse and even apologized, while others reconciled with their accusers. Typical of these instances were the reconciliations effected between President Obasanjo and Col. Bello Fadile; between Major Hamza al-Mustapha and the duo of Major Bilyaminu and Professor Femi Odekunle; Brig-Gen. Ibrahim Sabo and Mr. Chuma Nzeribe and Lt. Gen. Ishaya Bamaiyi and Brig Gen. Sabo and between Lt. Gen T.Y. Danjuma and Alhaji Umaru Dikko, all during the Abuja hearings.

8.16 During the Lagos hearings reconciliation were effected between A.C.P Zakari Biu and Mrs Chris Anyanwu and between Major Hamza al-Mustapha and Mr Bayo Osinowo and Pastor Turner Ogboru.

In Enugu the former Military Administrator of Bayelsa State, Navy Capt. Olubolade (rtd), apologized to and reconciled with his accusers: Justus Uwalaka, Dr. E.S. Aneke and Dr. A. N. Agunwa; while in Port Harcourt some respite was brought to Ogoniland, when the “Ogoni Four” were reconciled with the Ogoni Nine”.

8.17 At the communal level, peace was brokered between the Maroko villages and the Lagos State Government as well as between the Ife and their Modakeke brothers during the Lagos hearings.

8.18 Although the Tafawa Balewa (Bauchi) and Zangon Kataf (Kaduna) feuds were not conclusively settled during the period of the hearings of the Commission, the reconciliatory measures put in place and the continuing search for an amicable settlement by the respective state governments were greatly enhanced by the intervention of the Commission.

## **OBSERVATIONS**

8.19 At this juncture some general observations need to be made on the hearings. First, is the fact that the bulk of the petitions before the Commission during the public hearings dealt with allegations against government security agencies and personnel. Specifically, these petitions focused on the Armed Forces and particularly the Army, the Police and to a lesser extent the State Security Service. The irony – and this is the point worth noting – is that these are the very agencies and institutions charged statutorily with responsibility for the security of the citizenry. While some of these abuses and violations could be traced to the overzealousness of some of the operatives of these agencies, some were the product of the

consciousness and belief that these agencies – or indeed the operators – were above the law of the land.

8.20 Second, the military who ruled during the bulk of the period under review hardly drew any boundary between the barracks and the larger society. Indeed, most times, they tended to see the latter as an extension of the former and treated everybody as a soldier militarizing society in the process, and thus brazenly violating the rights of the civilian population in the process.

8.21 Third, was the inability of our security operatives to differentiate between loyalty to the State and loyalty to an office holder. The two were either seen as synonymous or the office holder was seen as an embodiment of the State. While this might have been the outcome of deliberate indoctrination (for example the taking of an oath of loyalty to General Sani Abacha by the members of the *Strike Force*), it was also the result of the common tendency of the privatization of government structures and processes by public officers. Some public officers not only reduced their offices and organizations to personal fiefdoms, but public officials tended to loom large in the process of governance. The result was that a criticism of government policy was interpreted as a personal attack, inviting the most vicious response and most often resulting in the most base desecration of the rights of the victims.

8.22 A third observation has to do with the extent to which sections of the judiciary derelicted on their responsibilities during the era of military. For instance, evidences abound during the Commission's hearings on how some State Ministries of Justice

connived with security operatives to pervert the cause of justice. This they did by exceeding their brief in two ways: first by passing judgement on cases referred to them for legal advice and second by refusing to prosecute a case despite overwhelming evidence for that cause of action. Most of these instances were motivated by the need for pecuniary benefits, sycophancy or sheer incompetence and ineptitude. The result, however, was the perversion of justice, the further violation of the rights of those at the receiving end and the denigration of the judiciary which thus enabled such violators to continue to operate with impunity.

## **CONCLUSION**

8.23 What conclusions can we draw from the public hearings of the Commission? We can answer this question from various dimensions. First, on the side of the Nigerian public, the public hearings not only provided theatrical entertainment, but at a more serious level, it afforded Nigerians an opportunity of knowing first hand what went wrong.

8.24 Second, it gave Nigerians the opportunity of having a peep into the inner recesses of the machinery of government and the ugly and hitherto hidden side of the conduct of their leaders and of the process of governance during the military era.

8.25 For public and government officials, the lesson rang out loud and clear that there is a day of reckoning and that however long it takes, that day will come to pass when they will be called to account for their tenures. The message then is that of the need for caution honesty, accountability and transparency.

8.26 Finally, it is hoped that the lessons learnt from the hearings will not only contribute towards the genuine reconciliation of individual Nigerians as well as the various sections of the country, but will ensure that the conduct of government business is modelled on the interests and aspirations of the people.

**BRIEF ON**  
**MEMO NO 325**

**Petitioner's Full Name(s) and Address (es)**

Senator Olabiyi Durojaiye,  
C/O The National Assembly,  
Three Arms Zones,  
Abuja.

**Title of Petition**

Otunba Olabiyi Durojaiye Testimony on Human Rights Violation and Cruelty Inflicted on Me By Officers and Men of the Directorate of Military Intelligence (DMI), Apapa, Lagos from April 1996 to June 1998.

**Date of Petition**

July 22, 1999

**Particulars of Petition:**

The petitioner wrote to complain about various violations of his rights, the climax of which was his abduction by people he believed to be Government Security agents in the early hours of Tuesday, 3<sup>rd</sup> December, 1996. Armed soldiers, five in uniform and three in mufti forced their way into the petitioner's house and held his household hostage at gunpoint. They searched his entire house without a search warrant but found nothing incriminating. They then took him away from his residence again without a warrant of arrest. The petitioner revealed that prior to this incident; he had received anonymous and threatening telephone calls. He was also waylaid by a group of men in a numberless car and had on several occasions sighted men outside

the walls of his house. After his arrest, the petitioner was taken to the Directorate of Military Intelligence, Apapa where he was detained for 18½ months. He gave graphic details of his solitary confinement in a poorly ventilated, mosquito-infested cell from which he was let out for only thirty minutes every day to ease himself. He suffered severe mental torture and serious health problems. The petitioner also complained that all court orders ordering his release were ignored by his captors. Also, a court judgment ordering his immediate release and awarding damages to him was also not complied with. The petitioner prays the Commission to right the wrongs against him.

**Period Covered by the Petition**

1990 — 1998

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) The Nigerian Army
- 2) Officers and men of the Directorate of Military Intelligence
- 3) Colonel Frank Omenka

**Injury Suffered by the Petitioner**

- 1) Unlawful detention
- 2) Emotional trauma to the petitioner and his family
- 3) Financial losses occasioned by his detention.

**Relief Sought by the Petitioner:**

- 1) That the Commission should unearth the causes of human rights abuses in Nigeria
- 2) That the violators of human rights should be charged and if convicted should face appropriate punishment.

3) Monetary compensation to the petitioner to the tune of N60 million.

**Nature of Hearing Received by Petition:**

Court orders directing that the petitioner be released from detention were ignored by the respondents, so was a judgment which awarded the petitioner N500,000.00 damages and N5,000.00 for every day he remained in detention.

**Years of Service**

Not applicable

**MODE OF TREATMENT OF PETITION**

The petition was heard during the public sitting of the Commission in Lagos. The petitioner gave evidence and tendered some relevant documents and materials.

**EVIDENCE OF THE ALLEGED PERPETRATORS**

The Commission was not able to effect services of summons on Lt. Colonel Frank Omenka who had fled the country. They alleged perpetrators however claimed in their response to a suit earlier filed by the petitioner at the Federal High Court, Lagos that the petitioner was detained under Decree No. 2.

**FINDINGS AND OBSERVATIONS**

The Commission carefully reviewed the evidence adduced by the petitioner and other relevant documents and makes the following findings and observations:

- a) That the petitioner was arrested on the 3<sup>rd</sup> of December, 1996 by the Directorate of Military Intelligence (DMI) operatives and

detained for over 18 months in a solitary cell.

b) That the petitioner was never charged to Court for any offence throughout the period of his detention.

c) That following his non-release from detention, the petitioner was compelled to file a suit for the enforcement of his fundamental human rights before a Federal High Court in Lagos, whereupon the court ordered for his release and awarded the sum of N500,000.00 as damages to the petitioner and also N5,000.00 for every day he remained in detention.

d) That these orders of the court were not complied with. The petitioner was however released in June, 1998 after the death of General Sani Abacha.

e) That the petitioner was subjected to inhuman and degrading treatment throughout the period of his detention.

#### **RECOMMENDATIONS:**

The Commission recommends that the Federal Government of Nigeria should:

- i) Issue a public apology to the petitioner
- ii) Pay the petitioner the sum total of monetary compensation/damages as ordered by the Federal High Court.
- iii) Direct the Directorate of Military Intelligence (DMI) to release any property of the petitioner (The Holy Bible etc) kept in their custody.

# **Petitioner's Full**

PROF. J. ADEBA

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Headquarters, Abeokuta and then transferred him to Zone 2. Onikan, Lagos the next day. The Petitioner was detained for nine days at Onikan before he was released to Rt. Rev. Adetiloyo. The Anglican Bishop of Nigeria and no reason was given for this act other than that he visited Obasanjo's farm. Again, after his Cousin Chief Obasanjo was tried and convicted for the alleged coup plot of 1995, armed policemen invaded his family house at Anthony Village, Lagos on 15/12/95 on a false allegation. That lie was hoarding guns and ammunitions but fortunately for him he had traveled out of the country. Nevertheless, the Policemen broke into his house and after a futile search, arrested nine members of his family and staff who were only released after the intervention of his solicitor, Mrs. O. O. Babayaju. The worst abuse of the Petitioner's right started from the 23<sup>rd</sup> of April, 1996 when armed and uniformed soldiers swooped into his compound in order to arrest him. The soldiers had earlier trickishly sent a lady army officer (later discovered to be with DM1) in mufti who posed as a journalist requesting to interview the Petitioner on his views on the imprisonment of Gen. Obasanjo. The lady deceptively holding a copy of Weekend Concord Newspapers of 9/3/96 which had a bold Caption "Obasanjo Clocks 59 in Jail". The Petitioner obliged the Lady's interview request but promised to do so after having his lunch with his neighbour upstairs. It was this lunch that really saved his life as the armed soldiers alleging invaded his house few minutes later, shouting "get him, we want him dead or alive". The Petitioner miraculously escaped and left the country on voluntary exile. The invading soldiers were enraged by their failure to apprehend the Petitioner and their anger was violently vented on his children, staff and students of his private school were maltreated, arrested and put in military detention for several months. Most pathetic of this tragedy was the case of an 18-year old Science student late Miss

Bukola Samuel who was arrested, chained and put in detention for two months. She was only released when she was seriously ill but she died two weeks after her release. Similarly arrested and detained for 31 days was the Petitioner's 13 year old son John Paul Mokuolu who came on holiday from Britain and was reluctantly released following British Government intervention in the matter. After the release of John Paul Mokuolu, the soldiers arrested another son of the Petitioner Mr. Muyiwa Mokuolu and detained him for several weeks.

In the process of the invasion and subsequent occupation of the Petitioner's premises by armed soldiers, his properties were vandalized and his three vehicles (280S Mercedes, a Volvo and a Daewoo) were completely damaged. All household properties and furnishings were taken over and stolen by the soldiers who put a warning notice "Military Zone, Keep Off" on the entrance to his large compound at Nos. 21 and 23 Oyedele Ogunniyi Street, Anthony Village, Lagos. When the Petitioner's nephew one Mr. Festus Akanbi who was the Registrar of his college, attempted to stop the looting of the entire properties of the Petitioner by employing some security men to guard the buildings, he was immediately arrested with the security guards by Col. Omenka and Major Asade and detained for several weeks. All the tenants of his building including Anthony Village Community Bank were forced to move out and his properties were left unprotected for 3 years. A convict and ex-staff of the Petitioner who was serving a prison sentence for stealing was allegedly arranged as a false witness by Major Asade and Col. Omenka to accuse the Petitioner of coup plotting and gun-running.

**Period Covered by the Petition**

1994 to 1998.

**Names and Addresses of Persons or Institutions Petitioned Against**

1. The Hon. Minister of Defence,
2. The Inspector-General of Police.
3. The Commissioner of Police, Ogun state Police Command.

**Injury Alleged Suffered by the Petitioner**

1. Incessant harassment leading to unlawful arrest and detention by Police in 1994 and 1995.
2. Invasion and subsequent occupation for several months of the Petitioner's large compound at Nos. 21 and 23 Oyedele Ogunniyi Street, Anthony

**Relief Sought by the Petitioner**

- i. Full investigation of the matter, particularly as it relates to the invasion of his compound by armed soldiers from DMI;
- ii. Appropriate punishment for all the culprits;
- iii. N100 million compensation for the terrible injuries suffered by the petitioners, his staff, students and family members.

**Nature of Hearing Received by Petitioner**

The petitioner was not given fair hearing.

**MODE OF TREATMENT OF PETITION:**

The petition was heard during the public sittings of the Commission in Lagos. The petitioner gave evidence, tendered some relevant documents and was given opportunity to call other witnesses to corroborate his claims.

**EVIDENCE OF THE ALLEGED PERPETRATORS:**

The Commission was not able to serve hearing notices to the alleged perpetrators (Lt. Col. Frank Omenka and one Lt. Asade) as they could not be located.

**FINDINGS AND OBSERVATIONS:**

The Commission carefully reviewed the evidence adduced by the petitioner and other witnesses together with all the exhibits tendered and make the following findings and observations:

- a) That the fundamental rights of the petitioner, his staff and family members were grossly violated by officers of the Nigerian Army.
- b) That the family house, school premises and other valuable properties of the petitioner were vandalized by the rampaging soldiers.
- c) That the invasion of the petitioner's premises, arrest and detention of his staff and family members and the vandalization of his properties were unlawful and done without any justification whatever.

**RECOMMENDATIONS:**

The Commission recommends that the Federal Government of Nigeria should:

- i) Issue a public apology to the petitioner, his staff and members of his family.
- ii) Direct the Nigerian Army/Lt. Asade to return all the valuable properties of the petitioner that were removed by the rampaging soldiers.
- iii) Assess the value of the petitioner's properties that were

damaged by the soldiers and pay the petitioner adequate compensations for the damages and effect necessary repairs where possible.

iv) Pay the petitioner the sum of N150,000.00 (One Hundred and fifty Thousand Naira) only as compensations.

**BRIEF ON**  
**MEMO NO: 296**

**Petitioner's Full Name(s) and Address(es)**

Prof. A. O. I. Osuntokun  
C/O Environmental Protection Society of Nigeria,  
5, Jide Osuntokun Street,  
New Bodija,  
Ibadan - Oyo State.

**Title of Petition**

Memorandum Submitted to the Chukwudifu Oputa Panel on Human Rights Violations

**Date of Petition**

3rd August, 1999

**Particulars of Petition**

The petitioner was a former Ambassador of Nigeria to Germany and a lecturer with the University of Lagos. In 1998, he traveled to Canada with his wife for a conference and also for a medical check up. Upon his return to Nigeria on the 10<sup>th</sup> of February, 1998, he was arrested by the State Security Service officers at the Airport and was asked to see the SSS Director. His Passport was seized and after a brief discussion with the SSS Director, he was directed to report at No. 15 Awolowo Road, Headquarters of the Service the next day. When he report as directed, he was driven to DMI office at Apapa where he was detained without interrogation or explanation as to the reasons for his arrest and detention. The petitioner was kept in the DMI cell under most inhuman conditions without access to medication or visitation from members of his family. He became very sick and was taken to Navy

Hospital, Ojoo for treatment under leg-chains. After spending about fifty days in the cell, he requested to know the reasons for his detention from Col. Frank Omenka. Omenka responded that he did not know but that he was just asked to keep him. When the former Chief of Army Staff subsequently visited the DMI inmates, one Captain Daramola informed the COAS that the petitioner was being investigated for bomb throwing. Yet the petitioner was never questioned or interrogated throughout his period of detention. It turned out later that Captain Daramola made a damaging allegation just to divert the attention of the former COAS. The petitioner was later released in May 1998 by Col. Omenka with a definite instruction never to mention or relate his experience to anyone. He was finally instructed to be reporting three times a week until June when Gen. Abacha died. The petitioner did not know the reason for his detention until date. He subsequently spent ten thousand dollars (\$10,000.00) for treatment of illness he contracted while he was in detention.

### **Period Covered by the Petition**

1998

### **Names and Addresses of Persons or Institutions Petitioned Against**

- i. The Director-General State Security Services, Abuja
- ii. The Honourable Minister of Defence, Abuja

### **Injuries Allegedly Suffered by the Petitioner**

- i. Unlawful arrest and detention for about four months
- ii. Inhuman treatment, torture and total deprivation
- iii. Ruination of health and loss of over ten thousand dollars (\$10,000.00) in medical treatment over-seas.

**Relief Sought By The Petitioner**

- i. Full investigation and explanation of the reasons for his detention and those responsible.
- ii. Appropriate restitution and redress

**MODE OF TREATMENT OF PETITION:**

The petition was heard during the public sittings of the Commission at Lagos. The petitioner gave evidence, tendered relevant documents and was given the opportunity to cross-examine the alleged perpetrator present.

**EVIDENCE OF THE ALLEGED PERPETRATORS:**

The chief perpetrator, Col. Frank Omenka, could not be served as he was not in the country. One Captain Daramola of the Guards Brigade, Abuja, however gave evidence confirming the allegations of the petitioner.

**FINDINGS AND OBSERVATIONS:**

The Commission carefully reviewed the evidence adduced by the witness and makes the following findings and observations:

- a) That the petitioner was arrested and detained at the Directorate of Military Intelligence (DMI), Apapa Lagos.
- b) That he was not informed of the reason for his arrest and was never charged to Court throughout the 4 months of his detention.
- c) That his detention is patently illegal and without justification whatsoever.

**RECOMMENDATIONS:**

The Commission recommends that the Federal Government of Nigeria should:

- i) Issue a public apology to the petitioner
- ii) Pay the sum of N50,000.00 (Fifty Thousand Naira) only as compensation to the petitioner.

**BRIEF ON**  
**MEMO NO 332**

**Petitioner's Full Name(s) and Address(es)**

Mrs. Silifat Folake Ibrahim,  
3rd Close, 4.  
3 Avenue, M House  
Festac Town, Lagos.

**Title of Petition**

Submission of a Memorandum in Respect of an Illegal and Unscrupulous shooting of a pregnant Woman Resulting to serious bodily injury and permanent Disability of Mrs. Silifat Folake Ibrahim by Corporal Ayoola Aborowa (Force No. 115967) of the Nigeria Police Force, Orile Iganmu, Police Force, at a Road Check Point located at Alaba-Suru Near Mile 2 in Lagos State on Monday 20 April. 1998.

**Date of Petition**

26th July, 1999

**Particulars of Petition**

The petitioner wrote in respect of her unlawful shooting by a Police Corporal, one Ayoola Aborowa (Force No. 115967) on the 20th of April, 1998 at a road Check point in Orile, Lagos. The shooting occurred when the said Corporal attempted to stop a bus in which the petitioner was an occupant following an argument between the Police team at the check point and the bus driver. At the material time, the petitioner was pregnant with twins. Following the shooting, the petitioner's left arm was broken by a bullet and the bone had to be held together with metal plates at the Lagos University Teaching

Hospital. As a result of the shooting the petitioner was delivered of twins through a caesarian section and as a result of being incapacitated by the shooting was unable to take care of her twins. The petitioner disclosed that till date she has spent a total of about N2 million on surgery, drugs and other hospital bills. She also complained that the Police has till date neither replied to any of the letters written to them nor shown any sympathy for her plight. Her studies in the University have also been disrupted as a result of the incident and she has had to retain the services of her mother and other people full time to assist her with her normal household chores. She appeals for redress.

**Period Covered by the Petition**

1999 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) The Nigeria Police
- 2) Corporal Ayoola Aborowa, (Force No 115967 C/o Nigeria Police.

**Injury Allegedly Suffered by the Petitioner**

- Permanent disability from injury to left arm
- Disruption of studies in the University.
- Loss of business as a result of long hospital admission
- Huge financial losses through employment of help to enable her cope with her present condition.

**Relief Sought By The Petitioner**

- i. To ensure that justice is done so that the culprit is brought to book;

- ii. To ensure that full and compensation is paid to her to cover her financial and material losses

**MODE OF TREATMENT OF PETITION:**

The Petition was heard during the public sittings of the Commission in Lagos. The petitioner gave evidence, tendered relevant documents and was given opportunity to cross-examine the alleged perpetrators.

**EVIDENCE OF THE ALLEGED PERPETRATORS:**

The alleged perpetrators gave evidence admitting the unlawful shooting of the petitioner. They however maintained that the officer who did the shooting was dealt with in accordance with the law and subsequently dismissed from the Police Force.

**FINDINGS AND OBSERVATIONS:**

The Commission carefully reviewed the evidence of all the witnesses and makes the following findings and observations:

- a) That the petitioner, a pregnant woman, was unlawfully shot by a trigger-happy policeman who was on duty on a road checkpoint.
- b) That the shooting pierced her left arm, causing serious injury and damage to her bone. Her arm subsequently treated and joined together with an iron metal (kay nail) by physicians at the Lagos University Teaching Hospital, (LUTH).
- c) That she spent several months at the Lagos University Teaching Hospital (LUTH) where she was subsequently delivered of her twin babies through a caesarian section as a result of the gun shot.
- d) That the police authorities subsequently dismissed the officer who did the unlawful shooting and later charged him to

court.

- e) That the criminal charge against the officer was never prosecuted by the police consequent upon which the charge was struck out by the presiding Magistrate Court.
- f) That the Police authorities did not show any concern about the plight of the petitioner throughout the period of her hospitalization and thereafter.

**RECOMMENDATIONS:**

The Commission recommends that the Federal Government of Nigeria should direct the Hon. Minister of Police Affairs, the Police Service Commission and the Inspector-General of Police to:

- i) Issue a public apology to the petitioner and members of her family
- ii) to assess and pay the medical bills incurred by the petitioner throughout the period of her hospitalization.
- iii) pay the petitioner the sum of N150, 000.00 (One hundred and fifty thousand Naira) only as compensation to the petitioner.
- iv) Re-arrest and prosecute the police officer who did the illegal shooting.

**BRIEF ON**  
**MEMO NO 327**

**Petitioner's Full Name(s) and Address(es)**

Chuks Nwana,  
41, Ishaga Road,  
Surulere.  
Tel: 01/5849576, 5850944, 090/409406

**Title of Petition**

Untitled

**Date of Petition**

19th July, 1999

**Particulars of Petition**

The petitioner, a Lagos based legal practitioner wrote to complain about the violation of his right to personal liberty by the National Drug Law Enforcement Agency (NDLEA), the Inspector General of Police as well as agents of the State Security Service (SSS). The facts of the said violation were that on the 16th of May, 1997, some officers of the NDLEA visited his law office and invited him for an interview in their Lagos office. He honoured the invitation and was subsequently detained for sixty days without access to anyone and without being offered any explanation for his detention. On the 16th of July, 1997, the petitioner was asked to react to allegations of drug trafficking leveled against a certain client of his. The petitioner explained that the individual in question was indeed his client and that his office only handled legal briefs brought to it by the client. According to the petitioner, his explanation appeared to satisfy his captors who

however informed him that the order for his release would have to come from Abuja. An application for the enforcement of his fundamental rights was meanwhile filed at the Federal High Court, Lagos. On the 4th of August, 1997 the court ordered his release on bail (copy of court order attached to petition). However, on the 6th of August, 1997 and in total disregard of the order of the court, the Presidency according to the petitioner directed the Inspector-General of Police to detain him under the State Security (Detention of Persons) Decree No. 2 of 1984 (as amended) (copy of detention order attached to petition).

The petitioner alleges that as soon as he was incarcerated at Kuje Prisons Abuja, fresh charges of involvement in acts prejudicial to State Security were levelled against him. He was also accused of being in charge of a syndicate which was using proceeds from narcotics to buy arms for the purpose of starting an insurgence in Nigeria with Niger Republic as the base. His account was immediately frozen on the orders of the NDLEA. All entreaties to the Presidency on account of his deteriorating health went unheeded. His detention continued despite the subsisting court order directing his release. On the 11th of August, 1998, his detention order was abruptly revoked and he was taken on a two day journey across the Nigerian border to Niger Republic. He was taken across the border in a Police Black Maria containing several jerry cans of petrol. The petitioner finally arrived Niamey where according to him, Niger Officials stated that he had never been to their country and that they did not request for him. When the petitioner's family protested about the treatment being meted out to him, the National Security Adviser wrote to his family claiming that he was taken to Niger Republic for further investigation of security related matters (copy of letter attached). The petitioner was

apparently tried for an unspecified offence in Niger Republic and convicted. The said conviction was however quashed by the Niger Court of Appeal which set him free (translated copy of the said judgment attached to petition). The petitioner alleges that the allegation of drug trafficking was actually a smokescreen used by the Government to use him to get at certain unnamed individuals whom he had refused to implicate during his ordeals. The petitioner maintains that he was never involved in drug trafficking and prays the Commission to redress the violation of his fundamental rights.

**Period Covered by the Petition**

May, 1997 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

- The Federal Government of Nigeria
- The NDLEA
- The Nigeria Police Force
- The State Security Service

**Injury Alleged Suffered by the Petitioner**

- Violation of his right to personal liberty
- Torture, inhuman and degrading treatment
- Illegal abduction and extradition to Niger Republic without due process.
- Economic losses as a result of (1) above.

**Relief Sought by the Petitioner**

- That the Commission should determine whether a legal practitioner should suffer for the alleged offence of his client.

- That the Commission should determine whether his forceful and illegal extradition to Niger Republic for trial was proper despite a certain letter from the Presidency (not attached) and a valid court order ordering his release.

**MODE OF TREATMENT OF PETITION:**

The petition was heard during the public hearing of the Commission in Lagos. The petitioner gave evidence, tendered relevant documents and was given the opportunity to cross-examine the alleged perpetrators.

**EVIDENCE OF THE ALLEGED PERPETRATORS:**

The alleged perpetrators denied the allegations of unlawful detention, torture and illegal deportation to Niamey in Niger Republic. They claimed that the petitioner was detained under Decree No.2 based on incriminating evidence of two drug dealers.

**FINDINGS AND OBSERVATIONS:**

The Commission carefully reviewed the evidence adduced by all the witnesses and makes the following findings and observations:

- a) That the petitioner, a legal practitioner was arrested by the officers of the National Drug Law Enforcement Agency (NDLEA) on the 16<sup>th</sup> of May, 1997 and detained for alleged relationship with drug dealers.
- b) That after about three months in detention without charge or trial, a Federal High Court judge sitting in Lagos ordered for an immediate release of the petitioner on bail.
- c) That instead of complying with the court order, the petitioner was detained for about 14 months under Decree No.2 of 1984.
- d) That the petitioner was forcefully taken to Niamey in Niger Republic to face investigation and trial for alleged drug

dealings.

- e) That the petitioner was subsequently set free by the Niamey Court of Appeal which established that the petitioner was merely a solicitor to a drug dealer.
- f) That the petitioner was released after spending about 2 years in detention.
- g) That the long period of detention under Decree No.2 was without any justification whatsoever.
- h) That the petitioner was humiliated, tortured and subjected to inhuman and degrading treatment on account of his professional relationship with suspected drug dealers.

**RECOMMENDATIONS:**

The Commission recommends that the Federal Government of Nigeria should:

- i) Issue a public apology to the petitioner.
- ii) Pay the petitioner the sum of N100,000.00 (One Hundred Thousand Naira) only as compensation.

**BRIEF ON**  
**MEMO NO: 234**

**Petitioner's Full Name(s) and Address(es)**

Kunle Ajibade  
11781 Sunset Blvd, Apartment 12  
Los Angeles, CA 90049  
USA.

**Title of Petition**

Unwarranted Imprisonment.

**Date of Petition**

21st July, 1999

**Particulars of Petition**

The Petitioner was a journalist with the News Magazine based in Lagos. He was arrested in his Office on the 23rd of May, 1995 by men of the State Security Services in connection with a story in the NEWS Magazine concerning the arrest of some military men for an alleged coup plot. The Petitioner was allegedly questioned to disclose the source of The NEWS Magazine's story on the coup plot but the Petitioner refused, explaining that responsible journalists do not reveal the sources of their stories on professional and ethical grounds. The Petitioner was then locked-up incommunicado for more than two months and subsequently collapsed while in detention. He was rushed to the Military Hospital, Ikoyi where he was chained to the hospital bed on the orders of one Lt. Col. Kola John Olu of the Security Group, DM1, Apapa. The Petitioner was later dragged before the Special Investigation Panel and subsequently arraigned by Major Gen. P. N.

Aziza Special Military Tribunal where he was charged and tried for being responsible for the publication of the story which was capable of inciting the public against the Government He was convicted by the Tribunal and jailed for life on 28/7/95 as an accessory after the fact of treason. He spent over 4 prison Calendar years in various cells and Makurdi prisons until his “pardon” and release by Gen. Abdulsalami Abubakar regime on 20/7/98. He wondered what offence he had committed to be granted “a pardon” by General Abubakar regime and prayed the Commission to clean his name of the historical dent.

**Period Covered by the Petition**

1995

-

1998

**Names and Addresses of Persons or Institutions Petitioned Against**

- The President and Commander-in-Chief of the Armed Forces  
C/O The Hon. Attorney-General of the Federation and Minister of Justice.
- The Hon. Minister of Defence.
- The Director-General, State Security Services, Abuja.
- Lt. Col. Kola John Olu  
C/O The Chief of Army Staff.

**Injury Allegedly Suffered by the Petitioner**

- i. Unlawful arrest and detention
- ii. Wrongful and malicious prosecution before a special Military Tribunal.
- iii. Wrongful conviction and imprisonment.
- iv. Torture, inhuman treatment and stigmatization.

### **Relief Sought By the Petitioner**

- i. To investigate and clean of the historical dent
- ii. To rehabilitate him

### **MODE OF TREATMENT OF PETITION:**

The petition was heard during the public sittings of the Commission in Lagos. The petitioner gave evidence, tendered relevant documents and was given the opportunity to cross-examine the alleged perpetrators.

### **EVIDENCE OF THE ALLEGED PERPETRATORS**

Col. John K. Olu gave evidence confirming that the petitioner was chained on his hospital bed when he was sick. He maintained that it was a routine practice in the Military.

### **FINDINGS AND OBSERVATIONS:**

The Commission carefully reviewed the evidence adduced by the witnesses and makes the following findings and observations:

- a) That the petitioner, a journalist, was arrested on the 23<sup>rd</sup> of May, 1995 and detained in respect of a publication in The News concerning the arrest of some military men for an alleged coup plot in 1995.
- b) That he was interrogated by the Special Investigation Panel and was subsequently arraigned before a Special Military Tribunal and charged with publication of a story which was capable of inciting the public against the Government.
- c) That he was convicted by a Military Tribunal and was sentenced to life imprisonment as an accessory after the fact of treason.
- d) That he spent over 4 prison calendar years in various prisons across the country and was subsequently granted pardon and released in 1998 following the death of General

Sani Abacha.

- e) That the petitioner suffered unduly, and was subjected to torture, inhuman and degrading treatment merely on account of performing his professional duties.
- f) That the process of trial and conviction of the petitioner by the Special Military Tribunal was flawed as the procedure of the Tribunal did not comply with the basic requirements of natural justice and fair hearing.

**RECOMMENDATIONS:**

The Commission recommends as follows:

- i) That the Federal Government of Nigeria should issue a public apology to the petitioner.
- ii) That the Federal Government of Nigeria should pay the sum of N150,000.00 (One Hundred and Fifty Thousand Naira) only as compensation to the petitioner.

**MODE OF TREATMENT OF PETITION:**

The petition was heard during the public sittings of the Commission in Lagos. The petitioner gave evidence, tendered relevant documents and was given the opportunity to cross-examine the illegal perpetrators.

**EVIDENCE OF THE ALLEGED PERPETRATORS:**

Major Hamza Al-Mustapha gave evidence admitting that the petitioner was tortured during his detention following the 1990- abortive coup. He however explained that the torture and general beating of the petitioner by soldiers was a spontaneous and emotional reaction to a confusing coup situation where many soldiers lost their lives. He also denied the allegation of stealing the petitioner's monies.

**FINDINGS AND OBSERVATIONS:**

The Commission carefully reviewed the evidence adduced by the witnesses and makes the following findings and observations:

- a) That the petitioner was arrested, detained and tortured following the abortive coup plot of April, 1990.
- b) That he was subsequently tried on two-count charges of aiding and concealing treason by the Special Military Tribunal.
- c) That he was convicted on the second charge of concealment of treason and was sentenced to life imprisonment.
- d) That after serving 3 (three) years in prison, he was granted amnesty/pardon along with many others in October, 1993 by the government of Chief Ernest Shonekan.
- e) That the process of his release was not completed when the late General Sani Abacha took over the mantle of leadership on the 17<sup>th</sup> of November, 1993
- f) That the government of late General Sani Abacha refused to

release the petitioner even though other beneficiaries of the general amnesty and pardon were all released.

- g) That the petitioner accordingly filed and obtained a Federal High Court order declaring his continued detention in prison custody illegal consequent upon which the then Attorney-General of the Federation advised on his immediate release.
- h) That the petitioner was reluctantly released on the 19<sup>th</sup> of May, 1994 but was immediately re-arrested on the 20<sup>th</sup> of May, 1994 by the State Security Services and detained under Decree No. 2 of 1984 as amended.
- i) That the petitioner was not released until the 19<sup>th</sup> of October, 1998 after the demise of late General Sani Abacha.
- j) That the petitioner suffered unduly and was subjected to torture, inhuman and degrading treatment following his unjustifiable detention for five years under Decree No. 2.

#### **RECOMMENDATIONS:**

The Commission recommends:

- i) That the Federal Government of Nigeria should issue a public apology to the petitioner.
- ii) That the Federal Government of Nigeria should pay the petitioner the sum of N150,000.00 (One Hundred and Fifty Thousand Naira) only as compensation
- iii) That the Federal Government of Nigeria should order the appropriate authority to release the personal properties of the petitioner that were not otherwise forfeited to the Federal Government on the orders of the tribunal.

**BRIEF ON**  
**MEMO NO: 212**

**Petitioner's Full Name(s) and Address(es)**

Godson Offoaro  
P. O. Box 55280  
Washington DC  
e-mail: Offoaro @ yahoo.com.

**Title of Petition:**

Walter Ofonagoro and the DMI must Account for CHINEDU O.OFFOARO.

**Date of Petition**

29<sup>th</sup> June, 1999

**Particulars of Petition:**

This is a petition presented by Mr. Godson Offoaro, a Nigerian journalist currently based in the United States of America alleging mysterious disappearance and possible death of his younger brother Mr. Chinedu Offoaro since the 26<sup>th</sup> of May, 1996. The said Chinedu Offoaro was until his mysterious disappearance or possible death, a staff of the Guardian Newspapers in Lagos covering Business Desk Section. The Petitioner strongly alleges that Dr. Walter Ofonagoro (the Minister of Information under Late Gen. Sani Abacha regime) and the Directorate of Military Intelligence are privy to the circumstances leading to the disappearance or possible death of his brother. The Petitioner noted that Dr. Ofonagoro had once summoned his brother to Abuja advising him to warn the Petitioner to put a stop to further circulation of a book titles "Zik, the Last Campaigns" which was

published and released by the Petitioner but which Dr. Ofonagoro found to be very uncomplimentary. The Petitioner further stated that there was another Journalist.

Stations but could not trace Mr. Chinedu Offoaro. The Petitioner similarly wrote enquiry letters to the SSS, Police, DMI, Walter Ofonagoro but only the Police and SSS responded with convincing explanations. He noted further that there were phone calls to the Guardian Newspapers from those who claimed to have Chinedu Offoaro but the Guardian Management advised the Security Officer who was on duty on the date the second call was made (12/8/96) to better keep quiet. He lamented that the same Guardian Management had removed an unnamed member of the Guardian NUJ who was at the forefront in investigating the circumstances of his younger brother's disappearance. He acknowledged that the lukewarm attitude of the Guardian Newspapers Management might not be unconnected with their travails in the hands of Abacha regime, namely the attempted assassination of its publisher, the earlier shut-down order etc. He suspects that his brother must have gone the way of Bagauda Kaltho of the News Magazine who disappeared under similar circumstances.

**Period Covered by the Petition**

1996 to present.

**Names and Addresses of Persons or Institutions Petitioned  
Against**

The Hon. Minister of Defence, Abuja.

The Director of Military Intelligence,  
Childs Avenue, Apapa — Lagos.

The Executive Director,

Guardian Newspapers Limited Rutan House,  
Oshodi — Apapa Express way,  
Lagos.

### **Injury Allegedly Suffered by the Petitioner**

1. Mysterious disappearance of his brother since May, 1996.
2. Possible death of his brother.

### **Relief Sought by the Petitioner**

- i. Investigation of the circumstances leading to the sudden disappearance of his younger brother since May 1996 during late Gen. Sani Abacha regime.
- ii. To help produce him, if alive, or release of his remains to enable his family members accord him his burial rites.

### **MODE OF TREATMENT OF PETITION**

The petition was listed for hearing during the Commission's public sittings in Lagos. Hearing however commenced during the Enugu public sittings and was concluded in Abuja. The Petitioner gave evidence, tendered certain documents and was given opportunity to directly cross-examine one of the alleged perpetrators who appeared before the Commission.

### **EVIDENCE OF ALLEGED PERPETRATORS**

Only Dr. Walter Ofonagoro appeared before the Commission. He vehemently denied the allegations against him. The Directorate of Military Intelligence merely sent a written response denying any complicity in the mysterious disappearance of late Chinedu Offoaro.

## **FINDINGS AND OBSERVATIONS**

The Commission carefully reviewed the evidence adduced by the witnesses and makes the following findings and observations:

- a) That the circumstances surrounding the disappearance or possible death of MR. CHINEDU ONISMUS OFFOARO, who was last seen by his relations in his home town while he was boarding a bus to Owerri on the 26<sup>th</sup> of May, 1996 remain a mystery.
- b) That although the activities, modus operandi and function specification of the security agencies under the late General Sani Abacha regime were very confusing and their conducts notoriously overbearing, the circumstances of Chinedu Offoaro's disappearance do not lend itself to any specific conclusion but to a wide range of interpretations, possibilities and conclusions.
- c) That it is now about 6 (six) years since the incident took place and under the Nigerian evidentiary rules, Chinedu Offoaro cannot be presumed death until the 26<sup>th</sup> of May, 2003 (see Section 144 (1) of the Evidence Act, Cap. 112 Laws of the Federation of Nigeria, 1990).

## **RECOMMENDATIONS**

The Commission recommends:

- i) That the Special Team of the Nigeria Police Force be directed to inspect and check all the detention record or entry books of all the Nigeria Security agencies particularly those of the Directorate of Military Intelligence, and the State Security Services as at May, 1996 with a view to tracing any record of Chinedu Offoaro's possible arrest and detention within the period;

- ii) That the Investigating Team should further investigate the alleged telephone calls of the supposed captors or abductors of Chinedu Offoaro to the Guardian Newspapers about three months after his disappearance;
- iii) That subject to Section 144 (10 OF THE Evidence Act, the Imo State Government of the Nigerian Journalists should be directed to immortalize the name of Chinedu Onismus Offoaro.

**BRIEF ON**  
**MEMO NO 313**

**Petitioner's Full Name(s) and Address(es)**

Mrs. Theresa Elikwu  
8, Modile Way,  
Off Akerele Street,  
Surulere - Lagos.

**Title of Petition**

Re: Mr. Chidi Elikwu of 8 Modile Way, Off Akerele Street, Surulere,  
Lagos - Victim of Human Rights Abuse by the Nigeria Police Force.

**Date of Petition**

23<sup>rd</sup> July, 1999

**Particulars of Petition**

The petitioner wrote to complain about the violation of the rights of her son, one Mr. Chidi Elikwu by certain members of the Nigeria Police Force. The petitioner is the mother of the said Chidi Elikwu who lives with the rest of the family in their family house. The Petitioner stated that following an attack on a Commissioner of Police, one Mr. Kehinde Oyenuga at a street adjoining theirs, a team of policemen from the State Anti Robbery Squad arrested the said Chidi Elikwu from their residence on the 19<sup>th</sup> of January, 1998. Her son was later brought back to the family house in handcuffs but a search of the house revealed nothing incriminating. On the 22<sup>nd</sup> of January, 1998, the petitioner called at the office of the Special Anti Robbery Squad (S.A.E.S) and was informed that her son was being held in connection with the shooting of ACP Oyenuga which had taken place on the 4<sup>th</sup> of

January, 1998. In the course of his detention, the petitioner's son Chidi was allegedly severely tortured in a bid to make them confess to the alleged offence. The petitioner alleges that one of the suspects who was detained and tortured with her son died in the course of the torture and was secretly buried by the Police. The petitioner also disclosed that from information which she gathered from the Police, her son was linked to the attack on the ACP as a result of the fact that the latter was short in the house of one Miss Joy Chukwuka who is said to be a girl friend of the said ACP as well as a child hood friend of Mr. Elikwu. The petitioner revealed that on the 31st of March, 1998, after several days of gruesome torture, her son was arraigned at an Ikeja Magistrate Court along with two other individuals on charges of armed robbery. They were remanded in prison custody but following a petition by ACP Oyenuga to the Inspector-General of Police, the case was taken over by the Federal Armed Robbery Squad (FARS) prompting the transfer of the suspects again to the FARS under inhuman conditions. The petitioner further stated that despite the arrest of a Police Sergeant who has since confessed to the shooting following an anonymous petition by a motor-cyclist who claimed to have conveyed him to the scene of the crime, her son and the other suspects remain in custody under very inhuman conditions. The petitioner further alleges that after the arrest of the Sergeant who has confessed to the crime, the Investigating Police Officer, one Sam-Sam still roped her son in through a spurious identification parade. She urges this Commission to intervene to save the life of her son who is being slowly tortured to death.

**Period Covered by the Petition**

1998 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

The Nigeria Police Force

**Injury Allegedly Suffered by the Petitioner**

- Unlawful arrest and detention
- Torture, inhuman and degrading treatment
- Denial of her son's right to fair hearing and the due process of the law

**Relief Sought by the Petitioner**

The petitioner seeks that the Commission's urgent intervention to save her son's life.

**MODE OF TREATMENT OF PETITION:**

The petition which was heard during the public sittings of the Commission in Lagos was concluded in Port Harcourt. The petitioner gave evidence, tendered some relevant documents and was the given opportunity to cross-examine the alleged perpetrators.

**EVIDENCE OF THE ALLEGED PERPETRATORS:**

The alleged perpetrators gave evidence denying the allegations of torture, ill-treatment and trumped-up charges of armed robbery. They claimed that the petitioner's son was arrested, detained and arraigned in court for armed robbery and gun attack on Assistant Commissioner of Police, Kehinde Oyenuga.

**FINDINGS AND OBSERVATIONS**

The Commission carefully reviewed the evidence adduced by all the witnesses and makes the following findings and observations:

- a) That the Mr. Chidi Elikwu, the son of the petitioner, was arrested on the 19<sup>th</sup> of January, 1998 by men of the Lagos State Special Anti-Robbery Squad of the Nigeria Police for alleged complicity in the shooting and armed-robbery attack on Mr. Kehinde Oyenuga (an Asst. Commissioner of Police) on the 4<sup>th</sup> of January, 1998.
- b) That he was subsequently arraigned before a Magistrate's Court which remanded him in prison custody.
- c) That allegations of torture, brutality and other forms of inhuman and degrading treatment of suspects by the police at the police torture centres of Ikeja and Adeniyi Adele called 'Theatre' or 'Operation room') are too rampant, consistent and utterly deplorable.
- d) That the Commission had at the conclusion of hearing in Port Harcourt, sent a letter requesting the Hon. Chief Judge of Lagos State to expedite action in the matter by ensuring fair and speedy trial in respect of the armed robbery charges before the court and also consider the possibility of bail in view of the surrounding circumstances of the case.

## **RECOMMENDATIONS**

The Commission recommends that the Federal Government of Nigeria should:

- i) Request the Hon. Chief Judge of Lagos State and the Hon. Attorney-General and Commissioner of Justice, Lagos State, to ensure speedy prosecution and conclusion of the armed robbery charges against Mr. Chidi Elikwu and others.
- ii) Direct the Hon. Attorney-General of the Federation and

Minister of Justice and the Hon. Minister of Police Affairs to conduct an inquiry in respect of the allegations of torture which subsequently led to the death of one Joshua Nzedomi (a.k.a. Malone) in police custody with a view to prosecuting the alleged perpetrators.

**MEMO BRIEF**  
**MEMO NO. 1392**

**Petitioner's Full Name(s) and Address (es)**

Mrs. Olubusola Arinola Adebusuyi  
Plot 8/9 Adeyemo Layout,  
Adeoya Village,  
Akobo, Ibadan

**Title of Petition**

Memorandum Submitted by Mrs. Olubusola Arinola Adebusuyi To The  
Human Rights Violations Investigation Panel (HRVIP)

**Date of Petition**

10th August, 1999

**Particulars of Petition**

On December 24, 1996, the Petitioner's husband was arrested horn their home in Ibadan by security agents and taken to Lagos where he was detained under tern He conditions, About ten days later die Petitioner and her hither-in-law were similarly detained and taken to the Police Station at Alagbon, Lagos, where she was interrogated by one Mr. Enoape and Mr. Zakari Biu. She was accused of conspiring with and concealing her husband and transferred to a female cell where she was to spend nearly three months in appealing conditions. During this time she was harassed and intimidated by her captor including Mr. Biu and one Mrs. Adokie. The Petitioner was brought to the place of her husband's detent ion to see him undergoing torture and inhuman restraints, She was later taken for further interrogation to the State Security Service other in Ikoyi, Lagos where she save her

father-in-law in a terrible state Mr. Bin continue to pressure the Petitioner to Convince her husband to do what was asked of him so that she would be released immediately, which inducement she consistently refused. The Petitioner was released without charge or explanation in March 1997 having spent 77 days in detention.

**Period Covered by the Petition**

1997 to date

**Names and Addresses of Persons or Institutions Petitioned Against**

- The Inspector-General of Police Force Headquarters, Abuja
- The Director General, State Security Service, Headquarters, Abuja.
- Mr. Zakari Bui,  
c/o Inspector-General of Police,  
Force HQ, Abuja.

**Injury Allegedly Suffered by the Petitioner**

- Unlawful arrest and detention without charge or trial
- Mental torture and inhuman treatment.

**Relief Sought by the Petitioner**

Prosecution of all persons involved in the acts of gross violations of her rights.

**Nature of Hearing Received by Petition**

NIL

### **MODE OF TREATMENT OF PETITION**

The petition was heard during the public sittings in Lagos. The Petitioner gave evidence and was given opportunity to cross-examine the alleged perpetrators.

### **EVIDENCE OF THE ALLEGED PERPETRATORS**

The alleged perpetrators gave evidence denying the allegations of unlawful detention and torture. They were also given opportunity to cross-examine the petitioner.

### **FINDINGS AND OBSERVATIONS**

After carefully reviewing the evidence of the petitioner and the alleged perpetrators, the Commission finds and observes as follows:

- a) That the Petitioner was unlawful arrest detained for 77 days and subjected to inhuman and degrading treatment.
- b) That she was not charged to Court for any offence.
- c) That the detention was in bad faith and was politically motivated.

### **RECOMMENDATIONS**

The Commission accordingly recommends:

- a) That the Federal Government of Nigeria should issue a public apology to the petitioner.
- b) That the Federal Government of Nigeria should pay the sum of N100,000.00 (One Hundred Thousand Naira) as compensation to the Petitioner.

**BRIEF ON**  
**MEMO NO 186**

**Petitioner's Full Name(s) and Address(es)**

Alfa Bello Oyedemi Olorunkosebi  
Mrs. Serifat Olorunkosebi  
Aihaji Ganiyu Ajiboye  
Aihaji Jimoh Adebayo  
L. A. Ayankojo  
c/o the Family of the Late Asipa of Oyo,  
The Asipa's Palace. Isale-Oyo.  
Oyo.

**Title of Petition**

The Search for Justice by the Late Asipa Family (1992 — 1999):  
Memorandum on Gross Violation of Human Rights Arising from  
Perversion of Justice, Mis-application of Judicial Power and Extreme  
Abuse of Office in the Desperate Bid to Cover up the Assassins of the  
Late Asipa of Oyo by the Military Regimes in Oyo State Under Col.  
Nwosu and Col. Hammed Usman (rtd)

**Date of Petition**

12<sup>th</sup> July, 1999

**Particulars of Petition**

This memorandum was submitted by five petitioners on behalf of the children, wives, family and entire community respectively of the late Asipa of Oyo, Chief Amuda Olorunkosebi in protest against the gross violation of the right to life of the late Chief and alleged cover up of the heinous crime as well as the principal suspect through the machinery

of Government during the Military regimes of Colonels Ike Nwosu and Hamined Usinan (rtd). The Petitioners narrated in painstaking detail how the late Asipa was lured to his farm in November, 1992 by two of the suspects on the pretext that they wanted to buy a piece of land for fish farming from him. The two suspects conveyed themselves and the late Chief to the farm in a blue Datsun 1.8 Bluebird car with registration number KD 158 BDU. When the party got to what later became the scene of the crime, they were accosted by two masked men who attacked both the Asipa and his two brothers who accompanied the party to the farm. The brothers managed to escape, one of them with severe machet cuts. The witnesses stated that the Asipa was thereafter shot by the two assailants who also poured acid on his body. The petitioners allege that before the assassins murdered the Chief, one of the suspects who accompanied the party to the farm, one Biodun Faseyitan had showed him (the late Asipa) a photograph of the Alaafin of Oyo, Oba Lamidi Adeyemi III and told the deceased to hold the Oba responsible for his death. The petitioners further alleged that the Datsun car which conveyed the assassins to the Oba's palace was recovered by the Police in Ibadan on the 28<sup>th</sup> of December, 1992. The right hand steering wheel had been changed to left and the car now bore a foreign number. Eventually, the fourteen suspects were arrested out of which only two were charged to the Ibadan High Court namely Biodun Faseyitan and Sule Obagbori. According to the petitioners, both accused persons were discharged but not acquitted by the court. It is not clear why this state of affairs arose. An appeal initiated by the State and a cross-appeal at the instance of Faseyitan were eventually abandoned by both parties.

Being dissatisfied with the handling of the Asipa's murder, his family petitioned the Inspector-General of Police who ordered a re-

investigation. According to the petitioners, this re-investigation unearthed among other things the fact that the Datsun car used by the assassins was imported by one Adelakun Enterprises, a company owned by Oba Adeyemi. Documents recovered by the Police from the Corporate Affairs Commission established the fact that Oba Adeyemi was a Director of the said Adelakun Enterprise, and the documents of importation of the said Datsun car equally tied Adelakun Enterprises to the car. The petitioner went to great length to link Oba Adeyemi, Biodun Faseyitan and one Dr. Segun Oduneye to the murder of the Late Asipa. Oduneye was eventually convicted of conspiracy in the murder and sentenced to seven years imprisonment. The petitioners also accused the Attorney-General during this period, one Alhaji Yusuf Akande of obstructing the course of justice by refusing to charge the Oba as recommended by the DPP. The petitioners allege that the legal advice which indicted the Oba was withheld by the Attorney-General for fifteen months after which he expunged the Oba's name the advice. In protest against the murder of the Asipa and the alleged mishandling of the crime, the family of the late Asipa have refused to bury him until justice is done to him and to them.

**Period Covered by the Petition**

1992 till date

**Names and addresses of Persons or Institutions Petitioned Against**

1. The Government of Oyo State
2. The Alaafin of Oyo, Oba Lamidi Adeyemi III
3. The Attorney-General of Oyo State between 1995 and 1998
4. The Nigeria Police Oyo.

### **Injury Allegedly Suffered by the Petitioner**

Denial of the right to life of Chief Amuda Olorunkosebi, the Asipa of Oyo.

### **Relief Sought by The Petitioner**

1. That the Commission should direct the present Attorney-General of Oyo State to demand the duplicate case files of the investigations conducted between 1994-1995 -1999
2. That the Oyo State Attorney-General be directed to rectify all issues relating to the handling of the Asipa's case and to consider the overwhelming evidence implicating the Alaafin of Oyo.
3. That all those implicated in the murder should be prosecuted by the Oyo state Attorney-General.
4. That the Force Headquarters, Alagbon Close be directed to send the missing statement of Biodun Faseyitan made between 1995 – 1996 at the General Investigations Section, Alagbon to the DPP
5. That the Commission should direct Force Headquarters through the Inspect-General of Police to investigate any person connected with the murder of the Asipa however highly placed.
6. That the Commission should instruct the Attorney-General to make the principle of impartially of the law fully functional.
7. That the Commission should condemn in absolute terms the numerous instances of abuse office and violation of human rights perpetrated by the Military Administrators and Ministry of Justice of Oyo State between 1995 and 1998 and recommend that the present Attorney-General

redress the ugly situation in the interest of justice.

8. That the Commission is enjoined to make further recommendations that may be deemed necessary to redeem the lost hope of the less privileged.

**BRIEF ON**  
**MEMO NO. 664**

**Petitioner's Full Names and Address(es)**

Lt. Col. Femi Mepaiyeda (rtd)  
No 12 Ogundana Street,  
P. O. Box 55751, Falomo Post Office,  
Ikoyi - Lagos.

**Title of Petition**

Case of illegal arrest and unjust conviction by the' government of General Sani Abacha (1995 Phantom Coup) Lt. Col. Femi Mepaiyeda (N/5840).

**Date of Petition**

28th July, 1999

**Particulars of Petition**

The Petitioner, retired Military Officer, was arrested on the 28~ February, 1995 in connection with the alleged coup of 1995. He was taken to Jos, detained for 3 weeks and taken to 555 Detention Centre in Lagos and spent 3 months before he was tried by Special Military Tribunal (SMT) who finally sentenced him to 10 years imprisonment and subsequently reduced to one year. He was finally released in July, 1996 from Enugu Prison yard. The petitioner alleged that he was arrested that day and taken to Jos from there to Lagos. And that he was not interrogated until after 3 months. He was locked up in a dark room without ventilation. He stated that on the interrogation day, the interrogating officers tried to force words into his mouth but all efforts failed. He averred that he was highly surprised when he was arraigned

before the Special Military Tribunal headed by General Patrick Aziza and was charged with treason. In the tribunal the accused persons were not allowed to call witnesses. According to the petitioner, attempts were promptly rejected by the Tribunal, the SMT even told/informed them that they were not interested in the technicalities. The petitioner alleged that he was sent to the prison without the normal issuance of warrant as the normal practice. The prison conditions were made very harsh to him. He was strictly disallowed to receive/see any visitor.

**Period covered by the Petition**

February 1995 – July 1996

**Names and Addresses of Persons of Institutions Petitioned Against**

Government of the Federal Republic of Nigeria  
Nigerian Army Headquarters, Abuja

**Injury Allegedly Suffered by the Petitioner**

Unlawful detention

**Relief Sought by the Petitioner**

Investigation and compensation

**BRIEF ON**  
**MOME NO 116**

**Petitioner's Full Name(s) and Address(es)**

Col. G. A. Ajayi, N/3018 Inf.  
C/o Abiola & Partner (Chartered Accountants),  
26 Allen Avenue, P.O. Box 9138, Ikeja,  
Lagos. Tel: 01/4968282 Fax: 01/4968282

**Title of Petition**

Memorandum to the Hon. Justice Oputa Human Rights Violations  
Investigation Panel on the 1995 Phantom Coup Saga.

**Date of Petition**

12th July. 1999.

**Particulars of Petition**

The Petitioner, the then Colonel Administration and Quarter-Master General of the Lagos Garrison Command was arrested in February, 1995 on the orders of General Ishaya Bamaïyi for alleged involvement in the so called 1995 "Phantom Coup". After a fifteen minute trial by the General Patrick Aziza Coup Tribunal, he was adjudged quilts and sentenced to death by firing squad (later commuted to 25 years imprisonment). He subsequently served time in Minna Prisons where he was subjected to torture, cruel and inhuman treatment. He prays the Commission to right the wrongs done to him.

**Period Covered by the Petition**

1995 till date.

## **Names and Addresses of Persons or Institutions Petitioned Against**

- 49) The Nigerian Army (Chief of Personnel and Administration)
- 50) The Gen. Patrick Aziza Coup Tribunal
- 51) The Gen. Felix Mujakperuo Special Investigation Panel
- 52) Col. Frank Omenka
- 53) Col. J. K. Olu
- 54) Col. Santuraki
- 55) A.C.P. Zakari Biu

## **Injury Allegedly Suffered by the Petitioner**

- 1) Unlawful arrest and detention.
- 2) Torture and inhuman treatment.
- 3) Unfair trial.
- 4) Unjust and unlawful death sentence.

## **Relief Sought by the Petitioner**

- The Commission should quash the judgment of the Coup Tribunal.
- His period of unjust and illegal incarceration (February 1995 — March, 1999) as a period of captivity in a hostile nation's prisoners' of war camp.
- Re-absorption into the Nigerian Army on the appropriate rank due with effect from the date he was unjustly cashiered from the Army without loss of seniority, status, honour and integrity.
- Payment of his salaries and emoluments with effect from the date of stoppage in 1995 till date.
- Medical examination and treatment for any lingering and debilitating ailment sustained as a result of the cruel torture and

harsh prison conditions he endured.

- Restoration of all his personal effects including passports, certificates, course works etc.
- Payment of adequate financial compensation to assuage the personal injuries.

#### **MODE OF TREATMENT OF PETITION:**

The petition was heard during the public sittings of the Commission in Lagos. The petitioner gave evidence, called other witnesses to corroborate his claims, tendered relevant documents and a video tape. He was also given the opportunity to cross-examine the alleged perpetrators.

#### **EVIDENCE OF THE ALLEGED PERPETRATORS:**

The alleged perpetrators gave evidence denying the allegations of torture and inhuman treatment. They however admitted that the Petitioner was arrested, detained, arraigned before a Special Military Tribunal, tried convicted and sentenced to death for involvement in the alleged coup plot of 1995.

#### **FINDINGS AND OBSERVATIONS:**

The Commission carefully reviewed the evidence adduced by all the witnesses and examined all the relevant exhibits tendered during the public hearing. The Commission further visited all the alleged torture centres in Lagos in order to confirm the veracity of the petitioner's claims in the light of consistent denials by the alleged perpetrators. The Commission makes the following findings and observations:

- a) That the petitioner was arrested, detained, arraigned before a Special Military Tribunal headed by Brig-Gen. P. N. Aziza, tried, convicted and sentenced to death for alleged complicity in the alleged coup plot of 1995.
- b) That his death sentence was later commuted to 25 years imprisonment by the then ruling Provisional Ruling Council (PRC).

- c) That the petitioner spent over 4 years in detention and prison custody and was released in March 1999 after he was granted state pardon by the Government of General Abdulsalami Abubakar.
- d) That the Commission finds the allegations and claims of the petitioner that he was tortured to be truthful based on the following:
  - 1) The Commission visited the alleged torture centres at 'Inter Centre' and No.67 Alexander Avenue, Ikoyi and also the underground cell at the Directorate of Military Intelligence, (DMI), all in Lagos and discovered horrifying structures and instruments of torture all over the place.
  - 2) All the victims of the alleged coup plot of 1995 gave consistent and corroborative evidence of torture and brutality.
  - 3) The Commission heard eye witness accounts of the Petitioner's torture
  - 4) The petitioner has debilitating scars and disabilities as clear evidence of physical torture
  - 5) The conditions, circumstances and long periods of petitioner's detention are clear pieces of evidences of psychological and mental tortures.
- e) That the procedure, process and circumstances of the petitioner's arraignment, trial, conviction and sentence are flawed as it severally negates the basic and elementary demands of justice and the provisions of the African Charter on Human and Peoples Rights.
- f) That the law under which the petitioner and other victims of the alleged coup plot were tried and convicted is a bad law in that:
  - i) it did not allow any right of appeal to the superior courts of the land by the convicts.
  - ii) it did not guarantee the petitioner's rights to fair hearing and recourse to due process of law.
- g) That no law, anywhere in the world, allows torture or maltreatment of detainees or prisoners in any circumstances.

## **RECOMMENDATIONS**

The Commission recommends that the Federal Government of Nigeria should:

- 1) Issue a public apology to the petitioner
- 2) Pay the sum of N200,000.00 (Two Hundred Thousand Naira) only as compensations to the petitioner.
- 3) Grant the petitioner free medical treatment in any government hospital in respect of any injury or disability suffered while in detention.
- 4) Allow the petitioner to retire voluntarily from service with full benefits.
- 5) Pay the petitioner all his outstanding emoluments and other entitlements and return all his seized properties from the Nigerian Army.
- 6) Refer the conviction to appropriate court for nullification.

The Commission further recommends as follows:

- 7) That the Federal Government of Nigeria should dismantle and demolish the following torture structures and centres, namely:
  - a) The underground detention centre (otherwise called “The tunnel”) at the Security Group’s office of the Directorate of Military Intelligence (DMI), Apapa, Lagos.
  - b) The “Inter Centre” cell at the grave yards of Ikoyi Cemetery.
  - c) The Interrogation Centre at No.67 Alexander Avenue, Ikoyi and transfer the premises and buildings to the use of the National Human Rights Commission.

**BRIEF ON**  
**MEMO NO 123**

**Petitioner's Full Name(s) Address(es)**

Lt. D. K. Olowomoran  
((N19432), No address Supplied

**Title of Petition**

Memorandum on Human Rights Abuse

**Date of Petition**

Undated

**Particulars of Petition**

Between the months of February and October, 1995, the petitioner, a Legal Officer with the Nigerian Army was subjected to physical and mental torture as well as cruel and inhuman treatment. The perpetrators were named in his petition. His offence was a vague allegation of having run an errand for Col. R.S.B. Bello-Fadile, his then boss and later an alleged coup plotter. After several months of incarceration, he was brought before the Patrick Aziza Coup Tribunal. The charges against him were thrown out yet his detention continued. He was subsequently compulsorily retired from the Army in October, 1995 along with some other officers and one civilian.

**Period covered by the Petition:**

1995 – October, 1995

**Names and Addresses of Persons or Institutions Petitioned**

**Against**

- 1) Col. J.B. Yakubu
- 2) The Nigerian Army
- 3) Col. Frank Omenka
- 4) Lt. Col. Santuraki
- 5) ASP Zakari Biu

**Injuries Allegedly Suffered by the Petitioner**

- 1) Physical and mental torture
- 2) Cruel and inhuman treatment
- 3) Premature compulsory retirement from the Army
- 4) Truncation of his Military career and loss of benefits

**Relief Sought by the Petitioner**

- 1) Reinstatement
- 2) Restoration of his rank with commensurate compensation
- 3) Alternatively, if reinstatement is impracticable an alternative job opportunity should be provided for him in line with his training as a Barrister and Solicitor.

**Mode of Treatment of Petition:**

The petitioner's case was heard during the first Abuja sitting of the Commission.

**Evidence of alleged perpetrators:**

ACP Zakari Biu and Colonel K.. Olu testified. ACP Biu in his testimony admitted that he was a member of the Special Investigation Panel which allegedly tortured the petitioner but maintained that he took all instruction from General Felix Mujakperuo, head of the SIP and Colonel Santuraki head of the Investigation unit. He denied

torturing the petitioner, Col. K.J. Olu also testified and admitted that he was involved in the arrest but not the torture of the petitioner.

### **Findings and observations of the Commission**

After reviewing the evidence of the petitioner and the alleged perpetrators adduced during the public hearing of the case, the Commission observes as follows:

- a) The petitioner's evidence of his torture was consistent with those of the victims of the 1995 coup plot and the petitioner displayed scars of injuries he sustained from the said torture.
- b) The petitioner's account of his torture was largely controverted by the alleged perpetrators
- c) Despite being discharged and acquitted by the Special Military Tribunal, the petitioner's detention continued

### **Recommendations**

The Commission in the light of its findings and observations above recommends as follows:

- a) That the petitioner be allowed to retire voluntarily from service on the rank currently held by his course-mate as against the compulsory retirement meted out to him.
- b) That the petitioners accrued emoluments be paid to him with effect from the time of his arrest till date in line with the salaries and emoluments being presently enjoyed by his course mates.
- c) That the petitioner be paid the sum of N250,000.00 (two hundred and fifty thousand naira) as compensation for the physical and mental torture inflicted on him by the Special Investigation Panel.
- d) A written apology from the Federal Government.

**BRIEF ON**  
**MEMO NO: 7**

**Petitioner's full name(s) and Address(es)**

Mr. John Jojotoye,  
c/o his Solicitors, Prime Chambers  
1<sup>st</sup> floor J. Inkande House, Wuse  
Zone 1, P.O.Box 2528, Abuja

**Title of Petition**

Petition of the Jokotoye family against the brutal murder of Mr. David Jokotoye

**Date of Petition:**

10<sup>th</sup> August 1999

**Particulars of Petition:**

The petition relates to the murder of one Mr. David Jokotoye. According to the Petitioner (who is the brother of the deceased) the deceased was returning to Suleja from Kano, in company of two other persons, where they had gone to purchase a motor vehicle. He had in his possession a sum of about ₦100,000 being the amount left over after the purchase. They were accosted on the Kano/Zaria Expressway by policemen who halted their car and immediately shot the driver to death. They also shot and wounded both other occupants of the car. On the protest of the deceased and his friend, and on the pleas of the villagers in the area, the policemen agreed to convey the wounded persons to the hospital. However the Petitioner alleges that a little distance further away the policemen shot dead the two persons

and buried them along with the driver at the next village.

Acting on information received discreetly, relations of the deceased persons contacted the State CID, Kano who ordered an investigation. The bodies of the three men were exhumed while the car was recovered in a private residence. The bodies were released to the relations for burial but the Petitioner alleges that since then the Police have taken no further step to prosecute the killers nor to apologise or make redress to the families of the deceased persons, despite repeated demands made to the former Inspector-General of Police, Alhaji Ibrahim Coomassie. The Petitioner contends that the Nigeria Police Force has made frantic efforts to cover-up this crime. The deceased, Mr. David Jokotoye, is survived by five children of school age, a wife, mother and many dependants. He was a member of the Police Public Relations Committee in Suleja.

**Period Covered by the Petition**

1998 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

1. Hon. Minister, Ministry of Police Affairs, Federal Secretariat, Abuja;
2. Inspector-General of Police, Force HQ, Abuja;
3. Commissioner of Police, Kano State Police Command, Kano.

**Injuries allegedly suffered by the Petitioner:**

1. Unlawful killing of the deceased;
2. Anguish, travails and sorrow of the family of he deceased.

### **Relief sought by the Petitioner**

1. Prosecution of all those involved in the murder of the late David Jokotoye;
2. Compensation of not less than ₦10 million to the family of the deceased;
3. Unambiguous apology from the Nigeria Police Force to the family of the deceased.

### **Nature of Hearing Received by Petitioner:**

Several petitions and demands to the Inspector-General of Police have not been answered

### **Mode of Treatment of Petition**

The petition was publicly heard during the first Abuja sitting of the Commission, The petitioner gave oral evidence and adopted the contents of his petition.

### **Evidence of Alleged Perpetrators**

Superintendent of Police, Thomas Bangajiya testified before the Commission on behalf of the Inspector-General of Police. He stated in his testimony that the deceased had been shot while attempting to run away from the police who had mistaken them for armed robbers.

### **Findings**

After reviewing the evidence of the petitioner and the alleged perpetrators, the Commission finds as follows:

- a) The testimony of the police witness that the deceased had been shot while attempting to run away from the police was contradicted by Exhibit 3 a medical certificate of death which was tendered by the petitioner and which was tendered by the petitioner and which indicated that the late Jokotoye had been shot in the fore head, not shot while trying to escape from the police.
- b) From the totality of the evidence adduced before the Commission, the Commission finds that the late Jokotoye and two others were shot and killed by the police in error having been mistaken for armed robbers.

**Recommendations:**

The commission in the light of its findings and observations above recommends as follows:-

- a) Payment of the sum of five hundred thousand naira compensation for the unlawful killing of the late David Jokotoye
- b) An apology from the Inspector General of Police.

**BRIEF ON**  
**MEMO NO 26**

**Petitioner's Full Name(s) and Address(es)-**

Ex. Major J.A. Achimugu (N/4951), c/o Samuel S. Ikani, National Universities Commission, Wuse 11, Maitama, Abuja.

**Title of Petition**

Review of Case: Ex Major J.A. Achimugu (N/4951)

**Date of Petition-**

27<sup>th</sup> June, 1999

**Particulars of Petition**

The Petitioner was the quarter master (officer in charge of stores) before his dismissal from the Army in 1991. He alleged that in 1991 one Colonel Umar Malami Mohammed whom he claimed to be a junior brother of Mrs. Mariam Abacha and his Commandant at the Nigerian Army Depot, Zaria, collected six sub-machine guns from the store under his control after administering some harmful drugs on him. When he regained his senses, he prepared Army Form AFG 1033 for the said Col. Umar to sign in respect of the six guns he collected but Col. Umar told him not to worry. Subsequently however, the petitioner claimed that Col. Umar told him not to worry. Subsequently however, the petitioner claimed that Col. Umar refused returning the arms and outright denied over collecting arms from the store. The Petitioner was arrested, court martialled, convicted and sentenced to 5 years imprisonment. Upon his release on June 12<sup>th</sup>, 1996, he wrote the Chief of Army Staff through the Civil Liberties Organisation for a review of his case. The Army headquarters invited him to appear

before a panel. When he reported, he was again detained and tortured for 14 days by col. Hamid Ali and Col. Frank Omenka. During his detention, he was chained together with one Major Adeyemi Adeyemo who later died as a result of the torture. He further claimed that the said late Major Adeyemo was similarly drugged by Col. Umar and was given the same treatment like him. He was subsequently released on the intercession of one Col. Gabriel Kubile on 27<sup>th</sup> August, 1996.

**Period Covered by the Petition**

1991 - 1996

**Names and Addresses of Persons or Institutions Petitioned**

**Against-**

- 1) The Nigerian Army c/o The Chief of Army Staff, Department of Administration, Army Headquarters
- 2) Col. Umar Malami Mohammed (address not provided)
- 3) Col. F.B.D. Dandodo (address not provided)
- 4) Col. Hammid Ali (address not provided)
- 5) Col. Frank Omenka (address not provided)

**Injury Allegedly Suffered by the Petitioner-**

- 1) Wrongful dismissal
- 2) Wrongful imprisonment for 5 years
- 3) Arrest, detention and torture for 14 days
- 4) Humiliation

**Relief Sought by the Petitioner**

Conversion of his dismissal order to retirement to enable him earn due benefits

**Years of Service**

28 years

**Mode of Treatment of Petition**

The hearing of the petition commenced during the first Abuja sitting of the Commission and was concluded during the third Abuja sitting. The petitioner in his oral testimony adopted the contents of his petition.

**Evidence of Alleged Perpetrators**

The alleged perpetrator, Colonel Umar Mohammed did not give evidence before the Commission but his Counsel cross examined the petitioner after his testimony and sought in his cross examination to exonerate his client from the allegations.

**Findings and Observations of the Commission**

After reviewing the evidence of the petitioner and the alleged perpetrators, the Commission finds as follows:

- a) The petitioner's evidence of torture was not controverted by the cross-examination of the Counsel to the alleged perpetrator.
- b) The Commission further observes that following the petitioner's conviction by a court martial for alleged loss of owns, he was convicted and sentenced to a tem of imprisonment for five years. The petitioner was also dismissed from the Nigerian army after twenty eight years of service

- c) From the evidence put before it, the Commission finds that reasonable doubt exists as to whether the petitioner received a fair trial.

**Recommendations:**

The Commission in the light of its findings and observations above recommends as follows:

- a) That the Petitioner's dismissal after 28 years of service and after serving five years imprisonment for the same alleged offence be converted to retirement with effect from the date of the said dismissal to enable him earn benefits due to him.
- (b) The Commission further recommends the grant of state pardon to the petitioner.

## **BRIEF ON**

### **MEMO NO 38**

#### **Petitioner's Full Name(s) and Address(es)**

Col. R.N. Emokpae (N/3139),  
5, Ozolua Avenue ,  
Off Ekenwan Road,  
Box 4740, Benin City,  
Tel- 052/252623

#### **Title of Petition**

Re:Memorandum of the Abuse of Human Rights: The case of Col.  
Roland Nosakhare Emokpae

#### **Date of Petition**

1<sup>st</sup> July, 1999

#### **Particulars of Petition**

The Petitioner, a Colonel in the Nigerian Army was arrested on the 27<sup>th</sup> of February, 1995 while he was assuming duty as the new Deputy Provost Marshall-General. His arrest was effected by Col. Segun Oladeinde and Col. Olu of the security Group and no reason was given for the said arrest. He was detained at the SSS Inter centre, Ikoyi Cemetery for about two months until the 1<sup>st</sup> of May 1995 when he was interrogated for the first time by the duo of Col. Omenka and Zakari Biu for an allegedly supervised by Major Gen. Mujakpero the head of a Special Investigation Panel set-up by the Abacha regime to investigate the alleged coup plot. The Petitioner alleged that he passed through

several stages of graduated mental and physical tortures beyond human imaginations. He was regularly stripped bare naked by a private soldier, chained hand and foot, flogged and suspended on a vertical pole while several instruments were passed through him. All these were done in order to obtain a confession of a crime he never committed. The Petitioner alleged that when his innocence became obvious to his tormentors and would appear to embarrass the Government, false charges relating to accidented vehicle and treason contrary to the Criminal Code were leveled against him before a Special Military Tribunal head by Gen. P.N. Aziza. During the trial, the Petitioner claimed that he was never implicated by any of the witnesses making it impossible for the prosecution to prove the five count charges against him. However, since the Abacha Government wanted to get rid of him at all costs, he was convicted and sentenced to death on a substituted and legally non-existent charge of "Constructive Conspiracy to treason" by the desperate Gen. Patrick Aziza tribunal. The Petitioner gave detailed account to his military/professional background, attaching several letters of commendation from General Muhammadu Buhari, Gen. Chris Garuba, Gen. Ike Nwachukwu, etc. and emphasised that the reasons Gen. Abacha and his fellow travelers wanted to get rid of him include (1) His crime bursting role as a provost Officer which made him to step on some sacred toes and fraudulent officers like Abacha, (2) his insistence on Military professionalism and hatred by Gen. Abacha. (3) His complaint to the Chief of Army Staff in 1979/80 against discrimination meted out to him by Abacha for denying him sponsorship training abroad, (4) His stand on the actualisation of June 12, and (5) his participation in a Military Law Seminar which was approved by Army authorities and held at Enugu in 1994.

**Period Covered by the Petition**

1979-1999

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) The Hon. Minister, Ministry of Defence
- 2) The Chief of Army Staff, Defence Headquarters, Abuja

**Injury Allegedly Suffered by the Petitioner**

- 1) Unlawful arrest, detention, torture, trial and conviction
- 2) Wrongful dismissal from the Army
- 3) Loss of his Mercedes Benz Car and other properties
- 4) Loss of income and other benefits
- 5) Excessive and inhuman torture resulting in severe bodily injuries to his waist, Knee, private part, sight (he attached medical certificates)
- 6) The Petitioner underwent three surgical operation whilst in Birnin Kebbi and Kaduna prisons
- 7) Humiliation, stigmatization and total alienation, etc.

**Relief Sought by the Petitioner**

- 1) Quashing of the entire trial and conviction
- 2) Repealing any enactment or gazette relating to his conviction and dismissal
- 3) Restitution and redeployment
- 4) Promotion the next higher rank
- 5) Compensation for loss of job & trauma experienced
- 6) Damages for excessive human right abuse and physical injuries
- 7) Immediate medical treatment overseas

- 8) Punishment of all officers/person that participated in the abuse of his rights, including late Gen. Sani Abacha posthumously

#### **Names of Hearing Received by Petition-**

The Petitioner emphasised that the whole process leading to his conviction was flawed and devoid of any fair hearing

#### **Mode of Treatment**

The petitioner was absent during the first Abuja sitting of the Commission because he was undergoing treatment in the USA on account of injuries he received from being tortured during his interrogation for alleged coup plotting. The petitioner's petition was consolidated for hearing with the other coup cases and was heard during the second Abuja sitting of the Commission.

#### **Evidence of the alleged Perpetrator**

Generals Patrick Aziza and Felix Mujakperuo other than presiding over the Special Military tribunal and the Special Investigation Panel respectively denied any link with the torture of the petitioner

#### **Findings and Observations of the Commission**

The petitioner's case was heard during the first Abuja sitting of the Commission and concluded during its second Abuja sitting. The following cases which deal with the same subject matter were consolidated with it namely: ABC. The petitioner's testimony at the hearings was based mainly on the facts stated in his petition. ACP Zakari Biu, Generals Felix Mujakperuo who headed the SIP and Patrick Aziza who was Chairman of the Special Military Tribunal testified. The three witnesses denied ordering or partaking in the torture or ill treatment of any of the suspects.

After reviewing the evidence of the petitioner and the alleged perpetrators adduced during its public hearings, the Commission observes as follows:-

- a) The evidence of all the petitioners in this category was consistent and tended to support both their claims of having been tortured during their incarceration as well as the mode of torture inflicted on them. The same individuals were consistently named as having masterminded their torture. The Commission found their evidence both compelling and credible.
- b) Despite the denials of all the alleged perpetrators, on the basis of the evidence put before it, the Commission finds that all the petitioners accused of complicity in the 1995 coup plot were victims of mental and physical torture.
- c) The Commission observes that in contravention of section 364 CFRN, 1999 which provides that any person charged with a criminal offence shall be entitled to fair hearing in public within a reasonable time by a court or tribunal, the Special Tribunal which tried the accused persons sat in secret and journalists were barred from covering its proceedings.
- d) The accused persons were denied legal representation of their choice contrary to section 36(5)c CFRN, 1999. Military lawyers who were clearly answerable to the Military authorities were imposed on the accused persons in some cases two hours before their trials commenced thus denying them the opportunity of adequately briefing their lawyers as guaranteed in section 36(5)b CFRN, 1999.
- e) The accused persons were allowed to confer with their

defence lawyers only within earshot of the security agents guarding them, and who subsequently passed all the information gathered from listening to such conversations to the prosecuting team.

- f) The Commission also observes that documents required by the defence team for the defence of the accused persons were not readily made available to them. The Commission therefore finds that the Petitioner and the other officers in his category were denied their constitutional right to fair hearing.
- g) The Commission further finds that the 1995 Coup convicts many of whom were sentenced to death were denied their constitutional right of appeal to a higher Tribunal.
- h) General Patrick Aziza who was the chairman of the Special Military Tribunal which tried, convicted and sentenced the petitioners was also a member of the PRC which ratified or varied their sentences as the case may be.
- i) It is therefore the finding of the Commission that due process and fair hearing were not adhered to in the conduct of the trials of the accused persons.

### **Recommendations**

The Commission in the light of its findings and observations above recommends as follows:-

- 1) That the convictions of all the 1995 coup convicts for treason be referred to the courts for nullification.
- 2) That all the petitioners be allowed to retire voluntarily from service with full benefits.
- 3) Payment of the sum of \_\_\_\_\_ Naira to each

of the petitioners in this category for their unwarranted incarceration and for the physical and mental torture they underwent.

- 4) Payment of all the outstanding emoluments of the petitioners in this category with effect from the time of their arrest till date.

## MEMO NO 497

*Petitioner's Full Name(s) and Address(es)-*

Olugbenga Obasanjo,  
Ota farm,  
Ota Ogun State

### **Title of Petition**

Petition of Rights Against Violation of Human Rights

### **Date of Petition-**

28<sup>th</sup> July, 1999

### **Particulars of Petition**

The Petitioner is a physician and the son of General Olusegun Obasanjo, the present head of State. He petitioned for himself and all the entire Olusegun Obasanjo immediate and extended family. The Petitioner traced how his father handed power to the civilian democratic government of Shehu Shagari 12 years ago. He stated that his father's passport was seized and on his return from Denmark on 13<sup>th</sup> March 1995 and taken to his Ota residence on 13 June, 1995. The Petitioner alleged that sometime in June, 1995 Olusegun Obasanjo was brought before a Military tribunal headed by Patrick Aziza who denied him fair hearing by forcing him to take Military lawyers. One Bello Fadile was also brought in to testify falsely against him and his father Olusegun Obasanjo was convicted for concealment of treason and sentenced to 25 years in jail for an offence he knew nothing about. The Petitioner stated how his father was taken as a convict to Kirikiri Maximum prison in Lagos on the 13 June 1995 until

October 18, 1995 when he was transferred to Jos prison and subsequently to Yola Prison. The Petitioner stated that his father was unlawfully detained for a period of 3 years and made to face very inhuman treatments, which brought embarrassment on the family. They therefore seek redress in the Commission.

**Period Covered by the Petition**

1995 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) The State Security Services c/o SSS Headquarters
- 2) The Nigerian Army c/o Army Headquarters
- 3) The Security officers to General Sani Abacha i.e. Hamza Al-Mustapha, Ismaila Gwarzo c/o the Presidency
- 4) The Military Tribunal, Headed by Major Gen. Aziza & Co. c/o Army Headquarters.

**Injury Allegedly Suffered by the Petitioner**

- 1) Denial of complainant's freedom for 3 years.
- 2) Subjection to jeopardy and inhuman treatment
- 3) The Stigma associated with the conviction
- 4) Disruption in all ramifications, of the life of the complainant

**Relief Sought by the Petitioner-**

The Petitioner and the members of Olusegun Obasanjo's family in the interest of justice want their father to be returned to a completely free state before the conviction and they also ask for compensation for injustice, injury and loss on Olusegun Obasanjo.

### **Names of Hearing Received by Petition**

The complainant was brought before a military tribunal and he was forced against his wish, to take military lawyers and false evidence was brought against him also. From the facts of the case, the complainant did not get fair hearing.

### **Years of Service**

Not stated. The subject of the petition, Chief Olusegun Obasanjo's rose to the rank of a General in the Nigerian Army before his retirement.

### **Mode of Treatment of Petition**

The petition was heard during the first Abuja sitting of the Commission. The petitioner who was said to be resident overseas was absent but was represented by Counsel. The subject of the petition Chief Olusegun Obasanjo appeared in response to the Commission's summon during this phase of it and testified. He acknowledged his son's petition as representing a correct account of his travails following his being linked with the alleged coup d'etat Chief Obasanjo also gave oral evidence.

### **Evidence of alleged Perpetrators**

Colonel Bello Fadile who was alleged by Chief Obasanjo to have falsely implicated him in the alleged coup plot appeared before the Commission and testified. He confirmed that he indeed wrote a letter of apology to Chief Obasanjo and stated that he was tortured into implicating Chief Obasanjo in order to lend credence to the coup plot story. The Commission decided that it had received enough evidence

the alleged coup plot of 1995.

**Findings and Observations of the Commission:**

After reviewing the evidence of Chief Olusegun Obasanjo and the alleged perpetrator, the Commission finds as follows:-

- a) The evidence of torture as narrated by the petitioner and corroborated by Chief Obasanjo was credible and consistent with the evidence of other petitioner connected to the 1995 alleged coup.
- b) The evidence of torture as narrated in the petition and corroborated by the subject of the petition, Chief Obasanjo was not controverted by the alleged perpetrators.
- c) Based on the evidence put before if especially the testimony of Colonel Bello Fadile, the Commission finds that Chief Obasanjo was a victim of torture inhuman and degrading treatment contrary to section
- d) 31(1) of the 1979 Constitution of the Federal republic of Nigeria therein force.
- e) The Commission further finds that Chief Obasanjo and the others who were tried with him for alleged complicity in the 1995 alleged coup plot were denied fair hearing and their constitutional right of appeal to a higher tribunal.

**Recommendations**

The Commission in the light of its findings and observation above recommends as follows:

- a) That the trial and conviction of Chief Obasanjo for concealment of treason be referred to the courts for nullification.

- b) That Chief Obasanjo cashiering from the Army be reviewed by the Military Authorities with a view to restoring his Military honours and benefits.
  
- (c) An apology to Chief Obasanjo by the Federal Government.

## **MEMO NO 430**

### **Petitioner's Full Name(s) and Address(es)**

Lt. I.S. Umar (rtd)  
c/o Jibrin Mohammed Isoho,  
M.B.G.S.C.,  
P.M.B 19,  
Minna, Niger State

### **Title of Petition**

Memorandum Submitted to the Human Rights Violations Panel Instituted by the President, Federal Republic of Nigeria, Chief Olusegun Obasanjo on 14<sup>th</sup> June, 1999 to investigate Human Rights Abuses from January 1<sup>st</sup> 1995 to May 28<sup>th</sup> 1999.

### **Date of Petition**

29<sup>th</sup> July, 1999

### **Particulars of Petition**

The petitioner was arrested on 7<sup>th</sup> January, 1998 and taken to Jos for interrogation by the Special Investigation Panel (SIP) in connection with the 1997 alleged coup plot. However, on 10<sup>th</sup> January, 1998, the SIP cleared him with a letter directed to the Commandant, ICS to allow him continue with the course he was attending at that time. He was however reasserted the following day by Major Hamza Al-Mustapha and sent to Jos Prison on 13/1/98 where he was kept under dehumanising conditions till 17/4/98. On the 17/4/98, he was released and handed a letter of retirement from Military Service.

### **Period Covered by the Petition**

20/12/97 to 17/4/98

## ***Names and Addresses of Persons or Institutions Petitioned***

### ***Against***

- 1) The Nigeria Army, Headquarters, Abuja
- 2) Major Hamza Al-Mustapha
- 3) Col. Frank Omenka
- 4) Sgt. Barnabas Jabila (Rogers)

### ***Injury Suffered by the Petitioner***

- 1) Torture, inhuman and degrading treatment
- 2) Loss of Employment and means of sustenance

### ***Relief Sought by the Petitioner***

Reinstatement

### ***Mode of Treatment of Petition***

The petition was publicly heard during the First Abuja sitting of the Commission and was concluded during the Lagos sitting. The petitioner adopted his petition gave oral evidence.

### ***Evidence of Alleged Perpetrators***

Brigadier General Ibrahim Sabo, General Ishaya Bamaiyi and Major Hamza Al-Mustapha who were all mentioned in the petition as having violated the petitioners rights all testified. Brigadier General Sabo denied responsibility for the petitioner's ordeal. Major Hamza Al-

Mustapha in his testimony confirmed that the petitioner worked under him as a member of the Strike Force. He also disclosed that a surveillance report linked the petitioner with one of the 1997 coup suspects, one Major Isyaku. Major Al-Mustapha denied ordering the arrest of the petitioner and stated that he was in Libya at the time of the said arrest. The witness disclosed that the arrest of the petitioner was ordered by the Special Investigation Panel which investigated the 1997 coup plot. General Ishaya Rizi Bamaiyi on his own part stated in his testimony that even through he was the Chief of Army Staff at the time of the events complained of, he did not know the petitioner prior to meeting him at the Commission sitting. The witness also stated that he was neither a member of the Special Investigation Panel which investigated the alleged coup plotters of 1997 nor was he a member of the Special Military tribunal which tried them. He therefore denied any complicity in the arrest, detention or torture of the petitioner. The petitioner was also cross examined by counsel to General Bamaiyi and Major Hamza Al-Mustapha.

## **FINDINGS AND OBSERVATIONS**

After due consideration\_of the evidence of the petitioner and the alleged perpetrators, the commission finds as follows;

- a) That the petitioner was arrested and detained without trial for one hundred days in connection with the alleged coup plot of 1997.
- b) The petitioner stated that while he was in custody, he was kept in chains like a criminal, tortured and brutalized. His evidence of his torture was not contradicted by the alleged perpetrators.
- c) The petitioner was absolved of coup plotting by the Special

Investigation Panel.

**RECOMMENDATIONS**

The Commission in the light of its findings and observation above recommends as follows:

- 1) That the petitioner be allowed to voluntarily retire from the Army.
- 2) Payment of arrears of his emoluments from the time of his arrest till date]
- 3) Payment of the sum of N250,000.00 (two hundred and fifty thousand naira) as compensation for the torture meted out to him and for his missing personal belongings.
- (4) An apology from the Federal Government for the torture meted out to him.

**MEMO NO 324**

**Petitioner's Full Name(s) and Address (es)**

Ex. Major Bello Mohammed Magaji,

P.O. Box 7810,

Kaduna

**Title of Petition**

Petition On Inhuman Treatment, Victimization, Unlawful Arrest, Torture Of Myself And Children And Denial Of Justice: Passionate Plea To Investigate My Case.

**Date of Petition**

22<sup>nd</sup> July, 1999

**Particulars of Petition**

The petitioner was until January, 1997 a Major and a legal officer in the Nigerian Army. He was convicted by a General Court Martial for offences of a sexual nature and sentenced to seven years imprisonment. The officer's problems started when he was appointed by the then Chief of Army Staff, Major General Ishaya Bamaiyi to act as prosecutor in the case of Brigadier General Gabriel Ayankpele and six others who were charged with illegally bringing in cars from Liberia. The petitioner alleges that a few days before the

commencement of the trial, he was approached by an unnamed officer who confided in him that the Commander of Lagos Garrison Command, then Brig. General Patrick Aziza was not happy with the trial and sought the co-operation of the petitioner to undermine the case against the accused persons. Before this incident, a similar request had been made to him by one Lt. Col. Ahmed when he (the petitioner) acted as Judge Advocate during the trial of one Col. O.A. Azazi. The said Col. Azazi and some other officers of the DMI were on trial on charges of complicity in the escape of a drug baron from the premises of the DMI in 1994. The petitioner stated that he refused to be influenced in each case and the accused officers were found guilty in each instance. The petitioner also disclosed that in December, 1996 while he was serving as the National chairman and Acting Legal Officer of the defunct task Force on Telecommunications and Postal Offences, he received an official complaint about an attempt to use a forged cheque to the tune of N4.5 million to settle a Nitel bill. Again, attempts were made by the then Lt. Col. Frank Omenka of the DMI to influence him in the handling of the matter and in the treatment of one Mr. Uche who was involved. The petitioner stated that again, he refused to be influenced. The petitioner submitted that his steadfastness in performing his duty and attempts to be above board led to a well set up plan against him culminating in his trial, conviction and sentence for an alleged sexual offence which he was innocent of. On the 24<sup>th</sup> of January, 1997, the petitioner stated that he was summoned by Col. Frank Omenka and on arrival at the latter's office, three boys were brought before him and he was accused of having carnal knowledge of them. He was thereafter hand cuffed and subjected to various humiliating treatments details of which he gave in his petition including being photographed with the boys. The petitioner's two children were also arrested and detained along with

him. After investigations were over, Col. Omenka, alleged arranged to have the petitioner tried by Brig. General Aziza who had earlier expressed his displeasure over his (the petitioner's) handling of the cases of the officers who were prosecuted by him. After a trial fraught with irregularities, the petitioner was convicted and the maximum sentence of seven years was imposed on him (later reduced to five years). The petitioner alleges denial of his right to fair hearing at every stage of the trial. He accused the court of taking sides with the prosecution and of being mis-directed by the Judge Advocate among other short-comings. The petitioner highlighted a good number of irregularities in his trial process which had the combined effect of denying him a fair trial. In line with the provisions of the Armed Forces Decree, he logged an application with the Armed Forces Disciplinary Appeal Committee (AFDAC) for leave to appeal to it. Five months later, the AFDAC wrote him refusing him leave to appeal. No reason was stated for this. An appeal lodged by the petitioner at the Lagos Division of the Court of Appeal was struck out in October 1997 on the ground that it was incompetent since the AFDAC was yet to hear the appeal in keeping with the provisions of the Armed Forces Decree. The petitioner was now caught in a legal tangle between the AFDAC and the Court of Appeal. Attempts by the petitioner to seek redress through the National Human Rights Commission and the Office of the Attorney-General of the Federation did not yield fruits. He also wrote to the Chief of Army Staff requesting for a review of his case after having served.

### **Period Covered by the Petition**

### **Names and Addresses of Persons or Institutions Petitioned Against**

## **Injury Allegedly Suffered by the Petitioner**

## **Relief Sought by the Petitioner**

## **Number of Years of Service**

17 years

## **Mode of Treatment of Petition:**

The petition was publicly heard during the first Abuja sitting of the Commission. The petitioner adopted the contents of his petition and also gave oral evidence.

## **Evidence of Alleged Perpetrators**

The petitioner blamed Generals Patrick Aziza Ishaya Bamaiyi and Colonel Frank Omenka for the violation of his rights. None of the alleged perpetrators testified.

## **Findings and Recommendation**

After reviewing the evidence before it, the Commission finds as follows:

- a) The Petitioner upon his arrest for the alleged offence was subjected to serve torture, cruel, inhuman and degrading treatment
- b) The petitioner's children who were not parties to the alleged offence were arrested, detained and torture along with him.
- c) The petitioner was denied the right of appeal to a higher Tribunal when the Armed Forces Disciplinary Appeal Committee then in existence refused to grant him leave to appeal

d) Following his conviction, the petitioner served a term of imprisonment for five years and was also dismissed from the Nigerian Army after 18 years of service.

**Recommendation**

The Commission in the light of its findings and observation above recommends as follows:

- a) The petitioner having served his prison term for five years should be considered for state pardon
- b) That the Army authorities should consider converting the petitioner's dismissal to retirement to enable him get his benefits.

## **MEMO NO 482B**

### **Petitioner's Full Name(s) and Address (es)**

Chief Frank Ovie Kokori,  
9 Jibowu Street, Jobowu Bus Stop,  
Ikorodu Road, Yaba, Lagos.  
01-846233, 836966, Res. 01-4702698, 5454343

### **Title of Petition**

Memorandum to the Human Rights Violations Investigation Panel the  
Road to my four years Sojourn at Bama Prisons, Borno state

### **Date of Petition**

24<sup>th</sup> July, 1999

### **Particulars of Petition**

The Petitioner is a unionist by profession and the current Secretary General of the National Union of Petroleum and Natural Gas Workers (NUPENG). He stated that (NUPENG) in a meeting at Efurun, Delta State on the 18<sup>th</sup> April 1994 resolved as follows;

- 1) That before 30<sup>th</sup> June 1994 the National Association of Road Transport Owners (NARTO) should implement an interim agreed and stated in a communiqué of 28<sup>th</sup> May, 1994 and also go into full scale bargaining with the union.
- 2) That the Ministry of Petroleum and Mineral Resources implement without delay the industrial court judgment that petroleum

Training Institute Workers should enjoy conditions of service applicable to workers in NNPC.

- 3) That NNPN should pay the over \$90m owed oil companies to avoid further redundancy and job losses in the oil industry.
- 4) That the deteriorating political situation in the country is traceable to the annulment of June 12 election results
- 5) That NUPENG is in support of calls by democratic forces both in and outside Nigeria and the stand of NLC that the military should quite and perform their professional duties
- 6) That in quitting, the military should restore the political and democratic structures in place in 1993 and call on the winner of June 12 for a peaceful settlement
- 7) A call on the declare winner of June 12 elections to from Government of National Unity and convene a sovereign national conference
- 8) The Union condemned the arrests and detention of Nationalists, Politicians and elder statement and other people who called for a change of the status quo; the therefore asked for the immediate release of the same people and the opening of closed media houses. The petitioner stated that the union decided to resort to a sit at home strike if the government refused to listen to them and when the ultimatum expired on the 4-7-94, a sit at home strike ensued.
- 9) After so many attempts to arrest the petitioner failed, he stated that he was eventually abducted, badly brutalised on the 19<sup>th</sup> of August 1994. He disclosed that he was taken from Shangisha to Awolowo road and from there to Bama Prisons in Bornu State where he was made to live in solitary confinement, and being a diabetic and hypertensive patient, he stated that his health

problems sky rocketed and his spine injury went to a very painful and dangerous proportion.

10) He disclosed how he was denied medical care and his wife and children placed under very humiliation situations by the incessant searches carried out in his homes and the surveillance of the private life of his family. The Petitioner stated that he could not describe his whole ordeal in this petition but shall be prepared to be interviewed at anytime by the Commission.

**Period Covered by the Petition**

1993 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

The Military Regime of Late Gen. Abacha

**Injuries Allegedly Suffered by the Petitioner**

- Unlawful imprisonment
- Extreme torture
- Denial of access to information, family, legal representation and medical care
- Humiliation of members of family during period of incarceration

**Relief Sought by the Petitioner**

The Petitioner is recommending that in order to prevent future generations of our people from experiencing such “inhumanity of man to man” again, all those found guilty (whether living or dead) of these crimes of total abuse of inherent human rights of our people should properly be made to pay for their sins, while the victims of their evil

actions are adequate compensated to serve as a deterrent against future deviants.

### **Mode of Treatment of petition**

The petitioner's case was heard publicly during the first Abuja sitting of the Commission. The petitioner amplified the contents of his petition through oral testimony.

### **Evidence of alleged Perpetrator(s)**

The petitioner was one of a large number of people who suffered persecution as political prisoners during the regime of General Sani Abacha. No specific alleged perpetrators were invited to testify as the petition and other in this category represented a pattern of violation of the rights of citizens by the Government of the day using the instrumentality of Decree 2 forever. He petitioner was cross examined by Counsel representing the State Security Service who conversed the argument that the petitioners detention under decree 2 was lawful an argument with which the petitioner vehemently disagreed.

### **Findings and Observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- a) The Petitioner was one of the numerous victims of the state Security (Detention of Persons) decree No. 2 of 1984 which empowered the Inspector General of Police at the Chief of General Staff to detain persons for up to three months without trial upon suspicion that they were involved in acts prejudicial to state security such acts could be either political or economic or for any other reason and no writ of ....or any other court order could e issued for the production of a person detained under decree 2

- b) Overzealous Security agents r...acted in excess of their lawful power hiding under the cloths of Decree 2 to arrest and detain perceived enemies of the Government for real or imaginary offences.
- c) The Commission further observes that many journalists' pro-democracy activists, Labour and student union leaders amongst other citizens were detained under decree 2.
- d) The Commission observes with satisfaction the welcome repeal of decree 2 by.....

### **Recommendations**

The Commission in the light of its findings and observation above recommends as follows:

- a) An apology to the petitioner by the Federal Government for the mental and physical torture he underwent during the period in question.
- b) Payment of the sum of N100,000.00 (One hundred thousand naira) as compensation for the ordeal undergone by the petitioner.

## **MEMO NO 230**

### **Petitioner's Full Name(s) and Address (es)**

Lisa Olu Akerele,  
Concord Press of Nigeria,  
12, Yaounde Street,  
Wuse, Zone 6, Abuja.

### **Title of Petition**

Victimization and inhuman treatment in the Hands of Major Al-Mustapha and his Cronies in connection with the 1993 Political Crisis:  
Appeal for Compensation and Apology

### *Date of Petition*

**22<sup>nd</sup> July, 1999**

### *Particulars of Petition*

The Petitioner was the Personal Assistant to the Late Chief MKO Abiola and also a Managing Editor of Concord Press Nig. Following the controversial annulment of the 1993 Presidential elections and in his capacity as the Personal Assistant to late Chief Abiola who was adversely affected by the annulment, the Petitioner claimed that he was constantly harassed by the security agents of Late Gen. Sani Abacha on the orders of Major Al-Mustapha who was the CSO to Abacha. This harassment culminated in his arrest on 25/10/94 by 8 armed mobile policemen from the Aso Rock Police detachment under the then CSP. Abba. His driver one Samuel Karatu was earlier arrested and his official car impounded. The petitioner was taken

before Major Al-Mustapha who accused him of making plans with foreign agents to ferry-out Chief Abiola from detention. The Petitioner was immediately stripped naked in the presence of Al-Mustapha CSP Abba and Major Aminu (then boss of Gen. Abacha's intelligence unit) and was mercilessly beaten with horsewhips. His house was searched the following day during which his valuable documents and other properties were seized including two additional cars. On 29/10/94 he was taken before a Panel composed of the then FCT Police Commissioner Yusuf Mohammed as Chairman), CSP Abba, Major Aminu and Mr. A.A. Darma of the SSS as members. The allegation against him was that he "attempted to snatch Chief Abiola abroad". The Petitioner was allegedly given the worst beating of his life in the office of Alhaji Yusuf Mohammed which resulted in his treatment by an SSS Doctor at Asokoro. His captors cajoled him to frame some prominent politicians opposed to the Abacha regime. He was allegedly asked to write and confirm that he held clandestine meetings with 38 different personalities with a view of making Abuja city ungovernable by setting up fires in filling stations and planting bombs in strategic areas. He was further requested to confirm that Chief Abiola and certain foreign governments had set up guerilla training camps in Jos and Kaduna and also imported a powerful radio for anti-Abacha propaganda. The Petitioner was also informed by A.S. Darma of the SSS that they have arrested refused to co-operate as requested he was allegedly detained naked at the SSS Headquarters for four months on bare concrete floor. The Petitioner was subsequently transferred to Gowon detention Centre in February 1995 and later to Lugbe Police Station. His kid brother and fiancée were released in September, 1995 while the Petitioner was released in December, 8, 1995 after the FCT Police Commissioner had extracted a pledge from him not to disclose his detention experiences. Upon his release the Police only returned

his International passport, mobile phone and 2 out of the 3 cars seized from him. Subsequently, Gen. Abdulsalami Abubakar regime helped him to recover the last car. He lamented however that his official documents and various Certificates of Occupancy seized by the Officers are yet to be returned to him till date.

**Period Covered by the Petition**

1994 – 1995

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) the Director-General, State Security Services Headquarters, Abuja
- 2) The Commissioner of Police, FCT, Abuja
- 3) Major Hamza Al-Mustapha c/o Hon. Minister of Defence, Abuja

**Injuries allegedly Suffered by the Petitioner**

- 1) Unlawful arrest and detention for over 14 months
- 2) Torture, degrading treatment and total deprivation
- 3) Seizure of his vital documents and Certificates of Occupancy belonging to late Chief Abiola, family and himself
- 4) Detention of his kid brother and fiancée.

**Relief Sought by the Petitioner**

- 1) Restoration of the various official documents and Certificates of Occupancy removed from his house.
- 2) Payment of adequate financial compensation to assuage aggravated injuries and tortures.
- 3) Similar compensation for his detained brother and fiancée
- 4) Public apology

### **Mode of Treatment of petition**

The petition was publicly heard during the first Abuja sitting of the Commission. The petitioner adopted his petition and also gave oral evidence

### **Evidence of alleged Perpetrator(s)**

Assistant Commissioner of Police Suleiman Abba who was at the material time the officer in charge of the Aso Rock Mobile Police unit as well as Mr. Sani Darma of the State Security Service testified. ACP Abba stated in his testimony that the petitioner was arrested along with his driver on the 26<sup>th</sup> of October, 1994 while both were trailing the convoy of the then Head of State, General Sani Abacha at about 5 am within the premises of the Presidential Villa. He also stated that the petitioner had been passing information and documents secretly to the late Chief MKO Abiola who was then in custody. The witness confirmed that he participated in questioning the petitioner. He also confirmed that the petitioner was beaten by security operatives but denied ordering or partaking in the beating. The witness stated that on one occasion he rescued the petitioner from being beaten. Mr. Sani Darma of the SSS also testified. He confirmed that the petitioner was detained for some time at the headquarters of the SSS after his arrest. The witness equally confirmed the evidence of the petitioner and ACP Abba that the former was beaten.

### **Findings and Observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- a) The petitioner's evidence of torture by security operatives during his interrogation was corroborated by the testimonies of the two alleged perpetrators, ACP Abba and Mr. Sani Darma

- b) The Commission further noted the forthrightness of the two witnesses ACP Abba and Mr. Sano Darma who assisted the Commission in unearthing the truth about the petitioner's case instead of hiding under the cloak of "official orders"
- c) The petitioner was arrested at about 5a.m within the premises of Presidential Villa, a high security area of Abuja
- d) The Commission further observes that there was no satisfactory explanation for his being found at the said place and time
- e) The Commission however condemns the torture inhuman and degrading treatment meted out to the petitioner upon his arrest by Security operatives.

### **Recommendations**

The Commission in the light of its findings and observation above recommends as follows:

- a) Payment of the sum of N25,000,00 (twenty five thousand naria) to the petitioner for the torture meted out to him by security operatives.

## **MEMO NO 345**

### **Petitioner's Full Name(s) and Address (es)**

Dennis Ocheje Ochoge and John Ogori Aboh for the Agila Youths Development Association,  
c/o church of Christ,  
No. 5 Owerri Street,  
High level,  
P.O. Box 1689,  
Makurdi, Benue State.

### **Title of Petition**

Wanton Acts of Aggression

*Date of Petition*

***Undated***

*Particulars of Petition*

This petition was presented by the President and Vice President respectively of the Agila Youths Development Association, Agila is in Ado Local Government Area of Benue State. The petitioners who described themselves as members of the Osiroko and Efofu Royal Families of Agila District wrote to complain about the infringement of the rights of their people i.e members of the ruling families. According to them, trouble started when a group of educate elite in Agila District sought to change the traditional set up in Agila which preserved the traditional administration of the community in the hands of the ruling

families to the exclusion of the non ruling families whose cause was championed by the Akpoge Ogbilolo Association. The petitioners revealed that the non-ruling class became empowered when one of their sons Mike Okibe Onoja was appointed Permanent Secretary, Ministry of Defence in 1994. The Petitioners allege that with Mr. Onoja's encouragement, the non ruling class embarked on a series of violent acts against the ruling class including burning of their houses and even murder of one of their sons. The royals fled their homes in their hundreds and became refugees. The attack lasted for four days. Following these acts of violence, the Benue State Government instituted a Judicial Commission of Inquiry headed by Justice Terma Puusu to look into the disturbances. The report of the Commission is yet to be implemented by the Government. The aggressors according to them therefore remain unpunished. The petitioners also accused Mr. Mike Onoja of sponsoring an unqualified candidate for the position of Ona-Ogene of Ado and of using dubious means to secure victory for his candidate. The petitioners finally depreciated the role of the Police during the crisis whom they accused of taking sides with the Akponge-Ogbilolo Association. The Petitioners attached a list of the dead and wounded as well as another list of all the houses burnt or vandalised during the crisis.

**Period Covered by the Petition**

1996 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) Chief Mike Onoja
- 2) Peter ochonu Achege (alias 99)
- 3) Godwin Otokpo Unogwu

- 4) Isaiah Oja
- 5) Sameul Ede Otokpa
- 6) Officials of Akpoge

### **Injuries Allegedly Suffered by the Petitioner**

Murder of two of the sons of Agila and wounding of many others; Burning and looting of the home of Agila people; Creation of a refugees situation in Agila.

### **Relief Sought by the Petitioner**

- 1) That all those accused in the petition should be arrested and prosecuted
- 2) That the Akpoge-Ogbilolo Association and other similar groups should be banned
- 3) That all persons or groups in illegal possession of arms in Agila should be made to surrender them to the Government
- 4) Adequate compensation of all those who lost their homes and property during the crises
- 5) That all Agila refugees should be resettled in their ancestral land in Agila
- 6) That the Government should endure effective policing of Agila to maintain the safety of lives and property
- 7) That the Benue state Government should be prevailed upon to release the Justice Puusu Panel Report.

### **Mode of Treatment of petition**

The petition was heard publicly during the first Abuja sitting of the Commission. The petitioners and the alleged perpetrators were present. The petitioners adopted the Commission that uptill the time of the hearing o the petition, the Government white paper on the Justice Terma Puusu Panel of Inquiry set up by the Benue State

Government after the disturbances was yet to be released. They sought the release of the White Paper in order to avert future crises.

The Chairman of the Commission conveyed the sympathy of the Commission to all the victims of the crisis and stated that the Commission had taken steps towards the resolution of the problem. The Commission further informed the petitioners that it had been in touch with the Benue State government which had assured it that the White Paper on the Panel Report would be released. The Commission advised the petitioners and the alleged perpetrators on the need to always seek peaceful solution to all problems, the case was closed.

#### **Evidence of alleged Perpetrator(s)**

The petition was treated without recourse to the hearing of full evidence as indicated above.

#### **Findings and Observations of the Commission**

After a careful study of the petition the Commission observes as follows:-

- a) The subject matter of the petitioners complaint was the communal clash of April, 1997 which pitched the ruling class against the non ruling class in Agila
- b) Following the crisis, the Benue State had set up a panel of inquiry headed by Justice Terma puusu.
- c) Up to the time of the hearing of the petition, the Government White Paper on the Report of the Panel was yet to be implemented.

#### **Recommendations**

The Commission in the light of its findings and observation above

recommends as follows:

- a) That the Benue State Government should endeavour to release the Government White Paper on the Justice Terma Puusu Report for implementation.

**BRIEF ON**  
**MEMO NO 595**

**Petitioner's Full Name(s) and Address (es)**

Dr. Charles Ekanem,  
17, Udo Eduok Street,  
Uyo,  
Akwa Ibom State.

**Title of Petition**

Submission Of Memoranda.

**Date of Petition**

July 4, 1999.

**Particulars of Petition**

Petitioner was resident in Uyo, Akwa Ibom State at the time of alleged infringement. On Thursday, March 27, 1997, petitioner's house was raided by members of the Presidential Task Force on Recovery of NITEL Bills, who were armed and who brutalized, tortured and dragged him in handcuffs to the NITEL: territorial headquarters in Uyo, after parading him as a cult member and a fraud.

Petitioner says he never had a telephone, a fax machine, or any sort of telecommunication equipment or machine in his possession.

Petitioner's Panasonic television and a tape recorder were seized.

Petitioner was hospitalized for a day.

Petitioner had approached a lawyer who advised against court action, but had reported the matter to the Police and had written to the

Military Administrator of the State and copied the NITEL Territorial Manager.

**Period Covered by the Petition**

1997

**Names and Addresses of Persons or Institutions Petitioned Against**

The Presidential Task Force on Recovery of NITEL Bills.

NITEL Territorial Office, Uyo State.

**Injury Allegedly Suffered by the Petitioner.**

- Invasion of his privacy.
- Assault and battery on his person.
- Suffered physical injury.
- Loss of property.
- Suffered humiliation.
- Loss of prestige and image.
- Suffered psychological trauma.

**Relief Sought by the Petitioner**

- Full investigation of the incident.
- Compensation for the loss, damage injury and pain trauma suffered.

**Mode of Treatment**

This matter came up for hearing during the Port-Harcourt sittings of the Commission.

### **Evidence of the alleged Perpetrators**

The alleged perpetrators were absent and un-represented at the hearing of this petition.

### **Findings and observations**

After reviewing the evidence of the petitioner, the Commission finds as follows:

- a) That there is need for a police investigated unto the allegation made by the petition against the alleged perpetrator before damages (if any) the petitioner is entitled can be ascertained;
- b) That until a case is established against the alleged perpetrator, liability can not be imposed.

### **Recommendations**

The Commission in the light of the findings above, recommends as follows:

- i) The Commissioner of Police Akwa Ibom State is hereby directed to carry out a Police investigation into these allegations and make its findings available to the Secretary to the Government of the Federation
- ii) The petitioner is also advice to seek the enforcement of his right in a court of law.

## **MEMO NO 674**

### **Petitioner's Full names(s) and Address(es)**

Okoi Ofem Obono-Obla, 98 Marina Road, State Housing, P.O. Box 153, Calabar

### **Title of petition**

Re: Extra Judicial Murder of Mr. Omini Eno Otu, by Sgt. Ike Eni (Police No. 146667)

### **Date of Petition**

20<sup>th</sup> July, 1999

### **Particulars of Petition**

The petitioner is a solicitor to the family of one Mr. Omini Eno Otu, now deceased. The petitioner alleged that on 2<sup>nd</sup> February, 1998 the deceased was brutally murdered by one Sgt. Ike Eni (Police No, 146667) of the Cross River State. The team of Ugep-Ediba Road, Ugep, Cross Rover State. The team which was deployed to the area to maintain law and order allegedly embarked upon crude and brutal harassment against the populace.. The petitioner avers that on the fateful day, the deceased left his house with one Bassey Ewa Out, for Ediba to sell his merchandise. At the Community Secondary school, Ugep Patrol team No 1, which Sgt. Ike belong shot the deceased who was on a commercial motorcycle and he died instantly. His remains was allegedly packed into the boot of the patrol team 504 wagon with registration No Patrol 1 and taken to the Divisional Police Headquarters, Ugep, and later to General Hospital, Ugep for post mortem examination. The examination was never carried out and

since the Police had refused investigation into the matter, inspite of a call from the Human Rights Commission. Abuja for same after a complaint was lodged with it by deceased family.

**Period covered by the Petition**

2<sup>nd</sup> February, 1998

**Names and addresses of persons or institutions petitioned against**

- 1) The Inspector General of Police, police Headquarters, Abuja
- 2) Commissioner of Police, Cross Rivers Police Command, Calabar

**Injuries allegedly suffered by the petitioner**

Loss of Breadwinner's Life

**Relief sought by the Petitioner**

- 1) Investigation of the said brutal murder
- 2) Compensation

**Mode of treatment of petition**

This matter came up during the Port Harcourt sitting of the Commission.

**Evidence of Alleged Perpetrator(s)**

The issue in this case falls within a very narrow compass in the refusal and inability of the Attorney-General's office to prosecute the alleged perpetrators inspite of a favourable Police report. It was revealed during the hearing that the National Human Rights commission had advised the Commissioner of Police of Cross River state to set the machinery in motion towards prosecuting the culprits. However, the petitioner in his oral testimony further revealed that it

was lance corporal Suleiman Bello that killed Omni Eno Out.

### **Findings and observations of the Commission**

After reviewing the evidence of the witness the Commission finds as follows:

- i) That the evidence of the petition disclosed that there was death and that the identity of the person who caused the death was not in doubt;
- ii) That investigation of this crime has since been concluded by the Police and forwarded to the office of the Attorney-General and Commissioner for Justice Cross Rivers state
- iii) That notwithstanding the above, nobody has been charged to court.

### **Recommendations**

In the circumstance, the Commission recommends as follows:

- a) That the recommendation of the National Human Rights Commission as contained in exhibit 2 be implemented
- b) That any other person or persons who may be implicated in the course of the proceedings should equally be charged
- c) As for the payment of fifty million naira compensation, the Commission decline toward source as such as award may be premature.

**MEMO**

**NO. 1626**

**Petitioner's Full names(s) and Address(es)**

Mr. Joseph Uzeroh, c/o Yime Numeh Yowka & Co., Orosi House (2<sup>nd</sup> Floor) 28 Forces Avenue Old GRA, Port Harcourt.

**Title of petition**

Petition to the Human Rights Violation Investigation Panel in respect of the brutal murder of Corporal Samuel Uzeroh (late) Force No. 138665.

**Date of petition**

**Particulars of Petition**

The Petitioner is writing on behalf of late Corporal Samuel Uzroh (Late) who was murdered on 15<sup>th</sup> November 1994 while on official assignment. He was ordered by the Commissioner of Police – Mr. Bukar Ali to arrest Mr. Danjuma – the then DPO at Omo Ku in Ogba/Egbema/Udoni Local Government Area of Rivers State. Mr. Danjuma was the then DPO attached to Omoku Divisional Police Command. The Police did not investigate the alleged murder and did not assist the family of the deceased to bury him. The only thing the Police did was a confirmation of the incident by the then Police Public Relation Officer in Rivers State. Mr. Agbenebi Akpoebi. He also acknowledged the arrest of the perpetrators for questioning and the subsequent transferred of one of the perpetrators to one of the Northern States. He claimed that uptill now, not even a condolence letter of the outcome of any investigation has been sent to the family and also the deceased's benefits. Entitlements and/or compensation

have not been paid.

**Period Covered by the Petition**

November 1994

**Names and Addresses of Persons or Institutions Petitioned Against**

- Mr. Danjuma DPO, Divisional Police Command Omoku Rivers State
- Mr. Bukar Ali, Commissioner of Police Rivers State Police Command, Port Harcourt
- Alhaji Ibrahim Coomasie, (former I.G of Police), c/o Force Headquarters, Abuja
- Mr. Agberebi Akpoebi Police Public relations Officers Rivers States Police Command, Port-Harcourt

**Injuries Allegedly suffered by the Petitioner**

- Infringement of Constitutional Provision of Right to life
- Failure to conduct inquiry or investigation
- Non payment of Compensation

**Relief sought by the Petitioner**

- Investigation into the murder
- Arrangement of the perpetrators before a court of law
- Payment of his entitlements and pensions benefits
- Compensation of N100m against
- The Nigeria Police Force

Mr. Bukar Ali – Commissioner of Police

Mr. Agberebi Akpoebi – PRO

Mr. Danjuma DPO

**Number Of Years Of Service (Where Applicable)**

13 years

**Mode Of Treatment Of Petition**

This matter was heard and concluded during the Port Harcourt sitting of the Commission.

**Evidence Of Alleged Perpetrator(S)**

The alleged perpetrator did not testify rather the entire proceedings centered on the Legal Advice proffered by the Director of Public Prosecution Rivers State. The said Legal Advice claimed that Mr. Danjuma shot the deceased in his honest belief that the team sent to Omoku to fetch him was a gang of armed Robbers notwithstanding that they escorted by an officer from Omoku Police Station who was on uniform

**Findings and observations of the Commission**

After reviewing the evidence, the Commission finds as follows:

The Commission disbeliefs the opinion of the Director of Public Prosecution (DPP), Mr. Koffi Appah.

Mr. Danjuma the then Divisional Police Officers of Omoku Police Station ought to have known that the said officers were not a gang of armed robbers since an officer from the Police Station Omoku were among them.

A *prima facie* case has been abundantly made out hence the need to prosecute.

**Recommendations**

The Commission therefore finds as follows:

- That the case file concerning this matter be re-opened with a view to prosecuting all the alleged perpetrators.
- That the said Legal Advice proffered by the DPP Rivers State Mr. K. O. Appah be disregarded.
- That the family of the deceased be compensated.

**MEMO NO. 900**

**Petitioner's Full Names(s) and Addresses**

Mr. T.U. Akhidime,  
PAW-FE, Shell Petrol Dev Co.,  
Box 230, Warri.

**Title of Petition**

The assassination of Dr. J.A.F. Akhidime

**Date of Petition**

Undated

**Particulars of Petition**

The petitioner is the first son of Dr. J.A.F. Akhidime (deceased) who prior to his assassination, was the University Librarian of the University of Abuja.

The deceased led a simple life and worked very hard to see to the success of the University Library (see attachment 2 and attachment 3) the then Vice Chancellor Professor Isa Mohammed allegedly never made use of the Librarian in purchasing books instead he used his right hand man Prof. U.M. Birai. Trouble started for the deceased when he signed the nomination form of Prof. Udjor contesting for the Vice Chancellor of the University when it became vacant. It was then he became a marked man. Thefts began to happen in the library in a way that suggested insider's hand. The security man in the deceased house was withdrawn. When Prof. Tijani Suleiman was appointed acting V.C. by the Abubakar regime, some people became uncomfortable that the deceased was going to expose them. This

culminated in the cold-blooded murder of the deceased in his compound at Giri by 1 a.m.

**Period Cover by the Petition**

31st July, 1998 till date

**Names and Addresses of Person or Institutions Petitioned Against**

- 1) University of Abuja
- 2) Professor Isa B. Mohammed
- 3) The Chief Security Officer, University of Abuja
- 4) The FCT Commissioner of Police

**Injury Allegedly Suffered by the Petitioner**

Death of their father

**Relief Sought by the Petitioner**

Full investigation of the case and order that may seem just.

**Mode of Treatment**

The petition was originally, listed for hearing during the first Abuja sitting of the Commission. However, the petitioner could not be located at the address he supplied for service. The petitioner subsequently appeared during the second Abuja sitting of the Commission and the case proceeded to hearing. The petitioner adopted the contents of his petition and also submitted an addendum to the Commission.

**Evidence of Alleged Perpetrators**

The Police was represented by Counsel but the Commission decided to treat the petition along the same line it had adopted for the other

cases of unlawful killing.

### **Findings and Observations**

After reviewing the evidence of the petitioners and the alleged perpetrators, the Commission finds as follows:

- a) The petitioner's father was the Librarian of the University of Abuja until his death on the 30<sup>th</sup> of July, 1998 by suspected hired assassins.
- b) He had been deprived of security protection since 1996 in line with the terms of his employment. The petitioner contended before the Commission that this lapse on the part of the University Authorities facilitated his murder by yet to be identified individuals.

### **Recommendation**

In the light of its findings and observation above the Commission recommends as follows:

- a) Full investigation of the case by a Special Panel to be constituted by the Inspector General of Police
- b) Judicial proceedings should be commenced against all those suspected of complicity in the murder of the deceased at the conclusion of the investigation.

## **MEMO NO. 21**

### **Petitioner's Full Names(s) and Address(es)**

Petition was presented by Prof. E.E. Ezewu on behalf of himself and Mr. Fred S. Alasia and Prof. R.N.C Okarfor Nwanya,  
c/o Faculty of Education,  
University of Port Harcourt,  
Port Harcourt – Rivers State

### **Title of Petition**

Human Rights Violations at the University of Port Harcourt

### **Date of Petition**

8<sup>th</sup> June, 1999

### **Particulars of Petition**

This petition was presented by Prof. E.E. Ezewu (as per column one above) recounting multiple instances of human right violations and victimization against the Petitioners by the University of Port Harcourt authorities which culminated in their removal from office under Decree No. 17. The petition equally chronicled the manner the UNIPORT authorities randomly disobeyed court orders made by different judges of the State High Court at different times. Prof. E.E. Ezewu's plight started when in 1997 he addressed a 55 paragraph petition to the Head of state against the Vice Chancellor Prof. Theo Vincent wherein he made far-reaching allegations bordering on fraud, financial malpractices and incompetence. Following this, he alleged that the V.C. reported him to SSS which invited him and cautioned him (after extracting an undertaking from him) not to write petition against the V.C again. Barely a month after that, his first son was

murdered under a mysterious manner at the University campus and all attempt made by him to make the police investigate the University authorities (which he claimed to be the suspects) proved abortive till date. Again in July 1997, he wrote the VC and condemned the unprocedural manner he awarded two honorary degrees to two eminent Nigerians and requested him to regularise them. The Press published the letter following which he was queried alongside Mr. Fred S. Alasia for embarrassing the University. Both of them were subsequently suspended. His appointment was then terminated on 9/2/98 and he was a member of UNIPORT Governing Council was similarly treated for insisting on the investigation of allegation of fraud reported by the University Bursar against the school of Post Graduate studies headed by the Deputy Vice Chancellor. Prof. Okarfor-Nwanya was on the other hand unlawfully suspended and stripped of his entitlements by the Vice Chancellor. All the petitioners were evicted from their official quarter.

**Period covered by the Petition**

1997 - 1999

**Names And Addresses Of Persons Or Institutions Petitioned Against**

- Prof. Theo Vincent Chancellor, University of Port Harcourt, P.M.B. 5323, Choba, Port Harcourt].
- University of Port Harcourt Governing Council.
- The Inspector-General of Police for not investigating the mysterious murder of his son.

### **Injuries Allegedly Suffered By The Petitioner**

- Bereavement – Loss of his first son (in respect of Prof. E.E. Ezewu alone).
- Loss of job and income by all the Petitioners
- Loss of due status in the University Community
- Professional embarrassment and humiliation
- Harassment by the State Security Services
- Eviction from their official residential quarters

### **Relief Sought By The Petitioner**

- Investigation of their complaints
- Investigation by the Police of the murder of Prof. E.E. Ezewa's son in 1997
- Appropriate redress, compensation and recommendation

### **Mode of treatment of Petition**

This matter came up for hearing during the Port Harcourt sittings of the Commission.

### **Evidence of Alleged Perpetrator(s)**

The alleged perpetrators in their evidence tendered a total of seven exhibit (exhibit 3–9 ) to discredit the testimony of the petitioner and possibly to establish the motive behind the action of the petitioner in naming them as the suspects in the murder of the son. The alleged perpetrators also relied on the initial Police investigation report, which attribute the death of the petitioners son to his activities as a member of a secret cult.

### **Findings and Observations of the Commission**

After reviewing the evidence before it, the Commission finds as

follows:-

- a) That the petitioner son who was shot dead on the 29<sup>th</sup> of June, 1997, as at January, 2001 when the Commission took evidence in this case, no suspect(s) has been prosecuted in connection with the death of the victim;
- b) The Commission also finds that the Police report on the reinvestigation it ordered served little or no purpose as the report concluded that the victim was killed by “unknown persons” even when evidence before the Commission points to the fact the shooting of the deceased took place in the early evening with people who witness the incident running helter skelter
- c) The Commission also finds that the Killing of the petitioner’s son was not an isolated case as evidence before the Commission showed that between November, 1996 and 30<sup>th</sup> of June, 1997 the University of Port Harcourt witnessed a services of assassinations in which seven persons, including the petitioner’s son met their untimely death due to either cultism or other mysterious circumstances, yet no person or group were prosecuted;
- d) The Commission finds also that the then Commissioner of Police, Rivers State was not diligent in carrying out his duties of securing the lives and properties of people within the state.

### **Recommendations**

In the light its findings, the Commission recommend that the Nigeria Police force leave the case file on this matter open for another period of four years to enable them make further investigations.

## **MEMO NO. 4**

### **Petitioner's Full Names(s) and Address(es)**

Lt. Col. Sam Inokoba (rtd)  
33, Inoabasi Street, D/Line,  
Port Harcourt, Rivers State  
Tel: 084/238631

### **Title of petition**

25<sup>th</sup> June, 1999

### **Date of petition**

Brutal Murder of my son, Tari Inokoba by Police, Port Harcourt

### **Particulars of petition**

This is a petition presented by Lt. Col. Sam Inokoba (rtd) on behalf of himself and family on the alleged murder of his son by the men of Rivers State Police Command at Mgbuoba Post under the Rumuokoro Divisional Police Office in August, 1998. The petitioner alleged that his late son was a student of School of Basic studies Rumuola. Port Harcourt and a member of a drama group in the School. On 14/8/98. Tari Inokoba, with the permission of his parents went for a drama rehearsal with his colleagues at Pin Place along NTA Road and never returned. His family mounted a search for him and on 18/8/98 the DPO of Rumuokoro Divisional Police Office, Pricillia Olisa sent word to the family to come forward to identify Tari Inokoba. N getting there, the boy was found to have been brutally beaten with external injuries on his head and trunk. He was immediately conveyed to Rivers Clinic" from where he was subsequently referred to the University of Port Harcourt Teaching Hospital. He died at the Hospital on Friday, 21<sup>st</sup>

August, 1998. The petition narrated that his late son was arrested on 16/8/98 unnamed three Police Constables under Mgbuoba Police Post on the allegation that he was a suspect of an undisclosed offence. He was tortured and detained for 3 days without any facilities and only rushed to a nearby hospital when the Police discovered that he was dying. The Petitioner allege serious complicity by the then State Commissioner of Police MUSA ABDULKADRI whom he accused of not investigating the murder of his son by his men despite repeated appeals, requests and visits. He accused the Police of cover-up and use of force and torture on his son to procure an incriminating statement. He further alleged that the Police procured false medical reports from a doctor at St. John's Clinic (which is a stone throw to the Police Post) which was subsequently shown to be false by medical reports from Rivers Clinic and University of Port Harcourt Teaching Hospital. He claimed that the Police acted as hired killers in order to discourage him from the gubernatorial elections in the state at the point in time, emphasizing threat the failure of Police to investigate the murder and issue a Report is a pointer to his claims.

**Period Covered by the Petition**

1998

**Names and addresses of persons or institutions petitioned against**

- 1) The Inspector-General of Police, Force Headquarters, Abuja
- 2) The Commissioner of Police Rivers State Police Command Headquarters, Port Harcourt

**Injuries Allegedly suffered by the petitioner**

- 1) Loss of his son

2) Non-investigation of the circumstances leading to the death of his son by the Police

**Relief sought by the Petitioner**

To be given appropriate justice

**BRIEF ON**

**MEMO NO. 244**

**Petitioner's Full Name(s) and Address(es)**

Stephen Sarki

Ushafa Village

Bwari – Abuja

**Title of Petition**

Criminal Activities of ACP Mr. Moses Saba Including the Brutal Murder of John Zephaniah Haruna

**Date of Petition**

8<sup>th</sup> July, 1999

**Particulars of Petition**

The Petitioner alleged that one Mr. John Zaphaniah Haruna a staff of the Federal Road Safety Commission was murdered by ACP. Mr. Moses Saba on 28/5/99 while the deceased was in detention at Wuse Central Police Station. ACP Saba and his men Messrs Taiwo Atoba and Cpri. Ndase allegedly misrepresented facts by informing the family of the deceased that Mr. Haruna died on admission in the hospital. The Petitioner, who did not disclose his relationship with the deceased alleged that Late Haruna was tortured to death while in detention by ACP Saba and his men who subsequently directed that his corpse should be dumped at Gwagwalada Specialist Hospital. The Petitioner referred to a Newspaper. The Petitioner referred to a Newspaper Publication, Abuja Star of July 1-7 1999 and alleged that ACP Saba

refused to release the deceased from bail even after collecting huge sums of money from the relatives. He accused ACP. Saba of distortion of facts and random corrupt practices and prays for the investigation of the matter.

**Period Covered by the Petition**

May, 1999

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) ACP, Moses Saba, Wuse Central Police Station, Wuse, Abuja
- 2) Commissioner of Police, FCT Police Command Abuja
- 3) Inspector-General of Police

**Injuries allegedly suffered by the Petitioner:**

- 1) Bereavement
- 2.) Non-investigation of circumstances leading to the death of Mr. John Zephaniah Haruna in detention.

**Relief Sought by the Petitioner**

Investigation of the matter and punishment of the culprits

**Nature of Hearing Received by Petitioner**

None stated

**Mode of treatment**

The case was listed for hearing during the first Abuja sitting of the

Commission. However, when the case was called for hearing, the petitioner was neither present nor was he represented by counsel and he remained absent on the next adjourn date convinced that the petitioner had no further interest in prosecuting his petition the Commission struck it out.

## **MEMO NO 448**

### **Petitioner's Full Name(s) and Address(es)**

Atsenda Ishwa,  
New GRA,  
Gboko – Benue State.

### **Title of Petition**

Violation of Human Right: Re Mr. Atsenda Ishwa

### **Date of Petition**

Undated

### **Particulars of Petition**

The petitioner was arrested and detained alongside others based on the report written by Engr. S. I Nyagba former MD/CEO BCC, Gboko Benue State. The said letter forwarded by Engr. S. I. Nyagba alleged threat to his life, members of his family and top management of BCC and also alleged threat of sabotage activity to disrupt production activity. The said letter was further supported by another one addressed to the Head of State by HRH the Ter Gboko second class chief of Gboko. This was titled “petitions of wrong doings at Benue Cement Plc and threat to its management”. It was also signed by HRH Akaahai Adi, Ter Gboko and HRH David Afaityo Ter Buruku. The Petitioner was arraigned before a magistrate court on a trumped up charge of conspiracy, armed robbery culpable homicide etc. Even though he was granted bail, his detention was subsequently brought under the purview of Decree no 2 Therefore he was taken to Enugu Prison custody and released only on the 26<sup>th</sup> of August, 1996, one year after his arrest.

**Period Covered By The Petition**

18/6/95 – 26/8/96

**Names and Addresses of Persons or Institutions Petitioned  
Against**

- a) Engr. S. I. Nyagba (former MD/CEO BCC Plc, Gboko)
- b) HRH the Ter Gboko, Akaahai Adi
- c) HRH David Afaiyo, Ter Buruku
- d) IGP Coomasie (former IGP)

**Injury Suffered by the Petitioner**

1. Ill health
2. Inconvenience
3. Unlawful detention

**Relief Sought by the Petitioner**

- Public apology Sanction former COP Benue State
- Compensation to the tune of N20,000,000.

## **MEMO NO 424**

### **Petitioner's Full Name(s) and Address(es)**

Mr. Peter Ichull,  
26 Aliade Road,  
Gboko, Benue State.

### **Title of Petition**

Illegal detention under State Security Detention of persons, Decree 2.

### **Date of Petition**

29<sup>th</sup> July, 1999.

### **Particulars of Petition**

The petitioner claims to be a politician, businessman and Christian Evangelist. On the 23<sup>rd</sup> of June, 1995, one Police Superintendent Mr. Musa Omika came to him and invited him to Benue State Police Command Headquarters, Makurdi. After spending one month in detention the police then explained that he was being detained for the following reasons:

- a) That he was a threat to State Security;
- b) That he contributed to the economic adversity of the nation.

On 8<sup>th</sup> August, 1995, he was moved to Calabar prisons when he was detained until August, 1996 thereby spending a total of fourteen months in detention. His arrest was predicated on a written report forwarded to the then Commissioner of Benue State by Engineer Solomon I. Nyagba, the then MD/CEO Benue Cement Company, Plc.,

### **Period Covered by the Petition**

23<sup>rd</sup> June, 1995 to 26<sup>th</sup> August, 1996.

**Names and Addresses of Persons or Institutions Petitioned  
Against**

1. Engineer Solomon Nyagba (former MD/CEO Benue Cement Company)
2. State Police Headquarters, Makurdi.
3. Alhaji Musa Omika (State Police Headquarters, Makurdi.
4. Mr. Reuben Ekundayo (former Commissioner of Police Benue)

**Injury Suffered by the Petitioner**

- Detention in Police cell and Calabar Prison custody without trial.
- Torture leading to ill-health.

**Relief Sought by the Petitioner**

Redress of the injustice meted to him.

## **MEMO 423**

### **Petitioner's Full Name(s) and Address(es)**

Durby Moti

### **Title of Petition**

Unlawful Arrest and detention under Security Detention decree 2

### **Date of Petition**

29<sup>th</sup> July, 1999

### **Particular of Petition**

The petitioner was arrested on the 15<sup>th</sup> of June, 1995 by the POLICE B Division Gboko and detained . From there he was moved to SIIB Makurdi and detained till 19<sup>th</sup> July, 1995. On the 19<sup>th</sup> of July, the Gboko High Court granted him leave pursuant to his application for Habeas Corpus. To counter this development, Police then arraigned him in company of others before the Chief Magistrate Court Markurdi on a First information report alleging conspiracy and publication of anonymous write ups against Engr. Solomon Nyagba MD, BCC PLC, Gboko. He was taken to the Commissioner of Police alongside others and they were accused of masterminding the write-ups. Thereafter, he was sent back to the cell where he was subjected to series of torture and threat with a view to forcing him to sign already prepared statement. C.S.P. Musa Omika carried out the torture. On 7/8/95 he was taken to Enugu Prisons where he was detained as from 8\8\95 to 26/8/96. This incident however is the same as petition Nos 422 and 424. This petition has two annexure to buttress the allegation of the petitioner. The first annexure is a petition written by Engr. S. I. Nyagba (then MD/CEO, BCC Plc) and addressed to the Commissioner

of Police, Police Headquarters Makurdi. It has as its title “Threat to Life and acts of Sabotage against BCC Plc”. It was on the basis of this document that the petitioner was arrested, tortured and detained. The second annexure is a plea forwarded to the said Engr. S. I. Nyagba by the petitioner herein with four others detained at Enugu Prisons, pleading with him for an amicable resolution of the matter. This annexure is dated 15/11/95.

**Period Covered by the Petition**

15<sup>th</sup> of June to 26<sup>th</sup> of August, 1996

**Names and Addresses of Persons or Institutions Petitioned Against**

- Engineer Solomon Nyagba (former MD/CEO Benue Cement Company);
- State Police Headquarters, Makurdi;
- Alhaji Musa Omika (State Police Headquarters, Makurdi)
- Mr. Reuben Ekundayo (former Commissioner of Police Benue)

**Injury Suffered by the Petitioner**

- Detention without trial
- Torture
- Psychological and Economic loss

**Relief Sought by the Petitioner**

- Full investigation of the incident by the Commission
- Punishment for those responsible for the abuse of his right.

## **NO. 634**

### **Petitioners Full Name(s) and Address(es)**

Mr. Bobby Adams,  
No. 1093, Bobby Adams Close,  
off Gyadao, GRA,  
P.O.Box 1232,  
Gboko, Benue State.

### **Title of Petition**

Re: Conspiracy, Human Rights Violation, Illegal Detention and Humiliation of my person by Engr. Solomon Nyagba M.D. BCC Plc and the Police.

### **Date of Petition**

10<sup>th</sup> July, 1999

### **Particulars of Petition**

The petitioner alleges that he wrote an open letter to the late Head of state, General Abacha, notifying him of the marginalisation of the People of Jemgbagh Community in BBC Plc and Benro packaging company and demanded for the removal of the MD of the companies. Consequently, the Police visited him on the 16<sup>th</sup> June, 1995 he reported at the 'B' Divisional to find out the reason for their visit. He avers that upon arrival at the station, one Yohanna Adamu, a Police officer showed him write ups and asked whether he had knowledge of them and was detained and a search conducted on his house. After two days he was taken to the Benue Police headquarters, Makurdi where he was tortured for 31 days on an allegation of disturbance of

peace. While still in detention, his wife went to court to enforce his Fundamental Human Rights to personal liberty. As the case was heard, he was Markurdi for disturbance, Armed Robbery and kidnapping with intention to commit culpable homicide. He was granted bail but the Police still detained him under Decree 2 and hence he allegedly spent a year and 15 days at the Enugu Maximum prisons. On the arrival at the Police Headquarters, Markurdi he was detained for another 3 days.

**Period Covered by the Petition**

1995 – 1996

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) The Nigeria Police Force, Force Headquarters, Abuja
- 2) Engr. Solomon Nyagba, MD, Benue Cement Company Plc, Gboko

**Injury Allegedly Suffered by the Petitioner**

- Unlawful arrest and detention, physical torture, loss of right to personal liberty, humiliation etc.

**Relief Sought by the Petitioner**

Compensation and apology

## **MEMO NO 264**

### **Mode of Treatment of Petition**

This matter was heard during the Enugu public sitting of the Commission

### **Evidence of the Alleged Perpetrators**

The alleged perpetrators in this case were not at the centre of the proceedings in the Police investigation. Report and the legal advice given by Anambra State Ministry of Justice were brought under critical evaluation. Exhibit 2 which is the case file and exhibit 3 Legal Advice did not indicate that anyone should be charged to court even though some persons were suspected to have committed this offence based on circumstantial evidence.

### **Findings and Observations**

After reviewing the case file and the Legal Advice proffered by Ministry of Justice Awka Anambra State in addition to the evidence of the Petitioner, the commission finds as follows:

- a) That it is not the duty of the Police or Ministry of Justice to the functions of the Judiciary, hence mere suspicion is enough to prefer a charge;
- b) That exhibit 2 and 3 are enough to prefer a charge

### **Recommendations**

That this matter be investigated by a special squad set up by the Inspector General of Police.

## **MEMO NO 396**

### **Mode of Treatment of Petition**

This matter was heard during the Enugu public sitting of the Commission.

### **Evidence of the Alleged Perpetrators**

The alleged Perpetrators did not testify because the issue borders on the property of retroactive legislation and the executive of the petitioner's brother Mr. Bartholomew Owoh. Attorney-General Buhari, (former Head of State) a-d the Attorney General and Minister for Justice Chike Ofodile (SAN) were named as the perpetrators, none appeared before the Commission to shed light into the circumstances and the motive behind this piece of legislation and the resultant trial and execution of the said Mr. Bartholomew.

### **Findings and Observations**

After considering the evidence, before the Commission finds as follows:

- a) That retroactive legislation is on abbreviation which is not in consonance with modern civilization.
- b) That the Fundamental human right move particularly right to life as cushranoid in the constitution of the Federal Republic of Nigeria and indeed the African Charter on Human and peoples Rights were recklessly breached
- c) That the late Bartholomew was derived the right of appeal hence due process was not followed

### **Recommendations**

The Commission therefore recommends as follows:

- a) That the Federal Government should apologise to the petitioner and indeed to all those other families that were whose sons were executed
- b) That compensation should be paid to the families of the victims
- c) That the Federal Government should strive to put those structures in place that may make it impossible for Nigeria to experience undemocratic rule ever again.

## **NO. 269**

### **Petitioners Full Name(s) and Address(es)**

Hon. Ate Ahur,  
No. 4 Kusaki Road,  
Gboko North,  
Gboko, Benue State

### **Title of Petition**

Re: Arrest and Detention of Hon. Ate Ahur, 16<sup>th</sup> June, 1995, 28<sup>th</sup> August, 1996, (14 Months)

### **Date of Petition**

26<sup>th</sup> July, 1999

### **Particulars of Petition**

The Petitioner is a businessman and a former chairman of Buruku Local Government Council in Benue State. He is a native of Jemgbagh, the host community of Benue Cement Company Plc. The Community has a "Think Tank" pressure group of which the petitioner was the Chairman at the relevant time to this petition. As a pressure group, the Think Tank had been agitating for the provision of basic amenities in Jemghagh from the Benue Cement Company Plc. The Company was said to have neglected the host community completely immediately Engr. Solomon Nyagba was appointed MD/Chief Executive of BBC in April, 1994. And the neglect was in part attributed to mal-administration, corruption, victimisation and also marginalisation of Jamgbagh indigenes. The Jem bargh Think Tank as a result became very critical of Engr. S. Nyagba's administration

whom they accused of intransigence, rampant corruption and favouritism. As a result of all these, Engr.. Nyagba allegedly sent a petition dated 9/6/95 to the then Benue State Police Commissioner, Mr. Reuben Ekundayo alleging threat to his life and acts of sabotage against BBC Plc. The Petitioner was arrested on 16/6/95 by one Superintendent Musa Omika and his team namely ASP. Akaasar, Inspectors Soga and Suleiman. The Petitioner alleged that these Policemen led by Reuben Ekundayo and SP. Musa Omika were heavily compromised and commissioned by Engr. Who directed the police officers never to release the Petitioner and eight others who were criticising his administration? To fulfill their own part of obligation, the Police led by SP. Omika allegedly arrested the Petitioner and kept him in detention with hardened criminals and endlessly filed a Habeas Corpus Application before the High Court and served same on the police. The Police thereafter arraigned the Petitioner and others on a spurious charge of conspiracy and armed robbery and they were remanded in Makurdi prisons. The Petitioner was therefore forced to abandon the habeas Corpus application and concentrate on an application for his bail before the magistrate. On the 1st August, 1995 when bail was expected to be granted to the Petitioner and others in respect of the criminal charges, the Police strangely procured reproduction warrants and immediately transferred the Petitioner and others from Makurdi prisons back to Police cell. The Petitioner and his codetermines were again tortured and interrogated. Thus, w while the bail application of the Petitioner and other were being granted in respect of the two earlier charges, the Police re-arraigned the Petitioner and his co-detainees before another Magistrate Court on two separate count charges of conspiracy and criminal abduction of one Akaata Dzuaze. With these new charges, the Petitioner was again remanded in prison custody. The Petitioner immediately filed a

motion for bail which was argued and granted on 18/8/95 but the prison officials could not release them as the Police immediately procured a Detention Order under Decree No. 2 of 1984 which permanently frustrated his bail bid. The prison officials handed the Petitioner and others to a team of Mobile Policemen which chained then leg to leg, put them in a 911 Mercedes Lorry and drove them to Calabar prisons form where he was subsequently released on 28/8/96 after spending about 14 months in detention without trial.

**Period Covered by the Petition**

1995 - 1996

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) The Inspector-General of Police
- 2) Reuben Ekundayo c/o Police Headquarters
- 3) SP. Musa Omika, Benue State Police Command
- 4) Engr. Solomon Nyagba, c/o Benue Cement Company Plc, Gboko
- 5) Management of Benue Cement Co. Plc. C/o Managing Director/Chief Executive
- 6) Messrs ASP Akaasar, Inspector Soga 7 Suleiman, c/o Police Headquarters

**Injury Allegedly Suffered by the Petitioner**

- 1) Unlawful arrest and detention for 14 months without trial
- 2) Reckless use and abuse of state power by SP. Musa Omika, Engr. Solomon Nyagba and others
- 3) Fabrication of false charges as cover for the illegal detention
- 4) Developed stomach ulcer and became hypertensive
- 5) Lost his father as a result of lack of medical attention

6) Lost unquantifiable earnings

**Relief Sought by the Petitioner**

- 1) Full investigation of the matter with a view to punishing the culprits
- 2) Compensation, restitution and total rehabilitation
- 3) Public apology.

**Nature of Hearing Received by Petitioner**

The Petitioner was frustrated and denied fair hearing.

279 PRESENTED BY MIKE MORCHIR O. JUKWE

269 PRESENTED BY HONOURABLE ATE AHUR

422 PRESENTED YINA KOGI

423 PRESENTED DURBY T. MOTI

424 PRESENTED BY PETER ICHULL

448 PRESENTED BY ATSHENDA ISHWA

634 PRESENTED BY BOBBY ADAMS AND

- PRESENTED BY SIMON ABUA YAJIR

**MODE OF TREATMENT**

This group of petition involving seven petitioners was heard publicly. Hearing of the petition commenced during the first Abuja sitting and was concluded during the second Abuja sitting. In view of the fact that their petitions revolved around the same issues namely; their unlawful arrest, detention and torture for a period of over one year, the Commission ordered that their petitions be consolidated for hearing. Each of the petitioners gave oral evidence amplifying the contents of their memoranda.

## **EVIDENCE OF ALLEGED PERPETRATORS**

Superintendent of Police, Musa Omika who was alleged by the petitioners to have headed the team which arrested, detained and tortured the petitioners testified. He confirmed that the arrest of the petitioners was indeed effected pursuant to the receipt of the letter of complaint written by Mr. Solomon Nyagba, the then Managing Director of Benue Cement Company (BCC). The witness further stated that the petitioners were detained under the State Security (detention of Persons) Decree 2 of 1984. He however denied ordering or engaging in the torture of any of the petitioners. Mr. Solomon Nyagba who apparently evaded service of the Commission's summons failed to show up at the public hearing.

## **FINDINGS AND OBSERVATIONS OF THE COMMISSION**

After reviewing the evidence of the petitioners and the alleged perpetrators, the Commission finds as follows:

- a) The petitioners were each detained for over one year by the Benue State Police Command pursuant to a letter of complaint written by Mr. Solomon Nyagba
- b) In a bid to give legal backing to the detention of the petitioners various charges ranging from armed robbery, abduction to homicide were levelled against them by the Police
- c) The Commission further observed that in a bid to circumvent the release order made in favour of the petitioners by the then Chief Judge of Benue State, the Police subsequently claimed that the petitioners were detained under decree 2 of 1984

- d) The Commission observed that decree 2 of 1984 which empowered the Inspector General of Police or the Chief of General staff to detain any persons suspected of being involved in acts prejudicial to state security without trial up to three months was routinely abused by security personnel
- e) The Commission condemns the use of decree 2 by the Benue State Police Command to deny the petitioners their right to personal liberty for acts which had nothing to do with state security
- f) The Commission further frowns at the abuse of the legal process by the police in a bid to legitimize the detention of the petitioners;
- g) The Commission observes that the allegations of torture made by the petitioners against Mr. Omika were disputed by the latter.;

### **RECOMMENDATION**

The Commission in the light of its findings and observation above recommends as follow:

- a) Payment of the sum of N200,000.00 (two hundred thousand naira) to each of the petitioners for the unwarranted denial of their right to personal liberty
- b) An apology to each of the petitioners by the office of the Inspector General of Police.

## **MEMO NO. 1532**

### **Petitioner's Full Name(s) and Address (es)**

- Hon. (Bar) Nwabueze,
- Hon. Calistus Nnamani, both of Enugu State House of Assembly,  
Nkanu East Constituency

### **Title of Petition**

The Assassination of Mr. Sunday Ugwu by the Governor of Enugu State and further plans by him to kill us. A Rape of Democracy – and an S.O.S

### **Date of Petition**

13<sup>th</sup> September, 1999

### **Particulars of Petition**

The Petitioners are members of the House of Assembly and have written to the Head of State and copied the Commission. They alleged that on September 9<sup>th</sup> 199 the Governor sent assassins to murder them and the said assassins succeeded in murdering one Mr. Ugwu an elder brother to Hon. (Bar) Nwabueze Ugwu an elder brother to Hon (Bar) Nwabueze Ugwu. The Petitioners were forced to flee from their houses and are on exile in Abuja since that date. This incident came about when the members of the House of Assembly had a strained relationship with the Governor of Enugu State Dr. Chimoroke

Nnamani. They also alleged that some of the Legislators in the Enugu House of Assembly live in fear and are not free to speak their minds on issues concerning the Government of their State even on the floor of the House of Assembly.

**Period Covered by the Petition**

September 9, 1999 to date

**Names and Addresses of Persons or Institutions Petitioned Against**

- 1) His Excellency, The Governor, State Government House, Enugu
- 2) Speaker, Enugu State House of Assembly, Enugu

**Injury Allegedly Suffered by the Petitioner**

- 1) Loss of senior brother
- 2) Being fugitives in Abuja

**Relief Sought by the Petitioner**

- 1) Investigate the brutal murder of Mr. Sunday Ugwu the elder of one of the Petitioners
- 2) That the Head of State should provide them with adequate security to enable them go back and continue with their work at the house of Assembly
- 3) That the Governor of Enugu State should guarantee their safety in writing
- 4) That the Head of state should cause the mental balance of the Governor of Enugu State to be examined with a view to ascertain his state of mental being

- 5) That the matters raised in this petition, inclusive the murder of Mr. Sunday Ugwu be investigated by a Special Squad from the Presidency, or a Special Squad of the IGP, since the Governor being the Chief Security Officer of the State and the Commissioner of Police takes instructions from him.

### **Mode of Treatment of Petition**

The petition was slated for hearing during the second Abuja sitting of the Commission. When the case was called the Counsel representing the Enugu state Government the alleged perpetrator raised on objection challenging the competence of the Commission to hear the petition. The ground for his objection was that the subject matter of the petition was also the subject matter of a suit pending at the High Court of Enugu State at the instance of the petitioner. The Counsel also argued that since the murder of the petitioner's brother complained of took place on the 9<sup>th</sup> of September, 1999, the matter fell outside the cut off date in the Commission's mandate which is the 28<sup>th</sup> of May, 1999.

After listening to arguments from both counsel to the petitioner as well as counsel to the Enugu state Government, the Commission noted that even though it is a fact finding body, the exercise must be carried out within the confines of the law.

## **MEMO NO. 233**

### **Petitioner's Full Name(s) and Address (es)**

Olu Bamgbose,  
1305 Brentwood Cir,  
Apt 11 A, Corona, CA 91720

### **Title of Petition**

Abuse of My Rights

### **Date of Petition**

22<sup>nd</sup> July, 1999

### **Particulars of Petition**

The Petitioner, an ex-Lt. Col of the Nigerian Army was a Directing Staff at the Command and Staff College, Jaji – Kaduna when he was arrested in February, 1995 in connection with the 1995 coup plot. He claimed that the reason for his arrest was not conveyed to him even during the investigation period as he was locked up at the “Inter-Centre” cell along with other accused officers after being kept in solitary confinement for about 2 weeks. He further claimed that the Brig. Felix Mujakpero panel which investigated the alleged coup plot merely asked him about his relationship with Mr. Kola Abiola the son Late M.K.O. Abiola. Two months after his first interrogation, he was again invited by Brig. Felix Mujakpero and was advised to cooperate with the panel by admitting that he (the Petitioner) traveled with Kola Abiola to Abuja in January, 1995 and met Co. Bello-Fadile (a coup

suspect) at the airport. The Petitioner was also expected to inform the coup Investigation Panel that Col. Fadile and Mr. Kola Abiola had a brief private discussion at the airport before they left. The Petitioner claimed that he declined making such a false committing statement to the panel consequent upon which the Chairman (Brig. Mukakpero) declared him guilty of illegal possession of the fire arms even though he was entitled to carry arms. He was charged before the Gen. Patrick Aziza Tribunal for treason, conspiracy and concealment of treason and for illegal possession of firearms. He was discharged on the treason charges but convicted and sentenced to 10 years imprisonment for illegal possession of firearms. The jail term was later reduced to 6 months imprisonment and his career with the army was terminated on account of this.

**Period Covered by the Petition**

1995

**Names and Addresses of Persons or Institutions Petitioned Against**

1. The Chief of Army Staff,  
c/o The Army Force Secretary,  
Nigerian Army Headquarters,  
Abuja

2. Brig. Felix Mujakpero  
(Address not supplied)

**Injury Allegedly Suffered by the Petitioner**

- 1) Termination of his career with the Nigerian Army
- 2) Unlawful arrest and detention

- 3) False charges and wrongful conviction by Gen. Patrick Aziza Tribunal
- 4) Professional embarrassment

**Relief Sought by the Petitioner**

The Petitioner did not request for any specific relief. He merely lamented that he got his career terminated for no just reason and that Brig. Felix Mujakpero should be made accountable for his ordeal and abuse of rights.

**Mode of Treatment**

The petition was slated for hearing during the first Abuja sitting of the Commission. The petitioner was served a witness summons through an address he supplied in the United States of America by DHL courier service. However, the courier company indicated to the Commission that the address was unknown at the address he supplies and it was therefore impossible to serve him. The case was accordingly stuck out owing to the absence of the petitioner.

**MEMO NO. 1710**

**Petitioner's Full Name(s) and Address (es)**

**Title of Petition**

**Date of Petition**

**Particulars of Petition**

**Period Covered by the Petition**

**Names and Addresses of Persons or Institutions Petitioned  
Against**

**Injuries Allegedly Suffered by the Petitioner**

**Relief Sought by the Petitioner**

**Number of years of Service (Where applicable)**

**Mode of Treatment of petition**

This matter came up for hearing during the port Harcourt sittings of the commission.

### **Evidence of alleged Perpetrator(s)**

The police represented by their counsel, Nuhu Ribadu Assistant Commissioner of Police stated that the Police indeed concluded investigation in this case and handed over the case file to the Director of Public prosecution, Rivers State for advise. The then Director of Public Prosecution of Rivers state, Adokiye Amasiemaka in his defence to the allegation that he gave a scandalous advice in the case, tendered a copy of the advice, which was marked Exhibit 2.

### **Findings and Observations of the Commission**

The Commission after reviewing the evidence before it finds as follows:

- a) That the Legal advise given by the Directorate of Public Prosecution in this case meets all standards required by the law;
- b) That the lack of confidence in the Rivers state Police command expressed by the petitioner is not unconnected with the attitude of the police in relation to the way and manner the investigation into this case was conducted.

### **Recommendations**

The Commission in the light of its findings above recommend as follows:

- i) That the Inspector General of Police set upon Independent team of the Nigeria Police force to carry out further reinvestigation on this case as directed by the then Director of Public Prosecution in his advise on this case.

**MEMO NO 255**

**Petitioner's Full Name(s) and Address (es)**

**Title of Petition**

**Date of Petition**

**Particulars of Petition**

**Period Covered by the Petition**

**Names and Addresses of Persons or Institutions Petitioned  
Against**

**Injuries allegedly Suffered by the Petitioner**

**Relief Sought by the Petitioner**

**Mode of Treatment of Petition**

This matter came up during the Port Harcourt sitting of the Commission

**Evidence of alleged Perpetrator(s)**

Although there was no alleged perpetrator in this case the evidence given however centered around the Legal Advice given by the then Director of Public Prosecution of Rivers State Mr. K. O Appah. The said legal advice held the view that the deceased was perennially feet. But the Medical report which formed part of the case file puts the cause of death as head injury and severe physical trauma.

**Findings and Observations of the Commission**

After due consideration of the evidence before the Commission, the

Commission finds as follows:

- 1) That the Director of Public Prosecutions report does not reflect the totality of evidence as contained in the case file
- 2) That the Medical report which gave the cause of death as head injury and severe physical trauma has not been contradicted.

### **Recommendations**

The commission therefore order as follows:

- i) That the two cases contained in this petition be re-investigated by the police
- ii) Arising from (I) above, if a prima facie case is disclosed against any person(s) the Delta state Ministry of Justice should prosecute the person(s) so named.

## **MEMO NO. 257, 257a & 257b**

**Petitioner's Full Name(s) and Address (es)**

**Title of Petition**

**Date of Petition**

***Particulars of Petition***

**Period Covered by the Petition**

**Names and Addresses of Persons or Institutions Petitioned  
Against**

**Injury Suffered by the Petitioner**

**Relief Sought by the Petitioner**

**Nature of Hearing Received by Petition**

**Mode of Treatment**

This matter came up for hearing at Enugu during the public sittings of the Commission

**Evidence of the alleged Perpetrators**

Navy Captain Omoniyi Olubolade appeared in person to defend the allegation made against him by the petitioners. He denied the allegation of torture made against him by the alleged victims. He stated that all the Newspapers reports carried the story of detention and tortures were aimed at attracting unnecessary sympathy and sentiment for Mr. Justus Nwalaka. He admitted sending for Dr. Aguwa to ask him why he should write him a letter demanding for the why he should write him a letter demanding for the some of N5 million naira. According to him, he content of the letter to be an act of blackmail and an attempt to extort money from him. He also admitted

that Dr. Aguwa was detained at a guest for a period of Dr. E.S. Aneke, he denied ever ordering his arrest but that he gave order for his release the moment he became aware that the Doctor was being detained. He blamed there acts to violation on his aides who often act in excess of the instructions given to them. He apologised to the victims for any act of violations of then human rights that may have been perpetrated against them by his aids.

### **Findings and Observations**

After reviewing the evidence before it, the Commission finds as follows:

- a) That Mr. Julius Uwalaka was indeed brutalised by the Chief Security officer of the military Administration while acting in excess of the instructions given to him; for this reason the Military Administrator ask that he be replaced
- b) That Dr. E.S. Aneke and Dr. Aguwa were at different times arrested, detained and tortured by security officers to the Military Administrator while discharging their professional responsibilities to then clients
- c) That the relief for compensation being sought by Dr. Aguwa, after received the sum of N250,000 proceeds form a court judgment in an action founded on the same facts s those before the Commission would amount to double compensation
- d) That the Security officer of the Military Administrator though may have exercise then discussion wrongly were acting on initial instructions
- e) That the common relief of apology sought by the three petitioner has been met by the Military Administrators open apology.

### **Recommendations**

In the light of its findings above, the Commission recommends as

follows:

- i) That Mr. Justus Uwalaka and Dr. E.S. Aneke be paid the sum of N250,000 each for the Violation of their human rights. The Naval Authority is advised to pay the money on behalf Captain Ominiye (rtd.) and subsequently deduct same from his retirement benefits.

## **MEMO NO 1776**

### **Mode of Treatment**

The petition was publicly heard during the second Abuja sitting of the Commission. The petitioner adopted the contents of his petition and requested that justice be done to the seven deceased traders.

### **Evidence of Alleged Perpetrators**

After reviewing the evidence of the petitioners and the alleged perpetrators, the Commission finds as follows:

The Commission decided that there was no need for the petition to proceed to full hearing in view of the clear facts of the case. However an officer of the Kaduna State Police Command informed the Commission that the seven deceased suspects were arrested by officers of the Kaduna State Police Command on suspicion of having been involved in an armed robbery in Kaduna during which one Abdullahi Umar was killed. The Police witness further stated that the deceased suspects had volunteered to take the Police to their hide-out bear Nassarawa village for the purpose of recovering arms used for the robbery. According to the witness after the recovery violent and were subsequently shot by the police Officers.

### **Findings and Observations**

From all the facts available to the Commission the Commission observes as follows:

- a) The deceased suspects were leg chained and only three of them had their leg chains removed in order to enable them cross a river, the other four having been left in the Police

van on the other side of the river. However, all seven suspects were executed at the Kaduna River.

- b) The Commission further finds that contrary to claims by the Police that the seven deceased suspects were shot while trying to disarm the Police, they were brought to the Kaduna River solely for the purpose of being executed on unsubstantiated charged of armed robbery;
- c) The Commission strongly condemns incidents such as this which from all the evidence before it appear to be commonplace within the Kaduna state Police Command and the Kaduna State Ministry of Justice;
- d) The Commission further observes that efforts made by the Attorney General of Kaduna State to obtain the case diary from the Kaduna State Police command for the purpose of initiating judicial proceedings against the policemen who shot the deceased did not receive the co-operation e.g the Police
- e) From the available evidence before it, the Commission finds that there is sufficient evidence to sustain a prima facie case against the Police officers who shot the deceased.

### **Recommendation**

The Commission in the light of its findings and observations above recommends as follows:

- a) That the Inspector-General of Police should empanel a Special team to fully investigate theirs killings with a view to prosecuting all the police officers involved in the shooting. The Court of law will be the proper place for the police officers to raise the issue of self defence or any other defence available to them.

## **MEMO NO 343**

### **Petitioner's Full Name(s) and Address(es)**

Alhaji Buraimah Mohammed  
No. C. 84 Ilela Quarters,  
P. O. Box 39,  
Bauchi

### **Title of Petition**

Petition on Unlawful Killing

### **Date of Petition**

29<sup>th</sup> June, 1999

### **Particulars of Petition**

The petitioner wrote in respect of the murder of his younger brother, one Adamu Mohammed I a former Senior Inspector of Customs No. 9536. The deceased Customs officer was stationed at Maiduguri at the time of his death. The petitioner alleges that the deceased was on official duty at Biu with other colleagues on the 15<sup>th</sup> of August, 1999 when he was intentionally shot and killed by an unnamed Army Captain. According to the Petitioner, the Army captain is yet to be prosecuted in any court of law.

### **Covered by the Petition**

1989 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

An unnamed Army captain

**Injury Suffered by the Petitioner**

Death of his brother

**Relief Sought by the petitioner**

That his brother's killer be prosecuted

**Mode of Treatment**

The petition was heard publicly during the Commissions public sitting in Kano. The petitioner adopted the contents of his petition and gave oral evidence

**Evidence of Alleged Perpetrators**

Lt. Colonel E.O. Igama who was an Army Captain at the time of the shooting incident and who allegedly fired the fatal shot that killed the deceased appeared before the Commission and testified. He stated that the shooting incident took place at a time when there was a high incidence of armed robber's in Borno State and which necessitated the setting up of an and hoc military patrol team headed by him. The witness further stated that the deceased had been shot heard during an exchange of fire between his patrol team and the customs officers. The witness also customs officers. The witness also claimed that the customs officers whom he described as robbers had shot at him first and he had to return to the barracks for reinforcement. He denied being armed with any weapon at the time he was accosted by the customs officers and maintained that the deceased died during the shootout between his soldiers and the customs officers.

### **Findings and Observations**

After reviewing the evidence of the petitioners and the alleged perpetrators, the Commission finds as follows:

- a) Evidence before the Commission confirms that the shooting of the deceased was fully investigated by the Borno state Police Command
- b) The investigation report was forwarded to the office of the Director of Public Prosecutions of Borno State for Legal advice
- c) The office of the Borno State DPP after studying the Police case file has filed criminal charges against Captain Igama and three of the soldiers who were with him on the night of the shooting namely; Sambo Vau Bawa Katuka and Yahy Disi

### **Recommendation**

The Commission in the light of its findings and observations above recommends as follows.

- a) That the individual who have already been accused of the murder of the Senior Inspector of Customs, Adamu M. Ibrahim should appear in court to stand trial;
- b) That the sum of N330,000.00 (three hundred thirty thousand naira) be paid to the family of the deceased by the Federal Government as compensation for his unlawful killing.

## **MEMO NO 232**

### **Mode of Treatment**

The petition was heard publicly during the second Abuja sitting of the Commission. The petitioner affirmed the contents of his petition and further gave oral evidence.

### **Evidence of Alleged Perpetrators**

Only the petitioner testified at the hearing of his petition. The Commission was of the view that it had received sufficient evidence on the abuse of human rights using the instrumentality of the failed banks decree. The petitioner was however cross examined by Counsel representing the NDIC and the Nigerian Police. Counsel to the NDIC sought to disprove the claims of victimization made by the petitioner.

### **Findings and Observations**

After reviewing the evidence of the petitioners and the alleged perpetrators, the Commission finds as follows:

- a) The petitioner was one of the many individuals who were prosecuted under the failed Banks Decree
- b) He was convicted and sentenced to imprisonment for twelve years.
- c) The Commission further observes that the Petitioner was unable to exercise his right of appeal to the Special Appeal Tribunal to which appeals lay at that time owing to the fact that the Record of proceedings of the lower tribunal were not made available to him

- d) Counsel to the NDIC while cross-examining the petitioner revealed the fact that an appeal filed by the Petitioner challenging his conviction by the Failed Banks Tribunal was pending at the Court of Appeal, Kaduna.

**Recommendations**

The Commission in the light of its findings and observations above recommends as follows.

- a) That the petitioner should pursue his appeal currently pending at the Court of Appeal Kaduna to conclusion.

**BRIEF ON**  
**MEMO NO. 103.**

**Petitioner's Full Name(s) and Address(es)**

Navy Commander LMO Fabiyi  
P.M.B. 007, Festac Post Office,  
Lagos.

**Title of Petition**

Trumped-up charge of coup plotting

**Date of Petition**

8<sup>th</sup> July, 1999

**Particulars of Petition**

The Petitioner a legal practitioner was summoned in 1995 to act as Defence Counsel to some of the persons accused of coup plotting during the regime of Gen. Sani Abacha. Five days after his submission before the Tribunal, he was requested by one Lt.Col. Ahmed, Defence Counsel to one of the accused persons, Col. Bello-Fadile and Bello Fadile himself to deliver some law books to the latter's sister-in-law. Three weeks after the trial, the petitioner was summoned to the Tribunal by Gen. Patrick Aziza and Gen. Bamaiyi to explain how he came about delivering Books for Bello Fadile. His explanations to them fell on deaf ears and he was informed that he had a case to answer before the Tribunal. According to him, after a ten-minute trial, he was pronounced guilty and sentenced to life Imprisonment (subsequently reduced to 15 years by Gen. Abacha). He was Held incommunicado in prison and denied access to medical attention despite very serious health problems.

**Period covered by the Petition**

1995 till date

**Names and Addresses of Persons or Institutions Petitioned  
Against**

- The Gen. Patrick Aziza coup Tribunal
- Gen. Patrick Aziza
- Gen. Ishaya Bamaiyi
- Col. Frank Omenka

**Injuries Allegedly suffered by the Petitioner**

- Physical and psychological trauma
- Cruel and inhuman treatment
- Denial of access to medical attention while in prison
- Unlawful arrest and detention

**Relief sought by the petitioner**

- ❖ The petitioner pleads that in view of his rapidly failing health, urgent medical attention be provided for him.
- ❖ That since he was due for promotion to the rank of Navy Captain during his incarceration, same be effected.
- ❖ That he be re-absorbed into the Navy or that being impossible, an alternative job opportunity be created for him.

**Number of Years of Service**

Not stated. However the petitioner will definitely have served long enough to qualify for pension being a Navy Commander.

**Mode of treatment of Petition**

The petitioner's case was heard during the first Abuja sitting of the Commission and was concluded along with the other coup related cases during the second Abuja sitting.

### **Evidence of alleged Perpetrator(s)**

At the conclusion of the petitioner's testimony, Lt. Colonel Abdulaziz Ahmed then of the 3<sup>rd</sup> Armoured Division, Jos who Had been mentioned by the petitioner in his evidence as having Requested him to deliver the books to Colonel Bello-Fadile's Sister-in-law testified. The witness denied asking the Petitioner to deliver any books to Colonel Bello Fadile's sister-In-law as stated by him.

### **Findings and Observations of the Commission**

After reviewing the evidence of the petitioner and the alleged perpetrators during Its public sitting, the Commission observes as follows:

- The petitioner's evidence of his torture during his interrogation was consistent with the testimony of the other petitioners tried for alleged involvement in the 1995 coup plot.
- The Commission finds that the evidence of torture was incontroverted by the testimony of the alleged perpetrators and strongly condemns the torture of the petitioner.
- The petitioner was charged with coup plotting in the course of discharging his lawful duties as defence counsel to some of the officers being tried for the same offence.
- The petitioner was denied legal representation of his choice and denied right of appeal to a higher tribunal as provided by the 1979 Constitution then in force.
- The Commission therefore finds that the petitioner was denied fair hearing in the conduct of his trial.

## **Recommendations**

The Commission in the light of its findings and observations above recommended as follows:

- ❖ That the trial and conviction of the petitioner for treason be referred to the courts for nullification.
- ❖ That the petitioner be allowed to retire on the rank currently held by his course-mates.
- ❖ That the petitioner be paid his accrued emoluments with effect from the time of his arrest till date in line with the salaries and emoluments currently enjoyed by his course-mates.
- ❖ Payment of the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira) to the petitioner for the torture, inhuman and degrading treatment meted out to him.
- ❖ An apology from the Federal Government.

## **MEMO NO 404**

### **Mode of Treatment of Petition**

This petition was heard and concluded during the Enugu Public sitting of the Commission

### **Evidence of the Alleged Perpetrators**

The alleged perpetrators in this case are Chief Nicholas Enugu Oyo, Bayo Balaogun (COP) Abia State (as he then was), A.A. Aderibigbe ACP (as he then was), A.O. Fakunle and Godwin Ogbonnaya. None of them testified but anchored their testimony on the cross examination of the petition by S.A. Onyemiche Counsel to the Commissioner of Police Abia State. The said cross-examination attempted, to show that the late Mr. Oji Oma (alias oji ude) was arrested with others in respect of malicious damage to the property of one Chief Nicholas Egwu. However while detention he died after about 11 days and that the cause of death was cardiac arrest

### **Findings and Observations**

After carefully reviewing the evidence in this case, the Commission finds as follows:-

- a) That the arrest and detention of the deceased ceased to be lawful after 24 hour since the alleged offence committed by him was bilabial
- b) That there was a man called Orji Ude who was arrested and detained at the control Police Station Umuiahia and that he died on the 11<sup>th</sup> day.
- c) That the Police refused to grant the deceased bail thereby infringing on the deceased constitutionally entrenched right.
- d) That the Nigerian Police is liable for the death of Mr. Orji Ude.

## **Recommendations**

In the light of the foregoing, the Commission recommends as follows:

- a) That the Nigerian Police should render Public apology to the petitioner's family for their recklessness in the discharge of their statutory duty which led to the death of the petitioner's brother
- b) Adequate compensation be paid to the Estate of Late Mr. Orji Ude.
- c) That the Federal Government of Nigeria should overhaul the entire Police institution with a view to making it more vibrant and Virile in the discharge of it's functions.

**MEMO NO. 760**

**Petitioner's Full Name(s) and Address (es)**

***Title of Petition***

***Date of Petition***

***Particulars of Petition***

**Period Covered by the Petition**

**Names and Addresses of Persons or Institutions Petitioned  
Against**

**Injury Suffered by the Petitioner**

**Relief Sought by the Petitioner**

**Nature of Hearing Received by Petition**

**Mode of Treatment**

This matter came up during the Port-Harcourt sitting of the Commission.

**Evidence of Alleged Perpetrators**

At the hearing of this petition in Port Harcourt, the Chief of Naval staff and the Attorney General of Delta state were absent and unrepresented ever after receiving the Commission's summons. The Commissioner of Police, Delta State Police Command was represented by one Mr. Suleiman (an officer of the Delta state Police Command) and ACP Nuhu Ribadu. In his evidence, Mr. Suleiman told the Commission that contrary to the petitioners allegation, the murder of Jeo Mukoro was indeed investigated by the Police and a copy of the investigated report was sent to the office of the Director of public prosecution, Delta state for legal advice. He stated further that the

Director of Public Prosecution, subsequently called for the original case file from the police for the purpose of prosecuting the case in 1994 which was handed over to him. According to Mr. Suleiman that on receiving a summon from the Commission concerning this case, he went to the office of the Director of Public Prosecutor to confirm the position of the matter but was informed that the Director of Public Prosecutor's office got burnt in 1994 and all relevant documents including the case file on this matter lost in the Inferno. There is no evidence before the Commission to disprove this claim.

### **Findings and Observations**

The Commission after review the evidence before it finds as follows:

- a) That the evidence of the petitioner is sufficiently corroborated by the evidence of Daewoo (the company allegedly guarded by the Naval ratings night) in that the company admitted that Salihu Halidu was one of the Naval ratings guard on the company on the fateful day.
- b) The Commission further found that the escape of Naval rating Salihu Halidu from Police custody may have been an arrangement by the Military to protect one of its officers. The Commission found also that the order it made on the Inspector General of Police to re-arrest Salihu Halidu for purpose of prosecution and to carry out further investigation on the case has not been carried out by the police.

### **Recommendations**

The Commission in the light of the evidence before it, recommends that Salihu Halidu be rearrested through the office or the Chief of Naval staff and prosecute for the murder of Joe Mukoro and the Inspector General of Police should carry out further investigation on

this case and bring to justice all suspects connected to the murder of Joe Mukoro.

## **MEMO NO 201**

### **Mode of Treatment of Petition**

This petition was heard during the Enugu public sittings of the Commission and the Abuja 3 Public sittings.

### **Evidence of the Alleged Perpetrators**

The alleged perpetrators did not justify because the Commission opted for an amicable settlement between the parties in chambers. On the sitting of the Commission at Abuja, the Commission was informed by Mr. Onyekuleje of Counsel that the Asagba of Asaba had settled on leg of the issue contained in the petition i.e. the recognition of the petitioner(s) as the 6<sup>th</sup> quarter of Asaba, although a suit was pending at the High Court Asaba challenging the decision of the Asagba on the issue of the killing of Rev. Father Isidi hearing commenced and the investigating police officer who handled this matter and the complaints nor being satisfied petitioner to the AIG Zone 5 Benin City who also reinvestigate, and still not being satisfied with it complaints petitioned the Inspector General who also investigated.

### **Findings and Observations**

After reviewing the evidence of the witness, the Commission finds as follows:-

- a) that the issue of being recognised either as 5<sup>th</sup> or 6<sup>th</sup> quarter in Asaba should be referred to the Asagba of Asaba.
- b) That there was no consumers as to whether the Inspector General of Police had ordered a reinvestigation of the killing of

Rev. Father Isidi and whether the report of such an investigation has been made public.

**Recommendations**

- a) In the light of the foregoing, the Commission orders that the Inspector General should set up an investigation panel to reinvestigate this case or in the alternative, the report of the investigation panel (if any) already set up by the Inspector General should be released.
- b) Consequently, any person or persons indicted by the panel should be prosecuted.

**BRIEF ON**  
**MEMO NO 738**

**Mode of Treatment of Petition**

This petition first came up during the Enugu Sitting of the Commission but was eventually heard during the Abuja third public sittings of the Commission

**Evidence of the alleged Perpetrators**

The alleged perpetrators i.e Generals Buhari and Banginda did not appear before the Commission hence did not testify although ample opportunity was graciously offered to them to do so, and to no avail.

**Findings and Observations**

After Considering the evidence of the witness, the Commission finds as follows:

- a) That the arrest of the Petitioner as alleged was unlawful and illegal because there was there was no valid legal framework under which it was carried out;
- b) That retroactive legislation's as promulgated by the supreme Military council to legalize such arrest and detention are usually against the African charter on Human and peoples' right to which Nigeria is a signatory and not to mention the rules of Natural Justice.
- c) The petitioner's complaint as regards to the ban imposed on him with regards to participation in politics is outside the terms of reference of the Commission by reason of the fact that political right is not a fundamental human right issue.

**Recommendation**

The Commission therefore recommends as follows:

- a) That the Federal Government of Nigeria should render an apology to the petitioner for his arrest and detention by the Gen. Buhari Military regime.
- b) That nominal damages of one thousand naira be awarded to the petitioner.

## **BRIEF ON MEMO NO 1714**

### **Mode of Treatment of Petition**

This petition was heard during the Enugu and Abuja three public sittings of the Commission.

### **Evidence of the alleged Perpetrators**

The alleged perpetrators in this case in the Nigerian Police who testified in defence of this petition. First, the Police testified that the late Ikechi Nwasinobi and co. were found to be armed with DDSG cartridges and in the process made frantic efforts to escape and in order to forestall their escaping, the Police on duty opened fire and killed the petitioner's son and two others. In another breadth, the Police claimed that the Mobile Policemen on duty flagged down the vehicle the petitioner son and two others were travelling with, but refused the alight as instructed by the Police and that one of the occupants opened fire on the mobile Police on duty who shot back in retaliation thereby killing the three occupants left inside the vehicles.

### **Findings and Observations**

The Commission after reviewing the evidence of the witnesses finds as follows;

- a) The evidence of the Police is illogical and therefore leaves enough room for doubt.
- b) That the extra judicial killing of Mr. Ikechi Nwadinobi, Anthony Igbokwe and Chidi Ogumba infringes their constitutionally entrenched right to life, whether they were armed robbers or not
- c) That the subsequence investigation of this incident by the Nigeria Police was shoddy.

## **Recommendation**

The Commission therefore recommends

- a) That the Inspector General of police should reprimand Sergeant Anabina, Sgt. Musa Damboyi, Corporal Dickson Danbake, Corporal Shuaibu, Corporal Yakubu Denyi, P.C. Abeka Jekejigi and P.C. Christopher Nwokolo who were on duty on the 25<sup>th</sup> of February 1994 at Ozolla Junction, Enugu/Port Harcourt expressway;
- b) That the Petitioners Mr. & Mrs. Nwadinobi should be compensated as prayed is two million naira should be paid to them. In addition, the families of the late Anthony Igbokwe and Chidi Ogumba should also be compensated even though they did not said in any petition;
- c) The Nigerian Police should render an apology to the petitioners and indeed the other two families affected.

## ENUGU CENTRE

### **PETITION NO. 784**

#### **Mode Of Treatment**

This petition came up for hearing during the public sittings of the Commission at Port Harcourt

#### **Evidence of The alleged Perpetrators**

No evidence was received from the alleged perpetrators

#### **Findings and Observations**

After reviewing the uncontroverted evidence of the petitioner, the Commission finds as follows:-

- a) That the petition is a general complaint against the abandoned projects in the Niger Delta Communities and the neglect of the region by the Federal Government in terms of sitting of Federal projects.

#### **Recommendations**

The Federal Government is advised to facilitate the completion of all abandoned projects in the Niger Delta through the Niger Delta Development Commission.

## **PETITION NO. 218**

### **Mode Of Treatment**

This petition came up for hearing during the public sittings of the Commission at Port Harcourt

### **Evidence of The alleged Perpetrators**

The Counsel to the alleged perpetrators instead of putting up a defence, observed that the areas of agreement between the petitioners and the alleged perpetrators were more than their access of disagreement. He applied for an adjournment to enable all parties make wider consultations with the hope of achieving a peaceful resolution of the grievances help by both sides.

### **Findings and Observations**

After reviewing the positions of the parties in line with their applications, the Commission chose to how the line of reconciliation. Following the reconciliation approach adopted by the Commission, series of meetings were held with all the disputing parties, which eventually gave birth to the memorandum of understanding executed by all parties. The Commission to the victims of the Ogoni Crisis as Ogoni 13 as against the use of Ogoni 9 and Ogoni 4, which was the position before the reconciliation.

### **Recommendations**

The Commission in the light o its findings above recommends that the Federal and the Rivers State Government set up a machinery to recover the bodies of the deceased persons for a decent burial.

## **PETITION NO. 1777**

### **Mode Of Treatment**

This petition came up for hearing during the public sittings of the Commission at Port-Harcourt.

### **Evidence of The alleged Perpetrators**

No evidence was received from the Federal and Rivers State Governments, but shell Petroleum Development company, one of the alleged perpetrators applied for the name of then staff to be struck out from the petition in that they have already be made parties in a pending suit on the same subject matter.

### **Findings and Observations**

After reviewing the evidence before it, the Commission finds as follows:

- a) That Shell Petroleum Development Company is a nominal party in this petition ad the dispute could be resolved without them, the name of the company was accordingly struck out.
- b) The Commission finds further that the only unresolved issue is the fact that the Government white paper on the Umuechem crisis has not been implemented.

### **Recommendations**

The Commission in light of its findings above, hereby recommend to the Federal the Rivers State Government to Implement the existing While Paper on Umuecheam crisis.

## **PETITION NO. 746**

### **Mode Of Treatment**

This petition came up for hearing during the public sittings of the commission at Port Harcourt and Abuja.

### **Evidence of The alleged Perpetrators**

The alleged perpetrators in this case denied any involvement. Major Paul Okuntimo stated that he as a Military Officer had nothing to do with the tribunal that tried the deceased persons. Col. Dauda Komo also denied the allegation that he supervised the execution of the deceased persons.

### **Findings and Observations**

After reviewing the evidence in this case the Commission finds that the prayer's contained in the petition are basically the same as those in petition no 1467. The Commission accordingly consolidated petitions no 1467, 1420 and 746.

### **Recommendations**

In the light of its findings above, the Commission recommend as follows;

- a) It is hereby recommended that the Federal and Rivers State Government facilitate the recovery of the bodies of all the 13 persons who lost their lives one way or the other in the era best described "s dark age" in the history of Ogoni people for state burial.

- b) It is also recommended that all person effects seized from individual by Against of the Government be returned to them.
- c) The Commission further recommends that the Government set a machinery in motion to restitute the displaced persons in Ogoniland
- d) Symbolic compensation is recommended for the 13 deceased persons in Ogoni land and for the entire Ogogni people
- e) The Federal Government is advised to fashion out deliberate state policies to ensure that communities directly affected by the exploration of natural endowment in their areas benefits directly from such ventures this in the opinion of the commission will cushion the effect of the Land use act of 1978
- f) The Commission recommends to the National Assembly that all laws that deny the right of appeal of a person convicted under such laws, be repealed
- g) It is also recommended to the Federal Government to set a terminal date for the flaring of gas in Nigeria, as a matter of urgently
- h) It is further recommended that all monetary and logistic assistance to Armed Forces personnel grading oil installations in the Niger Delta by oilcompany's be channeled through the Federal Government.

## **PETITION NO. 1467, 1420 &784**

### **Mode Of Treatment**

These petitions consolidated under petition No. 1467 came up for hearing during the public sittings of the Commission at Port Harcourt and Abuja

### **Evidence of The alleged Perpetrators**

First to testify among the alleged perpetrators was major Paul Okuntimo. In his defence, he denied all the atrocities allegedly perpetrated by Officer's of the Rivers state internal Security Task Force deployed troops to maintain peace in Ogoni land at the request of MOSOP, when the entire Ogoni, Community was at the point of extinction owing to her involvement in communal war with her neighbouring communities like the ADONIS, AFM and the OKRIKAS. He stated further that but for the timely intervention of the Task Force, Ogoni community would have be history. It was also part of his evidence that the allegation of looting, burning of properties, rape etc made against his officers were the handiwork of the ADONIS in the course of the communal war between them and the Ogonis.

Col. Dauda Komo, the then Military Administrator of Rivers State, also denied the allegation that the Rivers State Government under him, played an unimpressive role in the trial execution and the facilitated decomposition of the bodies of Ken Saro Wiwa and eight others. Shell Petroleum Development Company was also named among the alleged perpetrators. The company represented at the proceedings by its Deputy Managing Director and the Managing Director denied ever instigating other communities or the Federal Government to unleash Violence against the Ogoni people. The company nevertheless

admitted that they are still engaged in Gas flaring activities even when Gas flaring has been stopped in other parts of the world owing to the environmental hazards associated with it.

### **Findings and Observations**

The Commission after a careful review of the evidence before it, finds as follows;

- a) That irrespective of the denials by the alleged perpetrators, there are clear indications that the rights of people were violated in various ways in Ogoni Land.
- b) That communal as against individual compensation is a more viable option towards achieving lasting peace in Ogoni land
- c) That the land use Act of 1978 which divest people of the ownership of their land hence their natural endowment is a bad law, which can be rectified through deliberate Government policy that will ensure that people directly affected, benefit one way or the other from the natural endowment explored from their communities.
- d) That monetary and logistic support rendered to armed forces personnel's guarding oil installations by oil company's is a source of concern to their host communities.
- e) That Gas flaring is still continuing in the Niger Delta of Nigeria even when it has been stopped in other part of the world
- f) That the reconciliatory effort initiated by the Commission between the parties need to be encouraged at the state and the Federal levels of Government

## **Recommendations**

In the light of its findings above, the Commission recommend as follows;

- i) It is hereby recommended that the Federal and Rivers State Government facilitate the recovery of the bodies of all the 13 persons who lost their lives one way or the other in the era best described "“s dark age” in the history of Ogoni people for state burial.
- j) It is also recommended that all person effects seized from individual by Against of the Government be returned to them.
- k) The Commission further recommends that the Government set a machinery in motion to restitute the displaced persons in Ogoniland
- l) Symbolic compensation is recommended for the 13 deceased persons in Ogoni land and for the entire Ogogni people
- m)The Federal Government is advised to fashion out deliberate state policies to ensure that communities directly affected by the exploration of natural endowment in their areas benefits directly from such ventures this in the opinion of the commission will cushion the effect of the Land use act of 1978
- n) The Commission recommends to the National Assembly that all laws that deny the right of appeal of a person convicted under such laws, be repealed
- o) It is also recommended to the Federal Government to set a terminal date for the flaring of gas in Nigeria, as a matter of urgently
- p) It is further recommended that all monetary and logistic assistance to Armed Forces personnel grading oil installations in the Niger Delta by oil company's be channeled through the Federal Government.

## **PETITION NO. 1637**

### **Mode of Treatment**

This petition came up for hearing during the public sittings of the Commission at Port Harcourt.

### **Evidence of the alleged Perpetrators**

The Rivers State Government was named in this petition as the alleged perpetrators. In their defence, the Government stated that the petitioners have been resettled in Port Harcourt and other parts of Rivers State. The Government stated further that relocating the petitioners to their pre-civil settlement is practically impossible.

### **Findings and Observations**

The Commission after reviewing the evidence before it finds as follows:

- a) That the only dispute left unresolved between the parties is the issue of allocation of land to the petitioners in their present settlement for expansion purposes.

### **Recommendations**

The Commission in the light of its findings above, recommends that the Rivers State Government allocate a piece of land to the petitioners in their present place or abode to facilitate their resettlement process.

## **PETITION NO. 617**

### **Mode of Treatment**

This petition came up for hearing during the public sittings of the Commission at Enugu.

### **Evidence of the alleged Perpetrators**

The alleged perpetrators in this petition denied knowledge of any plan to blow-up the Aircraft under-air, as alleged by the petitioner. Captain Udom, in his evidence before the Commission stated that the airline operators relied on the report of the panel set up to investigate the cause of the accident, which report attributed the cause of the accident to Air control negligence.

### **Findings and Observations**

After reviewing the evidence before it, the Commission finds that the flight reservations record, which would have corroborate the allegation of the petitioner that some people after they became aware of the plan to blow up the air craft, cancelled their trip, was not made available by the Airline operators.

The Commission also finds that the screening of passengers and luggage's as a standard of operation in other part of the world is not done by airline operators in Nigeria.

### **Recommendations**

The Commission in the light of its findings above directs the Ministry of aviation to carry out through investigation to ascertain the cause(s) of the exhibit as suggested in exhibit 1 & 2.

## **PETITION NO. 225**

### **Mode of Treatment**

This matter came up for hearing during the public sittings of the Commission at Port Harcourt

### **Evidence of the alleged Perpetrators**

The alleged perpetrator in this case is Mr. K.O. Appah the then Director of Public prosecution of Rivers State. In his defence to the allegation that he gave scandalous legal advice, he stated that the Legal advice proffered by him was based on the facts contained in the case file.

### **Findings and Observations**

The Commission after reviewing the evidence before it, finds as follows:

- a) That the DPP again in this case gave legal advice against the weight evidence contained in the police case file, which established a prima facie case of under against the suspects.
- b) That the DPP took over the role of the judiciary and a defence counsel in the course of proffering his legal advise;
- c) The Commission further finds that the public do not have confidence in the legal opinion proffered on cases forwarded to the office of the then DPP.

### **Recommendations**

In the light of its findings above, the Commission recommends as follows.

- i) that the murder of Mr. Freeborn and Wilson Dirikebamor be reinvestigated by the Commissioner of police, Delta state, and all suspects to be prosecuted at the Delta state High Court.

## PETITION NO. 266: MR. G. REWANE AND FAMILY

### MODE OF TREATMENT OF PETITION

The petition was heard during the public sittings of the Commission in Lagos. The petitioners gave evidence and tendered some relevant documents. While admitting that some suspects are currently being prosecuted for the unlawful killing of the deceased in Lagos State, the petitioners emphasized that those suspects were not the actual killers of Pa Alfred Rewane. They insisted that state agents were responsible for the murder in view of the evidence of Lt. I. S. Umar before the Commission in Abuja and the sophisticated nature of weapon used as disclosed by the autopsy report.

### EVIDENCE OF ALLEDED PERPETRATORS

The alleged perpetrators did not give evidence as it was brought to the attention of the Commission that some suspects are being prosecuted in connection with the murder. There were also attempts by one Moses Oddiri to testify on the murder of Pa Alfred Rewane but the petitioners did not want him to testify their behalf.

### FINDINGS AND OBSERVATIONS

The Commission carefully reviewed the evidence of the petitioners and examined relevant documents and publications and makes the following findings and observations:

- a) That late Pa Alfred Rewane was murdered in his home in Ikeja, Lagos State by unknown assassins in October, 1995.
- b) That the Lagos State Police Command subsequently arrested some suspects comprising mostly of the domestic servants of the deceased and charged them for the unlawful killings.

- c) That the matter is still in court and some of the suspects died while in custody.
- d) That there are strong suspicions that the suspects being currently prosecuted for the killing is not the actual killers of the deceased.
- e) That there is need to thoroughly reinvestigate the circumstances surrounding the gruesome killing having regard to the evidence and other clues presented before the Commission with a view to prosecuting the real killers.

### RECOMMENDATIONS

The Commission accordingly recommends that the Federal government of Nigeria should direct the Inspector-General of Police to:

- 1) Reinvestigate the circumstances surrounding the murder of Chief Alfred Rewane with a view to identifying and prosecuting the suspects.
- 2) The reinvestigation team should be headed by a Commissioner of Police and four other senior police officers.
- 3) The team should question all necessary witnesses including:
  - i) Lt. I. S. Umar who earlier testified before the Commissioner
  - ii) Moses E. Oddiri who sought to testify before the Commission.
  - iii) Chief Alison Ayida who claimed in the Guardian publication of 7<sup>th</sup> October, 2000 that the real killers are still around and are even in government.
  - iv) The petitioners
  - v) Mr. James Danbaba, the former Commissioner of Police in Lagos State at the time of the incident.

PETITIONS NO. 416 AND 537: CHIEF GANI FAWEHINMI & MESSRS RAY  
EKPU, DAN AGBESE AND YAKUBU MOHAMMED

MODE OF TREATMENT OF THE TWO PETITIONS

Petition number 416 presented by Chief Gani Fawehinmi was consolidated with petition number 537 presented by Messrs Ray Ekpu, Dan Agbese and Yakubu Mohammed as both petitions are based on the same subject matter, namely the unlawful killing of two persons. The petitions were heard during the public sittings of the Commission in Lagos and Abuja. The petitioners gave evidence, tendered relevant documents, called other witnesses to corroborate their testimonies and presented themselves for cross-examination by the alleged perpetrators.

EVIDENCE OF ALLEGED PERPETRATORS

The main alleged perpetrators did not appear before the Commission and did not give evidence despite due service of Summons and other Hearing Notices. They however filed an action in Court challenging the competency of the Commission to compel their appearances. The matter is currently before the Supreme Court of Nigeria. Prince Tony Momoh, the Honourable Minister of Information at the time of the gruesome incident, appeared before the Commission denying allegations of bad faith and failure to constitute an official public inquiry in respect of the matter.

FINDINGS AND OBSERVATIONS

The Commission carefully reviewed the numerous documents and oral evidence presented before it by all the witnesses and makes the following findings and observations:

- a) That Dele Giwa, the founding Editor-in-Chief and Chief Executive of Newswatch Magazine was murdered in his home via a letter bomb on Sunday, the 19<sup>th</sup> of October, 1986 by unknown persons.
- b) That prior to the unfortunate incident, the deceased was having series of meetings and discussions with Col. Halilu Akilu, then Director, Directorate of Military Intelligence (DMI) and Col. A. K. Togun, then second in command of the Department of State Services (SSS).
- c) That their meetings and discussions centred around the grave allegations by the Security Chiefs that the deceased was a security risk as he was alleged to be involved in arms importation and other offences with a view to destabilizing the government of General Ibrahim Babangida.
- d) That the deceased promptly notified his family members of these grave allegations and further requested his Solicitor Chief Gani Fawehinmi in writing to urgently take up the matter as he sensed that his life was in serious danger.
- e) That the Nigerian Police Force Command investigation in the matter through Alhaji Abubakar B. Tsav then with the Force Criminal Investigation Department, Lagos.
- f) That Alhaji Abubakar B. Tsav subsequently submitted an interim report recommending that both Cols. Halilu Akilu and A. K. Togun, be made available for investigation and voice identification.
- g) That these two erstwhile security chiefs against whom there was strong circumstantial evidence in relation to the murder of the deceased were never investigated by the police.

- h) That no further investigation was conducted in the matter while the interim report of Alhaji Abubakar B. Tsav was suppressed till date.
- i) That nobody was ever arraigned or prosecuted for the murder.
- j) That the petitioner Chief Gani Fawehinmi was severally harassed intimidated and prosecuted for daring to initiate private investigation and subsequent prosecution of the matter.
- k) That the circumstances of the murder of the deceased are insidiously novel, gruesome and ought to be thoroughly investigated in the interest of justice, public safety and rule of law.

#### RECOMMENDATIONS

The Commission accordingly recommends that the Federal Government of Nigeria should:

- 1) Direct the Inspector-General of Police to reopen investigation into the circumstances surrounding the gruesome murder of Dele Giwa through a letter bomb in his home on the 19<sup>th</sup> of October, 1986 with a view to prosecuting the suspects.
- 2) That the investigation team shall comprise:
  - i) a Commissioner of Police as the head and five other senior police officers.
  - ii) A representative of the Nigerian Army
  - iii) A representative of the State Security service
  - iv) A representative of the Nigeria Union of Journalist as an observer.
  - v) A representative of the Human Rights Groups in Nigeria.

- 3) The investigation should cover the entire circumstances of the case including the alleged suppression of the initial investigation with a view to prosecuting
  - i) All those involved directly or indirectly in the murder,
  - ii) All those who suppresses the investigation
- 4) That the Federal Government of Nigeria should request the Lagos Sate Government to name a street in memory of Dele Giwa in Lagos State.

## PETITION NO. 274: DR. BEKO RANSOME-KUTI

### MODE OF TREATMENT OF PETITION

The petition was heard during the public sittings of the Commission in Lagos and Abuja. The petitioners gave evidence and tendered some relevant documents and was given opportunity to cross-examine the alleged perpetrator present. He was also cross-examined by Counsel representing the State Security Services.

### EVIDENCE OF ALLEDED PERPETRATORS

His Excellency, President Olusegun Obasanjo appeared before the Commission denying the allegations of involvement in the violations of the members in 1977. He emphasized that the Lagos State Government took appropriate steps at that time by instituting an administrating enquiry on the incident which produced a Report followed by a white paper after a review by the then Hon. Attorney-General of Lagos State. The President further stated that the petitioner and his family members were dissatisfied with the steps taken by the Lagos State Government and litigated the matter up to the Supreme Court of Nigeria which gave a conclusive judgment. The other alleged perpetrators did not appear despite due services of Summonses. Counsel representing the State Security Services however appeared and cross-examined the petitioner.

### FINDINGS AND OBSERVATIONS

The Commission carefully reviewed the evidence adduced by all the witnesses, examined relevant official records and makes the following findings and observations:

- a) That the fundamental rights of the petitioner and his family members were grossly violated by Nigerian soldiers in 1977.
- b) That the facts and traces of these violations can be found in the following:
  - i) The Report of the Panel of Enquiry headed by Justice Kalu Anya
  - ii) The Lagos State Government white paper on Justice Kalu Anya's Report
  - iii) Judgment of the justice L. J. Dosunmu in the case of Ransome-Kuti or ors-V-Attorney-General of the Federation and ors suit No. LD/328/1977
  - iv) Judgment of the Supreme Court in the case of Ransome-Kuti & ors-v-Attorney-General of the Federation(1985) 6sc. 245.
- c) That it was the consistent findings of the courts in the case of Ransome-Kuti & Ors. V-Attorney-General of the Federation that:
  - i) The state was not liable in that for wrongs committed by its servants
  - ii) The petitioner and his family members did not complain of the violations of their fundamental rights in the said suit.
  - iii) That even if they did, the state was not liable to pay damages because the applicable 1963 constitution did not provide for award of damages.
- d) That the petitioner's rights were maintained violated by the regime of General Muhammadu Buhari as the petitioner was detained under Decree No. 2 of 1984 for over six months without charge or trial for merely acting in his professional capacity.

- e) That the petitioner's rights were similarly violated by the regime of General Ibrahim Babangida based on his human rights activism.
- f) That the petitioner's rights were severally violated in a most bizarre manner under the regime of late General Sani Abacha as the petitioner was:
  - i) Arrested, detained and arraigned before a Special Military Tribunal headed by Brig-Gen. P. N. Aziza as an accessory after the fact of the alleged coup plot of 1995.
  - ii) Convicted and sentenced to life imprisonment by the Tribunal. The petitioner spent over three years in Prison before he was released and granted amnesty by the regime of General Abdulsalami Abubakar.
- g) That the process, procedure and circumstances of his trial and conviction negate the basic and elementary demands of justice and the provisions of the African Charter on Human and Peoples' Rights.
- h) That the petitioner ought to be tried by a normal court of the land instead of resort to a Military Tribunal.
- i) That the petitioner suffered unduly as he was subjected to inhuman and degrading treatment.

## RECOMMENDATIONS

The Commission accordingly recommends that the Federal government of Nigeria should in the true spirit of reconciliation :

- 1) Issue a public apology to the petitioner and his family members for the several instances of the violations of their rights from 1977 to 1998

- 2) Pay the sum N400,000.00 (Four Hundred Thousand Naira) as compensation to the petitioner and his family members.
- 3) Grant the petitioner free medical treatment in a government hospital in respect of any injury or disability suffered while in detention
- 4) Refer the conviction to the appropriate courts for nullification.

## PETITION NO. 458: DR. ORE FALOMO & KOLA ABIOLA

### MODE OF TREATMENT OF PETITION

The petition was heard during the public sittings of the Commission in Lagos and Abuja. The petitioner gave evidence, tendered relevant documents and were given opportunity to cross-examine the alleged perpetrators that were present.

### EVIDENCE OF ALLEDED PERPETRATORS

Some of the alleged perpetrators appeared and gave evidences while admitting that the deceased was arrested and detained by the government of late Geeral Sani Abacha, they all denied being directly responsible for his long period of detention and subsequent death in custody. Major Hamza Al-Mustapha specifically denied refusing the deceased access to his medical doctors or blocking approvals for his treatment abroad. He claimed that he provided sufficient funds for the welfare of the deceased and emphasized that the made efforts to encourage peaceful resolution of the misunderstanding between the deceased, late General Sani Abacha and General Ibrahim Babangida. Major Mustapha testified further that the circumstances of Chief Abiola's death were similar to that of late General Sani Abacha and finally suggested that both of them were killed. The officer who was in case of the deceased while he was in government custody, ASP Theodore Bethuel Zadok also gave evidence. He stated that the deceased was in sound and healthy condition and did not complain of any illness on the day he later died (7/7/98). ASP Zadok gave a detailed account of the activities and circumstances leading to Chief Abiola's death on 7/7/98 and emphasized that it was only the Chief Security Officer to General Abdulsalami Abubakar, Major A. S. Aliyu that could explain what actually happened on that fateful day. Brig-

Gen. I. A. Sabo also gave evidence implicating Lt. Gen. Ishaya R. Bamaiyi in the alleged unlawful killing of the deceased. He informed the Commission that the former Chief of Army Staff told him shortly after the death of General Sani Abacha that Chief M.K.O. Abiola should be killed in order to balance the equation. General Bamaiyi vehemently denied this allegation emphasizing that General Sabo gave the damaging evidence against him because there was no love lost between them. Major A. S. Aliyu later testified before the commission denying any complicity or foul play in the death of Chief Abiola. He explained that the cause and circumstances of Abiola's death are as stated in the autopsy report which was tendered before the Commission. The alleged perpetrators also tendered relevant documents and were given opportunities to cross-examine all the witnesses that testified.

#### FINDINGS AND OBSERVATIONS

The Commission carefully reviewed the evidence adduced by the witnesses, examined relevant officials record and makes the following findings and observations:

- a) That the late Chief M.K.O. Abola was arrested by the regime of late General Sani Abacha on the 23<sup>rd</sup> of June, 1994 for declaring himself the duly elected President of the Federal Republic of Nigeria after the June 12, 1993 elections which was annulled by the former military ruler General Ibrahim Babangida.
- b) That he was subsequently arraigned before the High Court of the Federal Capital Territory, Abuja for treasonable felony
- c) That this charge was never prosecuted by the Federal Government and the deceased was permanently kept in

- custody of the government as he was regarded as a high risk political detainee.
- d) That the personal physician to the deceased was not given regular access to the deceased and the deceased was refused specialist treatment in the face of his poor health conditions.
  - e) That the personal physician to the deceased was at one point detained by security agents of late General Sani Abacha following his public protestation of their refusal to grant him access to attend to the medical needs of the deceased.
  - f) That there were consistent evidence that the deceased was regularly denied proper and specialist medical attention while petitioner was however not released from detention until 8<sup>th</sup> of July, 1998 after the death of General Sani Abacha.
  - g) That the petitioner suffered unduly as he was subjected to inhuman and degrading treatment.
  - h) That the criminal charge of treason against the deceased was not prosecuted as at the time General Sani Abacha died on the 8<sup>th</sup> of June, 1998.
  - i) That following the appointment of General Abdulsalami Abubakar as the new head of the Federal Military government, the deceased was not released from detention even though many other political detainees were released by the new administration.
  - j) That there were intense diplomatic negotiations by the new Abdulsalami administration on how to resolve the lingering political logjam since the controversial annulment of the 1993 elections and continued detention of the deceased.
  - k) That a good number of foreign and local dignitaries had series of meetings and discussions with the deceased ostensibly to resolve the protracted political impasse.

- l) That evidence received by the Commission showed that the deceased did not renounce his claimed mandate as the duly elected President in respect of the 1993 presidential elections.
- m) That the deceased suddenly died in a most suspicious circumstances on the 7<sup>th</sup> of July, 1998 while in governments custody.
- n) That although there was a comprehensive post mortem examination on the body of the deceased, with the active participation of his personal physician and other observers, there is still need to institute a further probe or inquiry on all the surrounding circumstances and activities leading to Chief MKO Abiola's death on the 7<sup>th</sup> July, 1998 having regard to the uncontroverted but revealing evidence of ASP Theodore B. Zadok before the Commission.

## RECOMMENDATIONS

The Commission accordingly recommends that the Federal government of Nigeria should:

- 1) Direct the Inspector-General of Police to fully investigate the surrounding circumstances, events and activities relating to the death of Chief MKO Abiola in government custody on the 7<sup>th</sup> of July, 1998.
- 2) That the investigation team shall comprise:
  - i) an Assistant Inspector-General of Police as the head and five other senior police officers
  - ii) A representative of the Nigerian Army
  - iii) A representative of the Nigerian Medical Association
  - iv) A representative of the Human Rights Organisation
- 3) Publish the findings of the investigation and subject same to the due processes of law.

- 4) Pay the family of the deceased the sum of N1.million as compensation for the death in government custody of their husband and father.

PETITION NO. .... : MAROKO EVICTEES

#### MODE OF TREATMENT OF PETITION

The petition was heard during the public sittings of the Commission in Lagos. The Commission also treated the matter administratively by writing and meeting with the Lagos State Government.

#### EVIDENCE OF ALLEGED PERPETRATORS

The Lagos State Government did not give evidence during the public hearing of the petition. The Commission however visited the Lagos State Governor in his office requesting him to ensure that the subject matter is resolved in the spirit of reconciliation. The Governor promised to find lasting solution to the lingering problems of Maroko evictees.

#### FINDINGS, OBSERVATIONS AND RECOMMENDATIONS:

The Commission carefully considered the presentations of the petitioners and the responses of the Lagos State Government and recommends that the Federal Government of Nigeria should request the Lagos State Government to resolve the matter in line with its promise.

**BRIEF ON**  
**MEMO NO. 495**

**Petitioner's Full Name(s) and Addresses(es)**

Murtala Yar'Adua  
Apo Village,  
Abuja

**Title of Petition**

Petition For Right And Remedy For Human Rights Abuses

**Date of Petition**

July 28<sup>th</sup> 1999

**Particulars of Petition**

The Petitioner is the son of the late Shehu Musa Yar'adua, a retired former Chief of Staff Supreme Headquarters. He presented this petition for himself and the Yar'Adua Family. The Petitioner stated that on 8 March 1995 his father was secretly tried alongside several others by the Patrick Aziza tribunal on a charge of treason arising from allegations of his involvement in a coup plot against General Sani Abacha. He alleged that his father pleaded not guilty to the charge and no evidence was tendered to disprove his plea, he was sentenced to death and when the sentence of death was converted into a life imprisonment, he was transferred from Port Harcourt Prisons to the Abakaliki Prisons where he was severally denied medical attention. The Petitioner stated that the course of his Father's death, based on information reaching him was a result of the poisonous substance forcefully injected into his father. He alleged that since after the death of his father, late General Sani Abacha, Gumel, Haladu, Ismail Gwarzo

had taken over his late father's company and changed it from NOCOTES to INTEL Services Ltd. The Petitioner and the entire members of his family are therefore asking that the wrongs of the above people cum administration be addressed by the Commission.

**Period Covered by the Petition**

1995 – 1998

**Names and addresses of Persons or Institutions Petitioned Against**

- (1) General Sani Abacha (Late former Head of State)
- (2) General Gumel
- (3) General Haladu
- (4) Alh. Ismail Gwarzo
- (5) All C/O Nigerian Army

**Injuries allegedly suffered by the Petitioner**

- a. Death of a loved one.
- b. Loss of some business ventures as a result of the said death
- c. Stigma arising from mode of death
- d. Mental/emotional trauma as a result of sudden death of the Petitioner's father.

**Reliefs sought by the Petitioner**

That the Commission looks into the matter with a view to correcting the alleged injustice

**Mode of treatment of Petition**

Petition was slated for public hearing but was not actually heard. It was struck out.

**Evidence of Alleged Perpetrator(s)**

No evidence was adduced. The petition was not heard.

**Findings and Observations of the Commission**

The Petitioner wrote in respect of the unlawful arrest, detention, trial, conviction and sentence of his father General Musa Yar'adua for alleged involvement in the coup plot of 1995.

On the 30<sup>th</sup> of October 2000, when the petition was mentioned for hearing for the second time, the Petitioner informed the Commission that he did not receive the Notice of Hearing on time and requested for an adjournment to enable him prepare his case. The Commission granted this request and thus adjourned to the 26<sup>th</sup> and 29<sup>th</sup> of June, 2001. When the matter was called on these days, the Petitioner was absent and was not represented by Counsel.

The Counsel representing the Commission informed the Commission that attempts to serve the Petitioner necessary Hearing Notices were unsuccessful. The Commission observed that the matter had been adjourned several times in order to enable the Petitioner to appear and present the petition. The petition was accordingly struck out by the Commission.

**BRIEF ON**  
**MEMO NO. 122**

**Petitioner's Full Name(s) And Address(es)**

Mrs. Adetoun Olubukunola Oshodi  
National Maritime Authority,  
Abuja.

**Title of Petition**

C-130 Plane Crash at Ejigbo, Lagos.

**Date of Petition**

15<sup>th</sup> July, 1999

**Particulars of Petition**

The Petitioner wrote on behalf of herself and her three children in respect of the 26<sup>th</sup> September, 1992 Nigerian Airforce Hercules C-130 plane crash at Ejigbo, Lagos in which her husband perished. She did not state precisely her late husband's former work place but he was from all indications a civilian member of staff of the Ministry of Defence before his death. The Petitioner stated that at the time in question, her husband had been nominated to be a desk officer in the United Nations Headquarters in New York. She also stated that at the time in question her husband returned from one of his numerous trips abroad and was informed that he was one of those billed to attend the Command and Staff College Course in Jaji. The Petitioner however contends that her husband's name was not on the original list and that General Olu Bajowa had manipulated the list of officers nominated for the course in order to include her husband's name.

The Petitioner further stated that when her husband returned from his second trip abroad (before the course), General Olu Bajowa asked him if he had prepared for his family. The inference she made from this question was that General Bajowa was a party to her husband's death. The Petitioner seeks to know why and how her husband died in the C-130 plane crash.

**Period Covered by the Petition**

September 1992 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

- The Ministry of Defence
- The Nigerian Air Force
- General Olu Bajowa rtd)

**Injuries Allegedly Suffered by the Petitioner**

Loss of her spouse and the father of her children

**Relief Sought by the Petitioner**

The Petitioner seeks to know the circumstances surrounding the C-130 plane crash and the death of her husband.

**Mode of treatment of petition**

The petition was slated for hearing during the First Abuja sitting of the Commission but was not heard owing to the absence of the Petitioner.

**Evidence of Alleged Perpetrator(s)**

The petition was not heard owing to the absence of the Petitioner

**Findings and Recommendations**

The petition was struck out during the Second Abuja Sitting of the Commission owing to the absence of the Petitioner despite the Service of a witness summons on her.

**BRIEF ON**  
**MEMO NO. 620**

**Petitioner's Full Name(s) And Address(es)**

Mr. Audu Ogbah (former communications Minister),  
PC 35, Idowu Taylor Street,  
Victoria Island, Lagos.

**Title of Petition**

Assassination attempt on me on December 7, 1998 in Makurdi in the wake of the local Government Elections.

**Date of Petition**

Nil

**Particulars of Petition**

The Petitioner was attacked by unknown armed bandits in his farm house early in the morning of 7<sup>th</sup> December, 1998. He was rushed to the hospital by his driver, Mr. Thomas Tornoe. Surgery was done on his left eye at the Makurdi Medical Centre and up till now he cannot see with that eye. Those assailants declared to him that they were asked to kill him. The Petitioner was of the opinion that it must be a conspiracy of both Benue State Government and its agencies, because some individuals have written petitions to the State Government for proper investigation which uptill now was turned down. From individual investigations, two membership cards of APP were found at the scene of the incident which indicted the individual holders of the membership cards. The Petitioner stated that he was told by some Police officers that except if he is ready to name any suspect, the Police are not interested in the matter. The Petitioner averred that

there are some individuals in his place who brag around the place and use to saying that they are the ones that can kill and there will be no problem.

**Period Covered by the Petition**

7<sup>th</sup> December, 1998

**Names and Addresses of Persons or Institutions Petitioned Against**

- Benue State Government
- The State Security Service
- The Benue State Police Command
- Leadership of APP in Benue State

**Injuries Allegedly suffered by the Petitioner.**

Injuries which were mainly bodily include:

- Broken skull
- Broken jaw
- Shoulder muscle injuries
- Torn lower lips
- 3 broken upper teeth
- Nose torn into two
- Left eye damaged

**Relief Sought by the Petitioner**

Investigating the matter with a view to exposing the assailants.

**Mode of treatment of Petition**

The petition was slated for hearing during the First Abuja sitting of the Commission, however, owing to difficulty in effecting a witness

summons on the Petitioner, the hearing of the petition was adjourned to the second Abuja sitting. During this session, the Petitioner wrote a letter to the Commission withdrawing his petition. The petition was accordingly struck out.

**BRIEF ON**  
**MEMO NO. 60**

**Petitioner's Full Name(s) And Address(es)**

Alhaji Sani Otto,  
c/o Unguwar Pawa, Nassarawa Town,  
Nassarawa LGA  
Nassarawa State.

**Title of Petition**

Complaint by the family of late Ibrahim Otto.

**Date of Petition**

25<sup>th</sup> June, 1999

**Particulars of Petition**

The Petitioner is the brother to one late Ibrahim Otto who was allegedly killed by the political opponents of the candidate he was supporting during the Chairmanship primaries in Nassarawa West L.G.A. in Nassarawa State. The deceased was a supporter of one Barrister A.D. Sondangi during the primaries under UNCP but who later changed to GDM. His opponent was Alhaji Isa Aliyu Ndako, a former staff of FCDA. Due to his support for Sondangi, the deceased was threatened by Ahmadu Almakura and General Jeremiah Useni. After the election, the deceased was sleeping outside his house around 12 Midnight when armed thugs stormed his house and shot him and he later died in the hospital. The matter was reported to Nasarawa Police station and details of information about the suspects were provided but nothing has come out of it.

**Period Covered by the Petition**

25<sup>th</sup> April, 1998

**Names and Addresses of Persons or Institutions petitioned  
Against**

- Commissioner of Police, Nasarawa State
- Inspector-General of Police
- General Jeremiah Useni
- Alhaji Ahmadu Almakura
- Alhaji Isa Aliyu Ndako

**Injuries Allegedly suffered by the Petitioner**

Death of the brother Alhaji Ibrahim Otto

**Relief sought by the Petitioner**

- Investigation of the murder of the deceased person
- Possible prosecution of the perpetrators

**Mode of treatment of petition**

Publicly heard

**Findings and Observations of the Commission**

The Commission observes that despite the fact that a formal report had been lodged with the Police in Nassarawa State and a petition also sent to the Inspector-General of Police, no investigation had been carried out and no arrest made in connection with the killing.

**Recommendation**

The Commission recommends that the Inspector-General of Police should empanel a special team to investigate the circumstances

surrounding the killing of the Petitioner's brother and thereafter the culprits should be prosecuted.

**BRIEF ON**  
**MEMO NO. 23**

**Petitioner's Full Name(s) and Address(es)**

Alhaji Mahmoud Aliyu Sambo,  
c/o., No. 25 Emir's Road  
Ilorin, Kwara State.

**Title of Petition**

The Disaster of Bomb Explosion in Ilorin Stadium on the 31<sup>st</sup> May, 1995 with many casualties.

**Date of Petition**

30<sup>th</sup> June, 1999

**Particulars of Petition**

The petition was submitted on behalf of those who were affected by the incident of Bomb blast in Ilorin Stadium on the 31<sup>st</sup> of May, 1995 resulting in the death of many people and grievous injuries to many others. The Petitioner alleged that the explosion was masterminded by the present Emir of Ilorin, Alhaji Sulu Gambari with the intention of eliminating the past incumbent Emir, Aliyu Babaagba Abdulkadir who incidentally was one of the casualties of the bomb blast which subsequently claimed his life on the 11<sup>th</sup> August, 1995 as a result of spinal cord injury he sustained during the blast.

**Period Covered by the Petition**

31<sup>st</sup> May, 1995

**Names and Addresses of Persons or Institutions Petitioned Against**

- Emir of Ilorin, Alhaji Ibrahim Sulu Gambari, Emir's Palace, Ilorin, Kwara State

**Injuries Allegedly suffered by the Petitioner**

The Petitioner wrote on behalf of the casualties of the bomb explosion in Ilorin Stadium and particularly the death of the former Emir of Ilorin, Alhaji A. B. Abdulkadir.

**Mode of Treatment of Petition**

The Petition was slated for public hearing but struck out due to absence of the Petitioner at the sitting.

**Evidence of Alleged Perpetrators**

No evidence of was adduced. The Petition was not heard owing to the absence of the petitioner.

**Findings and Observations of the Commission**

This case was called for hearing on the 25<sup>th</sup> of October, 2000 at Abuja during the first public sitting but the petitioner was absent and was not represented by Counsel. The Commission accordingly struck out the petition.

**BRIEF ON**  
**MEMO NO. 393**

**Petitioner's Full Name(s) And Address(es)**

Alhaji (Dr.) Umaru A. Dikko

**Title of Petition**

A brief History of persecution and violation of human rights against me Facts and Background submission to the Human Rights Violations Investigation Panel

**Date of Petition**

29<sup>th</sup> July, 1999

**Particulars of Petition**

The Petitioner was the Federal Minister of Transport during the second term of President Shehu Shagari before the General Muhammadu Buhari led coup of 1983 which toppled that government. The Petitioner also doubled as the Chairman of the Presidential Task Force on Rice Importation and Distribution in Shagari's Government. The Petitioner stated that after the coup d'etat, armed Soldiers went to his official residence in Ikoyi and ransacked it in a bid to arrest him. He alleges that he was denied the three days grace which was given to other Ministers to report to their home States. According to the Petitioner, these events following in the wake of the coup confirmed his suspicion that his life was in danger. He therefore fled the country through Benin Republic and took refuge in London. While the Petitioner was in London he alleges that the harassment of his family members continued. His 94 year old father, his wives, children and friends were picked up by Government security agents and in some

cases were detained. The Petitioner stated that on assumption of office the Buhari administration embarked on a campaign of persecution against him. According to the Petitioner, the government of the day portrayed him to the world as a corrupt person who had looted the nation's treasury. As a result of these and some other events, the seeds of turbulent relationship between the Petitioner and the Buhari administration were sown. The Petitioner remained an avowed critic of the government even from exile in London incurring the wrath of the Head of State in the process. According to the Petitioner, he became a marked man and the stage was now set for what forms the main subject matter of his petition his attempted abduction from London in a crate by certain Israelis and Nigerians whom he insists were acting for the Nigerian Government. The Petitioner was however rescued unconscious from the crate and his captors were tried and sentenced to various terms of imprisonment in London. He alleges that the Military Government of General Buhari wanted to silence him because he knew too much about them and their deals. The Petitioner accused top government functionaries of the time including Mr. Bernard Banfa formerly of the Nigeria Airways, General Hannaniya, then Nigeria's High Commissioner to London, Alhaji Lawal Rafindadi then Director-General of the NSO as well as General T.Y. Danjuma of complicity in his attempted abduction. The Petitioner also complains that despite overwhelming evidence of the involvement of the Government of the day in his attempted kidnap, neither that government nor any of its successors has deemed it necessary to apologise to him or to compensate him. Over and above material compensation however, the Petitioner would like the Commission to set the necessary machinery in motion to clear his name so that the picture allegedly painted of him by the Military as a corrupt man who looted the nation's treasury may be erased.

**Period Covered by the Petition**

1983 till date

**Names and Addresses of Persons or Institutions Petitioned Against**

- a) The Federal Government
- b) General Muhammadu Buhari
- c) Mr. Bernard Banfa, C/o., Nigeria Airways
- d) General Hannaniya, former High Commissioner to London
- e) Alhaji Lawal Rafindadi, former DG, NSO
- f) Lt. General T.Y. Danjuma
- g) Major Muhammed Yusuf (rtd)

**Injuries Allegedly suffered by the Petitioner**

Self-exile in London for twelve years as a result of persecution by the government of General Buhari Confinement to his house under Police protection for one year as a result of his attempted kidnap huge financial losses as a result of missed business opportunities Mental trauma owing to his attempted abduction Alleged defamation of his character by the Buhari Administration.

**Relief sought by the Petitioner**

- a) That the records be set straight and his honour restored.
- b) That the Commission should ensure that justice is done to him.
- c) That he be adequately compensated.

**Mode of Treatment of Petition**

Public hearing of the petition commenced during the First Abuja

Sitting and was concluded during the third Abuja Sitting. The Petitioner adopted the contents of his petition and gave oral evidence.

### **Evidence of Alleged Perpetrators**

Of all the alleged perpetrators, only General T.Y. Danjuma appeared before the Commission and gave evidence. General Buhari filed a law suit at the Federal High Court against the Commission challenging the competence of the Commission to compel his appearance before it amongst other relief. General Buhari was represented by counsel who sought to present evidence and cross-examines other witnesses without in turn presenting their client for cross examination. In a composite ruling affecting all the former Heads of State who failed to appear before the

Commission, the Commission ruled on the 3<sup>rd</sup> day of October, 2001 that Counsel to the former Heads of State could not participate in the public hearings of the Commission while keeping their clients away from its proceedings.

General T.Y. Danjuma who was alleged by the Petitioner to have been paid ten million U.S. dollars by the Buhari administration to provide a link with the Israeli terrorists who allegedly kidnapped the Petitioner presented a written response to the petition.

In his testimony, he denied the petitioner's allegation that he played a role in his attempted abduction in London. He stated that by that time the attempted abduction took place in 1984 he had been out of government for five years following his retirement as COAS and Member of the Supreme Military Council and was engaged in private business. The Respondent further stated that he only accepted to serve in Government as a Minister on the 29<sup>th</sup> of May, 1999.

The witness was cross examined by Counsel to the Petitioner as well as Counsel to the Commission. He reiterated during the cross examination that he had no link whatsoever with the attempted abduction of the petitioner.

### **Findings and Observations**

After reviewing the evidence of the petitioner and the alleged perpetrators the Commission finds as follows:

- The Petitioner's testimony linking the Government of General Muhammadu Buhari to his abduction was not Controverted by any contrary evidence.

The alleged perpetrators mentioned in the Petition and whom the petitioner stated had played key roles in his abduction were given ample opportunity by the Commission to respond to the petition. Only General T.Y. Danjuma so responded.

The Commission finds the testimony of General Danjuma denying any role in the abduction of the Petitioner credible and satisfactory and commends the reconciliation of the petitioner and General Danjuma which was at the instance of the Commission.

### **Recommendations**

The Commission, in the light of its findings and observations above, recommends as follows:

- A public apology by the Federal Government to the Petitioner
- Payment of the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira ) by the Federal Government to the Petitioner for the inhuman treatment meted out to him.

**BRIEF ON**  
**MEMO NO.124**

**Petitioner's Full Name(s) And Address(es)**

Colonel Olusegun Oloruntoba (N/3245)

No address supplied

**Title of Petition**

Memorandum on Human Rights Abuses from 27<sup>th</sup> February,  
1995 to 4<sup>th</sup> March, 1999

**Date of Petition**

18<sup>th</sup> June, 1999

**Particulars of Petition**

The Petitioner then a Colonel in the Nigerian Army was tried by the General Patrick Aziza Coup Tribunal in 1995, convicted and sentenced to death. He was charged with failing to report Colonel Bello-Fadile when the latter discussed the annulment of the June 12 elections with him. The Petitioner was also charged with treason and concealment of treason. The Petitioner dismissed the charges of coup plotting as trumped up insisting instead that the real reason why he became a target of the then Head of State General Sani Abacha was because he and some officers had failed to support General Abacha's bid to sack the then Interim National Government of Chief Ernest Shonekan and install himself as Head of State. The Petitioner also alleged that he incurred the wrath of General Abacha when he refused to cooperate with Abacha's agents in their bid to frame General Olusegun Obasanjo and late Shehu Musa Yar'adua for coup plotting. The Petitioner described the terrible and inhuman conditions which he and other

prisoners had to endure during his incarceration. He and the other coup convicts were subjected to severe torture as well as a situation of near starvation, the latter being the lot of the average prisoner in Nigeria. The Petitioner urges the Commission to redress the abuse of his human rights.

**Period Covered by the Petition**

1993 till date.

**Names and Addresses of Persons or Institutions Petitioned Against**

- The Nigerian Army
- The Patrick Aziza Coup Tribunal
- Late General Sani Abacha

**Injuries allegedly suffered by the Petitioner**

- Underserved trial on trumped up charges of coup plotting
- Underserved death sentence
- Severe torture and starvation while in prison
- Truncated Military career

**Relief Sought by the Petitioner**

That justice be done to him and other deserving coup convicts  
That the sub-human conditions in Nigeria Prison be improved upon.

**Number of years of Service**

The Petitioner rose to the rank of Colonel in the Army

**Mode of treatment of Petition**

The petition was publicly heard during the First Abuja sitting of the

Commission. The Petitioner adopted the contents of his petition and also gave oral evidence.

### **Evidence of alleged perpetrators**

The petition was consolidated with the other coup plot related petitions. In view of the consistency of the evidence of this group of petitioners, the Commission decided that it had received enough evidence on the alleged torture of the Petitioner.

### **Findings and Observations**

After reviewing the evidence of the petitioner and the alleged perpetrators, the Commission finds as follows:

- ❖ The Petitioner's evidence of torture during his interrogation was credible and consistent with the evidence of the other petitioners in this category.
- ❖ The evidence put before the Commission supported the petitioner's testimony that he was tortured.
- ❖ The evidence of torture of the Petitioner was not controverted by the testimony of the alleged perpetrators.

The Commission on the basis of the evidence put before it finds that the petitioner was a victim of torture, inhuman and degrading treatment contrary to Section 310 of the Constitution of the Federal Republic of Nigeria, 1979 then in force.

The Petitioner was denied legal representation of his choice contrary to Section 33 (6) C of the 1979 Constitution of the Federal Republic of Nigeria then in force.

The Commission further finds that the Petitioner and the others who

were tried with him were denied fair hearing and their constitutional right of appeal to a higher tribunal.

### **Recommendations**

The Commission in the light of its findings and observations above recommends as follows:

- ❖ That the trial and conviction of the petitioner for treason be referred to the courts for nullification.
- ❖ That the petitioner be allowed to retire on the rank currently held by his course-mates.
- ❖ That the petitioner be paid his accrued emoluments with effect from the time of his arrest till date in line with the salaries and emoluments currently enjoyed by his course-mates.
- ❖ Payment of the sum of N250,000.00(Two Hundred and Fifty Thousand Naira) to the petitioner for the torture, inhuman and degrading treatment meted out to him.
- ❖ An apology from the Federal Government

**BRIEF ON**  
**MEMO NO. 1328**

**Petitioner's Full Name(s) and Address(es)**

Professor Femi Odekunle

**Title of Petition**

**Date of Petition**

**Particulars of Petition**

**Period covered by the petition**

**Names and Addresses of Persons or Institutions Petitioned  
Against**

**Injuries allegedly suffered by the petitioner**

**Reliefs Sought by the Petitioner**

**Mode of treatment of petition**

The petition was listed for hearing during the First Abuja session but was remitted to the second Abuja session on account of the absence of the petitioner. When the petition was called for hearing, Counsel to Mohammed Abacha raised an objection to the hearing of the petition in view of the court order which Abacha secured from the Federal High Court, Abuja restraining the Commission from hearing any aspect of the petition relating to Mohammed Abacha until the final determination of the suit. After a long deliberation, the Commission

ruled that petitioner could present his petition but without any reference to Mohammed Abacha.

### **Evidence of Alleged Perpetrators**

Major Hamza Al-Mustapha testified and explained the circumstances surrounding the petitioner's arrest and detention. He also confirmed the evidence of torture of the petitioner but maintained that he did not order anybody to torture him. The witness finally apologized to the petitioner and his family for the ordeal they underwent.

### **Findings and Observations**

After reviewing the evidence of the petitioner and the alleged perpetrators, the Commission finds as follows:

- ❖ The Petitioner was one of those arrested, tortured and charged in the wake of the alleged coup plot of 1997.
- ❖ His testimony of his torture and ill-treatment of his family was corroborated by the testimony of his wife and that of one DSP Isaiah Adebowale, a State Security Service operative and Chief Detail to the then Chief of General Staff, Lt. General Oladipo Diya.
- ❖ His evidence of torture was also corroborated by Major Hamza Al-Mustapha who apologized for the ordeal of the Petitioner.
- ❖ The Commission finds that the continued detention of the Petitioner for two and a half months after his discharge and acquittal by the tribunal amounted to illegal detention.
- ❖ The Commission noted with satisfaction the reconciliation of Major Hamza Al-Mustapha with the petitioner and his wife at The instance of Major Al-Mustapha.

### **Recommendation**

The Commission in the light of his findings and observations above recommends as follows:

- ✓ An apology by the Federal Government to the petitioner for the torture inflicted upon him following his alleged complicity in the 1997 coup d'etat and for his continued detention after he had been discharged and acquitted by the tribunal.
- ✓ Payment of the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira) for the ordeal he underwent.

**BRIEF ON  
MEMO NO. 31**

**Petitioner's Full Name(s) and Address(es)**

Lt. Col. Richard Obiki

**Title of Petition**

**Date of Petition**

**Particulars of Petition**

**Period covered by the petition**

**Names and Addresses of Persons or Institutions Petitioned  
Against**

**Injuries Allegedly Suffered by the Petitioner**

**Relief Sought by the Petitioner**

**Number of years of Service**                      Not stated

**Mode of treatment**

The petition was heard during the First Abuja sitting of the Commission.

The petitioner adopted the contents of his petition and gave oral evidence.

**Evidence of alleged Perpetrator(s)**

The petition was consolidated with the other coup plot related petitions. In view of the consistency of the evidence of this group of petitioners, the Commission decided that it had received enough evidence on the alleged torture of the petitioner.

### **Findings and Observations**

After reviewing the evidence of the petitioner and the alleged perpetrators, the Commission finds as follows:

- The petitioner 's evidence of torture during his interrogation was credible and consistent with the evidence of the other petitioners in this category.
- The evidence put before the Commission supported the petitioner's.
- Testimony that he was tortured.

The evidence of torture of the petitioners was not controverted by the testimony of the alleged perpetrator.

The Commission on the basis of the evidence put before it finds that the Petitioner was a victim of torture, inhuman and degrading treatment contrary to Section 310 of the Constitution of the Federal Republic of Nigeria, 1979 then in force.

The petitioner was denied legal representation of his choice contrary to Section 33 (6) C of the 1979 Constitution of the Federal Republic of Nigeria then in force.

The Commission further finds that the petitioner and the others who were tried with him were denied fair hearing and their constitutional right of appeal to a higher tribunal.

**Recommendation**

The Commission in the light of its findings and observations above recommends as follows:

- That the trial and conviction of the petitioner for treason be referred to the courts for nullification.
- That the petitioner be allowed to retire on the rank currently held by his course-mates.
- That the petitioner be paid his accrued emoluments with effect from the time of his arrest till date in line with the salaries and emoluments currently enjoyed by his course-mates.
- Payment of the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira) to the petitioner for the torture, inhuman and degrading treatment meted out to him.
- An apology from the Federal Government.

**BRIEF ON**  
**MEMO NO. 1298**

**Petitioner's Full Name(s) and Address(es)**

Femi Falana

**Title of Petition**

**Date of Petition**

**Particulars of Petition**

**Period covered by the petition**

**Names and Addresses of Persons or Institutions Petitioned  
Against**

**Injuries Allegedly Suffered by the Petitioner**

**Reliefs Sought by the Petitioner**

**Mode of treatment of petition**

The petition was heard publicly. The petitioner adopted the contents of his petition and gave oral testimony.

**Evidence of Alleged Perpetrators**

Mr. Gregory Cass Ene Gwei testified for the National Youth Service Corp.

In his testimony, he denied the petitioner's allegation of withholding of his Discharge Certificate by the NYSC and rather stated that the petitioner failed to collect his Certificate in keeping with the tradition of the organization. He also denied any link between the petitioner's defence of certain undergraduates In court and the withholding of his certificate.

### **Findings and Observations**

After reviewing the evidence of the petitioner and the alleged perpetrators, the Commission finds as follows:

- The petitioner was one of the numerous human rights activists who suffered various abuses of their rights during successive Military Regimes in Nigeria.
- The petitioner was a victim of several arrests and detention by officers of the State Security Service, the Nigeria Police and the Directorate of Military Intelligence as well as the Interim National Government of Chief Ernest Shonekan for his human rights activities.
- The Commission notes the release of the petitioner's discharge Certificate before it as a step in the right direction.

### **Recommendations**

The Commission in the light of its findings and observations above Recommends as follows:

- ❖ An apology by the Federal Government to the petitioner for the numerous abuses of his rights through several unlawful arrests and detention.

- ❖ Payment of the sum of N100,000.00 (One Hundred Thousand Naira) for the numerous abuses of his human rights by successive Governments in Nigeria.

**BRIEF ON**  
**MEMO NO. 654**

**Petitioner's Full Name(s) and Address(es)**

Chief Yomi Tokoya

**Title of Petition**

**Date of Petition**

**Particulars of Petition**

**Period covered by the petition**

**Names and addresses of persons or Institutions Petitioned Against**

**Injuries allegedly suffered by the petitioner**

**Reliefs sought by the petitioner**

**Mode of treatment of Petition**

The petition was slated for hearing during the First Abuja sitting of the Commission. However, owing to the absence of the petitioner, it was Moved to the second Abuja session during which the petitioner sent a Letter to the Commission seeking to withdraw his petition on the Ground that he had forgiven all those who violated his human rights. This move was vehemently opposed by counsel to some of the alleged perpetrators who were present namely: Brig. General Ibrahim Sabo, Major Hamza Al-Mustapha, and Major Argungu who insisted that their Clients must be allowed to present their own sides of the story. The

Petitioner eventually appeared before the Commission and the petition Proceeded to full hearing.

### **Evidence of Alleged Perpetrators**

Major Hamza Al-Mustapha and Brigadier General Ibrahim Sabo who were Mentioned in the petition as having participated in the violation of the Petitioner's rights testified. Major Al-Mustapha in his testimony described the petitioner as a well known security informant who aligned himself with any Government in power for monetary gains. Brigadier-General Sabo in his own testimony urged the Commission to discountenance the allegations of the petitioner whom he described as someone willing to do anything for money.

### **Findings and Observations of the Commission**

After reviewing the evidence of the petitioner and the alleged perpetrators The Commission finds as follows:

- The petitioner was one of those arrested, tortured and charged in the wake of the 1997 alleged *coup d'etat*. His evidence of torture was not controverted by the alleged perpetrators.
- Despite the discharge and acquittal of the petitioner on charges of sedition, his detention continued until he was set free by the Abdulsalami Abubakar administration. The Commission holds that the Petitioner's continued detention after his discharge and acquittal was Illegal.
- The Commission further observes that the petitioner acted as security informant to successive governments and it was in the course of this that he became implicated in the alleged coup plot.
- The Commission further notes that the petitioner had in his letter requesting withdrawal of his petition stated that he had forgiven all those who violated his human rights and only

subsequently appeared before the Commission at the insistence of the alleged perpetrators.

**Recommendations**

The Commission in the light of its findings and observations above Recommends as follows:

- An apology by the Federal Government to the petitioner for the torture inflicted upon him following his alleged complicity in the 1997 coup d'etat and for his continued detention after his discharge and acquittal by the Special Military Tribunal.

**BRIEF ON**  
**MEMO NO. 101**

**Petitioner's Full Name(s) and Address(es)**

Lt. Akin Olowookere(NN 1330)  
Plot 51, Ubiaja Crescent, Opp.  
CBN Senior Staff Quarters,  
P.O. Box 3999,  
Garki II, Abuja

**Title of Petition**

Unlawful arrest, detention and sentence to death

**Date of Petition**

7<sup>th</sup> July, 1999

**Particulars of Petition**

The petitioner was arrested on the 6<sup>th</sup> of March, 1995 by one Major Adamu Argungu on the orders of Major Hamza Al-Mustapha on charges of complicity in the coup plot allegedly involving Col. Lawan Gwadabe. He was subsequently condemned to death by the General Patrick Aziza Tribunal and was eventually retired from service as a Navy Lt. The petitioner attached relevant documents.

**Period covered by the Petition**

6<sup>th</sup> March, 1995 – 4<sup>th</sup> March, 1999

**Names and Addresses of Persons or Institutions Petitioned  
Against**

- Major Adamu Argungu, HQ Brigade, Abuja
- Major Hamza Al-Mustapha
- The General Patrick Aziza Coup Tribunal

### **Injuries Allegedly suffered by the Petitioner**

- Unlawful arrest and incarceration
- Undeserved death sentence
- Unjust retirement from the service of the
- Nigerian Navy

### **Relief sought by the petitioner**

- Retirement on the rank of Lt. Commander as against Navy Lt.
- To bring him at par with his course mates as at 1999.
- Payment of his outstanding remunerations and other Retirement benefits.
- Compensation and rehabilitation.
- Retrieval of his Mitsubishi Gallant Car from Major Argungu

### **Number of years of service**

The petitioner stated that he joined the Military in August 1980 and was retired in 1999.

### **Mode of treatment of petition**

The Petitioner was present at the Commission's First Abuja sitting. His case was consolidated with the other petitions dealing with the 1995 alleged coup plot and remitted to the Commission's second Abuja sitting.

### **Evidence of alleged Perpetrator(s)**

Generals Felix Mujakperuo and Patrick Aziza gave evidence during the

second sitting of the Commission in Abuja. While General Mujakperuo denied involvement in the torture of the petitioner, General Aziza distanced himself from the arrest, interrogation and torture of the petitioner.

### **Findings and Observations of the Commission**

After reviewing the evidence of the petitioner and the alleged perpetrators during the public sitting of the Commission, the Commission finds as follows:

- The petitioner's evidence of torture during his interrogation was consistent with the testimony of the other petitioners accused of complicity in the 1995 alleged coup plot.
- The Commission finds that the evidence of torture of the petitioner was largely uncontroverted by the evidence of the alleged perpetrators and strongly condemns the torture, inhuman and degrading treatment meted out to the petitioner and others in this category.
- The Commission finds that the accused person was denied legal representation of his choice contrary to Section 33(6)C of the 1979 Constitution of the Federal Republic of Nigeria.
- The Commission further finds that the petitioner was denied his constitutional right of appeal to a higher tribunal.
- It is therefore the finding of the Commission that the petitioner was denied fair hearing in the conduct of his trial.

### **Recommendations**

The Commission in the light of its findings and observations above recommends as follows:

- ❖ That the trial and conviction of the petitioner for treason be referred to the courts for nullification.

- ❖ That the petitioner should be allowed to retire on the rank currently held by his course-mates.
- ❖ Payment of the petitioner's accrued emoluments with effect from the time of his arrest till date in line with the salaries and emoluments being presently enjoyed by his course-mates.
- ❖ Payment of the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira) for the torture, inhuman and degrading treatment meted out to the petitioner.
- ❖ An apology from the Federal Government

**BRIEF ON**  
**MEMO NO. 147**

**Petitioner's Full Name(s) and Address(es)**

Capt. U.S.A. Suleiman(rtd)  
9 Ajumobi St., Off Acme Road,  
P.O. Box 13386,  
Ikeja, Lagos.

**Title of Petition**

Memorandum for the Human Rights Violation Investigation Panel on my Torture, Detention without trial, and retirement from the Nigerian Army on my alleged involvement in 1995 phantom coup.

**Date of Petition**

Undated.

**Particulars of Petition**

The Petitioner, then a Captain in the Nigerian Army was serving at the NDA, Kaduna when he was called to Lagos on the 22<sup>nd</sup> of November, 1994. He arrived on schedule and was immediately placed on close arrest/solitary confinement for 11 months without trial. He was held in three different locations during the period of his confinement. The petitioner gave graphic details of the sub-human conditions in which he and other detainees were kept at the detention centre including an artist's impression of the torture positions they were forced to adopt – either standing or sitting in one position all day long and all night long. Indeed, details of the level of cruelty meted out to the petitioner and his co-detainees as narrated by him defy imagination. The petitioner's travails started when he was invited to Lagos by the DMI

and accused of discussing with another officer at the NDA Kaduna parade ground, an imminent surprise attack on the government of General Sani Abacha in the early days of November when the alleged discussion took Place, 1994. He was also accused of having entertained a visit from one Col. A.D. Umar(rtd) as well as having been overheard making other Derogatory remarks about the Abacha government. The petitioner refuted all the allegations and provided an alibi in this defence. He stated in his defence that in the first week of November, 1994, he was away in Kachia and in he second week, he was excused from duty due to a severe attack of malaria. On the 7<sup>th</sup> of April, 1995, the petitioner was brought before a team of interrogators comprising Col. Frank Omenka, Col. Santuraki and A.C.P. Zakari Biu. The panel upon noting his firmness and the consistency of his story invited the source of the allegation to prove his claim. The source turned out to be one of his cadets at the NDA, one M.A. Sadiq, now an Army Lieutenant who according to the petitioner confessed to the panel that he misrepresented the facts of his discussion with him (the petitioner) According to the petitioner, a higher panel headed by Gen. Felix Mujakperuo after questioning the petitioner recommended that M.A. Sadiq be expelled from the NDA for conduct unbecoming of an aspiring officer.

None of the recommendations was implemented. On 25/10/95, the petitioner was informed in detention by a representative of the Military Secretary that he and some other officers had been compulsorily retired from the service of the Nigerian Army.

**Period covered by the Petition**

November 1994 - October, 1995.

**Names and Addresses of persons or Institutions petitioned  
Against**

- The Nigerian Army
- Col. Frank Omenka
- ACP Zakari Biu – NPF
- Col. K.J. Olu
- Lt. M.A. Sadiq
- Maj. Gen. Felix Mujakpaeruo
- Maj. Gen. Patrick Aziza
- Col. Alaga – DMI
- Maj. Dank
- Lt. Col. Suleiman I. Abdulkadir – DMI
- Security Group of the DMI

**Injuries Allegedly suffered by the Petitioner**

- Mental and physical torture
- Stigmatisation of self and family
- Unjust compulsory retirement from the Army

**Relief Sought by the Petitioner**

To be vindicated by the Commission and the records put straight for those responsible for his travails to be brought to justice his dignity to be restored.

Apology and any other action considered appropriate to redress the wrong done to him.

**Number of Years of Service**

Not stated

**Mode of treatment of Petition**

The petition was heard during the first public sitting of the Commission and was concluded during the second Abuja sitting. The petitioner adopted the contents of his petition and gave oral evidence.

### **Evidence of alleged perpetrator(s)**

ACP Zakari Biu testified during the first Abuja session. Generals Patrick Aziza, Chairman of the Special Military Tribunal and Felix Mujakperuo, Head of the Special Investigation Panel gave evidence during the second Abuja sitting. They all denied ordering or partaking in the torture of the petitioner.

### **Findings and Observations of the Commission**

After reviewing the evidence of the petitioner and the alleged perpetrators the Commission finds as follows:

- The petitioner's evidence of torture during his interrogation was credible and consistent with the evidence of the other petitioners in this category. The evidence put before the Commission supported the petitioner's testimony that he was tortured.
- The evidence of torture of the petitioner was not controverted by the testimony of the alleged perpetrators.
- The Commission on the basis of the evidence put before it finds that the petitioner was a victim of torture, inhuman and degrading treatment contrary to Section 31C of the Constitution of the Federal Republic of Nigeria, 1979 then in force.
- The petitioner was denied legal representation of his choice Contrary to Section 33(6) C of the 1979 Constitution of the Federal Republic of Nigeria then in force.
- The Commission further finds that the Petitioner and the others who were tried with him were denied fair hearing and their constitutional right of appeal to a higher tribunal.

## **Recommendations**

The Commission in the light of its findings and observations above recommends as follows:

- ❖ That the trial and conviction of the petitioner for treason be referred to the courts for nullification.
- ❖ That the petitioner be allowed to retire on the rank currently held by his course-mates.
- ❖ That the petitioner be paid his accrued emoluments with effect from the time of arrest till date in line with the salaries and emoluments currently enjoyed by his course-mates.
- ❖ Payment of the sum of N250, 000.00 (Two Hundred and Fifty Thousand Naira) to the petitioner for the torture, inhuman and degrading treatment meted out to him.
- ❖ An apology from the Federal Government.

**BRIEF ON**  
**MEMO NO. 306**

**Petitioner's Full Name(s) and Address(es)**

Col. E.I. Jando,  
C/o. Mandela Chambers,  
NUJ House,  
P.O. Box 3076, Makurdi,  
Benue State, Nigeria.

**Title of Petition**

Forwarding Of Memorandum By Col. E.I. Jando. Col. E.I. Jando's  
So-Called Involvement In The Diya Coup Plot.

**Date of Petition**

27<sup>th</sup> July, 1999

**Particulars of Petition**

The Petitioner was a former Commander of the 32 Field Artillery Brigade, Abeokuta covering four States: Ogun, Ondo, Ekiti and Edo States. He took over Command of the Brigade on 7/11/97. On 1<sup>st</sup> December, 1997, while the petitioner was on an official conference in Abuja, he received a message that General A. T. Olanrewaju wanted to see him. He saw and discussed with the General with whom he had a close relationship.

On 21/12/97, the petitioner was informed in the barracks that his attention was needed in Lagos by the Chief of Army Staff. On arrival in Lagos, he was taken to the Security Group in Apapa where he was handcuffed and leg-chained. He was thereafter informed that he was

a suspect in a coup plot to topple the government of General Sani Abacha. From Lagos, he was flown to Abuja along with other officers who had also been arrested in connection with the same coup. They were detained for 14 days and then taken to Jos for interrogation and trial.

In Jos, they were chained hand and foot 24 hours a day in cells measuring 6” x 8”. According to him, he and the other suspects were subjected to various forms of torture, inhuman and dehumanizing treatment.

Eventually, the Petitioner got to know that one Col. M.N. Madza had reported to General Abacha that Major General Olanrewaju was planning a coup and had informed him (The Petitioner) about it. The petitioner was charged before the Coup Tribunal with “Concealment of information of treasonable value”, concealment of any uncomplimentary remarks about General Abacha was at this point in time treated as treason.

During the Petitioner’s trial, Co. N.N. Madza was the only prosecution witness against him. According to the Petitioner, Madza told lies against him and General Olanrewaju during the trial. His testimony was different from an earlier discussion which he (The Petitioner) had had with Olanrewaju and different from what was contained in his charge sheet. Despite the discrepancies, he was convicted. The Petitioner believes he was victimized because of his relationship with General Olanrewaju which pre-dated the coup plot. He denied any link with the 1997 “Coup plot”.

**Period covered by the Petition**

1997 till date

**Names and addresses of persons or institutions petitioned against**

- Col. N.N. Madza
- 1997 Coup Tribunal
- The Nigerian Army

**Injuries allegedly suffered by the petitioner**

- Unlawful arrest and detention
- Torture, inhuman and degrading treatment
- Illegal charge before a Military Tribunal and Unlawful conviction
- Denial of right to fair hearing
- Repeated attempts on his life after conviction
- Illegal removal of his personal effects.

**Relief sought by the petitioner**

- ❖ That his trial and conviction be reviewed.
- ❖ Reinstatement into the Nigerian Army
- ❖ Apology for the suffering and degradation suffered by himself and his family in the course of the nightmare

**Number of years of service**

Not stated

**Mode of treatment of petition**

- The petition was publicly heard during the first Abuja sitting of the Commission.
- The petitioner adopted the contents of his petition and gave oral evidence.

- The petitioner denied any involvement with 1997 or any other coup plot.

### **Evidence of alleged perpetrator(s)**

Colonel N.N. Madza whom the petitioner alleged had falsely implicated Him in the alleged coup plot testified. Colonel Madza during his testimony apologized to the petitioner for the ordeal he and the other officers accused of coup plotting underwent. He stated that he regretted his action which had caused him many sleepless nights. General Tajudeen Olanrewaju who was also implicated in the coup plot was said to be overseas on medical grounds.

The case was accordingly closed.

### **Findings and Observations of the Commission**

After reviewing the evidence of the petitioner and the alleged perpetrator, the Commission finds as follows:

- ❖ The petitioner's evidence of torture during his interrogation was credible and consistent with the evidence of other petitioners who were implicated in the 1997 alleged coup plot.
- ❖ The evidence of torture presented by the petitioner confirmed by the testimony of Colonel N.N. Madza who admitted in his testimony that he falsely implicated the petitioner in the alleged coup plot.
- ❖ The Commission on the basis of the evidence put before it finds that the petitioner was a victim of torture, inhuman and degrading treatment contrary to Section 31(1) of the Constitution of the Federal Republic of Nigeria, 1979 then in force.

- ❖ The Petitioner was denied legal representation of his choice contrary to Section 33(6) C of the 1979 Constitution of the Federal Republic of Nigeria then in force.
- ❖ The Commission further finds that the petitioner and the others who were tried with him were denied fair hearing and their constitutional right of appeal to a higher tribunal.

### **Recommendations**

The Commission in the light of its findings and observations above recommends as follows:

- That the trial and conviction of the petitioner for “concealment of information of treasonable value” be referred to the courts for nullification.
- That the petitioner be allowed to retire on the rank currently held by his course-mates.
- That the petitioner be paid his accrued emoluments with effect from the time of his arrest till date in line with the salaries and emoluments currently enjoyed by his course-mates.
- Payment of the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira) to the petitioner for the torture, inhuman and degrading treatment meted out to him.
- An apology from the Federal Government.

**BRIEF ON**  
**MEMO NO. 254**

**Petitioner's Full Name(s) and Address(es)**

Ogaga Ovwah Esq.  
185, Murtala Mohammed Way,  
2nd Floor, Recana House,  
Benin City.

**Title of Petition**

Memorandum on Innocent Oghenero Zundu Ovwah (deceased)

**Date of Petition**

22nd July, 1999

**Particulars of Petition**

This is a petition presented by the Ovwah family on the murder of their son and brother Late Innocent O.Z. Ovwah who until his death was a staff of Federal Road Safety Commission, Abuja. The deceased was allegedly murdered in the evening of 3/3/98 along Gado Nasko Road, Kubwa, Abuja by three men who are in the employment of the National Intelligence Agency. The murderers were named to be Mr. Adejoh Abdul of Phase III, Site I, Kubwa, Abuja, Mr. Noah Omakongi of Block 101, Kubwa, Abuja and a third man whose name is not known to the petitioner. The three men were said to be in a Peugeot 505 car with registration No. AA 434 LAM on that fateful day while the deceased was on a commercial Motorcycle as a passenger. The rider of the Motorcycle allegedly had a minor accident with the Peugeot 505 car and this resulted in a heated argument. The late Mr. Ovwah then came down and attempted to settle the disputing parties and

suggested that the matter be taken to the Police as both parties were claiming to be right. He then brought out his identity card but this infuriated the three NIA men who allegedly descended on him heavily until he slumped on the spot and died. The NIA men allegedly carried him to General Hospital, Kubwa where he was confirmed dead. The three men were advised to take the corpse to Garki General Hospital since Kubwa General Hospital had no mortuary. It was at this point that the three men fled leaving their car behind. They were later arrested by the Police but were surprisingly granted bail by the Chief Magistrate Court, Wuse, Abuja on 24/4/98 and nothing was done in respect of the matter till date. The Investigating Police Officer is said to be one Sgt. Franklin (No. 139740) of Nigeria Police, Abuja.

**Period Covered by the petition**

1998 to present

**Names and Addresses of Persons or Institutions Petitioned  
Against**

- ❖ The Director-General, National Intelligence Agency, Garki, Abuja
- ❖ The Inspector-General of Police, Force CID, Abuja.
- ❖ The Hon. Attorney-General of the Federation and Minister of Justice.

**Injuries Allegedly suffered by the petitioner**

- ❖ Bereavement
- ❖ Non-prosecution of the suspects

**Relief Sought by the petitioner**

- ❖ Prosecution of the three men responsible for the death of late O.Z. Ovwah.

- ❖ Demands for justice

### **Mode of treatment of Petition**

The petition was heard during the first Abuja sitting. The petitioner adopted his petition and also gave oral evidence. The petitioner's Prayer was that the case should be re-opened and re-investigated.

### **Evidence of alleged perpetrator(s)**

The alleged perpetrators were not invited by the Commission. The Investigating Police Officer (IPO) who investigated the case appeared before the Commission and testified. He informed the Commission that following the death of the deceased, his employers, the Federal Road Safety Corp had embalmed the corpse without informing the Police. According to him, the pathologists consequently refused to carry out an autopsy on the corpse. Since there was no autopsy report, the Director of Public Prosecutions terminated the case. The case file in respect of the case was admitted in evidence.

### **Findings and Observations of the Commission**

After reviewing the evidence of the petitioner and the alleged Perpetrator, the Commission finds as follows:

- ✓ Following the unlawful killing of the petitioner's brother, the perpetrator of the crime were arrested by the Police but were granted bail by the Wuse Chief Magistrate Court.
- ✓ Until the time of the hearing of the petition, no further steps had been taken to initiate criminal proceedings against the suspects.
- ✓ The Commission observes that the alleged perpetrators are named and identifiable individuals.

- ✓ The Commission finds that investigation into the killing of the deceased by the Police was not thorough enough thereby hampering the prosecution of the alleged perpetrators.

### **Recommendations**

In the light of its findings and observations above, the Commission Recommends that:

- ✓ the case be re-opened by the Inspector-General of Police and thoroughly re-investigated.
- ✓ all those implicated in the unlawful killing of the deceased should be prosecuted.

**BRIEF ON**  
**MEMO NO. 787**

**Petitioner's Full Name(s) and Address(es)**

Julius Anakor,  
c/o., Prince Orji Nwafor-Orizu  
(Solicitor representing the family of late Samuel Anakor)  
Suite 68, Corner shops,  
Area 7A (behind Cultural Centre),  
Garki  
P.O. Box 8761, Wuse,  
Abuja.

**Title of Petition**

Breach of Fundamental Rights To Life by the FIIB Nigeria Police Wuse,  
Abuja in respect of Samuel Anakor sometime in June, 1992

**Date of Petition**

11<sup>th</sup> August 1999

**Particulars of Petition**

This petition reports the unlawful arrest, detention and possibly extra-judicial killing of one Samuel Anakor, the son of the petitioner, in Abuja sometime in June, 1992.

The deceased had traveled to Abuja from Aba in pursuit of his business activities. He drove in his own motor vehicle and with a large amount of cash in the sum of N450,000. Two weeks after his departure, his business associates in Abuja informed his younger

brother in Onitsha Dr. Christian Anakor that the deceased had been detained at Wuse Police Station and they feared for his well-being.

Dr. Anakor immediately went to Abuja and though the Divisional Police Officer, Wuse confirmed that he had detained Samuel Anakor.

Every enquiry he made of the Police at Wuse Police Station and at the FIIB did not yield any results. In fact he alleges that one DSP Bello (the officer-in-charge, FIIB) assured him that he would 'never release Samuel alive'. He also saw Samuel's pick-up van parked in the Police premises with its licence-plate changed to a Federal Capital Territory registration number.

Since then nothing has been heard of Samuel Anakor. In desperation, the petitioner's family instructed their Solicitors who in January 1993 wrote to the Inspector-General of Police seeking his intervention for the release of Samuel but there has been no response.

The petitioner and his family are convinced that the Police murdered Samuel Anakor.

**Period Covered by the petition**

1992 to date

**Names and Addresses of Persons or Institutions Petitioned Against**

- Hon. Minister, Ministry of Police Affairs, Federal Secretariat, Abuja.
- Inspector-General of Police, Force HQ., Abuja
- Commissioner of Police, FCT Police Command, Abuja.

- Commissioner of Police, FIIB, Abuja
- Divisional Police Officer, Wuse Police Station, Abuja.
- DSP Bello, c/o FIIB, Abuja

**Injuries allegedly suffered by the petitioner**

- Unlawful arrest and detention of Samuel Anakor
- Possible murder of Samuel Anakor in Police custody.
- Harassment and intimidation by Police at FIIB, Abuja
- Psychological trauma

**Relief sought by the Petitioner**

- Payment of N400,000.00 being the cost of the vehicle seized by the Police.
- Payment of N450,000.00 being the amount in cash in the Possession of Samuel Anakor at the time of his capture by the Police.
- To recover the body of Samuel Anakor, whether alive or dead N300,000.00 being the cost of the funeral ceremony to be organized for Samuel Anakor.
- N5,000,000.00 as general compensation to the family of Samuel Anakor

**Mode of treatment of the petition**

- The petition was publicly heard during the first Abuja sitting of the Commission.
- The petitioner adopted the contents of his petition and gave oral evidence.

**Evidence of alleged Perpetrator(s)**

One Deputy Superintendent of Police Bello who was the officer in

charge of the Federal Investigation and Intelligence Bureau where the petitioner's brother was taken to was invited by the Commission to testify. Mr. Patrick Odita who had promised the family that he would speed up investigation into the disappearance of the petitioner's brother, Samuel Anakor from Police custody was also invited to testify. Neither of them answered the Commission's summonses.

### **Findings and observation of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- The petitioner's brother was on a business trip to Abuja when he was arrested by the Police for undisclosed reasons.
- The Petitioner stated that at the time of his brother's arrest, he was carrying the sum of N450,000.00 (Four Hundred and Fifty Thousand Naira\ ) on him.
- The victim was traced to the FIIB, Abuja where he was in the Custody of DSP Bello, the officer in charge and from where he subsequently disappeared and has since not been seen.
- From the evidence before it, Samuel Anakor was not charged for any offence before any court of law in Nigeria.
- The Commission observes that despite witness summonses sent to DSP Bello and Mr. Patrick Odita, they failed to appear before the Commission and their absence was not excused by the Police.
- The Commission further observes that owing to the failure of the Police witnesses to appear and testify before the Commission, the testimony of the petitioner remained uncontroverted.
- Since the Police failed to produce Samuel Anakor alive and failed to contradict the testimony of the petitioner, Samuel Anakor is presumed dead.

## **Recommendations**

In the light of its findings and observations above, the Commission Recommends as follows:

- That Samuel Anakor not having been seen alive from June 1992 till date is presumed dead and accordingly, DSP Bello and any others who may be implicated in his disappearance and presumed death should be prosecuted for his murder.
- Payment of the sum of N500,000.00 (Five Hundred Thousand Naira) as compensation to the petitioner and his family for the unlawful killing of Samuel Anakor.
- An apology to be tendered to the family of Samuel Anakor for his unlawful killing.

**BRIEF ON**  
**MEMO NO. 1393**

**Petitioner's Full Name(s) and Address(es)**

Menon Bagauda

**Mode of treatment of the Petition**

The petition was publicly heard. Hearing commenced during the Kano sitting of the Commission and was rounded up during the third Abuja sitting. Mr. Menon Bagauda and Mrs. Martha Kaltho gave evidence on behalf of the family of the missing journalist. Officers of the State Security Service and the Nigerian Police also testified. Apart from the Police and the SSS officers, Mr. Babafemi Ojudu, Editor of the "The News" Magazine which is published By Independent Communications Network Ltd, the employer of Bagauda Kaltho also gave evidence.

**Evidence of Alleged Perpetrators**

Assistant Commissioner of Police Hassan Zakari Biu testified before the Commission on what he knew of the Durbar Hotel bomb blast of 18th January, 1998 in which the missing journalist, James Bagauda Kaltho was alleged to have died. In his testimony, the witness stated that he was the Head of the Task Force on Counter Terrorism which was set up by the Police in response to the spate of bombings around the country at the material time.

The witness further stated that he took over the investigation of the Durbar Hotel bomb blast in obedience to an order of the Inspector General of Police following a letter from the State Security Service to the Inspector General of Police and signed by one A.A. Gadzama in which the Inspector General was requested to investigate the incident.

The witness admitted that he had stated during his press conference of August, 1998 that the person who died in the 1996 bomb blast was Bagauda Kaltho. The witness however stated under cross examination that as at the time of the public hearing of the case, he could no longer say with certainty that the victim of the Durbar Hotel bomb blast was Gagauda Kaltho.

Apart from ACP Hassan Zakari Bui, Deputy Commissioner of Police, Mr. Mukhtari Ibrahim who was the ACP, State CID, Kaduna State in 1996 i.e. the time of the bomb blast also testified before the Commission. This witness stated that he led a team of detectives to the bomb blast scene shortly after the explosion. For preliminary investigation. He later handed over the investigation as well as all recovered items to Zakari Bui, Superintendent of Police Godson Urowuru who was head of the bomb disposal unit in the Kaduna State Police Command also testified and told the Commission of his role in the investigation of the incident. Major Hamza Al-Mustapha in his own testimony before the Commission stated that pictures of the bomb blast victim were sent to the then Head of State, General Sani Abacha by the then Inspector-General of Police, Alhaji Ibrahim Coomassie and Mr. Peter Nwadua, Director-General of the State Security Service about a day or two after the incident. The witness stated that the pictures were marked behind them "Bagauda" Mr. Samuel Fola Caleb, an SSS operative also testified. He stated that he once shared a flat with Bagauda Kaltho and that the latter was an informant both to him and the State Security Service. When shown photographs of the bomb blast victim, he stated that he was unable to positively identify them as those of Bagauda Kaltho.

A.A. Gadzama, another senior staff of the SSS also gave evidence.

Gadzama was the State Director of the SSS in Kaduna State between 1993 and 1996 when the Durbar Hotel bombing took place. He authored the letter with its attachment to The Inspector-General of Police which stated that from information available to the SSS from their sources, the victims of the Durbar Hotel bomb blast was Bagauda Kaltho, This witness on whose letter Zakari Biu claims to have based his claims about the identity of the bomb blast victim however neither confirmed nor denied the said claims but only stated that he wrote the letter on the instruction of the DG of the SSS. He also stated that the SSS officer one A.S. Darma who was conversant with the link between Bagauda Kaltho and the bomb blast was dead.

### **Findings and observations of the Commission**

After reviewing all the evidence before it, the Commission finds as follows:

- That the testimonies of the various security agents who testified at the hearing of their petition raised more questions than answers.
- The Commission observes the inconsistencies in the testimony of ACP Hassan Zakari Biu, a key witness in this petition who in a press conference in August 1998 stated that the body recovered at the scene of the Durbar Hotel bomb blast was that of Bagauda Kaltho but informed the Commission in his written submission that he never met James Bagauda Kaltho in a personal or official capacity.
- The Commission further observes that ACP Biu based his claim regarding the identity of the bomb blast victim on the report from the SSS to the Inspector-General of Police.

- The Commission noted that the security operatives who testified in this petition were hedgy in giving information to the Commission.
- And their testimonies left the Commission now the wiser in its quest for the fate of the missing journalist.
- The Commission findings that investigation into the Durbar Hotel Bomb blast of 18<sup>th</sup> January, 1996 was conducted in a shoddy manner which was indicative of attempt to cover up rather than to shed light on the circumstances surrounding the incident. The investigation officers failed or neglected to follow certain leads which would have shed more light on the incident.
- The Commission observes that upon studying the pictures of the bomb blast victim which were tendered in evidence, Mrs. Martha Bagauda Kaltho stated: I cannot identify these pictures as my husband's Mr. Menon Bagauda also reacted in a similar vein as well as the SSS operative, Samuel Fola Caleb who knew Bagauda Kaltho closely and also failed to identify the pictures as those of Bagauda Kaltho.
- On the basis of the evidence put before it, the Commission is unable to find that the body recovered at the scene of the Durbar Hotel bomb blast on the 18<sup>th</sup> of January, 1996 was that of Bagauda Kaltho.
- The Commission is also unable to find that the missing journalist, Bagauda Kaltho is dead since legally speaking, a person can only be presumed dead seven years after he has not been heard of by those who if he had been alive would naturally have heard of him. ( See Section 144(1) of the Evidence Act, Cap. 112, Laws of the Federation of Nigeria, 1990)

## **Recommendations**

In the light of its findings and observations above, the Commission recommends as follows:

- That a high level team of seasoned investigators drawn from different security agencies be empanelled by the Inspector-General of Police to unravel the circumstances surrounding what may well be a heinous crime going by the evidence of state sponsored bomb blasts adduced before the Commission during the period in question.
- The investigating panel should carefully scrutinize the testimonies adduced before the Commission especially the possibility of complicity of the State in the alleged “death of Bagauda Kaltho.
- Mention must be made here of the evidence of Major Hamza Al-Mustapha who informed the Commission that a day or two after the Durbar Hotel bomb incident, pictures of the body recovered at the scene were sent to the then Head of State, General Sani Abacha by the Inspector-General of Police, Alhaji Ibrahim Coomassie and the DG, SSS, Peter Nwaodua with the pictures marked “Bagauda” at the back.
- The Commission recommends that at the end of the investigation into the fate of the missing journalist, if it is confirmed that he is a victim of unlawful killing, all those found to be complicit in his assassination should be brought to justice.
- The Commission further recommends that if the investigation uncovers complicity of the state in the fate of the missing journalist as being alleged by his family, a public apology should be extended to the family of Bagauda Kaltho by the Federal Government of Nigeria and the sum of N500,000.00 (Five

Hundred Thousand Naira) should be paid to the family as compensation.

**BRIEF ON**  
**MEMO NO. 1498**

**Petitioner's Full Name(s) and Address(es)**

Sgt. Julius Uwem,  
Documentation Office,  
Police College,  
Ikeja – Lagos.

**Title of Petition**

Case of Murder of Master Eliom Itubo

**Date of Petition**

9th August 1999

**Particulars of Petition**

The petitioner a serving Police Officer brought this petition in respect of the murder of his nephew (name not given) and on behalf of his elder brother, the deceased father Mr. Wari Itubo.

The deceased was coming back to Okoboh Village from Port Harcourt on 17/8/95 around 10 p.m. when he ran into some angry youths vigilante group led by Mr. Lumumba Jackson.

The deceased was severely beaten and tortured and then taken to the village town hall where one Friday Josiah told the vigilante group to take the deceased to hospital a euphemism for finishing him. Deceased was killed and his corpse dumped in a nearby pit.

The matter was reported at Abua Police Station the next day and Mr. Friday Josiah, Mr. Imiete Igoni, Lumumba Jackson and Gospel Igege were arrested.

The Police sent one Dr. Amadi to do a post mortem and the Police also took pictures. However, some powerful people in the village soon intervened and that was the end of the Police investigations. Even when the case was transferred to SIIB Port Harcourt, the same people were at work.

The Petitioner sent a petition to the COP Rivers State who endorsed the matter for immediate investigations, the 2 IPOs handling the case Cpl. Nicholas Anyanwu and PC Christmas demanded N20,000 from the petitioner before they would do any further investigation. This was because those alleged powerful people including Chief Etim Ikata had already given the IPOs N50,000,00 to stall further action.

The Petitioner and his family because of his efforts to see that justice is done are no longer safe in he village. In fact, his house was set ablaze. However, the same Chief Ikata stopped them before much harm was done as he did not want another case and the community replaced the zinc.

Chief Ikata and his cohorts also forced the Petitioner's brother to withdraw his complaint.

**5. Period covered by the Petition** 1995

**Names and Addresses of Persons or Institutions Petitioned Against**

The Inspector-General of Police, Police Headquarters, Abuja

Chief Ikata

Mr. Lumumba Jackson

Mr. Godpower Micah

Mr. Cyril Obu

Mr. Good Ben

Mr. Kenoye Oru

Note: All the above are of Okoboh Village LGA Rivers State

**Injuries Suffered by the Petitioner**

Loss of a dear one.

**Relief sought by the petitioner**

For the police to properly investigate the case and prosecute all suspects.

**Mode of treatment of Petition**

This matter came up for hearing during the Port Harcourt sitting of the Commission.

**Evidence of alleged perpetrator(s)**

The Commissioner of Police Rivers State Police Command named as one of the perpetrators opposed the relief being sought by the petitioner – that the case be re-investigated and all suspects prosecuted in his defence, he stated that the Rivers State Police Command have indeed completed investigation on this matter and that the case file was sent to the Director of Public Prosecution, Rivers State for advise. He submitted further that the matter was never prosecuted because the father of the deceased wrote letters to the

Commissioner of Police, Rivers State and the Office of the Rivers State Attorney-General asking that the matter be withdrawn. He tendered these letters in evidence.

### **Findings and Observations**

After reviewing the evidence before it, the Commission finds as follows: That the Affidavit purportedly deposed to by the father of the deceased (which he denied in his oral testimony) was sworn to by him before an appropriate authority (the Commissioner for Oath) as requested by law and therefore attracts no evidential value.

That the letters purportedly written by the father of the deceased to withdraw the matter were signed under duress as oral evidence revealed that even if (a) and (b) above are taken as represented by the alleged perpetrators, the very fact that the crime of murder is a crime against the State, it suffices to state that the offence was not one that can be terminated at the instance of the deceased's father.

### **Recommendations**

In the light of the findings above, the Commission hereby grants the relief(s) sought by the petitioner and the Commissioner of Police, Rivers State Police Command is hereby ORDERED to carry out a thorough investigation into the murder of the deceased and ensure that the suspects are brought to justice.

**BRIEF ON**  
**MEMO NO. 180**

**Mode of treatment of the Petition**

This petition was heard during the Enugu public sitting of the Commission

**Evidence of the alleged Perpetrators**

The alleged perpetrators testified and in unison denied the allegations contained in the petition. In the words of Professor Patrick Ngoddy, the allegation was based on second hand information and hearsay couched in clearly speculative and conjectural phraseology. They further alleged that the regime of the petitioner as the Vice Chancellor of University of Nigeria Nsukka brought unprecedented pain and grief to the University community as a whole as is evident in the General Bagudu Mamman administrative Audit Panel dated June 1995.

**Findings and Observation of the Commission**

After reviewing the evidence of the witnesses, the Commission finds as follows:

- That the petitioner refused to vacate his official residence after he had been removed as Vice Chancellor even though a Sole Administrator had been appointed.
- That the Military Administrator of Enugu State, Col. Mike Torey (as he then was) acting in concert with the Administrator and other forcefully ejected the petitioner from his official residence.
- That in consequence of (b) above, the petitioner's property was vandalized.

- That the petitioner's children were falsely imprisoned for about a week.

### **Recommendation**

The Commission in the light of the foregoing recommends as follows:

- That the petitioner if he believes strongly that his property were looted or his life or that of his family was threatened, should lodge a report with the police for thorough investigation.
- The issue of entitlement should be referred to the visitor of the University or the University Council for amicable and just resolution.
- The Enugu State Government should tender an apology to the petitioner for forcefully ejecting him from his official Residence and for false imprisonment of his children.
- An apology also should be rendered to Mr. Festus Nwosu by Enugu State Government for the assault meted on him on the orders of Col. Mike Torey.
- No compensation shall be awarded

**BRIEF ON**  
**MEMO NO. 859**

**Mode of Treatment of Petition**

This matter was heard during the Enugu public sitting of the Commission.

**Evidence of the alleged Perpetrators**

The alleged perpetrators did not testify because the only issue before the Commission as made out by the petitioner was that after re-investigating this case as ordered by the IGP, the Abia State Ministry of Justice was unable to give any legal advice. However on the resumed hearing of the Commission on 2<sup>nd</sup> of May, 2001, the Ministry of Justice and ably represented by the Solicitor General who reported information had been prepared and prosecution recommended based on the fact that it was an acid attack on late Rev. Ogba Okoro Ezikpe. On being informed that the said acid attack led to the death of Rev. Ogba Okoro Ezikpe, the Solicitor-General undertook to amend the recommended charge accordingly.

**Findings and observations of the Commission**

After reviewing the evidence of the witnesses, the Commission finds as follows:

- That there was an acid attack which led to the death of Rev. Ogba Okoro Ezikpe.
- That the matter was reported to the Police in Abia State who after unsatisfactory investigation was ordered to re-investigate same by the Inspector-General of Police,

- That the re-investigation report was forwarded to the Ministry of justice for legal advice.
- That the legal advice was written and a prima facie case made out but that the alleged perpetrators had not been arraigned in court as at the time of hearing this petition.
- That the Ministry of Justice was not duly informed that Rev. Ogba Okoro Ezikpe died consequent upon the acid attack hence a lesser charge was suggested .

### **Recommendations**

The Commission therefore recommends as follows:

- That the Ministry of Justice Abia State should reframe a charge in consonance with the gravity of the crime disclosed or suggested.
- Consequently, the alleged perpetrators should be arraigned before a Court of competent jurisdiction.
- The Commission declines to award any compensation.

**BRIEF ON  
MEMO NO. 331**

**Petitioner's Full Name(s) and Address(es)**

Pius Abiche Ogwuche

**Title of Petition**

**Date of Petition**

**Particulars of Petition**

**Period covered by the petition**

**Names and Addresses of Persons or Institutions Petitioned  
Against**

**Injuries Allegedly Suffered by the Petitioner**

**Reliefs Sought by the Petitioner**

**Mode of treatment of Petition**

The petition was slated for hearing during the second Abuja sitting of the Commission. However, when the case was called for hearing, the petitioner was not present and was not represented by Counsel. There was also no correspondence with the Commission regarding the reason for the petitioner's absence. The Commission conclude that the petitioner had no further interest in pursuing his petition and it was accordingly struck out.

**BRIEF ON**  
**MEMO NO. 383**

**Mode of treatment of the petition**

The matter came up for hearing during the Port Harcourt sittings of the Commission.

**Evidence of the alleged perpetrator(s)**

The alleged perpetrators were absent and unrepresented.

**Findings and observations of the Commission**

The Commission after reviewing the evidence of the petitioner finds as follows:

- That it is premature to presume the alleged victim dead, especially when there is no evidence to substantiate this presumption.
- The Commission also finds the relief for compensation being sought by the petitioner to be premature in that compensation can only arise when liability has been established against an individual or group.

**Recommendations**

The Commission in the light of the evidence before it recommends that the Commissioner of Police, Lagos State conduct an investigation into the mysterious disappearance of the alleged victim and if any foul play is established those involved should be brought to justice.

**BRIEF ON**  
**MEMO NO. 908**

**Mode of treatment of Petition**

This matter came up for hearing during the Port Harcourt sittings of the Commission.

**Evidence of the alleged perpetrator(s)**

The Commissioner of Police, Rivers State in defence of the allegation as set out in the petition stated that no formal complaint was ever made to his officers at any of the Police Stations in the State concerning the death of the victim, so as to bring the facts of the incident to their knowledge. He submitted further that in the absence of any formal report, no case file was opened on this matter without which no investigation could be carried out.

**Findings and observations of the Commission**

The Commission after reviewing the evidence before it, finds as follows:

- That of a truth, no formal report was made to the Police of this tragic incident.

**Recommendations**

The Commission in the light of the findings above directs the

petitioner to make a formal report to the Police on this incident and the police is also directed that on receipt of the report should carry out an investigation to unravel the circumstances in which Alfred George Spiff and sixteen others met their untimely death in a day.

**BRIEF ON  
MEMO NO. 942**

**Mode of treatment of Petition**

This matter came up for hearing during the Port Harcourt sittings of the Commission

**Evidence of the alleged perpetrators**

The alleged perpetrators did not adduce any evidence, rather, they opposed the application for adjournment made by the counsel to the Commission. They prayed the Commission to strike out the petition as the petitioner has not shown sufficient interest in pursuing his petition.

**Findings and observations of the Commission**

The Commission after listening to the arguments of the counsel to the Commission and that of the respondents struck out the petition with liberty given to the petitioner to re-list the petition.

**Recommendations**

No recommendation was made because the petitioner failed to appear

before the Commission to adduce oral evidence in support of the allegations contained in the petition.

**BRIEF ON  
MEMO NO. 673**

**Mode of treatment of the Petition**

This matter came up during the Port Harcourt sitting of the Commission and was concluded.

**Evidence of the alleged perpetrator(s)**

The alleged perpetrator Mr. Useni Uguru Useni through his Counsel cross examined the petitioner. The crux of his argument was that this matter had been dealt with by the Director of Public Prosecution of Cross River State.

In view of the above, the learned Counsel tendered exhibit 4, which is an order of the court refusing an order of mandamus to compel the police to prosecute certain named persons.

**Findings and Observations of the Commission**

The Commission after reviewing the evidence before it finds as follows:

- That there are certain indications of a cover up as alleged by the petitioner since the Police investigation report suggested A prima facie case.
- That the way and manner the DPP terminated this case gives the impression of undue interference from the executive arm of government.

### **Recommendations**

In the light of the foregoing, the Commission recommends that this matter be re-investigated.

## **BRIEF ON MEMO NO. 672**

### **Mode of treatment of Petition**

This petition came up during the Port Harcourt public sittings of the Commission

### **Evidence of the Alleged Perpetrator(s)**

The alleged perpetrators in this case are the Police who testified and insisted that the late Ofem was an armed robber. In their evidence, they alleged that the Police Patrol Team came across the deceased's vehicle while on patrol and on the spot search of the said vehicle revealed a browning automatic pistol, a matchet, crow bar, torch light and twenty thousand Naira (N20,000) And that the suspects confessed to series of robberies. Consequently, one of the suspects volunteered to lead the Police to their hide out where it was alleged their weapons were hidden.

In the course of this, the suspects fled into the bush; therefore the Police shot and killed all of them in one fell swoop.

### **Findings and observations of the Commission**

The Commission after carefully reviewing the evidence of the witnesses

finds as follows:

- That the evidence of the Police is contradictory and hardly appeals to commonsense.
- That the killing of Mr. Samuel Epam was extra judicial done hence the deceased was denied fair hearing as enshrined in Section 36 of the 1979 Constitution.

### **Recommendations**

The Commission recommends as follows:

- That the IGP should set up a special investigation team to re-investigate this matter and prosecute whoever that is found liable.
- That the petitioner be paid compensation.
- That there is the urgent need to institutionally reform the Nigerian Police in order to make it live up to the demands of modernity.

**BRIEF ON**  
**MEMO NO. 948**

**Mode of treatment of Petition**

This matter was heard during the Port Harcourt Enugu and Abuja 3 sittings of the Commission.

**Evidence of the alleged perpetrators**

This matter could not be heard on the merit by reason of the fact that it was *sub judice* hence the alleged perpetrators could not be called upon to testify.

The Commission's attention was drawn to this fact through an objection raised by Mr. Ajinyah Counsel from T.J. Okpoko(SAN) Chambers on the 12<sup>th</sup> of July 2001 at the Abuja sittings of the Commission.

**Findings and observations of the Commission**

After considering the submissions of counsel to Chevron and the explanation given by the petitioner, the Commission finds as follows:

- That two cases with substantially the same facts and relief were pending before the High Court of Justice, Delta State.
- In view of the above circumstance, this petition was struck out.

**BRIEF ON**  
**MEMO NO. 1482**

**Petitioner's Full Name(s) and Address(es)**

Idris Abdulkadir

**Mode of Treatment of Petition**

The petition was originally slated for hearing during the Lagos sitting of the Commission. When however the case was called, the Commission was informed that it was impossible to locate the petitioner at the address he provided for service. The case was therefore adjourned to the second Abuja session.

When the case was mentioned for hearing, he was once again absent owing to difficulty in effecting service on him because of the obscure address he provided for service. The case was accordingly struck out by the Commission.

**Evidence of Alleged Perpetrator(s)**

Despite the non-appearance of the petitioner, one Captain H. Buba of the Nigerian Army who had been summoned by the Commission to answer to allegations of having unlawfully arrested and detained the petitioner submitted a written response to the petitioner's allegations.

In his response, he confirmed that he effected the arrest of the petitioner on the orders of Colonel Frank Omenka on the 4<sup>th</sup> of June, 1996. He also stated that the petitioner was arrested because Colonel Omenka received information from one Colonel Bitrus that the petitioner was masquerading as an officer of the Nigerian Army Security Group. The witness denied having anything to do with the search or vandalization of the petitioner's house and further stated

that after the arrest of the petitioner, he was handed over to the Police for necessary action.

BRIEF ON

MEMO NO. 266

1. Petitioner's Full Name(s) and Address(es)                      Moses E. Oddiri

Mode of Treatment of the petition

The petition was listed for public hearing upon the application of the Petitioner . The alleged perpetrators were represented by Counsel. When the Case was called, the Chairman of the Commission listened to submissions from counsel on both sides as well as counsel to the Commission and observed the petitioner had previously applied to be joined as a witness in a case before the Commission dealing with the murder of Chief Alfred Rewane during its sitting in Lagos. The Chairman further observed that the petitioner's request in Lagos was refused. Since the Commission had not invited the petitioner as a witness which would have entitled him to the Commission's protection, he

Was advised to submit all the documents relating to his petition to the Commission's Secretariat for any further necessary action.

BRIEF ON

MEMO NO. ....

1. Petitioner's Full Name(s) and Rev. (Dr.) E.A.  
Fapohunda  
Address(es)

Mode of treatment of the petition

The petition was slated for hearing during the second Abuja sitting of the

Commission. However, when the petition was called for hearing, counsel to

One of the witnesses observed that the subject matter of the petition was also

The subject matter of a suit pending in court.

The petitioner proceeded to read his petition after which the Commission's

Chairman ruled that the subject matter of the petition was outside the terms

Of reference of the Commission. The petitioner was accordingly advised

To pursue his claims in court and the petition was dismissed.

BRIEF ON

MEMO NO. 1599

Mode of treatment of the petition

This petition was heard during the Enugu public sitting of the Commission and

Was struck out because it was subjudice i.e. pending before a regular court.

Besides the relief being sought for by the petition to wit amnesty falls outside

The terms of reference of the Commission.

**BRIEF ON**

**MEMO NO. 256**

Mode of treatment of the petition

This petition was heard during the Enugu and Abuja sitting of the Commission

Evidence of the alleged perpetrators

The main complaint of the petitioner was that the Police investigated This crime and arrested some persons alleged to have been involved But left them on bail as if they had done nothing. Therefore the

alleged

Perpetrators did not testify.

Findings and observations of the Commission

After reviewing the evidence of the witnesses, the Commission finds as follows:

That there was death and that some persons were alleged to have committed this offence.

That the Police arrested the alleged perpetrators but

Released them on bail as if the offence was a minor offence and this tantamount to dereliction of duty by the Police.

Recommendation

The Commission therefore recommends as follows:

That this case file be re-opened and that the IGP should empanel a special panel to re-investigate this case.

That the culprits should be arraigned in court for it is only the court that has the competence to enquire into this matter in all ramifications.

BRIEF ON

MEMO NO. 307

Mode of treatment of the petition

This petition was heard during the Enugu sitting of the Commission.

Evidence of the alleged perpetrators

The alleged perpetrator, Hashim Abubakar did not testify even though He was needed. The Attorney-General Imo State revealed that the Army

Refused to release Hashim Abubakar to face prosecution.

Findings and observation of the Commission

After reviewing the evidence, the Commission finds as follows:

That there was an investigation and that the file was sent To DPP who recommended prosecution, a prima facie case Having been established.

That Hashim Abubakar was being shielded from facing the consequences of his action.

Recommendations

The Commission recommends as follows:

That Hashim Abubakar be compelled to appear in court  
To face trial

That the Chief of Army Staff be ordered to arrest and  
Produce Hashim Abubakar.

That the Federal Government and indeed the Imo  
State Government should pay compensation

**BRIEF ON**  
**MEMO NO. 564**

**Mode of treatment of the Petition**

This petition was heard and concluded during the public sitting of the Commission at Enugu.

**Evidence of the alleged Perpetrators**

The petitioner complained about the refusal and or inability of the Anambra State Judiciary to compile and transmit a record of proceedings to the Court of Appeal in respect of a murder case six years after the conclusion of the trial at the High Court of Justice Onitsha. On the resumed sitting of the Commission on 3<sup>rd</sup> of May 2001, the Registry of the High Court then produced two copies of the said record of proceedings. Consequently, the petitioner was immediately given a copy of the record proceedings. This being so, the petition was struck out.

**BRIEF ON**  
**MEMO NO. 83**

Mode of treatment of petition

This petition was heard during the Enugu public sitting of the Commission.

**Evidence of the alleged perpetrators**

No evidence was adduced for the simple reason that this petition was struck out.

**Findings and observations of the Commission**

On a second look at the reliefs being sought by the petitioner, the Commission discovered that it lacks the jurisdiction to entertain it because it was outside its terms of reference, consequently it was struck out.

**BRIEF ON**  
**MEMO NO. 262**

### **Mode of treatment of the petition**

This petition was mentioned during the Enugu public sitting of the Commission and owing to the absence of the petitioner, the Commission had no choice other than to strike it out with liberty to re-list if the petitioner so wishes.

## **BRIEF ON MEMO NO. 1772**

### **Mode of treatment of Petition**

This petition was heard during the Enugu public sitting of the Commission

### **Evidence of the alleged Perpetrators**

Although the petitioner named the Directorate of Military Intelligence (DMI) and the Nigerian Police as the alleged perpetrators, none testified instead ACP Nuhu Ribadu cross examined the petitioner extensively with a view to discrediting him. However, the veracity of the petition was indeed shaken as much of his allegations could not stand the test of time.

### **Findings and observations of the Commission**

After reviewing the evidence of the witnesses the Commission finds as follows

- That the petitioner was indeed arrested, detained and tortured by the various security apparatus in connection with bomb throwing and terrorism.
- That there is no direct nexus between the death of the petitioner's father, wife, son, in-law etc with his ordeal as obliged. Although the Commission deeply commiserates with him.
- That some of the security agents namely Col. Frank Omenka, ACP Zakari Biu and Col. J. K. Olu may have overstepped their bounds hence their names featured like a recurrent decimal in many petitions.

### **Recommendations**

The Commission recommends as follows:

- The Federal Government should tender an apology to the petitioner
- That compensation be paid to the petitioner.

## **BRIEF ON MEMO NO. 1473.**

### **Petitioner's Full Name(s) and Address(es)**

Chief Akin Omoboriowo

### **Mode of treatment of the petition**

The petition was heard publicly. The hearing commenced during the

second Abuja session and ended during the third Abuja session.

### **Evidence of alleged Perpetrators**

General Muhammadu Buhair whose Military Government was alleged to have violated the rights of the petitioner was invited by the Commission to state his own side of the story. He did not appear but a letter sent by his counsel on his behalf was read to the Commission. The letter stated that General Buhari was then out of the country and requested that another date be considered to enable him appear.

### **Findings and Observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- The petitioner was arrested by the government of General Muhammed Buhari in January, 1984 after the overthrow of the government of Alhaji Shehu Shagari on allegations of corrupt enrichment.
- The petitioner was detained for a total of seventeen months (sixteen of those months incommunicado) until his release on September, 1985 on the orders of a new Head of State, General Ibrahim Babangida.
- The Commission further observes that the Justice Uwaifo Panel which was appointed in late 1985 to probe former public office holders and which submitted its report in 1986 exonerated the petitioner of charges of corrupt enrichment.
- The petitioner's evidence of his arrest and detention for seventeen months was not contradicted and there is sufficient evidence before the Commission to substantiate the petitioner's claims of mental torture.
- The Commission in the circumstance, finds that while the arrest of the petitioner upon reasonable suspicion that he may have

committed an offence may be lawful, his detention incommunicado and without trial for seventeen months was unlawful.

### **Recommendations**

In the light of its findings and observations above, the Commission recommends as follows:

- An apology by the Federal Government to the petitioner for his unlawful detention and for the mental torture inflicted on him.
- Payment of the sum of N200,000.00 (Two Hundred Thousand Naira) for the mental torture inflicted upon him.

## **BRIEF ON MEMO NO. 136**

### **Petitioner's Full Names and Address(es)**

Christopher Ikechukwu Ezemah

### **Mode of treatment of petition**

The petition was slated for hearing during the third Abuja sitting of the Commission. However, when it was called, counsel to the Nigerian Navy informed the Commission that the petitioner's case was being reviewed along with those of some other naval personnel some of whom had also petitioned the Commission with a view to converting his dismissal to retirement with full benefits. The counsel to the Nigerian Navy also admitted the facts of the petitioner's arrest and detention.

The Commission encouraged the settlement movers and urged the parties to report back to it within two weeks. The case was closed on this note.

**BRIEF ON**  
**MEMO NO. 413**

**Petitioner's Full Names and Address(es)**

Hon. Alhaji Muhammed Inuwa Aliyu

**Mode of treatment of the Petition**

The petition was listed for hearing during the third Abuja sitting of the Commission. The petitioner was persistently absent but was represented by counsel. The petition was subsequently struck out upon the application of counsel to the petitioner. However, counsel to the alleged perpetrators brought an application before the Commission requesting that the case be re-opened to enable their clients respond to the petition. The case was re-opened and the alleged perpetrators read a written response before the Commission after which the case was closed. The petitioner remained absent throughout the proceedings.

**Evidence of the alleged Perpetrators**

Brigadier-General L.J. Isa(rtd) former Military Administrator of Kaduna State, Alhaji Yusuf Hamisu Abubakar and Alhaji Idi Faruk who had been mentioned in the petition as having in one way or the other violated the petitioner's rights filed a joint response to the petition. The response was read by Brigadier-General L. J. Isa who

revealed in his testimony that the petitioner was a fraudulent person who abused his official position as a member of the Kaduna State Bureau for Lands and Surveys to fraudulently assign twenty plots of land to his company Muskhal Nigeria Ltd amongst other acts of illegality.

On the arrest and trial of the petitioner, the alleged perpetrator stated that following the recovery of some files and other records belonging to the Bureau for Lands and Survey from the petitioner's house, the Police charged him before a Magistrate Court for theft and forgery on the 2<sup>nd</sup> of July, 1996.

The witness maintained that neither himself nor the other witnesses had any hand in the arrest or trial of the petitioner.

### **Findings and observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- ✓ The petitioner filed a petition before the Commission, briefed counsel who appeared on his behalf but choose to stay away from the proceedings despite being repeatedly served with witness summonses.
- ✓ The petitioner failed to appear to dispute a contradiction of the testimony of the alleged perpetrators so their evidence must stand as representing the true position.
- ✓ It is in evidence before the Commission that the petitioner attempted to obtain the sum of Five Miliion Naira from the alleged perpetrators as an inducement for him to drop his petition. Again this was not contradicted by the petitioner.
- ✓ The attitude of the petitioner in failing to appear to pursue his petition for no apparent reason or to contradict the testimony of

the alleged perpetrators despite countless opportunities given to him appears to support the contention of Brigadier-General L.J. Isa that the petitioner came to equity with “unclean hands”

### **Recommendations**

In the light of its findings and observations above, the Commission recommends as follows:

- ✓ An unreserved and public apology to Brigadier-General L.J. Isa(rtd) Alhaji Yusuf Hamisu Abubakar and Alhaji Idi Faruk in line with their prayers before the Commission.
- ✓ The allegation by the alleged perpetrators that the petitioner Attempted to obtain the sum of Five Million Naira from the alleged perpetrators as an inducement for him to drop his petition should be investigated by the appropriate authorities.

## **BRIEF ON MEMO NO. 61**

### **Petitioner’s Full Names and Addresses**

Alhaji Mustapha Garba

### **Mode of treatment of the Petition**

The petition was heard publicly during the Kano sitting of the Commission.

The petitioner was present and he adopted and read his petition.

### **Evidence of alleged perpetrators.**

In his oral testimony, the petitioner stated that in the spirit of reconciliation he had forgiven all those who tortured him and was withdrawing his claim of unlawful detention and torture. Counsel to the alleged perpetrators however objected to this move stating that the petitioner had not been tortured by his clients in the first place. Counsel to the alleged perpetrators also demanded an apology from the petitioner.

### **Findings and observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- ✓ The petitioner was arrested and detained in connection with the alleged coup plot of 1997.
- ✓ Some of his personal properties including his car which contained vital contractual documents were seized.
- ✓ When the car was eventually returned to him, the documents were missing.
- ✓ The Commission observes that in the spirit of reconciliation, the petitioner has decided to abandon his claim of detention and torture but wants to pursue the case of return of his contractual documents.
- ✓ The Commission further observes that an earlier letter written to the Presidency requesting for release of the petitioner's papers did not yield positive results.
- ✓ The Commission finds that the relief sought by the petitioner which is, the return of his contractual documents does not fall within its terms of reference so advocates an administrative handling of the case.

### **Recommendations**

In the light of its findings and observations above, the Commission

recommends that an administrative channel of communication be opened with the appropriate authorities with a view to assisting the petitioner retrieve his documents.

**BRIEF ON**  
**MEMO NO. 1782**

**Petitioner's Full Names and Addresses**

Alhaji Lili Gabari.

**Mode of treatment of Petition**

The petition was publicly heard during the second Abuja sitting of the Commission. The petitioner was led in evidence and he adopted his petition.

**Evidence of alleged Perpetrators**

Mr. Iro Katsina who was a former State Security Service operative and who was alleged by the petitioner to have led the team which arrested him was present and gave evidence. In his evidence, the witness confirmed the testimony of the petitioner that he was arrested and detained.

**Findings and Observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- ✓ The petitioner was arrested on the 4<sup>th</sup> of February, 1984 by the Government of General Muhammadu Buhari.

- ✓ The petitioner was detained for a total period of twenty three months, twenty by the Buhari administration and three by the Babangida administration.
- ✓ According to the petitioner, the reason for his arrest was his Agitation for the release of Mohammed Abubakar Rimi at that time.
- ✓ The petitioner was detained for three months at Abakaliki Prisons and for twenty months at Eta Oko, an island detention camp in Lagos.
- ✓ At Eta Oko, the petitioner was in solitary confinement and had no access to visitors or outside world.
- ✓ During the twenty three months of the petitioner's arrest, he was not brought before any court of law to face any charges.
- ✓ The evidence of the petitioner was not disputed by any contrary evidence.
- ✓ The Commission finds that the arrest of the petitioner was unlawful because it was not based on reasonable suspicion of his having committed an offence.
- ✓ His detention for twenty three months without trial was also unlawful because it was not pursuant to the order of a court or tribunal and did not fall within the other situations in the Constitution when the right to personal liberty may be excused.

### **Recommendations**

In the light of its findings and observations above, the Commission recommends as follows:

- ✓ An apology to the petitioner by the Federal Government for his unwarranted incarceration for twenty three months and for the mental torture inflicted upon him.

- ✓ Payment of the sum of N200,000.00 (Two Hundred Thousand Naira) by the Federal Government to the petitioner as compensation for his incarceration for twenty three months.

**BRIEF ON  
MEMO NO. 725**

**Petitioner's Full Names and Address(es)**

Hadiza Pindar  
Dooshima Ada'a  
Mariam Sawa  
Regina Shija  
C/o., Mrs. D. Ada's Command Secondary  
School, P.M.B. 2250,  
Jos.

**Mode of treatment of the Petition**

The petition was slated for hearing during the second Abuja session. However, when the case was called for hearing, the petitioners informed the Commission that they were exploring the option of settlement with the Ministry of Defence. The Commission was kept informed about the progress of the settlement . On the 19<sup>th</sup> of September, 2001, the Memorandum of Settlement was signed by the petitioners and the representative of the Ministry of Defence during open proceedings and was also counter-signed by the Chairman of the Commission.

The summary of the agreement are as follows:

- ❖ Payment of school fees for the children of the deceased officers with effect from September, 2001
- ❖ Payment of pensions and gratuities to the widows and children of the deceased officers.
- ❖ Houses and cars would be made available to widows who were yet to get them as promised by the Government.
- ❖ The report on the causes of the C-130 plane crash would be made available to the widows as soon as it was received from the manufacturer.

**BRIEF ON  
MEMO NO. 275**

**Petitioner's Full Names and Address(es)**

Major Michael O. Edeghagba

**Number of Years of Service**

29 years

**Mode of treatment of the Petition**

The petition was heard during the first Abuja sitting of the Commission. The petitioner's testimony was based mostly on his petition.

**Evidence of alleged Perpetrators**

Two of the alleged perpetrators, Colonels K.J. Olu and Bassey Asuquo who were summoned as witnesses did not appear. The Commission

decided at this stage that it had received enough evidence on the 1995 alleged coup plot and accordingly ruled that the evidence of the two witnesses would add nothing more to the case. Their evidence was therefore dispensed with.

### **Findings and Observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- ✓ The petitioner was arrested on the 24<sup>th</sup> of November, 1994 on allegations that he was planning to topple the Government of General Sani Abacha.
- ✓ The petitioner was subsequently brought before the General Felix Mujakperuo's Special Investigation Panel along with other suspects including Generals Olusegun Obasanjo and Shehu Musa Yar'adua as well as Colonel Lawan Gwadabe.
- ✓ The Commission observes that while some of the other alleged coup suspects were tried before the Special Military Tribunal, the petitioner was exonerated of charges of coup plotting.
- ✓ The Commission further observes that after the petitioner had been cleared by the Special Investigation Panel, his detention continued for another seven months after which he was released and immediately retired from the Army.
- ✓ The petitioner stated that while he was in detention, the sum of N250,000.00 belonging to him was taken away and other properties worth about N3.7 Million were vandalized.
- ✓ The petitioner's evidence of torture was not controverted and the Commission finds his testimony in this regard to be consistent with the evidence of the other coup suspects.
- ✓ The Commission accordingly finds that the petitioner was a victim of physical and mental torture.

## **Recommendations**

The Commission in the light of its findings and observations above  
Recommends as follows:

- ✓ That the petitioner should be allowed to retire voluntarily from service on the rank currently held by his course-mates.
- ✓ That the petitioner be paid his accrued emoluments with effect from the time of his arrest till date in line with the salaries and other emoluments currently enjoyed by his course-mates.
- ✓ Payment of the sum of N250,000.00 (Two Hundred and Fifty Thousand) to the petitioner by the Federal Government for the torture, inhuman and degrading treatment meted out to him.
- ✓ An apology to be tendered to the petitioner by the Federal Government for the physical and mental torture to which he was subjected.

**BRIEF ON**  
**MEMO NO. 1778**

**Mode of treatment of petition**

The petition was heard during the Enugu and Abuja sittings of the Commission.

**Evidence of the alleged perpetrator(s)**

The alleged perpetrators i.e. Oruku Community testified through Engineer Okenwa. Issues were squarely joined and essentially the Eruku Community denied all the allegations levied against them by Umuode Community. They alleged that the autonomous community given to Umuode by Navy Captain Agbaje in 1999 was an aberration in that there is no clearly identifiable and defaceable piece of land to actualized.

That Oruku Chieftancy Constitution of 1976 based on rotation was changed in 1987 with emphasis on merit and that Umuode have as much right as any other person to contest in so far as the only qualification is merit. In fact Umuode attended the general meeting of 12/5/90 where the present traditional ruler Igwe C.A. Nemeh was elected.

On issue of multiple murder and arson, that Umuode were the aggressor on each occasion and the aftermath of retaliation by Oruku Community was that Umuode fled to Akpuoga – Nike where they claim to be refugees.

Consequently, the Oruku Community counter claims the sum of 10 billion Naira too ridiculing and bastardizing the name of Oruku locally, nationally and internationally

### **Findings and Observations**

The Commission after listening to the two witnesses for both sides, advised that this matter be settled amicably without further proceedings before the Commission. In the circumstance, several meetings were arranged and certain decisions reached. However, the Commission's effort in this direction could not yield any positive dividend perhaps due to the primordial animosity and suspicion generated by the issues involved.

### **Recommendations**

(As articulated by Rev. Father Kukah)

## **BRIEF ON MEMO NO. 594**

### **Mode of treatment of petition**

This petition was heard at the Enugu public sitting of the Commission.

### **Evidence of the alleged perpetrators**

The alleged perpetrators i.e. Captains Mohammed Zubairu, Operation Storm, Imo State ( as he then was) and the Military Administrator of

Imo State Col. Tanko Zubairu refused to appear to answer to the allegations contained in this petition.

### **Findings and Observations of the Commission**

After considering the evidence of the witnesses, the Commission finds as follows:

- a. The evidence of the petitioner and indeed that of Mr. Mike Naze was not controverted at all.
- b. Payment of one hundred thousand Naira (N100,000) to Mr. Mike Naze is an admission of guilt.
- c. The arrest and torture of the petitioner was illegal and oppressive

### **Recommendations**

The Commission in the light of the above recommends as follows:

- a. That the said Captain Zubairu Mohammed of Operation Storm, Imo State and the former Military Administrator of Imo State, Col. Tanko Zubairu should render an apology to the petitioner and his friend for this unwarranted assault.
- b. Imo State Government should also be made to render an apology to the petitioner.
- c. The petitioner and his friend, Mr. Naze should be adequately compensated.

## **BRIEF ON MEMO NO. 88**

### **Mode of treatment of petition**

This petition came up during the Enugu public sitting of the

Commission and was heard.

### **Evidence of the alleged perpetrators**

The alleged perpetrator in this case is the Nigerian Police and they argued that the petitioner was detained for only three days before he was granted Police bail.

However, the inability of the petitioner to secure any reasonable and responsible surety stalled the said bail.

As for the arrest, the allegation was that the petitioner stole a car contrary to his argument.

### **Findings and observations of the Commission**

After considering the evidence of the witnesses, the Commission finds as follows:

- a. That the petitioner was detained in a manner that infringes his constitutionally entrenched rights.
- b. That the arrest of the petitioner was lawful in that the Police Act gives the Police power to arrest any person on mere suspicion of Commission of a crime.
- c. That the IGP should re-investigate this matter and report back to the Commission.

### **Recommendations**

In the light of the foregoing, the Commission recommends as follows:

- a. That the Police should render an apology to the petitioner.
- b. That nominal damages be awarded to the petitioner.

**BRIEF ON**  
**MEMO NO. 1781**

**Mode of treatment of petition**

This petition came up for hearing during the public sittings of the Commission at Enugu.

**Evidence of the alleged perpetrator(s)**

No evidence was received from the alleged perpetrators

**Findings and observations of the Commission**

After reviewing the evidence of the petitioner, the Commission finds that there is no substance in the petition.

**Recommendations**

The Commission accordingly dismissed the petition for lack of merit.

**BRIEF ON**  
**MEMO NO. 1653**

**Mode of treatment of the petition**

This petition came up for hearing at the public sittings of the Commission at Enugu.

**Evidence of the alleged perpetrator(s)**

One of the alleged perpetrators, His Royal Highness, Eze Ogbonna, the traditional ruler of the community was represented by O.O. Egoenyi Esq. he aligned with the application of the counsel to the Commission to strike out the petition in the absence of the petitioner.

**Findings and observations of the Commission**

The petitioner was absent even though he was served summon by the Commission.

**Recommendations**

Petition struck out with liberty to re-list

**BRIEF ON  
MEMO NO. 1685**

**Mode of treatment of the petition**

This matter came up for hearing during the public hearing of the Commission at Enugu.

**Evidence of the alleged perpetrator(s)**

No evidence as received from the alleged perpetrators.

**Findings and observations of the Commission**

After a careful consideration of the evidence of the petitioner and the relief sought, the Commission noted that the facts of this petition are the same as those of petition no. 1648. The two petitions were therefore consolidated under petition no. 1648

**Recommendations**

Consolidated with petition no. 1648.

**BRIEF ON  
MEMO NO. 1751****Mode of treatment of petition**

This petition came up for hearing during the public sittings of the Commission at Enugu.

**Evidence of the alleged perpetrator(s)**

No evidence was received from the alleged perpetrators

**Findings and observations of the Commission**

The petitioner at the hearing of this petition applied to consolidate this petition with petition no. 1648 filed on behalf of Ohaneze Ndigbo.

**Recommendations**

Consolidated with petition no. 1648

**BRIEF ON  
MEMO NO. 720**

**Mode of treatment of the petition**

This matter came up for hearing during the public sittings of the Commission at Enugu.

**Evidence of the alleged perpetrator(s)**

The alleged perpetrators in this petition are officers of the Nigerian Police Force. In their defense, the Police stated that the deceased was arrested for stealing on a Friday and taken to the court the following Monday morning. The deceased was returned to the Police cell after the day's proceedings in the court. The Police stated further that the deceased took ill the following day, being Tuesday and was taken to the Hospital where he died of cerebral malaria. They tendered two exhibits to show the cause of death of the deceased.

**Findings and observations of the Commission**

After reviewing the evidence before it, the Commission came to the conclusion that there is no causal link between the death of the deceased and his detention in the Police cell.

**Recommendations**

The claim for re-investigation and compensation cannot be sustained as there is no sufficient evidence before the Commission to substantiate the claims.

**BRIEF ON  
MEMO NO. 858**

### **Mode of treatment of the petition**

This matter came up for hearing during the public sittings of the Commission at Enugu.

### **Evidence of the alleged perpetrator(s)**

At the hearing of this petition, counsel to the Commissioner of Police, Abia State, pointed out to the Commission that the facts contained in this petition are the same as the facts of the case currently pending before the High Court of Ohafia. The Attorney-General of Abia State confirmed this position and gave the case number as HOH/3C2000. He stated that the 1<sup>st</sup> and the 2<sup>nd</sup> accused persons have been arraigned on three occasions but the prosecution could not go on because of the continuous absence of the 3<sup>rd</sup> and 4<sup>th</sup> accused persons who are military officers.

### **Findings and observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- That the facts of this petition are the same as the facts of the case already before a competent court and therefore the Commission cannot continue its investigation on it as the matter is sub judice.
- That the refusal of the 3<sup>rd</sup> and 4<sup>th</sup> accused persons to attend trial would result to miscarriage of justice.

### **Recommendations**

The Commission in the light of its findings above hereby ORDER the Chief of Army Staff to produce the 3<sup>rd</sup> and 4<sup>th</sup> accused persons in court on the next adjourned date to take their plea.

**BRIEF ON  
MEMO NO. 118.**

**Mode of treatment of the petition**

This matter came up for hearing during the public sittings of the Commission at Enugu and Abuja.

**Evidence of the alleged perpetrator(s)**

The alleged perpetrator in this petition is a Police Officer by name Emmanson Okoroafor in his defense, the Police officer tendered exhibits 5,6,7,8, and 9 to establish a case of armed robbery against the deceased/victim. In his oral testimony, he stated that the deceased was caught in a cross fire when he shot at the police officer who attempted to arrest him at the point of disposing stolen items. He submitted further that he was never charged for murder before any court, that the subsequent letter written to the Inspector General of Police by the Abia State Attorney General was the handiwork of the petitioner whom he said exercised a lot of influence in the State Ministry of Justice as then sole contractor.

**Findings and observations of the Commission**

After reviewing the totality of the evidence before it, the Commission finds as follows:

- That a close perusal of the evidence before the Commission, with particular reference to exhibit 5,6,7,8,9 and 10 tend to establish the fact that the deceased was an armed robbery suspect.

- The discrepancies in the two charge sheets: Charge Sheet no. 4C/95, Charge Sheet no. 8C/96 and the letter to the Inspector General of Police, which all originated from the Office of the Attorney-General of Abia State established that there was a desperate attempt to pervert the course of justice in this case by certain officials of the State Ministry of Justice.
- The legal opinion written by the then Director of Public Prosecution and the Attorney General of Abia State were given against the weight of evidence contained in the Police case files/ investigation report.

### **Recommendations**

- The Commission in the light of its findings above, holds that no case of unlawful killing has been established against Mr. Emmanson Okoroafor.
- The Commission recommends further that the present Attorney General of Abia State should revisit this matter and proffer charges against all deserving suspects. The Commission cautioned that the image of this highly exalted office is at stake.
- The Commission recommends to the Federal and all the State Governments of the Federation that the Office of the Attorney General and that of the Director of Public Prosecution at the State and Federal levels are sensitive offices, which only persons of impeccable character must occupy

**BRIEF ON**  
**MEMO NO. 427**

**Mode of treatment of the petition**

This petition came up for hearing during the public sittings of the Commission at Enugu

**Evidence of the alleged perpetrator(s)**

The first to testify amongst the alleged perpetrators was the Nigerian Agip Oil Limited (NAOL). The company represented by its Divisional Manager for Public Affairs denied rendering any form of assistance to the Federal Armed Forces in their military operations in Okpoama/Ewoama community of Bayelsa State. He stated that the company has consistently maintained a cordial relationship with her host communities. On the allegation that the company provided vehicles to aid military operations against the Okpoama/Ewoama community. He admitted that the company actually provided two pick-up vans at the request of the Commissioner of Police, Bayelsa State for the purpose of Police peace operations in Okpoama/Ewoama community and not for any military operations as alleged by the petitioner. The Divisional Manager stated that on his visit to Okpoama/Ewoama community, he noticed some damages to buildings and other properties.

Lt.Col. Omoregie, the Commanding Officer of the 343 Artillery regiment at Elele, Rivers State responsible for the internal security of the area at the material time, denied the allegation that he and his officers took side with the Twon Brass to unleash violence on the Okpoama/Ewoama community. He admitted though, that he

deployed troops to beef up security in the areas as a result of the increasing spate of violence, vandalization of oil installations etc, following the KIAMA DECLARATION by the Ijaw youths.

### **Findings and observations of the Commission**

The Commission after reviewing the evidence before it, finds as follows:

- That there were indeed military operations in the area as evidenced by the damaged properties.
- That experience from other cases heard by the Commission has shown that the Commanding Officer in any military operation is often not the direct perpetrator himself, but he is the one known to the people.
- That assistance to the Police or other Armed Forces personnel by oil companies in their areas of operations is a source of concern to the host communities who often accused such officers as being at the command of the financiers/companies.

### **Recommendations**

In the light of its findings above, the Commission hereby recommends that:

- Those who suffered loss of properties as a result of the operations of the joint military/police task force at Okpoama/Ewoama community be compensated.
- Assistance to Armed Forces personnel guarding oil installations in the Niger Delta should henceforth be channeled through the Federal Government by the oil companies operating in that region.

**BRIEF ON**  
**MEMO NO. 404**

**Mode of treatment of the petition**

This petition came up for hearing during the public sittings of the Commission at Enugu.

**Evidence of the alleged Perpetrator(s)**

The Nigerian Police Force named as the violators of the right of the deceased, did not call any witnesses in their defence. Rather, they relied on exhibit 2 ( a complaint to the Police of civil disturbances) to show why the arrest and detention of the deceased was lawful and justifiable.

Nuhu Ribadu (Assistant Commissioner of Police) appearing for the Nigerian Police Force apologized on behalf of the Police Force for the unfortunate incident. He however contended that the officer who allegedly demanded for N10,000 or bribe, which the deceased could not afford for his bail, hence the resultant death in custody, should be held accountable and not the Nigerian Police Force.

**Findings and observations of the Commission**

The Commission after reviewing the evidence before it, finds as follows:

- That Mr. Oji Ude died while in Police custody.
- That the deceased was arrested on a complaint made to the Police of civil disturbances in the community.
- That while the initial arrest was lawful, the detention of the deceased for eleven days without a court order makes the detention unlawful as it contravenes the provisions of Section 35 of the Constitution of the Federal Republic of Nigeria, 1979 which prohibits the detention of a suspect for more than 24 hours without a court order.
- The Commission also finds that the deceased had a total of six wives and fifty eight children as dependants before his death.

### **Recommendations**

The Commission in the light of its findings above recommends that the sum of N1 Million be paid to the family of the deceased as compensation for their up keep.

## **BRIEF ON MEMO NO. 1529 AND 1530**

### **Mode of treatment of the petition**

These petitions came up for hearing during the public sittings of the Commission at Enugu and were consolidated because of their common nature.

### **Evidence of the alleged perpetrator(s)**

The only evidence given in this case by the alleged perpetrators is that the records of the trial court in the cases of the two petitioners (now awaiting the execution of death sentence passed on them) were among the documents burnt during the fire incident that engulfed the building of the High Court No. 2, Orlu, Imo State. They stated further that they have not been able to produce the necessary records for the convicts to appeal against the decisions of the court to a higher court because of the reasons stated above.

### **Findings and observations of the Commission**

After a careful review of the evidence before it, the Commission finds as follows:

- That every citizen convicted of a capital offence have a constitutional right of appeal against the decision of the trial court to a higher court.
- That the constitutional right of appeal of the two petitioners in this case has been hampered by the fact that the records on which the appeal would have been founded have been destroyed by a fire incident.

### **Recommendations**

The Commission in the light of its findings above recommends to the Imo State Governor to consider seriously the possibility of granting a state pardon to the two petitioners,

- a. Mr. Damian Mgbée and
- b. Mr. Daniel Azubuike.

**BRIEF ON**  
**MEMO NO. 1364**

**Mode of treatment of the petition**

This petition came up for hearing during the public sittings of the Commission at Enugu.

**Evidence of the alleged perpetrators**

Captain Felix E. Duhala, one of the alleged perpetrators in this petition, regrets his involvement in the investigation that led to the arrest and detention of the petitioner. He stated in his testimony that the report made against the petitioner to the Directorate of Military Intelligence (DMI) was false and a set-up masterminded by one Mr. Okafor Victor also known as Ezego.

Col. Majeoyeogbe also one of the alleged perpetrators testified that he instructed his officers to go and investigate and possibly effect the arrest of the petitioner based on the information he received about the petitioner being in unlawful possession of explosives and other fire arms.

Col. Idehenre, the then Acting Director of DMI testified that he was not aware of the operation of the officers of the DMI at Ihiala. He stated further that he only became aware of the arrest and detention of the petitioner on the 23<sup>rd</sup> day of July, 1997 and that he effected the arrest of all the officers involved in the operation, including Col. Majeoyeogbe.

### **Findings and observations of the Commission**

After reviewing the evidence before it, the Commission finds as follows:

- That the allegation made to the DMI against the petitioner was a deliberate falsehood aimed at getting the petitioner into trouble because of the land and personality conflict between the petitioner and Mr. Victor Okafor.
- That there were indications of acts of misdeeds on the part of certain officers of the DMI that culminated to the arrest and detention of the petitioner.

### **Recommendations**

In the light of its findings above, the Commission recommends as follows:

- That an unreserved apology be made to the petitioner by the DMI for the wrong done to him.
- That the petitioner be paid a compensation of N50,000.00

## **BRIEF ON MEMO NO. 1474**

### **Mode of treatment of the petition**

This petition came up for hearing during the public sittings of the Commission at Enugu and Abuja

### **Evidence of the alleged Perpetrator(s)**

The alleged perpetrators did not denied the arrest and detention of members of the National Association of Seadogs on whose behalf this petition was brought, instead they adduced evidence to establish that the association is a secret cult, and the members were arrested while carrying out their nocturnal activities. To support their assertions, they tendered a number of exhibits amongst which was a human skull recovered from one of the members of the association arrested on the fateful day. The alleged perpetrators nevertheless stated that the alleged victims were detained at the Police Station for less than 24 hours before they were transferred to Bori Camp at the instance of the joint investigation panel set up by the Rivers State Security Council.

The alleged perpetrators on a final note prayed the Commission to recommend the proscription of the Association, which was registered in error as their activities as know today were not know at the time the association was registered.

### **Findings and observations of the Commission**

The Commission after a careful review of the evidence before it, finds as follows:

- That the arrest of the members of the National Association of Sea Dogs, though lawful, but their subsequent detention after 24 hours without court order is unlawful as this contravenes the provisions of section 35 of the Constitution of the Federal Republic of Nigeria, 1979.
- The torture and degrading treatment to which the victims were subjected is also unlawful.
- The Commission finds further that the duty of the law enforcement agents to protect the individuals and group rights in

the society, is sometimes in conflict with the duty to protect the right of the society at large as in this case.

- That the National Association of Sea Dogs is duly registered under the applicable laws, but its activities are shrouded in mystery

### **Recommendations**

In the light of its findings above, the Commission recommends that the personal effects of the individual members of the association seized by the security operatives be returned to them.

**NB: Attention: Hon. Commissioners (Not for publication, please)**

We chose a middle course position in this matter. The detention of members of the Association is obviously unlawful, but an association whose activities are inimical to the society should not be encouraged by way of compensation or apology. Unlawful possession of human skull and the use of names other than the names with which the members are known to the general society is unacceptable to morals and good conscience.

*BRIEF ON*

**MEMO NO. 1532**

### **Petitioner' Full Name(s) and Addresses (es)**

Hon. (Bar) Nwabueze

Hon. Calistus Nnamani

Both of Enugu State House of Assembly, Nkanu East Constituency.

**Title of petition**

The Assassination of Mr. Sunday Ugwu by the Governor of Enugu State, and further Plans by him to kill us. A Rape of Democracy –And an S.O.S.

**Date of Petition**

13<sup>th</sup> Sept. 1999

**Particulars Of Petition**

The Petitioners are members of the House of Assembly and have written to the Head of State and copied the Commission. They alleged that on September 9, 1999 the Governor sent assassins to murder them and the said assassins succeeded in murdering one Mr. Ugwu an elder brother to Hon. (Bar) Nwabueze Ugwu. The Petitioners were forced to flee from their houses and on exile in Abuja since that date. This incident came about when the members of the House of Assembly had a strained relationship with the Governor of Enugu State Dr. Chimaroke Nnamani. They also alleged that some of the Legislators in the Enugu House of Assembly live in fear and are not free to speak their minds on issues concerning the Government of their State even on the floor of the House of Assembly.

**Period covered by the petition**

September 9, 1999 to date

**Names and Addresses of Persons or Institutions Petitioned**

**Against**

His Excellency, The Governor, State Government House, Enugu  
The Speaker, Enugu State House of Assembly,

**Injuries Allegedly Suffered by the Petitioner**

- a. Loss of senior brother
- b. Being fugitives in Abuja.

**Relief Sought by the Petitioner**

- a. Investigate the brutal murder of Mr. Sunday Ugwu the elder brother of one of the Petitioners.
- b. That the Head of State should provide them with adequate security to enable them go back and continue with their work at the House of Assembly.
- c. That the Governor of Enugu State should guarantee their safety in writing.
- d. That the Head of State should cause the mental balance of the Governor of Enugu State to be examined with a view to ascertain his state of mental being.
- e. That the matters raised in this petition inclusive the murder of Mr. Sunday Ugwu be investigated by a Special Squad from the Presidency, or a Special Squad of the IGP since the Governor being the Chief Security Officer of the State and the Commissioner of Police takes instructions from him.

**Mode of Treatment of Petition**

The petition was slated for hearing during the second Abuja sitting of the Commission. When the case was called the Counsel representing

the Enugu State Government the alleged perpetrator raised an objection challenging the competence of the Commission to hear the petition. The grounds for his objection were that the subject matter of the petition was also the subject matter of a suit pending at the High Court of Enugu State at the instance of the Petitioner. The Counsel also argued that since the murder of the Petitioner's brother complained of took place on the 9<sup>th</sup> of September, 1999, the matter fell outside the cut off date in the Commission's Mandate which is the 28<sup>th</sup> of May, 1999.

After listening to arguments from both counsels to the petitioner as well as Counsel to the Enugu State Government, the Commission noted that even though it is a fact finding body, the exercise must be carried out within the confines of the law. The Commission accordingly held that it lacks the power to entertain the petition in view of the cut off date in its mandate which circumscribed the scope of its investigative powers.

The Commission further advised the Petitioner to focus on the matter before the law courts. The petition was accordingly struck out.

**BRIEF ON  
MEMO NO 306**

**Petitioner's Full Name(s) and Addresses (es)**

Col. E.I. Jando

c/o Mandela Chambers,  
NUJ House,  
P.O. Box 3076,  
Makurdi, Benue State, Nigeria.

**Title of Petition**

Forwarding of Memorandum by Col. E.I. Jando. Col. E.I. Jando's So-called Involvement in the Diya Coup Plot.

**Date of Petition**

27<sup>th</sup> July, 1999

**Particulars of Petition**

The Petitioner was a former Commander of the 32 Field Artillery Brigade, Abeokuta covering four States; Ogun, Ondo, Ekiti and Edo States. He took over command of the brigade on 7/11/97.

**BRIEF ON**  
**MEMO NO. 466**

**Petitioner's Full Name(s) and Addresses (es)**

Musa Adede

**Title of Petition**

Memorandum by Musa Adede to the Special Human Rights Violations Investigation Panel on his illegal arrest and detention.

**Date of Petition**

Undated

**Particulars of Petition**

The Petitioner stated that in March, 1995, Col. Lawan Gwadabe sent a message to him informing him that he (Gwadabe) was under house arrest in Jos for reasons he did not know. The Petitioner upon receiving Gwadabe's message and in response to the entreaties of the latter wife proceeded to Gen. A.K. Adisa in the company of one Col. Olu Craig to enquire about the reason behind Gwadabe's detention. According to the petitioner, they were informed that Colonel Gwadabe was just under house arrest and for them to await further information. The petitioner alleges that a few days later, eight armed men stormed his house and at gun point searched the whole house. The Petitioner was later shown a search warrant from the DMI, the soldiers found nothing incriminating and their leader, one Lt. Hassan apologized to him and they left. The petitioner stated further that two weeks later, he traveled to the United Kingdom for medical check up. While he was in the UK, he got wind of the alleged coup plot involving Col. Lawan Gwadabe and others and was advised by

friends to remain in the UK until the situation became clearer. He therefore registered for an MBA programme in the United Kingdom. The Petitioner revealed that in February, 1996, he received a telephone call from the late Ibrahim Abacha who stated that he was relaying a message from his father asking him to return home as he was neither a wanted man nor was he involved in the alleged coup plots.

The Petitioner returned to Nigeria on Easter Sunday in April, 1996. At the Airport, his passport was taken away from him and he was asked to report at the office of the SSS after the holidays. The Petitioner was eventually directed to the DMI and then to Lt.Col. Frank Omenka who finally ordered his detention for six weeks. The Petitioner alleges that during the period of his detention, he was interrogated by officers of the Security Group on his relationship with Col. Lawan Gwadabe and the role of the latter in the alleged coup plot. He denied knowledge of any coup plot. After being confined for six weeks, Col. Omenka directed the Petitioner to pay the sum of N6.7 Million to the Nigerian Army Post Exchange Limited (NAPEX) The amount in question was related to a tripartite business transaction between NAPEX, the Petitioner's company, Canaan Limited and Continental Merchant Bank. The petitioner alleged that NAPEX violated the terms of the agreement.

The Petitioner revealed that faced with deteriorating health in custody, he was forced to sell his shares to pay the money demanded by Omenka to NAPEX. The Petitioner was released about a week after the payment of the money and some of the property removed from his house were returned to him. Many of these including computers were damaged.

The Petitioner was once again arrested on the 31<sup>st</sup> of July, 1997 and was once again taken to the DMI Apapa where he was handcuffed and once again detained, time for four months. The Petitioner alleges that he was tortured and accused of collaborating with Col. Lawan Gwadabe and General Olusegun Obasanjo to violently overthrow the Government of the late General Abacha. The Petitioner was eventually brought before the Special Military Tribunal trying the alleged coup plotters and was charged with being an accessory after the fact, he was however discharged and acquitted. Despite his discharge and acquittal, the petitioner remained in custody for another three months until his release on the 18<sup>th</sup> of July, 1998.

**Period Covered by the Petition**

1995 till date

**Names and Addresses of Persons or Institutions Petitioned  
Against**

- (1) The Nigerian Army (The Security Group of the DMI)
- (2) Ismaila Gwarzo
- (3) Late General Sani Abacha
- (4) AVM Idi Musa
- (5) Group Capt. J.K. Adama
- (6) Col. Frank Omenka
- (7) Air Cdre Nkanga(rtd)
- (8) Col. M.L. Yesufu

**Injuries Allegedly Suffered by the Petitioner**

- a. Unlawful detention
- b. Mental and physical torture

- c. Loss of material possessions
- d. Health problems as a result of his detention

### **Relief Sought by the Petitioner**

- (1) Replacement of his five desk top computers which were removed from his house and damaged.
- (2) Repair of his damaged aircraft.
- (3) Refund of the sum of N6,773,745 million plus interest from 29<sup>th</sup> May, 1996 to August, 1999

### **Mode of Treatment of Petition**

The petition was heard publicly during the First Abuja sitting of the Commission. The Petitioner adopted the contents of his petition and elaborated through oral testimony.

### **Evidence of Alleged Perpetrator(s)**

Two of the alleged perpetrators present, Colonel Nathaniel N. Mazda and Brigadier General Momoh Lawani Yesufu who were present cross examined the petitioner after his oral testimony. Both witnesses admitted that they were members of the Special Investigation Panel which investigated the allegations of coup plotting against him and which provided the report with which he was tried. They however both denied any role in the torture of the Petitioner.

### **Findings and Observations of the Commission**

After reviewing the evidence of the Petitioner and the alleged perpetrators, the Commission finds as follows:

After the discharge and acquittal of the Petitioner by the General Victor Malu's Tribunal in April 1998, his detention and torture

continued allegedly on the orders of Sergeant Barnabas Mshelia(Rogers).

Although the alleged perpetrators denied any role in the torture of the petitioner, their evidence did not contradict the petitioner's evidence that he was tortured.

The Commission noted and applauded the practical demonstration of forgiveness and reconciliation by the petitioner and the alleged perpetrators who shook hands at the conclusion of the case and promised to put the past behind them.

### **Recommendations**

The Commission in the light of its findings and observations above recommends as follows:

- a. An apology by the Federal Government to the Petitioner for the torture, cruel and inhuman treatment meted out to him.
- b. Payment of the sum of N50,000.00 (Fifty thousand Naira) as compensation for the torture meted out to him.

### **MEMO BRIEF**

### **MEMO NO. 762**

### **Petitioner's Full Name(s) and Address (es)**

Mr. Femi Adeyemino,  
c/o Odua People's Congress Secretariat,

40 Araromi Street, Off Layi Oyekanmi Street,  
Mushin, Lagos.

**Title of Petition**

Odua Peoples Congress Memorandum to the Justice Oputa Human Rights Violation Investigation Panel on the Bombing of Dr. Shola Omoshola, former Chief Security Officer, and Assistant General Manager Security Federal Airport Authority of Nigeria at the Murtala Muhammed Airport, Lagos.

**Date of Petition**

12<sup>th</sup> August, 1999.

**Particulars of Petition**

The Petitioner is a cousin of the former Chief Security Officer of the Murtala Muhammed International Airport, Ikeja late Dr. shola Omoshola.

The petitioner relates that upon the death of the late Dr. Omoshola in an explosion that shattered his official car, the Petitioner was invited to the International Airport for interrogation for two consecutive days. Thereafter some men of the State Security Service (SSS) searched the residence of the late Dr. Omoshola where the Petitioner also lived. Nothing was found.

Eleven days after the death of the deceased the Petitioner was again invited to the Airport for another search of the deceased's office. Present at this search were several SSS operatives, including Mr. Wakili, Mr. Dalma and Mr. Musa, as well as one Capt Bello Ochege,

Mr. Ghaji (of FAAN), and Mr. Adboye Festus, Personal Assistant to the deceased. During the course of the search the SSS operatives allegedly made a dramatic discovery for objects which they identified as bombs. The Petitioner alleges that the same office had previously been searched by the Police and the Bomb Disposal Unit who found nothing.

The Petitioner reported again at the Airport the next morning in company of three others, on the instruction of the SSS officers from their they were taken to the SSS headquarters in Ikoyi where after a long delay they were interrogated and their statements taken. Later that night their detention was ordered by Mr. Wakil and Mr. Dalma. Four days later, the Petitioner was brought before these two men who he alleges torture and threatened him severely in order for him to implicate certain notable persons as accomplices in the terrorist bombings across the country. He alleges that Mr. Dalma pulled out a piston and threatened to kill him if he did not 'cooperate'. The Petitioner said that he refused to implicate anyone or confess to any part in the activities he was accused of. He remained in detention at the SSS headquarters for three months until February 1997 when he was transferred to the notorious InterCentre, a detention facility of the SSS located beside the Ikoyi Cemetery.

In March 1997 the Petitioner and others were transferred to the Force CID Alagbon Close cells from where they were brought to court on charges of treasonable felony. The method of their movement from the cells to the court caused the Petitioner great anxiety because he thought they were being taken away to be killed, as they were not informed of their destination. After the proceedings they were returned to Alagbon close where the Petition remained until July

1998, after a nineteen month stay in detention.

The Petitioner alleges that throughout the time of his detention he suffered torture and cruelty in the hands of Messrs. Wakili and Dalma of the SSS, and mental and psychological trauma in the Inter Centre detention facility, and FCID Alagbon Close. He also alleges that his properties were looted by security agents at his residence in the official quarters of the late Dr. Omoshola.

The Petitioner further states that the former Commissioner of Police, Lagos State, Alhaji Abubakar Tsav, has recently revealed the circumstances surrounding the murder of late Dr. Omoshola.

**Period Covered by the Petition**

1996 to date.

**Names and Addresses of Persons or Institutions Petitioned Against**

1. Hon. Minister, Ministry of Police Affairs, Federal Secretariat, Abuja.
2. Inspector-General of Police, Force HQ, Abuja.
3. Director- General, State Security Service HQ, Abuja.
4. Mr. Wakili, c/o SSS HQ, Abuja.
5. Mr. Dalma, c/o SSS HQ, Abuja.

**Injury Allegedly Suffered by the Petitioner**

1. Unlawful arrest and detention for nineteen months;
2. Torture, beatings and threat to life;
3. Mental and psychological trauma to Petitioner and his family;
4. Looting of his properties by security operatives.

**Relief Sought by the Petitioner**

Full investigation and discovery of the persons behind the killing of Dr. Omoshola.

**Nature of Hearing Received by Petition**

None stated

**MEMO BRIEF**  
**MEMO NO. 757**

**Petitioner's Full Name(s) and Address (es)**

Dr. Frederick Isiotan Fasehun,  
40 Araromi Street,  
Off Layi Oyekanmi Street,  
Mushin, Lagos.

**Title of Petition**

Memorandum on the Gross Violations of my Rights and those of my Family.

**Date of Petition**

11<sup>th</sup> August, 1999.

***Particulars of Petition***

The Petitioner is a medical doctor and hotel proprietor, and also a well-known pro-democracy activist.

In December 1996 he was invited by four State Security Service (SSS)

operatives for a chat and was thereafter detained. His home, hospital and hotel were subjected to a rigorous search. The Petitioner alleges that no arrest or search warrant was presented to him. He was detained incommunicado at the notorious inter centre detention cells at the Ikoyi Cemetery for eleven weeks. Throughout his detention he was poorly fed and subjected to intense psychological trauma.

In January 1997 the Federal High Court, Lagos declared the Petitioner's arrest and detention illegal, and ordered his immediate release. Government did not comply but instead filed an application to set aside the orders, which was refused. The Petitioner and eleven others were thereafter arraigned before a magistrate on treason charges in respect of the bomb explosions which had occurred in several parts of the country. Though the court ordered that they be remanded in Police custody at the Force CID, Alagbon Close, Ikoyi the Petitioner was transferred allegedly on the orders of one Assistant Commissioner of Police Zakari Bui to the notorious Inter centre detention cells, a facility of the SSS, where he was again kept under horrendous conditions. Two weeks later, on the complaint of his solicitor, the Petitioner was moved to the Special Anti Robbery Squad cells where he suffered serious health impairments as a result of the inhuman conditions there. When finally ACP Bui conceded to obey the court order on venue of the Petitioner's detention, allegedly he allegedly had him put in hand cuffs and leg chains for the duration of his stay and was reportedly unconcerned with the prospect of grievous harm coming to the Petitioner.

-The Petitioner further alleges that in 1999 when a faction of his socio-cultural group, the Odua People's Congress (OPC), broke away and undertook certain anti-social activities, he was made the deliberate

target of Police terror and brigandage when men of the mobile police force, allegedly acting on the instruction of the former Lagos State Commissioner of Police Mr. Sunday Aghedo, attackedk and caused extensive damage to the premises of his hotel business, Century Hotel.

The Petitioner specifically alleges gross abuses, abuse of power, torture and inhuman cruelty against the following persons:

1. Retired Inspector-General of Police, Alhaji Ibrahim Coomassie.
2. Assistant Commissioner of Police Zakari Biu.
3. Chief Superintendent of Police Ogaba.
4. Mrs. B. M. U. Adokie of the SSS
5. Alhaji Darma of the SSS.
6. Mr. Sunday Aghedo (then Commissioner of Police, Lagos State).

**Period Covered by the Petition**

1996 to date.

**Names and Addresses of Persons or Institutions Petitioned Against**

- Hon. Minister of Police Affairs, Federal Secretariat, Abuja.
- Inspector-General of Police, Force HQ, Abuja.
- Director-General, State Security Service, HQ, Abuja.
- Alhaji Ibrahim Coomassie, c/o Force Hq, Abuja.
- ACP Zakari Biu, C/o Force Hq, Abuja.
- CSP Ogaba, c/o force HQ, Abuja.
- Mrs. BMU Adokie c/o SSS Abuja.
- Alhaji Darma, c/o SSS HQ, Abuja.
- Mr. Sunday Aghedo, c/o Force Hq, Abuja.

**Injury Suffered by the Petitioner**

- Unlawful arrest and detention;
- torture and inhuman treatment;
- collapse of business resulting from prolonged illegal incarceration;
- Unlawful destruction of property resulting in damage of over N2million.

**Relief Sought by the Petitioner**

- Prosecution of all perpetrators of these gross violations, particularly those mentioned in column 6 above;
- Payment of adequate compensation for physical and psychological trauma, loss of earnings and collapse of business;
- Unreserved public apology;
- Return of all personal belongings taken away from Petitioner's house by men of the SSS.

**Nature of Hearing Received by Petition**

Federal High Court order directing the release of the Petitioner was ignored in 1997.

*Years of Service*

Not applicable.

**Names and Addresses of Witnesses**

The Petitioner, c/o his address as in Column 1 above.

**Remarks**

The Petitioner suffered grievous violations of his human rights. There is nothing to justify the use of state power to inflict torture and inhuman treatment on any citizen, no matter the seriousness of the

allegations against him.

The use of state security agencies to terrorise citizens who after all are presumed innocent until proven guilty amounts to gross abuse of power, and all persons concerned should be called to account. That way all Nigerians would be assured of the return of the rule of law.

**BRIEF ON  
MEMO NO: 744**

**Petitioner's Full Name(s) and Address(es)**

OLUSEGUN ADEGBENGA ADEBUSIYI

Plot 8/9 Adeyemo Layout

Adeoya Village,

Akobo Ibadan.

**Title of Petition**

MEMORANDUM SUBMITTED BY OLUSEGUN ADEGBENGA ADEBUSIYI  
TO THE JUSTICE OPUTA PANEL ON INVESTIGATION OF HUMAN  
RIGHTS VIOLATIONS IN NIGERIA

**Date of Petition**

10<sup>th</sup> August, 1999

**Particulars of Petition**

The Petitioner is an aqua-culturist and worked as Projects Coordinator for a company belonging to General Alani Akinrinade (rtd).

In December 1996, the Petitioner was arrested at gunpoint from his home in Ibadan by one Inspector Hilary and five other policemen. He was taken to Lagos and detained at the Special Anti-Robbery squad cell at Adeniji Adele Police Station under hellish conditions. For three days he did not eat, and for the one week that he was kept there he was not informed of the reason for his detention.

From there he was taken to FCID Alafbon Close, Ikoyi and brought before one ACP Zakari Biu who demanded information from him regarding one Nelson and General Akinrinade. ACP Biu threatened and abused him and he alleges he was beaten up for a remark he made, and was then deposited in a cell for the night. The next day he was taken to the office of one CSP Enape (a lawyer), bound hands and feet, chained and trussed up on the ceiling where he was made to hang upside down from a rack in a form of torture called 'roast chicken'. The purpose of the torture was to elicit from him a confession and incrimination of certain persons including General Akinrinade, Prof. Wole Soyinka and Dr. Fasheun in the bomb blasts that had occurred around the country.

The Petitioner alleges that thereafter he was taken to Ibadan, Ile-Ife, Osogbo and Akure in the course of investigations and for the conduct of searches on his properties and General Akinrinade's establishments. In all these places he was accommodated in Police cells all of which were in terrible conditions.

Five days later he was returned to FCID, Alagbon Close where he

found that his wife had also been detained. He was taken to the office of Superintendent Ogaba where his captors informed him that both his wife and his father were being held hostage to secure his cooperation. He was compelled to make a written confessional statement and to read it before a video camera. This he did with great reluctance, thereby eliciting the rage of one of the State Security Service (SSS) officers present, one Mrs. Adokie (the other SSS officer being one Mr. Dalma). Mrs. Adokie promised that all Yoruba leaders would be killed and threatened the Petitioner's wife with pain and suffering, and that both his wife and father would be tortured in his presence.

The Petitioner tried to kill himself by seizing the pistol of a policeman and attempting to shoot himself without success. From that day in early January 1997 he was put in leg chains until May 1997.

Subsequently, General Akinrinade's wife and brother were arrested and detained for three months in the place of the General.

The Petitioner's father was released after three weeks in detention at the SSS office while his wife was released in March 1997, ie after four months in detention.

Thereafter the Petitioner continued to suffer various forms of mental and physical torture, including the seizure of his Holy Bible for forty days by one Commissioner of Police Jimoh.

On 12<sup>th</sup> March 1997, the Petitioner along with several others was arraigned before an Ikeja Chief Magistrate on a charge of treason, and conspiracy to commit treason. They were remanded in prison custody and remained there until after the death of the then Head of State, General Sani Abacha, in June 1998 when most of the detainees were

released on the orders of the new government. ACP Biu however kept the Petitioner's name off the list of those to be released and continued to hold him illegally until 27<sup>th</sup> July 1998 when the Petitioner was finally released on conditional police bail. He had to continue to report at the Police Station for some time thereafter.

The Petitioner claims to now suffer physical disabilities such as impaired eyesight, defective back, and unreliable hands and feet as a result of his incarceration and torture.

On compassionate grounds, he also makes the case of bank officials who were detained at FCID, Alagbon Close under the Failed Banks Tribunal Decree and who suffered unbearable inhuman treatment. He makes particular mention of two such detainees who died while he was in residence there: Mr. Abel Akinpelu and Mr. Musibau Sanni, both of who were denied proper medical attention until it was too late.

**Period Covered by Petition**

1996 to 1998

**Names and Addresses of Persons or Institutions Petitioned Against**

1. Hon. Minister, Ministry of Police Affairs, Federal Secretariat, Abuja;
2. Inspector General of Police, Force Headquarters, Abuja;
3. Director-General, State Security Service, Abuja;
4. ACP Zakari Biu, c/o NPF Force Headquarters, Abuja;
5. Commissioner of Police Lagos State Police Command, Ikeja;
6. CP Jimoh, c/o NPF Force Headquarters, Abuja;
7. CSP Enape, c/o NPF Force Headquarters, Abuja;
8. SP Ogaba, c/o NPF Force Headquarters, Abuja;

9. SP Elias Peters, c/o NPF Force Headquarters, Abuja;
10. ASP Omotosho, c/o NPF Force Headquarters, Abuja;
11. Mrs. Adokie, c/o State Security Service, Headquarters, Abuja;
12. Mr. Dalma, c/o State Security Service, Headquarters, Abuja.

**Injury Suffered by the Petitioner**

1. Unlawful arrest and detention;
2. Torture and inhuman treatment;
3. Physical assault.

**Relief Sought by the Petitioner**

1. Prosecution of all those involved in perpetrating these abuses on the Petitioner and others;
2. Return of the Petitioner's international passport and that of his wife from the custody of the Police;
3. Compensation of ₦10 million;
4. Adequate compensation to all those who were similarly abused;
5. Collective national resolve never to allow such bestiality again in our land.

**Nature of Hearing Received by Petition**

After three months of detention he was taken before a Chief Magistrate who remanded him in prison up to the time of his release fifteen months later.

**Years of Service**

Not applicable

**Names and Addresses of Witnesses**

1. The Petitioner, c/o his address as in Column 1 above;
2. Chief E. A. Adebusuyi, c/o the Petitioner;

3. Mrs. Olubusola Arinola Adebuseyi, c/o the Petitioner;
4. Mrs. Ropo Adeloye, c/o the Petitioner.

**Remarks**

This is a harrowing account of the depths of bestiality to which this country sank in our recent past. That the machinery of state could be used to dehumanise and persecute innocent citizens in order to protect the selfish interests of a few is to my mind not only criminal but also immoral.

This is an excellent opportunity for the Commission to recommend to government the dismantling of all apparatus used by the Police and other security agencies to torture or dehumanise people. There may also be the need to relieve from their jobs all those who may have been used to abuse the rights of others, and to re-orientate the Nigeria Police Force and other security agents on the norms of civilised behaviour.

**Recommendations**

**BRIEF ON  
MEMO NO: 747**

**Petitioner's Full Name(s) and Address(es)**

LAYI ODUMADE

Odu'a Investment Company Limited Cocoa House Complex  
P M B 5435, Ibadan.

**Title of Petition**

MEMORANDUM TO JUSTICE CHUKWUDIFU OPUTA PANEL ON  
HUMAN RIGHTS ABUSES IN THE FEDERAL REPUBLIC OF NIGERIA

**Date of Petition**

Undated

**Particulars of Petition**

The Petitioner was working as an Investment Manager-Marketing in Odu'a Investment Company Limited in Ibadan when he was invited by the Police at State CID Panti, Lagos in December 1996 to make a statement on his relationship with one Nelson Kassim who was killed in a bomb explosion in Lagos. He assisted the Police to identify the body of the said Mr. Kassim and explained that he made the acquaintance of Mr. Kassim between 1977 and 1980 when he was a student in London.

Subsequently the Petitioner was invited again by the Police in January 1997 to Lagos where he was detained at FIIB, Alagbon Close, Ikoyi on the instruction of Assistant Commissioner of Police Zakari Biu, head of the Presidential Task Force on Terrorism. He was not told any reason for his arrest.

Four days later he was taken to the office of the State Security Service (SSS) at 15, Awolowo Road, Ikoyi where he alleges that he was extensively tortured. The method of torture employed was that he was bound hands and feet and hanged from the ceiling, suspended

between two tables with his head hanging down. After more than two hours, when he had passed out, he was lowered to the ground, by which time he was unable to use his legs and hands.

ACP Biu, SP Ogaba, CSP Daniel Enape of FCID, and Mrs. Adokie and Mr. Dalma of the SSS allegedly supervised the torture, the object of which was to compel the Petitioner to admit to receiving N10,000 from the late Melson Kassim to travel to Kaduna during an earlier meeting between the two in Lagos in April 1996.

The Petitioner alleges that thereafter he was taken 'half-dead' to FIIB Annex, Adeniji Adele where he was detained among robbery suspects.

He remained there for two months until he was arraigned with others before a Magistrate in March 1997 on a treason charge. The Magistrate ordered that they be remanded in police custody despite the spirited attempt of counsel to secure their bail.

In June 1998 after the death of the former Head of State, General Sani Abacha, the Petitioner along with others was released from detention and all charges against them were dropped. He had spent eighteen months in detention.

The Petitioner alleges that he and his family, including his wife who was five months pregnant at the time of his detention, were subjected to unthinkable physical, mental and psychological trauma, financial indebtedness, and untold hardship by his ordeal. He further alleges that his health has been impaired by the torture he suffered in the hands of ACP Zakari Biu and his team.

The Petitioner contends that his innocence has been established by the confessions of one Major Mustapha in a news magazine in December 1998 where the Major admitted to being behind the terrorist activities in the country at the time.

**Period Covered by Petition**

1997 to date

**Names and Addresses of Persons or Institutions Petitioned Against**

1. Hon. Minister, Ministry of Police Affairs, Abuja;
2. Inspector General of Police, Force Headquarters, Abuja;
3. Director-General, State Security Service, Headquarters, Abuja;
4. Mr. Zakari Biu (ACP), c/o NPF Force HQ, Abuja;
5. CSP Daniel Enape, c/o NPF Force HQ, Abuja;
6. SP Ogaba, c/o NPF Force HQ, Abuja;
7. Mrs Adokie, c/o SSS HQ, Abuja;
8. Mr. Dalma, c/o SSS HQ, Abuja.

**Injury Suffered by the Petitioner**

1. Unlawful arrest and detention;
2. Torture and inhuman treatment;
3. Mental and psychological trauma;
4. Financial indebtedness and untold hardship;
5. Stigmatization;
6. Ill-health resulting from torture.

**Relief Sought by the Petitioner**

1. Prosecution of all those involved in the violation of the Petitioner's rights;

2. Adequate compensation for the violations of the Petitioner's rights.

**Nature of Hearing Received by Petition**

Charges brought against the Petitioner at a Lagos Magistrate Court were abandoned by the Police.

**Years of Service**

Not applicable

**Names and Addresses of Witnesses**

1. The Petitioner, c/o his address as in Column 1 above;
2. Mr. Biodun Akinsola, Bond Consulting Limited, 299 Ikorodu Road, Maryland, Ikeja;
3. Mr. Moses Akeke Akinmola, c/o the Petitioner.

**Remarks**

This is another case of state brutality. The Police and other security agents behaved in an extremely cruel manner in subjecting the Petitioner to torture and abuse.

There is no justification whatsoever for such reckless abuse of power and no citizen should be subjected to such degradation.

**Recommendations**

**BRIEF ON**  
**MEMO NO 1403**

**Petitioner's Full Name(s) and Address(es)**

Wole Soyinka  
P.O. Box 847  
Upland  
CA 91785, USA.

**Title of Petition**

Arbitrary Attack On His Honour And Reputation.

**Date of Petition**

13<sup>th</sup> August 1999.

**Particulars of Petition**

A publication titled CONSCIENCE INTERNATIONAL carried lurid and nauseating details of a fictitious life ascribed to him.

The Petitioner alleges said publication was circulated practically the world over. A carton was sent to the Nigerian Mission to the United Nations. A copy was sent to the President of the Petitioner's University – Emory University, Atlanta with a complimentary slip from the Information Officer of the Nigerian Embassy in the U.S.

The publisher of the said magazine is one Chief Abiola Ogundokun

against whom the Petitioner has instituted action for libel at the Lagos High Court.

People received this publications in places as diverse as India, Canada, Tanzania, Germany, France, etc.

The publication naturally had a most deleterious effect on the democratic movement efforts.

**Period Covered by the Petition**

Sometime during the Abacha regime.

**Names and Addresses of Persons or Institutions Petitioned Against**

1. Chief Abiola Ogundokun (no address provided)
2. The Ambassador  
Nigerian Embassy, USA.
3. Dr. Gambari  
Former Ambassador to the United Nations (present address not provided)
4. Minister of Information  
Federal Ministry of Information, Abuja.
5. Minister for External Affairs  
Federal Ministry of External Affairs  
Wuse Zone 3, Abuja.

**Injury Suffered by the Petitioner**

1. Deformation of his good name.

2. His efforts at actualizing a democratic environment in Nigeria suffered a set back.

**Relief Sought by the Petitioner**

1. For the generality of Nigerians to be made to known how government resources were abused and the level to which the government of the time sank.
2. Compensation for so blatantly and outrageously libeling him.

**Nature of Hearing Received by Petitioner**

None

**Years of Service**

N/A

**Names and Addresses of Witnesses**

The Petitioner.

**Remarks**

It is a serious offence to steal another's good name and character. But as the Petitioner also noted it was really a sign of the times and ordinarily decent civil servants were made to perform odious duties.

However, Petitioner has already sued the publisher for defamation so only proper that aspect should be left for the courts to determine first. The dissemination of such information by our missions abroad should be viewed with the seriousness it deserves.

**Recommendations**

**BRIEF ON**  
**MEMO NO 1411**

**Petitioner's Full Name(s) and Address(es)**

Chief S. Olu Falae (GCON)  
5A Ahmed Onibudo Street  
Victoria Island  
P.O. Box 54169, Falomo, Ikoyi  
Lagos.

**Title of Petition**

Memorandum To Justice Oputa Panel On Human Rights Abuses In  
The Federal Republic of Nigeria.

**Date of Petition**

Undated.

**Particulars of Petition**

On or about 9/12/96, some detectives from Pantti Police Station, Lagos invited the Petitioner to the Police Station in connection with the bomb blast at Murtala Mohammed Airport, Lagos.

The basis of their invitation was that one Nelson Kazzim who died in the explosion had the Petitioner's name in his diary.

The Petitioner told them he didn't know the man and on being shown the entry noted that his name was FALAE while the name in the diary

was FALAYE. He was asked to go.

About a month later, the Petitioner was now invited to Alagbon Close, Force CID on the orders of ACP Zakari Biu, again they went through the same rigmarole, but instead of asking him to go like before, they never did and that was the beginning of his 18months stay in detention at the Force CID Headquarters Alagbon Close. He was only released on 25/7/98.

The Petitioner was in fact charged to court with 10 others on 25/3/97 for treason at the Ikeja Magistrate Court. He was also charged for conspiracy. Of his co-accused, the Petitioner alleges that he had never met or seen them before with exception of Dr. Fred Faseun.

The Petitioner however alleges that he was informed by some Police Officers that his case was political and that they were acting on orders from above.

**Period Covered by the Petition**

January 1997 to 25/7/98.

**Names and Addresses of Persons or Institutions Petitioned  
Against**

The Inspector General of Police  
Police Headquarters,  
Abuja.

**Injury Suffered by the Petitioner**

1. Indignity and humiliation .

2. Loss of income.

**Relief Sought by the Petitioner**

Compensation for the indignity, humiliation and economic loss.

**Nature of Hearing Received by Petitioner**

None.

**Years of Service**

Not applicable.

**Names and Addresses of Witnesses**

1. The Petitioner
2. The Commissioner of Police  
Lagos State Command.

**Remarks**

This is another case of gross abuse of a citizen's right to the dignity of his person and his right to his personal liberty. These liberties guaranteed by the constitution must be zealously guarded and protected. That alone is the basis of sustainable democracy.

**Recommendations**

**BRIEF ON**  
**MEMO NO 1412**

**Petitioner's Full Name(s) and Address(es)**

Mr. Uba Okeke  
No.1 Lateef Jakande Road  
Agidingbi  
Ikeja – Lagos.

**Title of Petition**

Gross and Cruel Violation of Human Right.

**Date of Petition**

20/8/99.

**Particulars of Petition**

The Petitioner alleges that his brother Theophilus Anekwe was arrested by the Police in Warri on a trumped up charge of receiving stolen properties namely: 2 bundles of plastic conduct pipes, the Petitioner had bought N90 each and was issued a receipt.

The Petitioner alleges he was asked to bring N3,000 by the IPO Mr. Rasaki Shola in Warri Police Station to bail his brother, but he refused. The Petitioner wrote a petition to the Commissioner of Police, which forced the IPO to take the matter to court. However, the case was settled out of court.

Two weeks later, while the Petitioner was out of town, his wife and housemaid were arrested by naval men from the Warri Naval Base. They came in Vehicle No. BD 451 W.

Before coming to his house, the naval men had also earlier gone to the Petitioner's shop in a Volkswagen Beetle car No. BD 702 JA. The Naval men said they were looking for a printing and duplicating machine allegedly stolen by one Omonigho Okpili and sold to the Petitioner. One John Masojie allegedly witnessed both the stealing and the sale. The machines in question belonged to one Anthony Anene.

When the Petitioner returned from his trip, his shop was locked up. The Petitioner feels the IPO Mr. Rasaki Shola must be behind this. On getting to the Naval Base, his wife and house girl had been so beaten and battered, his wife forced to kneel down under the sun.

On the Petitioner's arrival, 2 men calling themselves John Masojie and Omonigho Okpili identified him. The Petitioner alleges he had never seen them before.

On the instructions of Naval Commander Salaudeen Akwao, his men namely Tijani Lawal, Falayibola Joseph, Jack Sarlas, Simeon Shawan and Abayomi Kofi – all Navy Personnel descended on him. He was mercilessly beaten up and lied completely naked and helpless to a pillar post.

The Petitioner alleges he was beaten insensate and even had a spike from a bicycle inserted into his penis through the hole. The pain of this inhuman act was so excruciating, he passed out.

The Petitioner asked them how much they wanted and they said N24,700. He didn't have the money, but his brother gave them N3,000 leaving a balance of N21,700. He was again thrown into a cell. He stayed in this cell for 6 days.

On the 2<sup>nd</sup> day, he was forced to drink his urine at gun point. All through his ordeal, the Petitioner kept on asserting his innocence and that he knew nothing about the machines. The Petitioner was eventually released on 17/5/88.

On his release, he went to Veenell Hospital, Warri for treatment. The Hospital referred him to University of Benin Teaching Hospital. Suffice it to say that after all treatment, the Petitioner lost the sight in his left eye and is now impotent.

While in hospital, the Navy people re-arrested his wife. However, his brother secured the wife's release the second time. However, the Petitioner's wife who was 4 months pregnant aborted the pregnancy because of the drug she was given when she went for treatment. She also later developed psychiatric problems and had to be treated at the Psychiatric Hospital, Enugu.

The Petitioner sued them at the High Court, Warri and was awarded the sum of N1.9m as both exemplary and general damages. This amount has not been paid. (The Petitioner attached all medical reports and a copy of the court's judgment).

**Period Covered by the Petition**

1988 till date.

**Names and Addresses of Persons or Institutions Petitioned  
Against**

1. Navy Commander Salaudeen Akawo (Rtd)  
No. 10 Saludeen Akawo Street  
Ogudu G.R.A. Lagos.
2. The Chief of Naval Staff  
Navy Headquarters, Abuja.
3. Tijani Lawal
4. Folajibola Joseph
5. Jack Sarlas
6. Simeon Shawan
7. Abayomi Kofi  
All c/o Navy Headquarters, Abuja.

8. John Masojie
9. Omonigho Okpili
10. Anthony Anene )

11. Mr. Rasaki Shola  
C/o the Inspector General of Police  
Force Headquarters, Abuja.

**Injury Suffered by the Petitioner**

1. Infringement of his right to personal liberty.
2. Infringement of his right to respect in the dignity of his person.
3. Loss of some consortium with his wife.
4. Loss of the amenities of life.

**Relief Sought by the Petitioner**

N38m as compensation to him and his wife.

**Nature of Hearing Received by Petitioner**

Court of competent jurisdiction

**Years of Service**

Not applicable.

**Names and Addresses of Witnesses**

1. Felix Chuks ( no address)
2. Obiora Ezeani
3. Theophilus Anekwe – c/o the Petitioner.

**Remarks**

A most savage, brutal, callous and dehumanizing treatment to mete out to an individual.

However, a court of competent jurisdiction has already pronounced on the matter. Efforts should be geared towards paying the amount awarded by the court as negligible as it is.

However, the perpetrators of this crime should be made to face the full wrath of the law under the criminal justice system.

**Recommendations**

**BRIEF ON**  
**MEMO NO 1402**

**Petitioner's Full Name(s) and Address(es)**

Mrs. Florence Abosedo Omotehinwa  
No. 26 Okunola Aina Street  
Okupe Estate  
Maryland, Lagos.

**Title of Petition**

Petition On Human Rights Violation. Re: Rear Admiral Emmanuel Olu Omotehinwa (deceased).

**Date of Petition**

16<sup>th</sup> August 1999.

**Particulars of Petition**

The Petitioner is the wife of the deceased.

On 23<sup>rd</sup> May 1996 between 8:15pm and 8:30pm, 3 men entered their compound unnoticed. They only noticed their presence when they saw 2 strange men in the sitting room and one in the kitchen. Already in the sitting room were 2 men Lt. (NN) Bashir and Abraham, who were ordered to lie face down near the dinning section.

The son Olugbenga coming in from outside noticed the man at the kitchen door, he asked the man who locked the door but he didn't reply. Olugbenga then heard his father late Rear Admiral coming in. He hooted his horns at the gate. He went to open the gate. The 2 men inside also heard the car horn and remarked "the man we have been

looking for has come”.One of the men went to meet him outside. The Rear Admiral noticed immediately he was in danger and tried to move back. By this time he had come inside and gotten out of his car. The men warned him not to move again. He tried moving again and they shot him twice on the thigh and sped away with the Rear Admiral’s Mercedes Benz car.

Meanwhile, all along the Petitioner did not know anything was amiss until she heard the gunshots and her husband’s sharp cry. She rushed down with her other children.

The Rear Admiral was rushed to a hospital but he died before he could be attended to. His Mercedes Benz car was recovered the next day. A report was lodged with the police at Pedro Police Station and also with the then Chief of Naval Staff, Rear Admiral Mike Akhigbe. The Police came around that day but no further actions were taken.

The petitioner suspects that her husband was murdered by the State because of his rumoured friendship with Lt. Gen. Akinrinade (Rtd) who was a NADECO member and on political exile at the time. The husband’s business trips to Cotonou Dakar and Abidjan were seen as politically motivated to enable him hold meetings with Lt. Gen. Akinrinade (Rtd).

**Period Covered by the Petition**

23<sup>rd</sup> May 1996

**Names and Addresses of Persons or Institutions Petitioned Against**

The State i.e. the Federal Government

**Injury Allegedly Suffered by the Petitioner**

Loss of husband – husband’s life brutally extinguished.

**Relief Sought by the Petitioner**

1. A proper investigation to get to the people behind the husband’s murder.
2. Compensation for loss of their breadwinner.

**Nature of Hearing Received by Petitioner**

None

**Years of Service**

N/A

**Names and Addresses of Witnesses**

1. Lt. (NN) Bashir
2. Lt. (NN) Abraham  
Both of Navy HQs
3. Olugbenga Omotehinwa  
26 Okunola Aina Street, Okupe  
Estate Maryland Lagos.

**Remarks**

This is a case where a man was denied his right to life.

However, as brutal and blood thirsty as the Abacha regime was, not all assassinations were engineered by the State. Some arose out of business deals that went awry.

A proper investigation must first be carried out to ascertain the real brains behind this.

**Recommendations**

**BRIEF ON  
MEMO NO 584**

**Petitioner's Full Name(s) and Address (es)**

Comrade Alh. Rashidi Bayo Salawu  
c/o Atingisi Compound,  
Oke-Afin Quarters,  
P.O. Box 163, Oyo,  
Oyo State.

**Title of Petition**

THE BRUTAL MURDER OF A HIGH CHIEF OF OYO- LATE CHIEF  
AMUDA OLORUNKOSEBI – THE ASIPA OF OYO

**Date of Petition**

July 4, 1999

**Particulars of Petition**

This petition is about the murder on Nov., 26, 1992 of the Asipa of Oyo, Late Chief Amuda Olorunkosebi. The Petitioner claims that there has been a cover up by the high-ups in Oyo State, including the Military Administrator at the time Col. Nwosu, that has made it impossible to identify and bring to trial the real murderers of the late Chief. The petitioner claims that one person had confessed to the act and named the Alafin of Oyo, Oba lamidi O. Adeyemi, as the planner and bank-roller of the murder, and that both the FIIB. And the Police DPO had recommended the Alafin and three others be charged to court for the murder but the MILAD rejected the recommendation and in the end, only one Dr. Segun Oduneye was docked and convicted for conspiracy to murder, on June 18, 1998.

Petitioner claims that the late Chief's murder had to do with a long standing quarrel between him and the Alafin. Petitioner also claims that there has been an attempt on his life.

**Period Covered by the Petition**

1992 to present.

**Names and Addresses of Persons or Institutions Petitioned Against**

- The Oyo State Government.
- The Oyo State Police Command.

**Injury Suffered by the Petitioner**

- Petitioner feels justice has not been done.
- Petitioner feels threatened and fears for his life.

**Relief Sought by the Petitioner**

- Petitioner wants the murder case revisited and fully investigated so that all those involved will be tried and punished.
- Petitioner want the Commission's intervention in this matter, especially as regards the threat to his life.

**Nature of Hearing Received by Petition**

The Petitioner has reported complaints to the Police and has made statements, but nothing has come of it.

***Years of Service*****Names and Addresses of Witnesses**

- The Nigeria Police, Oyo State Command.
- The High court of Justice, Oyo
- Mr. Abiodun Faseyiton.

**Remarks**

The murder case has already been tried in a court of law and it is unlikely that the police and/or the government will re-open the case and bring to trial others who may be involved. It is very curious that only one person has been tried and found guilty of conspiracy to murder and those who might have been the actual planners were not tried at all. But this is up to the Police and the Oyo State Government. The Commission can write to the Police about the threat to the Petitioner's life, and to the government to investigate further the murder case.

**BRIEF ON**  
**MEMO NO 952**

**Petitioner's Full Name(s) and Address (es)**

LAZARUS MBA, c/o A.B. Akogu Esq, 16, Achimugu Street, Idah, Kogi State.

**Title of Petition**

RE LAZARUS MBA

**Date of Petition**

20<sup>TH</sup> July, 1999

**Particulars of Petition**

The Petitioner was a cook employed in the Catering Department of the Federal Polytechnic, Idah, and assigned to the Rector of the Polytechnic. The Petitioner had just recovered from a case of whitlow in May 1997 when the Rector caused his employment to be terminated. The petitioner alleges that the ostensible reason was that the Rector felt uncomfortable with the petitioner cooking for him on account of the whitlow infection.

The Petitioner had had his employment terminated in 1990 but was re-engaged in 1992 before this second termination in 1997. Cumulatively he had served the Polytechnic for 12 years. His requests for merger of the two periods of his service (1983-1990 and 1992-1997) were refused by his employer.

**Period Covered by the Petition**

1997 to date.

**Names and Addresses of Persons or Institutions Petitioned Against**

- The Hon. Minister, Federal Ministry of Education, Federal Secretariat, Abuja.
- The Rector, Federal Polytechnic, Idah, Kogi State.
- The Registrar, Federal Polytechnic, Idah, Kogi State.

**Injury Suffered by the Petitioner**

- Unjust termination of employment.
- Denial of pension.

**Relief Sought by the Petitioner**

- Reinstatement or in the alternative.
- Merger of two periods of service (1983-1990) and 1002-1997 to enable the petitioner qualify for pension.
- Payment of pension from 1997.

**Nature of Hearing Received by Petition**

None stated.

**Years of Service**

12 years.

**Names and Addresses of Witnesses**

- The Petitioner, c/o his address as in Column 1 above.
- The Rector, Federal Polytechnic, Idah, Kogi State.
- The Registrar, Federal Polytechnic, Idah, Kogi State.
- Mr. Omeje, Catering Officer, Federal Polytechnic, Idah, Kogi State.

- The Principal Catering Officer, Federal Polytechnic, Idah, Kogi State.

**Remarks**

The facts of this petition suggest on arbitrary exercise of power by the Rector of the Polytechnic in the termination of the Petitioner's employment. Though the authorities of the Polytechnic are competent in law to terminate the appointment of the Petitioner, yet that power ought to be exercised fairly and judiciously.

Nevertheless, the petitioner's years of service ought to be merged as requested to enable him enjoy a pension.

**BRIEF ON  
MEMO NO: 223**

**Petitioner's Full Name(s) and Address(es)**

Adediran Benson  
Richlaw Chambers  
198, Ikorodu Road,  
P. O. Box 2048, Somolu, Lagos.

**Title of Petition**

Re: Petition in Respect of the Unlawful Detention, Torture and Extra-Judicial Murder of Late Mr. Adesegun Benson by Officers of the Lagos State Police Command at Ikeja.

**Date of Petition**

20<sup>th</sup> July, 1999

**Particulars of Petition**

This is a Petition presented by Adediran Benson Esq. On behalf of his brother Mr. Olaiwola Benson on the extra-judicial murder of his son late Mr. Adesegun Benson by officers of the Special Anti-Robbery Squad (SARS), Lagos State Police Command at their office in Ikeja following his unlawful arrest, detention and torture to death on the 7<sup>th</sup> of October, 1996. The deceased was allegedly arrested by one SARS Officer named Ekong Akpan on 28/9/96 at Ikorodu town on the ground that two alleged robbery suspects in police custody had mentioned his name as being part of their robbery gang. The Petitioner alleged that Late Adesegun was transferred to Ikeja office of S.A.R.S the following day and was severely tortured and brutalised by the Investigating Officer Ekong Akpan and his leader one ASP Onah. The Petitioner visited the deceased at the detention camp, Ikeja on 1/10/96 and was horrified with his physical condition: swollen body, deep laceration on all parts of his body and was not able to walk on his own. In fact, the Petitioner claimed that the deceased was being treated by a nurse at the time of his visit and that late Adesegun narrated that he was hung upside-down for hours by Police in order to force him to admit what he knew nothing about. The Petitioner immediately alerted the IGP on 2/10/96 and the IGP graciously ordered a full scale investigation the following day 3/10/96. Yet, nothing was done by the then Commissioner of Police Alhaji Abubakar Tsav and his SARS men who made false promises until Mr. Adesegun Benson died in detention on 7/10/96. The Police only informed the family members on 9/10/96 and all appeal and repeated demands for

the prosecution of the two police officers were effectively frustrated by the police despite glaring evidence and the autopsy report. In fact, the several appeal letters sent by Lagos State DPP for legal Advice despite promises and assurance by the then Commissioner of Police Alhaji, Abubakar Tsav with the result Messrs. Ekong Akpan and ASP. Onah were prosecuted till date.

**Period Covered by the Petition**

1996 to date

**Names and Addresses of Persons or Institutions Petitioned Against**

1. The Inspector-General of Police, Force Headquarters, Abuja.
2. The Commissioner of Police, Lagos State Police Command.
3. The Hon. Attorney-General of Lagos State and Commissioner for Justice, Secretariat, Alausa, Ikeja.

**Injury Allegedly Suffered by the Petitioner**

1. Bereavement.
2. Non-investigation by the Police of the circumstances leading to the death of Mr. Adesegun Benson in Police cell.
3. Non-prosecution of the culprits, namely ASP. Onah and Ekong Akpan.

**Relief Sought by the Petitioner**

Investigation of the matter to ensure that all those responsible for the death of Mr. Adesegun Benson are brought to book and punished.

**Nature of Hearing Received by Petitioner**

The Petitioner was denied fair hearing and was frustrated by the Lagos State Police Command.

**Years of Service**

Not applicable.

**Names and Addresses of Witnesses**

1. The Petitioner.
2. Office of the Lagos State Commissioner of Police.
3. Office of the Hon. Attorney-General and Commissioner for Justice, Lagos State.
4. Alhaji Abubakar Tsav.

**Remarks**

Allegations of extra-judicial murder and inhuman torture of suspects in Police Cells are multiplying by the day so much that one begins to wonder whether there are no other ways or means for the police to investigate serious crimes in our society. It is really painful and shameful that all the Nigerian Police can do in investigating crimes is just to “torture and torture until the suspect admits committing an alleged crime. There is absolutely no justification for police to torture to death a suspect who is already in their custody. The law has made adequate provisions for dealing with all manner of suspects and sundry offences. This matter should therefore be taken-on squarely against the Lagos State Police Command. The culprits must be made to face the law.

**Recommendations**

**MEMO BRIEF**  
**MEMO NO. 486B**

**Petitioner's Full Name(s) and Address (es)**

Oladipo Morohundiya, c/o Morohundiya & Co.  
19B Ogundana Street, Ikeja.

**Title of Petition**

Illegal Arrest, Detention and Unlawful Dismissal.

**Date of Petition**

25<sup>th</sup> July, 1999.

**Particulars of Petition**

The Petitioner avers as follows. That one Mr. Ifeanyi Okeke brought to the Office of NDLEA Zone 7 Onitsha a report against two officers of NDLEA namely Hasiya Usman and one Monsur, both narcotic agents so at least this petition alleges. The Petitioner, officer of NDLEA received same and forwarded it to the Zonal Commander one Isa Adoro, N>S.

Later Hasiya Usman was transferred to Zuru, kebbi State but Maj. Gen. M. M. Bamaiyi; NDLEA Chairman through a handwritten note posted her back to Onitsha and directed that she be kept at the Onitsha -Asaba Nye bridge NDLEA, a place considered as lucrative.

On the contrary Maj. Gen. Bamaiyi ordered that the Petitioner be brought to Lagos on 22/9/97. The petitioner was then taken to No. 4 King George road residence where Bamaiyi ordered that he detained. The Petitioner was from then detained till July 1998. He was held incommunicado, confined in solitary detention for two months, often starved and refused medical attention. He was later accused of 'leakage of information" but his dismissal was predicated on official corruption. The Petitioner now uses glasses a result of prolonged detention. Now he seeks the intervention of this Commission.

**Period Covered by the Petition**

1997 – 2000.

**Names and Addresses of Persons or Institutions Petitioned Against**

1. NDLEA
2. Maj. Gen. M. M. Bamaiyi (rtd)
3. Capt Auta ADC to Bamaiyi.
4. Mr. Singa N. A.
5. Usman, N.A.

**Injury Allegedly Suffered by the Petitioner**

1. Arrest, detention and torture.
2. Dismissal
3. Trumped up charge.

**Relief Sought by the Petitioner**

1. Reinstatement.
2. Compensation.

## **Nature of Hearing Received by Petition**

## **Years of Service**

## **Names and Addresses of Witnesses**

- Mr. W. G. Midala, NDLEA Headquarters.
- Mrs. Kemi Oshinowo, Admin, NDLEA- Ikoyi.
- Paul Audu, Prosecution Unit, NDLEA.

## **Remarks**

This Petition discloses a case that may be investigated. The allegation here is grave and suggests a conspiracy to perpetuate injustice without any regard to the constitutional rights of the persons affected. A public hearing may be considered.

## **MEMO BRIEF**

## **MEMO NO. 499**

## **Petitioner's Full Name(s) and Address (es)**

Omiyale Ayobami  
C/o Chikwendu and Chikwendu Solicitors,  
70 D, Allen Avenue, P.O. Box 1542, Ikeja – Lagos.

**Title of Petition**

Report of My Abduction, Torture, Unlawful Detention and Trial by Members of the Nigerian Police Force while I was in Office as the Lagos State Sector Commander of the Federal Road Safety Commission

**Date of Petition**

28<sup>th</sup> July, 1999.

**Particulars of Petition**

The Petitioner was the Lagos State Sector Commander of the Federal Road Safety Commission (FRSC). Incidentally, there was this idea then, that the FRSC should be merged with the Police. And this became a public discourse. On the 2<sup>nd</sup> of December 1997, the Petitioner had a live television debate on AIT with Mr. Paddy Ogon the Lagos State Police Public Relation Officer. Undoubtedly, the Petitioner alleges, he had an upper hand in the debate, reaching out statistics of how the FRSC had reduced the rate of accident in the country within its nine years of existence and therefore posited that the merger should not be.

Later, the Petitioner had an interview with the Diet Newspaper where he alleged that the Police had failed the Nation. This interview was published at the back page of the said paper on 28/12/97. The failure alluded to here was with regards to the prevention and management of road accidents. Prior to this, the Lagos State Commissioner of Police as he then was, Abubakar Tsav in justifying

the proposed FRSC-Police Merger plan stated in the December 21, 1997 edition of the Diet Newspaper that Road Safety Marshals are corrupt. Given this scenario, on the 29<sup>th</sup> of December, 1997, the Police dispatched about 15 plain cloths police officers heavily armed to the Petitioner's office to effect his arrest at 1730hrs on the said date. In effecting this arrest, blows, slaps, gun butts and kicks rained ceaselessly on the Petitioner, so at least he alleges. The Police also were shooting freely into the air to scare people away. The leader of the Police gang was the Second-in-Command of the Special Anti-robbery Squad (SARS) Lagos Police Command. In the course of effecting this arrest, one Mr. Sesan Awoyemi (DRM) of FRSC who was on duty was shot at while trying to scale the wall for his safety. Arrested along with the Petitioner were Commanders J.K. Aremu and Ogundele (DRC). Of interest is the fact that emerged during the interrogation of the Petitioner by the Police to the effect that he claimed that two former Inspectors-General of Police were behind the merged and that one of them later became a Minister Alhaji Gambo's name was mentioned as having a hand in the Petitioner's ordeal. The Petitioner's office was ransacked and the sum of N36,000 belonging to him and his wife was removed by the Police. The Petitioner was subjected to serious harrowing experience by way of torture, assault etc.

Finally on the 2<sup>nd</sup> of January 1998, he was taken to court where he was granted bail. The charge was formally withdrawn on the 24<sup>th</sup> of August 1998. The Petitioner was detained for 5 days in Police custody and visitors including his wife and relations were not allowed to see him.

### **Period Covered by the Petition**

Dec. 1997 - August 1998.

**Names and Addresses of Persons or Institutions Petitioned Against**

1. The Nigerian Police
2. Former IGP, Alhaji Gambo.
3. Mr. Yakubu Mohammed (Deputy Commissioner (Admin) Nigerian Police.
4. Mr. NSOL ( Lagos Police Command).

**Injury Allegedly Suffered by the Petitioner**

- Arrest and unlawful detention.
- Assault.
- Arraignment in court on a trumped up charge.
- Loss of N36,000 allegedly stolen by police.

**Relief Sought by the Petitioner**

**Nature of Hearing Received by Petition**

**Years of Service**

**Names and Addresses of Witnesses**

- Omiyale Ayobami, c/o Chikwendu & Chiwendu, Barristers & Solicitors, 70D, Allen Avenue, P.O. Box 1542, Ikeja, Lagos.
- Commander Joseph Aremu (AAC) c/o FRSC.

**Remarks**

The facts of this case call for a public hearing to determine the real motive behind this episode. A development such as this portends danger to the growth of public institutions in this country.

The petitioner's inalienable rights were trampled upon with impunity by the Police in a manner that was very humiliating thereby sending a wrong signal that ours is still a barbaric society where brute force reigns supreme. The culprits should be unmasked and the Police as an institution should be made to bear the brunt of the Petitioner's claim which incidentally is only N5million naira.

**Recommendations**

## **PETITION NO. 1771 : CAPT. A. A. OGUNSIYI**

### **Mode Of Treatment Of Petition**

The petition was heard during the public sittings of the Commission in Lagos. The Petitioner gave evidence, tendered his petition and adopted the earlier testimonies of his co-victims.

### **Evidence Of Alleged Perpetrators**

The petition was treated in line with other cases involving the same alleged perpetrators in respect of the alleged coup plot of 1995. The alleged perpetrators who were mostly officers and men that constituted the Special Investigation Panel in respect of the alleged coup plot and also members of the Security Group, consistently denied torturing their victims during the investigations.

### **Findings And Observations:**

The Commission carefully reviewed the evidence adduced by the Petitioner and other witnesses in related petitions. The Commission also examined relevant official records and visited the alleged torture centres in order to confirm the claims of the Petitioner and his fellow victims in the light of consistent denials by the alleged perpetrators. The Commission makes the following findings and observation:-

- a) That the Petitioner was arrested, detained and arraigned before a Special Military Tribunal headed by then Brig-Gen. P. N. Aziza for alleged complicity in the alleged coup plot of 1995. The Petitioner was convicted and sentenced to 2 years imprisonment.
- b) That his sentence was later commuted by the then Provisional Ruling Council and the Petitioner served his term. He was later granted state pardon by the administration of Gen. A. A. Abubakar in March, 1999.

- c) That the Commission finds the allegations and claims of the Petitioner that he was tortured to be truthful based on the following :
- 1) the Commission visited the alleged torture centres and discovered horrifying structures and instruments of torture all over the places.
  - 2) All the victims of the alleged coup plot of 1995 gave consistent and corroborative evidence of torture and brutality.
  - 3) The conditions, circumstances and places of the Petitioner's detentions are sufficient evidence of psychological and mental torture.
- d) That the procedure, process and circumstances of the Petitioner's trial, conviction and sentence are flawed as it severally negate the basic and elementary demands of justice and the provisions of the African Charter on Human and Peoples' Rights.
- e) That the law under which the Petitioner and other victims of the alleged plot were tried and convicted is a bad law in that :
- i) it did not allow any right to appeal to the superior Courts of the land.
  - ii) It did not guarantee the Petitioner's rights to fair hearing and recourse to due process of law.
- f) That no law anywhere in the world permits torture or ill-treatment of detainees or prisoners in any circumstances.

### **Recommendations**

The Commission accordingly recommends that the Federal Government of Nigeria should:

- Issue a public apology to the Petitioner

- Pay the sum of N100,000.00 (One Hundred Thousand Naira) only as compensations to the Petitioner.
- Direct the Army authorities to allow the Petitioner retire voluntarily from service.
- Grant the Petitioner free medical treatment in a government hospital in respect of any injury or disability suffered while in detention.
- Direct the Army Authorities to return all the seized properties of the Petitioner.
- Pay the Petitioner all his emoluments and other benefits.
- Refer her conviction to the appropriate courts for nullification.

The Commission further recommends as follows:

That the Federal Government of Nigeria should dismantle and demolish the following torture structures and centres, namely

- a) The Underground detention centre (otherwise called “The tunnel”) at the Security Groups office of the Directorate of Military Intelligence, Apapa , Lagos.
- b) The “Inter Centre” cell at the grave yards of Ikoyi Cemetery.
- c) The Interrogation Centre at No 67 Alexander Avenue, Ikoyi and transfer the premises and buildings to the use of the National Human Rights Commission.

## **VOLUME SIX**

### **REPARATION, RESTITUTION & COMPENSATION**

#### **CHAPTER ONE**

##### **INTRODUCTION**

##### **SETTING THE CONTEXT: RECONCILIATION AND REPARATION**

1.1 This volume seeks to clarify and examine the important issue of Reparation, disaggregated into its related concepts—Restitution, Compensation, and Rehabilitation. The issue of Reparation raises two central problems for the work of a truth and reconciliation commission like ours. The first is whether it is possible to achieve national reconciliation without restitution, compensation and rehabilitation. Secondly, is it possible for victims of gross human rights violations, individually, to get justice without receiving some form of restitution, compensation and rehabilitation?

1.2 As Priscillia Hayner has rightly noted, at the personal or individual level,

*Forgiveness, healing, and reconciliation are deeply personal processes, and each person's needs and reactions to peacemaking and truth-telling may be different.*

[P. Hayner, *Unspeakable Truth*, New York: Routledge 2000), page 155)

1.3 The problem is, therefore, how to ensure that the goal of national reconciliation is not pursued at the expense or sacrifice of the needs or psychological satisfaction of individual victims of gross violations of human rights. This is particularly important, if only because, as the experience of the *Truth and Reconciliation Commission of South Africa* so dramatically illustrated, knowing the truth may further deepen the sense of wrong and of the wounds inflicted on victims, making reconciliation, desirable as it may be as a national objective, difficult to attain at the inter-personal, micro-social level. In the same vein, perpetrators may also face problems coming to terms with their guilt and shame.

1.4 There are, therefore, various levels of “healing” and “reconciliation,” principally at the individual, inter-personal or micro-social and national levels. There is need to find a strategic device to build bridges across these various levels.

1.5 Although it may be difficult to achieve or effect personal reconciliation, there are obvious steps that can facilitate it or at least increase the chances of reconciliation for individual victims and perpetrators.

1.6 These steps include the following: revealing the truth; acknowledging the harm done; showing remorse for the pain suffered by the victim; apologising for the wrongs done; holding perpetrators accountable; healing the injuries caused; rehabilitating those with disabilities; restitution and compensation for wrongs that cannot be

replaced; forgiveness and closure by the victims; and preventing future occurrences through establishing institutional reforms.

1.7 In short, reparation is as much a key aspect of the process of reconciliation as are revealing the truth and apologizing for the harm done. To heal the injuries caused, to rehabilitate those with disabilities, and to compensate for wrongs that cannot be replaced are ways of acknowledging the harm done, providing a platform for holding perpetrators accountable and giving the nation the opportunity to atone for past misdeeds. In effect, without reparation, there can be no real reconciliation.

### **ENSURING ACCOUNTABILITY AND JUSTICE**

1.8 If, as some have argued, *Reconciliation* is a  
“ a code word for those who wanted nothing done ....  
reconciliation ....was understood by victims to mean,  
‘We are being asked to reconcile with our torturers, and  
they’re being asked to do nothing’”  
[P. Hayner, *Unspeakable Truths*, p. 160],

how is the State to ensure that perpetrators are held accountable, thereby avoiding creating an image of impunity for violators?

1.9 One answer is that perpetrators of gross human rights violations should be made to pay back or do something to show that they recognize and admit the harm they have done, in the form of the pains and the sufferings their victims faced, as a result of the violations of their human rights by the perpetrators of such violations.

1.10 The State is also oftentimes is implicated in cases of gross violations of the human rights of its citizens. For example, as our

country's political and social history has shown and, as we have detailed in previous volumes of his Report, not only has the Nigerian state created a political and socioeconomic environment conducive to the gross violations of human rights but also its agents and functionaries have been implicated in or have been active perpetrators of such violations.

1.11 In other words, where there are patterns of institutional (governmental) violations, the State as much as the perpetrators are liable and therefore should atone for these violations. Therefore, some aspects of the reparation have to be bore by the State, in addition to those provided by the violators.

1.12 Can justice be divorced from reparation? What is the relationship between the two concepts? Is it possible to obtain reparation without obtaining justice? These questions are relevant because some of those who submitted petitions to the Commission stated that what they wanted was **not** reparation but justice.

1.13 What then is justice? Can justice be divorced from reparation? This seeming perception of justice as separate from reparation may explain while many of the petitioners who sent in petitions to the Commission excluded the issue of reparation in their initial petitions, although they later sent in separate petitions to the Commission, praying for reparation – compensation, restitution, and rehabilitation.

1.14 A typical example of the seeming separation between justice and reparation was Petition 1393, which was submitted to the Commission by Menon Bagauda, in respect of the death under

mysterious circumstances of his elder brother, the journalist Bagauda Kaltho.

1.15 In the petition, Menon Bagauda sought the following relief: The commission should make a finding as to what happened to Bagauda Kaltho.

1.16 The Commission should recommend full investigation into the matter by the police so that the truth of what happened to Bagauda Kaltho would be known.

1.17 Those that were responsible for the arrest and subsequent disappearance of Bagauda Kaltho should be brought to book.

1.18 However, during the public hearing on the above petition held on 14 March 2001 at Kano, counsel for Menon Bagauda applied to recall the petitioner to tender the following addendum, seeking reparation, to the initial petition:

*“The subject of their petition, Mr. James Bagauda Kaltho, left behind, after his disappearance, a wife, two daughters, two aged parents, three brothers and three sisters, who were all his dependants. These dependents of his have been going through psychological and mental trauma, as well as suffering material deprivation since his disappearance.... He therefore prayed that a compensation of 25 million naira be paid to members of the Kaltho family and dependents to alleviate their suffering”.*

1.19 Another issue is the relationship between justice and revenge. Justice, in the context of a truth commission's search for reconciliation, is not revenge or vengeance, though oftentimes petitioners and victims, in the heat of anger, may be tempted to conflate justice with revenge or vengeance.

1.20 Reparation, though a product of justice, is merely part of a process of what has been described as *restorative justice, as opposed to distributive justice, retributive justice and social justice.*

On this view, Reparation is part of what needs to be done to earn justice and facilitate reconciliation. Justice is a three – way traffic, involving considerations of the claims of victims, offenders and the community.

1.21 In other words, *reparation is an important aspect of a process of restorative justice, which seeks to restore the human and civil dignity of both the victims and perpetrators of gross human rights violations. The process is intended to establish the accountability of the perpetrators and to facilitate national understanding of why the violations occurred.*

1.22 This is why the Commission will not be able to do justice and facilitate national reconciliation at the political level, as well as reconciliation between perpetrators and their victims, without addressing the issue of reparation.

## CHAPTER TWO

### DEFINITION ON CONCEPTS

#### REPARATION

2.1 What does *Reparation* mean? In what follows, an attempt is made to clarify what *Reparation* and related concepts like *Restitution*, *Compensation* and *Rehabilitation* mean. These are central concepts, which define and constitute aspects of the work of the Commission, in so far finding the truth and laying the ground for national reconciliation are concerned.

2.2 In fact, the right to reparation by victims of gross violations of human rights is explicitly recognized in international human rights law, which clearly establishes an obligation on the part of the state to provide redress for victims of abuses by state actors or agents or functionaries.

2.3 *Reparation* takes many forms. It extends beyond the payment of cash to victims of violations of human rights, in the specific case of the work of the Commission. It is a general term used to refer to all types of redress, including *restitution*, *compensation*, *rehabilitation*, *satisfaction* and *guarantees of non-repetition*. It is a means of repairing the past and setting the norms for the future.

2.4 The question of reparation should, therefore, be viewed in the overall context of the promotion and protection of human rights and fundamental freedoms and of the prevention of violations of such rights and freedoms.

2.5 A basic strategy for approaching the issue of reparation is the consideration of the needs and wishes of victims of violations of human rights.

2.6 The concept of a victim of human rights violation is well articulated in the *United Nations General Assembly Resolution 40/34 of 29 November 1985, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

### **RESTITUTION**

2.7 *Restitution* is an attempt to restore as much as possible the situation that existed before the violation(s) took place. It should, when it is possible to do so, restore the victim to the original situation he/she was before the violation occurred.

2.8 Restitution generally includes the following: (a) *restoration of liberty, legal rights, social status, family life, and citizenship*; (b) *return to one's place of residence*; and (c) *restoration of employment and return of property*.

### **COMPENSATION**

2.9 Compensation is a form of reparation, which relates to any economic redress. Often for this to be possible, the damage resulting from the *violation* must be economically assessable.

2.10 In this respect, compensation involves, in appropriate situations and cases, a substantial reallocation of resources in order to meet the essential needs of persons and groups whose human rights have been grossly violated or neglected.

2.1 Compensation relates to any economically assessable damage resulting from the violations and it should be provided for any economically assessable damage resulting from violations of international human rights and humanitarian law such as:

- (a) physical or mental harm, including pain, suffering and emotional distress;*
- (b) lost opportunities (including education); and*
- (c) material damages and loss of earnings (including loss of earning potentials); (d) harm to reputation or dignity; and*
- (e) costs required for legal or expert assistance, medicines, and medical services, and psychological care as well as legal and social services.*

## **REHABILITATION**

2.2 *Rehabilitation* includes legal, medical, psychological, social, and other care and support services to assist the victim to heal or to cope with the damage done by the violation.

2.3 This may include the following: *(a) relocation for the dislocated and displaced; (b) provision of medical and psychological treatment for victims and survivors (including specialised trauma counseling, self – help groups, family therapy etc.); (c) rehabilitation for perpetrators and their families to assist them come to terms with their violent past and learn constructive and non-violent ways of resolving future conflicts; (d) training for community members to enable them assist victims and survivors of human rights abuses (e.g. on skills such as crisis management, critical incident briefing, trauma awareness, referral skills and knowledge of available resources); and (e) skills training and income generation support for victims and survivors.*

## **NON-MONETARY REPARATION**

2.4 Non-monetary reparation usually takes the form of satisfaction and guarantees of non-repetition, involving the formulation and implementation measures, which not only acknowledge the violations but also are intended to prevent their recurrence.

2.5 Non-monetary reparation serves a moral and social welfare function for victims.

Provisions for satisfaction and guarantees on non-repetition have been clearly and elaborately stated under international and humanitarian law. They include any or all of the following: *(a) cessation of continuing violence; (b) verification of facts and full and public disclosure of the truth, to the extent that such disclosure does not cause further unnecessary harm or threaten the safety of the victim, witnesses or others; (c) the search for bodies of those killed or those who have “disappeared” and assistance in the identification and reburial of bodies in accordance with the cultural practices of the families and communities; (d) an official declaration or a judicial decision restoring the dignity, reputation, and legal and social rights of the victim and of persons closely connected to the victim; (e) apology, including public acknowledgment of the facts and acceptance of responsibility; (f) judicial or administrative sanctions against persons responsible for the violations; (g) commemorations and tributes to the victims; (h) inclusion of an accurate account of the violations that occurred in awareness, training and educational materials at all levels; and (i) preventing the recurrence of the violations.*

2.6 With respect to the prevention of the recurrence of the violations, this objective can be achieved through such means as: (a)

*ensuring effective civilian control of military and security forces; (b) restricting the jurisdiction of military tribunals only to specifically military offences committed by members of the armed forces; (c) strengthening the independence of the judiciary; (d) protecting persons in the legal, media and other related professions and human rights defenders; (e) continuing and strengthening of human rights training to all sectors of the society, in particular to military and security forces and to law enforcement officials; (f) prompting the observance of a code of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social services and military personnel, as well as the staff of economic enterprises; and (g) creating mechanism for monitoring conflict resolution and preventive intervention.*

## **TYPES AND EFFECTS OF GROSS HUMAN RIGHTS VIOLATIONS**

2.7 There are several forms and types of gross violations of human rights, with differing consequences and effects. Typically, the types and consequences of such violations include cultural, economic, physical, political, psychological and social ones, to name a few.

2.8 To take some examples: The physical form of gross violations of human rights includes arbitrary arrest and detention, physical torture, and killing. The psychological form includes mental traumatisation, through solitary confinement or the application of drugs, verbal abuse, brainwashing and humiliation. The economic consequences of gross human rights violations on victims include loss of property, of income and of employment.

2.9 According to the *Truth and Reconciliation Commission of South Africa Report, Volume 5, page 127,*

*“Perpetrators of human rights violations used numerous tactics of repression, with both physical and psychological consequences. These found their expression in the killing, abduction, severe ill treatment and torture of activists, families and communities. Psychological damage caused by detention was not merely a by-product of torture by state agents. It was deliberate and aimed at discouraging further active opposition ...”*

2.10 Human rights violations affect many people beyond the direct victims of such violations. They also affect the family members and friends of the victims, who are described as *“the secondary victims,”* through *disruptions to family life, invasion of homes, arrest and/or torture or killings of family members and separation of families.*

Indeed, relations and friends of perpetrators of these violations, communities, societies and the nation also suffer from some of these effects, like inter-family, inter-ethnic and inter-religious conflicts and the general atmosphere of communal distrust, which are all encouraged and created by gross violations of human rights.

## **CHAPTER THREE**

### **NIGERIAN AND COMPARATIVE INTERNATIONAL LAW AND PRACTICES OF REPARATION**

#### **NIGERIAN LAW & PRACTICE ON REPARATION**

3.1 The 1999 Constitution of the Federal Republic Of Nigeria contains a comprehensive bill of rights, whose objective, under a system of limited constitutional government, is to guarantee, promote and protect the rights of the individual to life, the dignity of human person, personal liberty, fair hearing, private and family life, conscience and religion, free thought and expression, free press, peaceful assembly and association, freedom of movement, freedom from discrimination and to acquire and own immovable property anywhere in Nigeria.

3.2 When any of these rights has been violated, the constitution raises the possibility of compensation. The Constitution provides that if any person alleges that any of his/her rights covered by the bill of rights has been or is likely to be violated, that person may apply to the high court for redress.<sup>1</sup>

3.3 For example, in the common law of torts, which applies in Nigeria, any person or group that considers that his/her/its rights have been violated is entitled to initiate legal proceedings to recover or to prevent the violation.

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<sup>1</sup> See Section 46{1} The Fundamental Human Rights Enforcement Procedure Rules states the procedure for initiating legal proceedings on human rights issues. See *Bello V Attorney-General of Oyo State* {1986}5NWLR 828 citing with approval the dictum of Holt C.J. in *Ashby V White* {1703}2Ld.Raym.938 ‘ If the plaintiff has a right ,he must have the means to vindicate it, and a remedy, if he is injured in the enjoyment or exercise of it: and it is a vain thing to imagine a right without a remedy: for want of right and want of remedy are reciprocal..

3.4 The primary type of compensation for violated human rights is monetary award or damage.<sup>2</sup> The categories of damages include general damages, special damages and exemplary or punitive damages. The analysis of a number of Nigerian cases on damages reveals some significant features.

3.5 First an action for damages will lie for bodily harm, like battery, assault, false imprisonment, physical injuries and death. In the case of assault, battery and false imprisonment, the damages largely represent a solarium for the mental pain, distress, indignity, loss of liberty and death.

3.6 General damages will be awarded in recognition that a right has been violated. Special damages are awarded to compensate the victim for expenses or costs arising directly out of the violation, including medical expenses, transport expenses and loss of income. The court may award exemplary or punitive damages to a victim in cases in which the agents of the state have conducted themselves in an oppressive, arbitrary and unconstitutional manner.

3.7 The other type of compensation is the restitution or restoration of property, which has been wrongfully seized and in violation of human rights.

3.8 Further decisions of the high court show that the court considers a number of factors in determining the nature and amount of compensation payable.

3.9 These factors include actual injury (physical or mental) to the victim; prospective injury to the complainant, based on prediction of future aggravation of damages; consequential injury or damage to third parties and, in particular, loss of financial and emotional support; and the conduct of the defendant or his agents.

3.10 Local culture and customary law are also relevant to an understanding of the Nigerian law and practice on reparation.

3.11 For example, given the introduction and increasing prominence of Sharia and Islamic law in the Nigerian legal system, it is useful to explore briefly the right to reparation and other remedies for human rights violations under Islamic law in the country, even though Nigerian Islamic criminal jurisprudence is still evolving.

3.12 As a matter of general principle, it can be said that if Sharia accepts the human rights alleged to have been violated, there should be no difficulty in imposing a legal obligation on the state to secure the necessary or requisite reparation for the victim.<sup>3</sup> But in such cases, problem will arise where the remedy provided by Shari is in conflict with or is inconsistent with the remedy available under common law or in international statutes. Problems of conflict of laws will additionally arise where Sharia does not recognize the human rights allegedly violated, in the same sense, scope and terms provided for in common law and by international standards.

3.13 Let us consider some problematic examples. Although it guarantees certain fundamental rights for women and non-Muslims,

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<sup>2</sup> Section 35{6} 1999 Constitution –‘Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person’

<sup>3</sup> See Joseph Schacht, *An Introduction to Islamic Law* { Oxford: Clarendon Press, 1964 } Chapters 18 & 19

Sharia does not accord them the same quality or level of remedy for the violation of those rights.

3.14 In this respect, although the right to life is secured for Muslim men and women and for *Dhimis* (protected non-Muslim minorities), the amount of *diyya* (monetary compensation paid for wrongful homicide) depends on whether the victim was a Muslim man, woman or non- Muslim.<sup>4</sup>

3.15 Another type of difficulty that can arise is the situation in which the Sharia recognises the human right allegedly violated, while the remedy it provides for its violation is inconsistent with the relevant international statutes. For example, the punishment for causing grievous bodily harm is either *diyya* (monetary compensation) or *qisas* (retaliation by inflicting the exact harm on the offender: an eye for an eye, a tooth for a tooth).

3.16 In addition to the objection, from the point of view of international human rights law, that differences in the amount of *diyya* imposed on grounds of gender or religion is unjustified discrimination, further objection to *qisas* might be raised on the ground that it is as cruel, inhuman or degrading treatment, and therefore inconsistent with the relevant common law and international human rights law.

3.17 The Commission, therefore, wishes to draw attention to these potentially controversial areas of conflict of laws, in so far as they are likely to arise in the consideration of remedying complaints from those states that have adopted the Sharia legal system. Will it be realistic to expect states, which have adopted and legislated such a

system, to fulfill their obligations under international human rights law? Do these international obligations override their obligations under Sharia?

3.18 Under these circumstances, can victims assert their rights in the face of strong resistance by these states? Would their assertion of these rights not amount to an exercise in legal futility, in the circumstance?

### **REPARATION IN INTERNATIONAL LAW AND PRACTICE**

3.19 The right to remedy for victims of violations of international human rights and humanitarian law is recognized in numerous international instruments, as we have detailed in **Volume 2 of this Report**.

3.20 Typical examples are the provisions of (a) *Article 8 of the Universal Declaration of Human Rights*; (b) *Article 2 of the International Covenant on Civil and Political Rights*; (c) *Article 6 of the International Convention on the Elimination of all forms of Racial Discrimination*; (d) *Article 11 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*; and (e) *Article 39 of the Convention on the Rights of the Child*.

3.21 The rights are equally provided for in regional Conventions, in particular (a) *Article 7 of the African Charter on Human & Peoples Rights*; (b) *Article 25 of the American Convention on Human Rights*; and (c) *Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms*.

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<sup>4</sup> see Marghinani, *Al-Hidaya*{Cairo:Mustafa al-Babi} p.165. Ibn Rushd, *Bidayat al-Mujtahid wa Nihayat al-Muqtasid*{ Cairo:Dar al-Kutub al-Islamiya, 1983}

3.22 However, the international community, under the auspices of the United Nations, started taking the issue of the right to restitution, compensation and rehabilitation for victims of violations of human rights and fundamental freedoms seriously in the late 1980s, when the *Sub-commission on Prevention of Discrimination and Protection of Minorities by Resolution 1989/13* of 31 August 1989 entrusted Mr. Theo van Boven, as special rapporteur, with the task of undertaking a study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms.

3.23 Mr. van Boven submitted a final report to the commission<sup>5</sup>, which resulted in the draft basic principles and guidelines.<sup>6</sup>

3.24 The Commission on Human Rights in *Resolution 1994/35* of March 1994 considered the proposed basic principles and guidelines contained in the study of the special rapporteur as a useful basis for giving priority to the question of restitution, compensation and rehabilitation.

3.25 Prior to the above instruments, the United Nations General Assembly *by resolution 40/34* of 29 November 1985, had adopted *the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

3.26 This Declaration, apart from defining who is a victim of crime, went ahead to enumerate principles, which, in their application, are intended to make access to justice and fair treatment

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<sup>5</sup> E/CN.4/Sub.2/1993/8

<sup>6</sup> E/CN.4/1997/104,annex

for victims of crime mandatory. It equally provided for Restitution, Compensation and Assistance for victims of crime and abuse of power.

3.27 Furthermore, the principles called on States to establish, strengthen and expand national funds for compensation to victims.

3.28 It should be noted that the Economic and Social Council of the United Nations in its *Resolution 1989/57* of 24 May 1989 called for the implementation of the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

3.29 The rights of victims of gross abuse of human rights were recognized by the Security Council of the United Nations in *Resolution 827(1993)* of 25 May 1993, where it adopted the statute of the International Criminal Tribunal for the former Yugoslavia.

3.30 The Security Council decided, in that Resolution, that the *“the work of the International Tribunal shall be carried out without prejudice to the right of the victim to seek, through appropriate means, compensation for damages incurred as a result of the violations of international humanitarian law.”*

3.31 To add further impetus to the recognition of the right to remedy for victims of human right abuses, the Rome statute of the International Criminal Court, adopted on 17 July 1998, obliges the court to *“establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation,”* while it also obliges the Parliament of State parties to establish a trust fund for the benefit of victims of crimes within the jurisdiction of the court and of the families of such victims.

3.32 The Rome Statute further mandated the court “to protect the safety, physical and psychological well being, dignity and privacy of victims and to permit the participation of victims at all stages of the proceeding determined to be appropriate by the court.”

3.33 Presently the position of the United Nations on the issue of the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms is contained in the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian law*. The Commission on Human Rights at its 56th session adopted the principles.<sup>7</sup>

**BASIC PRINCIPLES AND GUIDELINES:  
THE RIGHT TO A REMEDY AND REPARATION**

**OBLIGATION OF STATES**

3.34 The basic principles oblige every Member State of the United Nations to ensure respect for and enforce international human rights and humanitarian law. In other words, member states are required to incorporate norms of international human rights and humanitarian law into their domestic laws and to adopt measures to ensure that appropriate and effective judicial and administrative procedure are available to ensure fair, effective and prompt access to justice.

3.35 States are also required to make available to victims of violations of international human rights and humanitarian laws

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<sup>7</sup>(E/CN. 4/2000/62) of 18 January 2000

reparation and to ensure that they are offered the greatest degree of protection.

### **SCOPE OF THE OBLIGATION**

3.36 The scope of the obligations offered by the principles is wide. States are expected to prevent violations of international human rights and humanitarian law through legal and administrative means. Where violations, however, occur States are expected to use their machineries of justice to investigate the abuses and to take action against violators. States are further expected to provide access to effective justice, apply appropriate remedies and ensure reparations to victims.

### **VIOLATIONS THAT CONSTITUTE CRIMES UNDER INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONAL HUMANITARIAN**

3.37 States have a duty to investigate and prosecute those who have allegedly committed violations of international human rights law and humanitarian law. They should also co-operate and assist other States and appropriate international judicial organs in the investigation and prosecution of these violations.

3.38 States are expected to recognize and incorporate universal jurisdiction in their domestic laws for crimes of most serious nature in international law and to enact the necessary legislation that will facilitate the extradition of offenders to other States and international judicial bodies.

## **STATUTES OF LIMITATION**

3.39 Statutes of limitation should not apply to the prosecution of violations of international human rights and humanitarian law norms that constitute crimes under international law.

3.40 It should also not restrict the ability of victims to pursue claims against violators. Indeed, it should not apply at all when no effective remedies exist for the violations suffered.

## **VICTIMS OF VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS LAW AND HUMANITARIAN LAW**

3.41 Under international human rights law and international humanitarian law, “a victim” is defined as a person who, as a result of acts or omissions that constitute a violation of international human rights or humanitarian norms, individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic suffering, economic loss, or impairment of his/her fundamental rights.

3.42 A “victim” may also be a dependent or a member of the immediate family or household of the direct victim or a person who, in intervening to assist a victim or to prevent the occurrence of further violations, has suffered physical, mental or economic harm.

## **TREATMENT OF VICTIMS**

3.43 Victims should be treated by the state and all others concerned with compassion and respect for their dignity and human rights. Their safety and privacy of their families should be guaranteed.

3.44 States should also ensure that administrative procedures, which are designed to provide justice and reparation to victims, exist in their jurisdictions.

### **VICTIMS' RIGHT TO A REMEDY**

3.45 The basic principles recognize remedies as (a) access to justice; (b) reparation for harm suffered; and (c) access to factual information concerning the violations.

Each of these remedies is discussed briefly below.

### **VICTIMS' RIGHT TO ACCESS TO JUSTICE**

3.46 States are obliged to secure the individual and collective right of access to justice and fair and impartial proceedings in their domestic laws to all victims. In order to achieve this objective, states are expected to do the following:

- (i) to make known, through public and private mechanisms, all available remedies for violation of International human rights and humanitarian law;
- (ii) to protect the privacy of victims and to ensure that the victims and their families are safe from intimidation and retaliation during and after any proceedings that affect their interest; and
- (iii) to bring at the disposal of victims all legal and diplomatic measures to ensure that they [victims] are able to enforce their rights to a remedy and reparation for the violations that they have suffered;

3.48 Claims by groups or collectives are also recognized under the principles. States are obliged to make provisions to allow groups and collectives to present and receive reparation collectively.

## **VICTIMS RIGHT TO REPARATION**

3.49 The amount of reparation to be paid to a victim is determined by the gravity of the violation and the harm that he/she has suffered. Reparatory measures should also be adequate, effective and prompt, in order to promote justice by redressing violations of international human rights law and humanitarian law.

3.50 States are expected to provide reparation to victims for acts or omissions of state functionaries or actors that violate international human rights and humanitarian law. The party responsible for the violation shall provide reparation to the victim or to the state where the state had already provided reparations.

3.51 States are encouraged to establish national funds or to seek other sources of funds for reparation for victims, so that they can provide reparation for victims who have sustained bodily injuries or impairment of physical and mental health, as a result of the violations, and to their families.

3.52 Where the victims are dead or incapacitated, the state should provide reparation to their families, if the violator is unwilling or unable to meet these obligations.

3.53 A state is required to enforce valid local and foreign judgment for reparations against violators.

3.54 Where a state becomes defunct, the successor state should provide reparations for injuries that occurred under the defunct state.

## **PUBLIC ACCESS TO INFORMATION**

3.55 States are obliged to develop means of informing the general public and in particular victims of violations of the rights and remedies contained in the basic principles and guidelines and of available legal, medical, psychological, social, administrative and all other services to which victims may have a right of access.

## **NON-DISCRIMINATION AMONG VICTIMS**

3.56 States are obliged to apply the basic principles and guidelines, in line with internationally recognized human rights law. These principles and guidelines must be applied without discrimination on any ground.

## **CONCLUSION**

3.57 To conclude: There is growing awareness that redress and reparation for victims of violations of human rights is an imperative demand of justice and a requirement under international law, in particular the international human rights law.

3.58 The rights of victims of violations of human rights to reparation have become a subject on the international human rights agenda.

3.59 For example, a study on this subject was undertaken by the UN Sub-commission on Prevention of Discrimination and Protection of Minorities, with a view to exploring the possibility of developing some basic principles and guidelines in this area.<sup>8</sup>

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<sup>8</sup> See preliminary report and the progress reports on the subject, prepared by the special rapporteur contained in UN documents E/CN.4/SUB.2/1990/10, E/CN/SUB.2/1991/7 AND E/CN.4/SUB.2/1992/8 and the final report 2 July 1993

3.60 Nigeria's obligations under international law can be found in the following international instruments, to which we have already made reference in this chapter.

- (a) *Universal Declaration on Human Rights* {1948}<sup>9</sup>;
- (b) *International Convention on the Elimination of all Forms of Racial Discrimination* {1965}<sup>10</sup>;
- (c) *International Covenant on Civil and Political Rights* {1966}<sup>11</sup>;
- (d) *African Charter on Human and Peoples Rights* {1981}<sup>12</sup>;
- (e) *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* {1984}<sup>13</sup>;
- (f) *ILO Convention* {1969}<sup>14</sup>;
- (g) *Indigenous and tribal peoples Convention* {1989}; and (h) *Convention on the Rights of the Child* {1989}<sup>15</sup>

3.61 At a different level of legal validity is *Resolution 40/34* of the UN General Assembly of 29 November 1985, i.e. 'Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.'

3.62 This declaration establishes that all victims are entitled to reparation of damages inflicted and where public officials or other security agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the state whose officials or agents were responsible for the harm inflicted.<sup>16</sup>

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<sup>9</sup> Article 8, Accepted as Customary International Law. Note the use of the phase 'effective remedy'

<sup>10</sup> Article 6

<sup>11</sup> Article 2 {3} {a} Article 9 {5} See relevant jurisprudence of the Human Rights Committee established under the optional protocol to the ICCPR. Eg *Bleier V Uruquay*{caseNo.30/1978} *Baboerem V Suriname*{Case Nos.146/1983}

<sup>12</sup> Article 31{2}

<sup>13</sup> Article 14{1}

<sup>14</sup> Articles 15{2} 16{5}

<sup>15</sup> Article 39

3.63 Through these treaties, Nigeria assumed the legal obligation of respecting the rights of its citizens and of guaranteeing the integrity and dignity of the person.<sup>17</sup> If her agents violate these rights, the laws should be applied against them. By the same token, their victims should be awarded reparation, if the agents of the state are found culpable.

3.64 Furthermore, by acceding to and ratifying these treaties, Nigeria accepted some limitation to her sovereignty, in deference to a supranational entity.

3.65 This is because treaties have a binding legal validity on the contracting states. Thus, by signing them, Nigeria is bound to meet its contractual obligations both with respect to the other states that are parties to the treaty and with regard to its own subjects.

3.66 Of importance, in this respect, is the old principle of *pacta sunt servanda*.<sup>18</sup>, which holds that a party may not invoke the provisions of its internal law as justification for its failure to implement a treaty.

3.67 It should also be said that when acts of violations consist of torture, political assassination or arbitrary executions, a state cannot simply, by means of a law or decree, grant amnesty, pardon or by any other measure, which implies a renunciation of investigation, trials and the award of reparation. In order to do so the treaties must be denounced and the lapse of the specified time must be awaited.

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<sup>16</sup> See Principle 11

<sup>17</sup> Article 18 Vienna Convention on the Law of Treaties states are obliged to refrain from acts which would defeat the objects and purpose of treaties to which it is a signatory.

3.68 What this means is that if a state were to approve laws, which allowed for immunity, this would amount to a unilateral act. In view of this, the state in question, will not be exempted from meeting its obligations, under international law, to individuals subject to its jurisdiction. Such domestic laws can neither annul nor paralyze the victims' rights to reparation for the damage caused.

## **CROSS-NATIONAL ANALYSIS OF DOMESTIC LAW AND PRACTICE OF REPARATION: LESSONS FROM OTHER COUNTRIES**

### **OVERVIEW**

3.69 In this section, we examine the law and practice relating to restitution, compensation and rehabilitation for victims of gross violations of human rights in a number of countries. What obtains in these countries is not wholly the outcome of a truth-seeking exercise.

3.70 It is sometimes the outcome of national legislation, reflecting a clear recognition of the principles that governments, which that succeed dictatorships, have an obligation to provide the means for victims of gross violations of human rights to seek redress through civil suits for damages against the State and individual perpetrators.

3.71 The State also has a duty of acknowledgement and accountability for the crimes and of recognition of the right of the victims of gross violations of their human rights to reparation.

3.72 It is necessary to look at the law and practice of reparation in other countries in order to learn lessons from their different

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<sup>18</sup> See Article 26 & 27 Law of Treaties

experiences and to use such lessons, where appropriate and relevant in making recommendations on reparation for victims of abuse of human rights in Nigeria.

3.73 We have earlier on made reference to the obligations of the State, under regional and international treaties and the judgments of international courts, to provide redress and reparation for abuses by State forces to victims of human rights violations.<sup>19</sup>

3.74 Another justification for reparation is that because most of the abuses are usually by State forces, many of the victims would certainly win substantial awards from the state, if they were able to bring civil claims in court against the State. In some other instances, victims who would have gone to court are prevented from doing so by amnesty laws, which block both civil and criminal actions against perpetrators.

3.75 One of the clearest and most persistent demands on the State, following a period of wide spread abuse of human rights, is payment of reparation to cover the basic needs of victims.

3.76 Though no amount of money can compensate for the death or disappearance of a loved one, a modest payment can act as an acknowledgement of the wrongs of the past, providing an official, symbolic apology.

3.77 It is also widely recognized that establishing the truth about human rights, offering an apology and respecting the memory of victims through memorials or other official form of acknowledgement

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<sup>19</sup> Final report by Theo van Boven, special rapportuer, UN DOC. E/CN.4/sub.2/1993, July 8, 1993

are aspects of reparation. It is in this sense that the work of a truth commission, by providing a conducive forum for victims to testify about the abuses they have suffered, can fruitfully lay the exploratory background for a reparation package, including the reform of State institutions.

3.78 Experiences from other countries where truth commissions were established show that the records of their truth commissions are an obvious source from which to collect data to justify and develop a reparation programme.

3.79 However, it should be remembered that in most cases truth commissions sometimes find it difficult to corroborate the stories or allegations of victims and are able to document only a small portion of the total number of victims. 79. In view of these obvious shortcomings, we think it is generally better for truth commissions to make general recommendations and an overall assessment of need, which can serve as a beginning point for the development and implementation of a substantial reparations package for victims of human rights violations.

3.80 In what follows, we review the experiences and the lessons of a number of countries (Argentina, Chile, Guatemala, South Africa, El Salvador, Uganda and Germany) with the implementation of a reparation package for victims of human rights violations in their respective countries.

### **Argentina**

3.81 *The Argentine National Commission on the Disappeared* was set up in 1983 to investigate aspects of the “dirty war” of state terrorism conducted against its various opponents by the military

regime, which ruled the country between 1976 and 1983 after overthrowing the Peronist regime.

3.82 The Commission documented the “*disappearance*” of 8,960 people under the military regime. The list was compiled from testimonies given by family members and friends of the “disappeared” as well as by those who survived “temporary disappearances.”

3.83 The relatives of any one listed among “*disappeared*” persons by the Commission could claim reparation, though the cases or claims regarding those who allegedly “*disappeared*” were never formally corroborated.

3.84 Family members living in Argentina were entitled to receive a lump sum of \$220,000 paid in government bonds and distributed among surviving family members.<sup>5</sup>

3.85 The reparation programme in Argentina was prompted in part by cases brought before the *Inter-American Commission of Human Rights* in 1988 by a number of former political prisoners demanding compensation for the period they spent in detention.

3.86 In 1991, the Argentine government and the petitioners reached a friendly settlement.<sup>6</sup> The Decree giving legal force to the settlement and other decrees that followed it authorized payment to about 200 former political prisoners, who had instituted legal proceedings before December 10, 1985.

3.87 Each of the petitioners was paid \$74:00 per day, \$2,200 per month, \$26400 per year up to a maximum of \$220,000. The

Argentine Congress later passed a law extending these payments to other political prisoners.

3.88 Those eligible for reparation include the following: (i) those held in custody under the National Executive authority (political prisoners held without trial); (ii) civilians who were imprisoned on orders of a military court; and (iii) those who were categorized as the temporarily “*disappeared*” (imprisonment unrecognized by the authorities), whose cases were reported at the time or who later gave testimony to the Argentine Truth Commission.

3.89 The period covered extended to 2 years before the military coup of 1976, from the date a state of siege began under the previous government.<sup>7</sup> The law was later extended to those forced into exile after arrest. Those who fell under this category were, for each day in exile, to receive the same daily allowance as those who had been imprisoned.<sup>8</sup>

3.90 By 1998, the government of Argentina had committed itself to spending up to \$3 billion to cover the projected cost of its reparation programme.

3.91 Apart from the monetary compensation, a new legal status known as the “*forcibly disappeared*” was created in Argentina. This new status is the legal equivalent of death, making it possible for families of the *disappeared* to process wills, distribute inheritance, and to close a *disappeared* person’s estate, among other estate matters.

3.92 The legislation, which came to be described as the *law of historical sincerity*, fell short of declaring the *disappeared* person dead, although it held open the possibility of the person reappearing.<sup>9</sup> It is to the credit of Argentina that it was the first state to create this legal status. The document that the “bereaved” families obtained is called “*a certificate of forced disappearance.*”

3.93 It is pertinent to point out that the mandate of the Argentine Truth Commission covered only “*disappeared victims.*” It excluded those who were killed outright or those who died in detention and whose bodies were later found and identified.

3.94 The Commission did not have the mandate to document those who survived detention or torture but in the process of implementing the state’s reparation policy, the Human Rights Office of the Ministry of Interior documented non-combatants who were killed under the military regime as well as those who “*disappeared.*”

3.95 The reparation programme in Argentina was not uncontroversial, as families of some of *the disappeared* felt that money could not replace the loss of loved ones. They called the reparation grant blood money and they refused to accept it.

## **Chile**

3.96 President Patricio Aylwin established the *National Commission on Truth and Reconciliation* through a Presidential Decree in 1990, with a view to delivering truth and justice to those who had suffered violations of human rights under authoritarian and harsh regime of General Augusto Pinochet Ugarte, who ruled Chile from September 1973 to March 1990.

3.97 The report of the Commission was completed in February 1991 and it was, thereafter, handed over to the president.

3.98 The Commission recommended symbolic and financial reparations. Following upon commission's report, the *National Corporation for Reparation and Reconciliation* was established to investigate the cases the truth commission was unable to finish and thereafter, to implement the commission's recommendations, including the award of reparations.<sup>10</sup>

3.99 The beneficiaries of the reparation programme were the victims listed in the Truth Commission's report as well as those established to be victims through the investigation of the National Corporation for Reparation and Reconciliation. By 1997, 4,866 Chileans were receiving money every month, as part of the government's pension plan for the family members of those who were killed or who *disappeared* under Pinochet's military regime.

3.100 A family comprising a sole survivor received the equivalent of \$345 per month. If there were more survivors, the total amount divided among them totaled \$482 or more per month. In addition to the monthly pay, family members of victims received generous education and health benefits and a waiver from the mandatory military service. Victim's children received full coverage of all university or professional education up to the age of 35 years and an additional monthly stipend to cover living and school expenses.

3.101 The state spent approximately \$16 million yearly to cover these costs.

3.102 The money paid out as reparation in Chile was slightly higher than the national minimum wage and it meant different thing to different people. For the wealthy it was of symbolic value, as it represented recognition by the state that a crime had been committed against them; but for the poor, they depended on the money for their daily survival.

3.103 The reparation programme of the Chilean Commission also provided for moral compensation, which included the following: (a) restoration of the good name of victims through a statement from the President, Parliament or by law; and (b) other symbolic reparation, which may include a monument or a public park in memory of victims of human rights violations.

3.104 Among the shortcomings of the reparation programme in Chile is the fact that it did not cover survivors of torture or illegal imprisonment. This category of people, representing the bulk of the victims of human rights violations in Chile, did not benefit from the programme. The only assistance provided to torture survivors was free access to state medical care.

3.105 The programme received little publicity and so was not used by most of the survivors of torture. The non-recognition of this category of victims could be said to have caused some injustice to victims who were excluded from the reparation programme because they were neither killed nor “*disappeared.*”

3.106 Another problem with the programme and with the implementation of the report of the Chilean truth commission,

generally, was that the military, the right wing of the political spectrum and the courts prevented full accounting and retribution by the perpetrators of the gross violation of human rights in the country.

## **Guatemala**

3.107 *The Commission for Historical Clarification* in Guatemala was set up following the signing of the *Oslo Peace Accord* of 23 June 1994 by the government of the Republic of Guatemala and the Guatemala National Revolutionary Unit.

3.108 The Commission's report recommended to the government of Guatemala some reparatory measures, because it considered that truth, justice, reparation and forgiveness should lay the foundation of the process of the consolidation of peace and national reconciliation. It recognized that it was the responsibility of the state in Guatemala to design and promote a policy of reparation for victims of gross human rights violations and their relatives.

3.109 The primary objective of the Guatemalan reparation programme was to dignify the victims of human rights violations, to guarantee that violations would not be repeated and to ensure respect to national and international human rights law and standards.

3.110 The key recommendations of the Commission were that, (a) the state should create, through national legislation, a national reparation programme to be overseen by a broadly representative board; (b) the programme should provide moral and material reparations, psychological rehabilitation and other benefits to victims of human rights violations and acts of violence connected with internal armed conflict, and for the relatives of the victims; and (c) the State

should fund the national reparation programme by putting into effect the tax reform established by the Peace accords.

3.111 To this end, the government should effect a redistribution of social spending and a reduction in military spending.

3.112 The State should also solicit international co-operation from those countries that lent military and financial aid to the parties. The government and the judiciary should collaborate with the civil society, in order to initiate investigations into all known cases of forced disappearances and, in the case of death, to deliver the remains of the victim to their relatives.

3.113 A national commission should be set up to look for children who have *disappeared*, were illegally adopted or have been illegally separated from their parents and document their disappearance.

3.114 The Guatemalan Commission for Historical Clarification also recommended, following the experience of Chile, that the government should prepare and present a bill to the congress, recognizing absence due to *forced disappearance* as a legal category, with the purpose of validating the legal purpose of filiations, succession, reparation and other civil ends related to it.

3.115 Finally, the Commission recommended that the Guatemalan government should formulate an active exhumation policy and present it to congress to be passed into a law on exhumation.

## **South Africa**

3.116 The *South African Truth and Reconciliation Commission (TRC)* was set up in 1995 by an Act of Parliament, with the mandate, among other mandates, to propose measures that will not only offer reparation to victims of human rights violation but also rehabilitate and give back to these victims their human and civil dignity.

3.117 The Commission's recommendations were based on the following principles:

- The reparation programme must be development-centered.
- It must be simple, fair and efficient.
- It should be sensitive to the religious and cultural beliefs of the various communities in the country.
- It should be community-based.
- The capacity of the community for auto-centered self-development should be nurtured and encouraged.
- Healing and reconciliation should be promoted.

3.118 The TRC act provided for two types and stages of reparation: (i) *the interim reparation*; and (ii) *the final reparation measure*.

3.119 *The interim reparation* was intended for people, who were in urgent need of reparation, in view of the gross human rights violations that they suffered. *The final reparation measure*, as the name indicates, was to be included in the country's truth commission's report.

The TRC proposed the following reparation and rehabilitation policy:

### **URGENT INTERIM REPARATION**

3.120 The commission offered limited financial assistance to people in urgent need by providing them access to appropriate services and facilities. The assistance, ranging from \$200 to \$570 depended on the number of dependents and their needs.

### **INDIVIDUAL REPARATION GRANT**

3.121 This is a financial grant to individual victims. Each victim of gross human rights violation should receive a financial grant of between \$1,700 and \$2,300 per year, according to various criteria over 6 years.

### **SYMBOLIC REPARATION/LEGAL AND ADMINISTRATIVE MEASURES**

3.122 This is to facilitate the process of remembering and commemorating the pain and victories of the past. Measures may include proclaiming a national day of remembrance and reconciliation, the erection of memorials and monuments and the development of museums.

### **COMMUNITY REHABILITATION PROGRAMME**

3.123 This component deals with services and activities that aim at promoting the recovery and healing of the individuals and communities affected by human rights violations.

### **INSTITUTIONAL REFORMS**

3.124 This component of the policy brings into play legal, administrative and institutional measures, which are designed to prevent the reoccurrence of human rights abuses.

3.125 The commission also recommended the setting up of an adhoc body in the President's office to oversee and coordinate the implementation of these policy proposals and recommendations.

3.126 The commission, as we have observed above, also recommended that the government declare a national day of remembrance and create a trust fund to support initiatives that support reparation and restitution.

3.127 It is expected that a total of \$16 million would be expended on interim payments alone. The Commission got the government's commitment to a reparation policy requiring over \$60 million in direct financial reparations to over 25,000 victims. In addition to the money provided by the government of South Africa, the government of Denmark, Switzerland and the Netherlands, each contributed between \$150,000 and \$250,000 into the President's Fund for reparation.

### **El Salvador**

3.128 The agreement for the establishment of the Commission on the Truth for El Salvador was included in the UN-brokered peace accord in the last days of 1991.

3.129 The commission recommended reparation for victims, who suffered human rights abuses as a result of the twelve-year war between the government and leftist guerrillas. The recommendations, which were moral as well as financial, included the following:

- A national monument should be constructed bearing the names of the victims of the conflict;
- The good names of the victims and the serious crimes of which they were victims should be recognized;

- Declaration of a national holiday in memory of the victims;
- A special fund should be established to award appropriate material compensation to the victims. This fund should receive support from the state and the international community;
- Not less than one percent of all international assistance that reaches El Salvador should be set aside to ensure that the recommendation on reparation was implemented. The fund was however never created and no serious discussion has taken place around reparation for victims of the abuses of the war.

## **Uganda**

3.130 The Ugandan government in 1986 set up a Commission of inquiry into violations of human rights in the country.

3.131 The commission, after prolonged delay, submitted its report to the government in 1995.

3.132 However, the report is yet to be distributed to the people. Although very few people within and outside the government have seen the report, the right of victims of violations of human rights and fundamental freedoms to restitution and rehabilitation has evolved and has been given practical effect over the years, as government policy.

3.133 The remedies usually granted by High Courts in the country and made available to victims are monetary awards on damages.

3.134 The other type of compensation is restitution or restoration of property wrongfully seized or acquired and in violation of human rights.

3.135 In 1972, the Idi Amin regime wrongfully seized properties belonging to about 80,000 residents of Asian descent, who were brutally expelled from Uganda. Their properties were taken over by the government and allocated to Africans through a government agency, called the *Deported Asians Property Custodian Board*.

3.136 In 1982, after the fall of the Idi Amin regime, the Ugandan government enacted the *Expropriated Properties Act (Act No. 9 of 1982)*, under which expelled Asians were authorized to return to Uganda and to reclaim their former properties.

3.137 The Ugandan government also set up the *Presidents War Veterans, Widows and Orphans Charity Fund*<sup>11</sup>. The charity fund disbursed resources to war veterans of Uganda anti- Amin liberation efforts and to dependents of such persons who died in action during such efforts.

### **Federal Republic of Germany**

3.138 Under this section, we review two manifestations or applications of the right to restitution, compensation and rehabilitation for victims of violations of human rights in Germany, namely, (a) *measures taken in the immediate post-World War 11 period in favour of the victims of Nazi persecution, under the Third Reich; and (b) rehabilitation and compensation measures for victims of political persecution under the former German Democratic Republic (GDR).*

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<sup>11</sup> Incorporations of Trustees Act, 1982

### **Post-War Measures In Favour Of Victims Of Nazi Persecution**

3.139 There were several programmes of reparation developed, first, by the three western occupation powers—Great Britain, the USA and USSR- and, later, by the German authorities.

3.140 The western powers—Great Britain and USA--and the Federal Republic of Germany agreed to the Convention on the Settlement of Matters Arising Out of the War and the Occupation of October 23, 1954. <sup>12</sup>

3.141 The following interstate treaties were also agreed upon:

- The 1952 treaty with Israel on the compensation and settlement of half a million victims of racial persecution in Europe, who migrated to Palestine or Israel, providing for (a) 3 billion deutschemarks (DM), payable in 14 annual rates until 1964 in merchandises and services; (b) 450 million DM to the “Conference on Jewish Material Claims Against Germany;” and (c) 50 million DM to a special fund in favour of persecuted Jews of non-mosaic faith.
- Between 1959 and 1964 the Federal Republic of Germany concluded conventions with 12 member-states of the Council of Europe, providing a payment of 876 million DM (plus 101 million DM to Austria for damages to life, health and liberty of their nationals living outside the Federal Republic of Germany).
- 122 million DM was paid to states in Eastern Europe for victims of pseudo medical experiments and 56 million DM to UNHCR for refugees;
- By 1988 22 billion DM had been paid from public funds. The government of the Federal Republic of Germany equally carried out

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<sup>12</sup> UNTS, Vol. 332 pg. 219

the following other measures to compensate for the damages caused during the Nazi regime. (a) The government instituted reparation in the judicial field to correct some unjust laws, which had been inserted in the penal code. (b) The government initiated restitution and general compensation, different from rehabilitation in penal matters, which had to be realized in a relatively short period after the Armistice. (c) There were also internal restitutions dealing with property rights, aggregates of objects or rights, acquired under duress from a person who had been persecuted for reasons of race, religion, nationality or belief or political opinion, which was contrary to the doctrines of the Nazi regime, even if the victim had sold the object in the period from 1933 to 1945. (d) The external restitution programme dealt with property located in Germany but claimed either by government of countries occupied by Germany during the war or by their nationals from the possessors or possessor in Germany. (e) The last but not the least was the general compensation for damages of various kinds. This programme is based on German legislation and constituted by far the largest amount paid from government funds. The general compensation covered very wide areas, ranging from damages to life, limb, health and liberty, professional or economic losses caused by great violations of human rights.

### **Rehabilitation and Compensation For Victims Of Political Persecution Under The GDR**

3.142 In March 1992, the new Federal Republic of Germany (with the accession of the GDR to the Federal Republic in October 1990) created the *Commission of Inquiry for the Assessment of the History and Consequences of the SED Dictatorship in Germany*, to investigate and document the practices of the government of the German Democratic Republic from 1949 to 1989.

3.143 The report of the commission was released in 1994. It recommended the establishment of a follow-up body, the *Commission of Inquiry on Over-coming the Consequences of the SED Dictatorship in the Process of Germany Unity*.

3.144 It is noteworthy that Germany has instituted the most far-reaching and comprehensive reparation programme of all such programmes in the world, in the form of a package of domestic legislation and international agreements with foreign states to compensate victims of Nazi crimes.

In the past fifty years, over 460 billion DM has been paid by Germany in cash payments to victims and their families.

## **CHAPTER FOUR**

### **RECOMMENDATIONS**

#### **POLICY FRAMEWORK FOR NIGERIA'S REPARATION PROGRAMME**

##### **Introduction**

4.1 We conclude this volume of our report by putting forward a framework for evolving a reparation policy for the country, in this chapter.

4.2 It is our considered view that the main purpose any such policy should be restitution or atonement. It is to say to the victims of gross violations of human rights and fundamental freedoms in our chequered history, as well as to their families, that, considerations of monetary compensation aside, the country is collectively sorry for the violations they have suffered.

4.3 Reparation is mostly about making repairs; self-made repairs on ourselves- mental repairs, psychological repairs, cultural repairs, organizational repairs, social repairs, institutional repairs, technological repairs, economic repairs, political repairs, educational repairs, repairs of every type...<sup>12</sup>

4.4 In considering a comprehensive reparation policy, we offer the following suggestions to government:

## **INSTITUTIONAL TRANSFORMATION:**

### **THE POLICE & OTHER SECURITY SERVICES**

4.5 Because a great majority of the violations brought to our notice was committed by agents of the state in the security and related services, there is an urgent need for government to undertake vigorous corrective institutional reforms of these services.

4.6 We identify the following as critical areas for corrective institutional reforms.

4.7 First, there is need to transform the Nigeria Police into an institution, which is human rights-oriented. Most of the victims who appeared before us raised serious concern about, and identified the Nigeria Police as the major violator of human rights in the country. There is, therefore, a pressing need for the police to transform its perceived role as an instrument of terror and to cultivate and nurture a new one as the protector of human rights.

4.8 In other words, the culture and method of policing by the Nigeria Police has to change, in terms of structure and operations. There should be a war on corruption and indiscipline by police officers. The training and orientation of the police should de-emphasize the use of torture by the police and the general the ill treatment of suspects.

4.9 To this end, there is need for a re-training education programme for police officers. We emphasize the need for such a re-education programme because the police officers, who appeared before the Commission did not accept responsibility for the gross violations of human rights they were alleged to have committed.

4.10 There is need for the government to discipline police officers and other members of the security services, who have been identified and proved to be perpetrators of human rights abuses. This is necessary as a confidence-building measure and as an expression of the good faith of government in laying a new foundation for a culture of respect for human rights and fundamental freedoms in government institutions and among public functionaries.

4.11 In order to prevent the reoccurrence of the disturbingly gross pattern of violations of human rights the country witnessed in recent years, the government should strengthen existing measures and adopt new ones that are designed not only to re-establish the rule of law in the country but also to permit the purposeful re-structuring of all state institutions, under a new culture of respect for human rights.

4.12 For example, the police force, the state security services and the armed forces should be brought under effective civilian control. This objective can be achieved by appointing civilian officials, with oversight and control authority over them.

4.13 It is important to take away from the armed forces all law enforcement and domestic intelligence powers and functions, so that they can redirect their efforts and preparations to the defence of the country against foreign invasion.

4.14 Military jurisdictions should be restricted only to disciplinary offences and crimes that are military in nature. Violations

of human rights by members of the armed forces against civilians should be subjected to the appropriate civilian courts.

4.15 Therefore, military courts should under no circumstances have jurisdiction to try offences committed by civilians.

### **SYMBOLIC REPARATIONS**

4.16 Under this heading, we itemize the following measures as part of our proposed reparation framework:

### **PUBLIC HOLIDAYS**

4.17 There is need for government to recognize the sufferings of victims of past human rights abuses. Some of these victims paid the ultimate price with their lives. It will serve as recognition of the sacrifice and sufferings of the more prominent victims, if government recognizes their birthdays or the days they died as national holidays.

### **NATIONAL MONUMENTS**

4.18 We propose that government should recognize the pains of the victims of gross violations of human rights by establishing national monuments in recognition of the injustices suffered by them.

### **MATERIAL ASSISTANCE**

4.19 We further propose that within the framework of our proposed reparation package, government should offer material assistance victims of human rights violations and, where necessary, their families.

4.20 Though material assistance and compensation, in the form of monetary payments or grants, cannot adequately compensate for

the loss of loved ones in police or prison custody or for many years of incarceration, it is necessary for government to consider the setting up of a fund to which the state as well as individuals, including perpetrators, and the international community could make contributions. There are many victims as well as survivors and their families who are in dire need of financial assistance to make ends meet or for medical treatment for the injuries sustained while in custody.

### **ACKNOWLEDGE THAT RECONCILIATION HAS NOT BEEN ACHIEVED**

4.21 Our proposed reparation package requires that government continue to pursue the objective of national reconciliation. The Commission has provided a useful avenue for pursuing determinedly the process of national reconciliation.

4.22 If followed by a systematic and comprehensive programme by government, the work of the Commission may advance and strengthen the objective of national reconciliation. Government should determinedly and conscientiously follow-up on the efforts and progress, which we have, in the course of our work, made in laying the foundation for national reconciliation.

### **Access To Psychological/Medical Services**

4.23 Our proposed reparation package requires that victims and survivors of gross abuse of human rights should be given free access to accessible psychological and medical services. The money for such services should be paid by the state. A proper referral system should be set up so that psychological services would be accessible to victims in rural areas.

## **REMOVAL FROM PUBLIC OFFICE**

4.24 Another element in our proposed policy framework for a reparation package is the need for government, as a matter of urgency, to remove from office those who have been found culpable or guilty of gross violations of human rights, if they are still holding important security position or top government posts. In fact, such public functionaries should be disqualified from holding public office for a number of years.

4.25 To allow named and identified perpetrators of gross violations of human rights to remain in office in the public service will be insensitive to the pains and sufferings of the victims of gross violations of human rights.

## **CONCLUSION**

4.26 In conclusion, we summarize our recommendations on the elements of our proposed policy framework for government's reparation package.

- Establishment of a fund to be supported by beneficiaries of military regimes and perpetrators of human rights violations.
- Determined and conscientious pursuit of national reconciliation, with policy measures aimed at removing or reducing division and friction among our various communities and ethno-religious groups.
- Provision of security for victims/survivors of human rights violations.
- Prosecution of perpetrators
- Civilian oversights on military and security forces.

- Human rights education for the police, military and other security forces.
- Establishment and maintenance of survivors support group.

## CHAPTER FIVE

### LIST OF PETITIONERS AND THEIR REQUEST TO THE COMMISSION ON REPARATION, COMPENSATION AND REHABILITATION (APPENDIX)

MEMO NO.	NAME OF PETITIONER	INJURY SUFFERED	RELIEF SOUGHT
1	Alhaji Mohammed Lawal Azaido	Removal from the throne as Village head.	Reinstatement
2	Not stated	Not stated	Not stated
3	Joseph O. Ayodele	Dismissal from the Police after serving 20 years without blemish.	Not stated
4	Col. Sam Inokoba Rtd.	Murder of his son by the Police.	Not stated
5	Hon. Justice Bello A. Gasau	He was removed from office as the Chief Judge of Sokoto State.	Not stated
6	Monitor Newspapers Limited	The wanton destruction to the Company's property by demonstrators at Ibadan during the demonstration on the 1 <sup>st</sup> of May 1998.	Not stated
7	Mr. E. H. Etuk	Dismissal from FCT	Not stated
8	Miss B. T. Dawodu	Removal from the Federal Civil Service	Not stated

9	V. T. Ewere	Retirement	The matter be looked into.
10	Alhaji Adamu Idris	Wrongful conviction and imprisonment, Singled out for special punishment in respect of an alleged offence committed by many other officers who have been granted State Pardon or released. Ill-health and wrongful confiscation of his assets by the Federal Government.	Grant of State Pardon like others whom were similarly convicted for the alleged coup plots. Release of his confiscated assets by the Federal Government.
11	Engr. Yemi Agoro Baba Abdul Razaq Aipoh Augustine Nsenbong Charles Akpabio	Wrongful termination of appointments by the Abacha and Abubakar regime.	The matter been looked into.
12	Alhaji Muhammadu Kabika Suleiman	Removal from office as District Head Zurmi District.	Not stated
13	Dr. Authur Agwuncha Nwankwo	Unlawful brutalisation, unlawful arrest and detention, illegal search and ransacking of his house by <i>Operation Vigilance</i> and removal of various	It is a case of apparent invasion of the petitioner's fundamental human rights.

		items and sums of money in naira and dollars by members of the said <i>Operation Vigilance</i> .	
14	G. G. Golu	Unlawful and unconscionable detention in 1984 and consequent loss of his position of Attorney General of Plateau State.	Reinstatement
15	A. D. O. Origbo	Wrongful retirement from service.	The matter be reviewed.
16	Olusegun S. Watti	Wrongful termination of appointment as Managing Director/Chief Executive of Gate Way Insurance Plc	Not stated
17	Mr. Dilo Foshiyi Mr. Jonathan Yakubu Mr. Tanko Shamidozhi Mr. Dasha Dauda Mr. Anthony Dakoyi Mr. Musa Pada	Wrong upgrading of the District Head of Bwari to 2 <sup>nd</sup> Class Chief of Bwari.	Not stated
18	Brig. Gen. Don Idada Ikoponmwen Rtd.	Wrongful removal from Army	Not stated
19	Deputy Registrar,	Termination of	Not stated

	Yaba College of Technology	appointment	
20		<p>Murder of his son.</p> <p>Unnecessary delay by the police to carry on their investigation;</p> <p>Non-release of the vehicles used to perpetrate the murder.</p> <p>Refusal to arrest and/or interrogate Brig. General Laoye, the owner of the said vehicles. And refusal to impound Mr. Victor Ude's mobile phone to decode the communication.</p>	<p>That the Police should carry on their investigation and be empowered to arrest Brig.-Gen. Laoye for interrogation. That the two cars in Aso Rock be released to the Police for proper investigation. The mobile phone of Mr. Victor Ude should be impounded, decoded in order to reveal the information needed.</p>
21	Mr. Fred S. Alasia and Prof. R. N. C. Okafor-Nwanya	<p>Bereavement – Loss of his first son.</p> <p>Loss of job and income by all the petitioners.</p> <p>Loss of due status in the University community.</p> <p>Professional embarrassment &amp; humiliation</p> <p>Harassment by the</p>	<p>Investigation of their complaints</p> <p>Investigation by the Police of the murder of Prof. E.E. Ezenwa's son in 1997.</p> <p>Appropriate redress, compensation and recommendations.</p>

		State Security Services. Eviction from their official residential quarters	
22		Wrongful dismissal	Not stated
23		Bomb explosion that occurred in the stadium.	Not stated
24	Col. Ezekiel Oladipo Coker	Wrongful dismissal from the Nigerian Army	That his right has been violated
25		Forceful retirement from Federal Civil Service	Not stated
26		The petitioner was drugged in order to lose his senses. He was arrested, detained, handcuffed to the wall for days and finally chained with another colleague. He was wrongly dismissed without recourse to the laid down procedure. He was jailed for 5 years, released and later detained for 14 days. And made to face	The right of the petitioner was violated.

		a unilateral and self-made up court martial.	
27		Unlawful Dismissed from Service	Not stated
28		Violation of his fundamental rights.	Claiming his right to work
29		Wrongful suspension from work	Their case be reviewed
30	Nigerian Union of Pensioners and Nigerian Security Printing and Minting Company	Wrongful deprivation of their pension rights since 1991	To prevail on the management of NSPMC to obey the Court Order, discontinue the appeal and other litigations and pay them their due entitlements to date.
31		Violation of citizen's fundamental rights in the frame up of the 1995 coup.	Not stated
32		Dismissal from Federal Civil Service	Not stated
33		Arrest and detention in Wuse, wrongly accused and detained.	Not stated
34		Wrongful dismissal from Public Service Illegal and forceful	Not stated

		<p>ejection from official quarters by the Police.</p> <p>Petitioner was intimidated, harassed and rendered homeless due to the act of the security agents on the instruction of Alhaji Dansumaila Bello.</p> <p>Petitioner was not paid her full entitlements to date.</p>	
35		Unlawful dismissal from service	Not stated
36	Halima Asta Sule	<p>Dismissal and consequential loss of income.</p> <p>Loss of some personal properties</p> <p>Wrongful arrest, detention and suspension without pay</p> <p>Stigma of dismissal</p>	<p>Review of her dismissal from the Police</p> <p>To do justice to her case</p> <p>To be heard</p>
37	Ishaya D. Paul	<p>Dismissal from employment. No query or allegation leveled against the petitioner.</p> <p>No disciplinary</p>	Not stated

		committee found him guilty of any official misconduct.	
38	Col. R. N. Emokpae	<p>Unlawful arrest, detention, torture, trial and conviction.</p> <p>Wrongful dismissal from the Army.</p> <p>Loss of his Mercedes Benz car and other properties.</p> <p>Loss of income and other benefits</p> <p>Excessive and inhuman torture resulting in severe bodily injuries to his waist, knee, private part, sight.</p>	<p>Quashing of the entire trial and conviction.</p> <p>Repealing any enactment or gazette relating to his conviction and dismissal.</p> <p>Restitution and redeployment.</p> <p>Promotion to the higher rank</p> <p>Compensation for loss of job and trauma experienced.</p> <p>Damage for excessive abuse of rights.</p>
39	Hauwa Mohammed	<p>Illegal vacation of petitioner's properties.</p> <p>Unlawful intrusion into petitioner's house.</p> <p>House breaking.</p>	Not stated.

40.	Alhaji Karimu Isa	Non-compliance with High Court of Kwara State Judgment dated 3rd day of September, 1994, ordering the Nigerian Police Force headquarters to pay the benefits/gratuity of the petitioner's deceased father as released by the United Nations Organisation (UNO) and those accrued to him from the Force Headquarters.	Not stated.
41	Engr. Uche Nwoji	Wrongful dismissal from public service without reason. Suffering untold hardship as a result of the dismissal.	Not stated.
42	Mr. Ikechukwu Alexander Chukwudi	Wrongful dismissal without any attached reasons. Petitioner suffered injustice and hardship as a result.	Not stated.
43.	Ugbonna Gabriel Uzoma	Unlawful termination of employment.	Not stated.

		<p>Unlawful victimization and intimidation.</p> <p>Dismissal as a result of malice.</p>	
44.	<p>Engr. Desmond Nlemadim</p>	<p>Loss of innocent lives without jus cause.</p> <p>Nonchalant attitude of the authority concerned by not responding.</p> <p>Tendencies that the assassins are targeting a particular person but yet to succeed.</p> <p>There has been categorical statement that has been made to carry out the above assertions.</p>	Not stated.
45.	<p>Mr. Oluwafemi Ogunbona</p>	<p>Unlawful detention at the Zaria Prison on the order of the Ibrahim Abdulaziz (second respondent) without just cause.</p> <p>Unlawful taking of and damage to the properties of the petitioner by some security agents on the</p>	Not stated

		<p>instruction of Mr. I. N. Sada (first respondent).  Molestation,  humiliation and threat meted on the petitioner's wife.  Infringement on the privacy of he petitioner without lawful authority.</p>	
46.	Mr. Adesina Abondejo	<p>Unlawful arrest, intimidation and prosecution.  Unlawful prosecution and humiliation.</p>	Not stated
47.	Some retirees from Nigeria Social Insurance Trust Fund (NSITF).	<p>Refusal to pay pensions after removal from office.  Non-compliance with Pensions Decree No. A782, 1979, and No. 102, section 3(4).</p>	Not stated.
48.	Mallam Al-Bishak	<p>Wrongful dismissal.  Lack of fair hearing to defend himself against the alleged official misconduct.  Failure to comply and give regard to consider the provisions of</p>	Not stated.

		<p>Federal Government Civil Service Rules, 1974.</p> <p>Breach of provisions of Agreement (Bond of Contract) and Declaration signed by the parties.</p>	
49.	Prince Ahmed Adamu Samu	<p>Alhaji Musa Ija-koro is impersonating himself as the leader of traditional ruler of Bwari town.</p> <p>That, HRH Esu Dimas Isuwa Zamayi is the rightful traditional ruler of Bwari town.</p> <p>That Alhaji Ija-koro should be impeached, apprehended, interviewed and punished judiciously.</p>	Not stated.
50.	Mr. Balasundaram Gowribalam	<p>Unlawful and forceful entry into the house of petitioner by security agents of the Military Administrator.</p> <p>Illegal removal of personal belongings of the petitioner worth</p>	Not stated.

		<p>millions of naira.</p> <p>Acts of intimidation, embarrassment, mishandling and threat at gun point on the person of the petitioner.</p>	
51.	Mr. O. A. Anigbogu	<p>Wrongful dismissal from Federal Civil Service.</p> <p>Dismissal based on allegation levelled against Acting Head, Security Department, UNTH, Enugu.</p>	Not stated.
52.	Association of Dismissed, Terminated and Retired Staff of UNTH, Enugu	<p>Non-disclosure of reasons for their removal by UNTH management.</p> <p>Wrong application of guidelines for removal of staff.</p> <p>Non-consideration by UNTH Management of affected staff, age and length of service.</p>	Not stated.
53.	A. Y. Araba-Sulaimon (Mrs)	<p>Unlawful dismissal or removal from Federal Civil Service.</p> <p>Mistake as to</p>	Not stated

		correctness of name of person involved (i.e Mrs. A. Y. Araba-Sulaimon/Araba Y. A. Miss)	
54.	A. O. Akindolire	The decree used to retire the petitioner has been faulted in the court of law in a similar case.  The singular action of the then Minister caused my infringement to fair hearing.	Not stated.
55.	Mint Workers Forum (MWF) on behalf of 2,042 workers.	Unlawful arrest, detention and brutalization of the workers.  Beating, torture, harassment with arm, molestation of workers by company officials, servants and agents.  Illegal confiscation of the property and other valuable items belonging to the workers.  Mindless brutality,	Not stated.

		<p>inhuman treatment to wit, beating, torture, chasing with arms, striped naked and bathing with sewage by the security agents.</p> <p>Manner of miscarriage of three (3) months pregnancy of Mrs. Charity Egbabonure as a result of brutal assault, torture, harassment and molestation by security agents on the invitation of the company's management.</p> <p>Unlawful termination of the workers appointment without due process of law.</p> <p>Denial of workers' right to associate by NSPMC.</p> <p>Inhuman work conditions such as naked search and exposure to factory hazards practiced by the NSPMC.</p> <p>Forceful eviction of</p>	
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		worker dependents from the company's staff hospital that led to the death of three (3) patients out of 12.	
56.	Mr. Kayode Akhilele, Mrs. Grace Akhilele (Jnr.), Mrs. Grace Akhilele (Snr.) Mother, and Mr. Kenneth Akhilele.	Unlawful arrest.	Not stated.
57.	Emmanuel Erhieyovwe Ekama	Wrongful termination of appointment and lack of fair hearing.	Not stated.
58.	Abraham Adoke	Non-payment of consultation fee on a project given by Abacha's government.	To be paid for the pet project. To be urgently rehabilitated.
59.	Alhaji (Dr.) Ibrahim Dasuki (former Sultan of Sokoto)	Unlawful deposition by the Sokoto State Government, and illegal banishment to Kaduna without necessary maintenance and allowances.	Not stated.
60.	Alhaji Sani Otto	Unlawful killing of petitioner's brother, and lack of investigation by the police, as well as non-	Not stated.

		challant attitude by the police towards the matter.	
61.	Alhaji Mustapha Garba	Unlawful retention of contract documents at Aso Rock Villa, Abuja.	Not stated.
62.	271 staff of NEPA (Technical Staff and others).	Unlawful arrest, detention and torture of the workers, inhuman treatment, harassment, assault and intimidation of the workers, their wives and children by the security agents.	Not stated.
63.	Mr. Alphonsus Akponye Ezenwa	Non-payment of the sum of N80,746 .00 by the former Anambra State Transport Company, Ltd. (TRACAS)	Not stated.
64.	Messrs. Memudu Ajani, A. Y. Haruna and Egbegi, on behalf of Some dismissed Staff of Federal Airport Authority of Nigeria.	Wrongful termination of their appointments and loss of income.	Release of the Review Committee Report, and Appropriate recommendations.
65.	Ibrahim K. Suleiman	Human Rights Violations.	To assist in the assurance of

			physical security of self, family and associates. To recognize and uphold his rights and others under national and international law, and to publicly accept his testimony through financial and other resources.
66.	Mufutau A. Adeboye	Wrongful dismissal from Civil Service	Not stated.
67.	Lt. R. Emuovehe	Unlawful connection with 1995 <i>coup d'etat</i> , losing military career prematurely, unlawful arrest of fiancée and non-payment of arrears of salaries, allowances and other benefits.	Not stated.
68.	Engr. M. O. Ezekwem	Unlawful dismissal from Federal Civil Service.	Not stated.
69.	Kaduna State Public Service Negotiation Council	Unlawful retrenchment of 6,000 workers of Kaduna State, and unlawful detention and malicious prosecution	Not stated.

		by the Kaduna State Government.	
71.	Patrick C. Okoli (CSP)	Wrongful retirement from Police Force contrary to Court Order, harassment, embarrassment, humiliation and mental torture.	Not stated.
72.	Mr. Alaowei Sunday Jombo JP.	Wrongful dismissal from employment contrary to regulations, humiliation, battery, physical abuse, assault, harassment and forceful eviction from staff quarters by the security agents and administrative staff of the board	Not stated
73.	Ahmad C. Okafor	Illegally fixing in an electronic computer through telepathic whispering.	Not stated.
74.	Hassan Sarkin Hausawa and others	Wrongful and forceful acquisition of land without compensation, threat, intimidation, arrest and detention.	Not stated
75.	Alhaji Amadu H.	Failure to commute	Not stated.

	Adama	petitioner's compulsory retirement with benefits, lack of fair hearing on the allegation of obtaining two hajj seats and money from 138 pilgrims to buy rams and unlawful detention.	
76.	Leader of Elders of Enugu State in-charge of Honourable A. C. Orah	Illegal appointment of Prof. Iwu, non-payment of pensioners for 68 months, and starvation and death of some pensioners as a result of the non-payment.	Not stated.
77.	Abubakar Adeniyi Adesanya	Loss of job, income and stigma of dismissal; non-payment of allowances, wrongful ejection from his official quarters.	Reinstatement, payment of all his due entitlements and allowances.
78.	Folusho Komolafe Taiwo	Loss of job, income and stigma of dismissal; non-payment of allowances, wrongful ejection from his official quarters.	Reinstatement, payment of all his due entitlements and allowances.

79.	Mr. I. Toyin Odebiyi	Unlawful dismissal from Federal Civil Service.	Not stated.
79B.	Folorunsho Komolafe	Unlawful dismissal from service.	Not stated.
79C.	Taiwo Abubakar Adeniyi Adesanya	Unlawful dismissal from service.	Not stated.
80.	Peter A. Esemre	Unlawful dismissal from employment, breach of fair hearing, unlawful deduction of salaries.	Not stated.
81.	Not stated.	Not stated	Not stated
82.	Mallam Nasiru Mohammed Tsanya	Loss of son, unlawful invasion of his house and vandalism of properties and unlawful arrest and detention.	Full investigation of the entire incident and appropriate redress.
83.	Mr. Boniface Amadi	Illegal arrest, humiliation assault, intimidation, torture and detention, illegal accusations and conspiracy by state police command and state attorney-general.	Not stated
84.	Wilfred Oden Inah KSM (Chief)	Illegal detention, arrest, torture, assault and humiliation, illegal	Not stated

		frame-up by Directorate of Military Intelligence, monetary inducement by Mr. Clement Ebri to Col. S. K. Togun to frame the petitioner and to silence him.	
85.	Mr. Musa Idoko	Unlawful termination of employment	Not stated
86.	Wadi Ali	Unlawful conversion of petitioner's voluntary retirement to dismissal, breach of fair hearing and deprivation of accrued benefits.	Not stated.
87.	Thomas W. Abuh	Unlawful dismissal from office, and unlawful detention and arrest.	Not stated.
88.	Paul Allanah M.	Unlawful arrest, detention and torture for 40 days, illegal conversion of petitioner's car by the two car dealers, conspiracy by Esigie Police Station DPO, and IPO at Ijesha tedo Police Station.	Not stated.

89.	Denis Ikpeamaeze	Wrongful dismissal from police force and loss of income and due benefits.	Reinstatement to the force and promotion to due rank.
90.	Col. Peter Kolawole Obasa (Rtd)	Unlawful dismissal from the army, unlawful arrest, detention and sentence to 14 years imprisonment, unlawful frozen of petitioner's bank account with his wife and illegal seizure of petitioner's properties.	Not stated.
91.	Engr. Boniface Chukwumaihe Ejehu	Unlawful termination of employment	Not stated
92.	Mr. Udeagwu Emma. U.	Unlawful dismissal from the police force, reduction in rank from corporal to constable, and lack of fair hearing.	Not stated
93.			
94.	Suleja Emirate Council and Kingmakers	Illegal police brutality, torture, intimidation and killings; mass killings by mobile police, loss of properties and	Not stated.

		vandalisation of Emir's palace.	
95.	Engr. Cyril Oluche E.	Unlawful dismissal from Federal Civil Service.	Not stated.
96.	Dr. A. G. Lamorde	False and malicious allegations that has left a permanent strain on his name, non-release and publication of the report on the investigation panel that investigated him.	Release and publication of the report of the panel or any white paper issued in respect of same.
97.	Mr. E. U. Nwanga	Illegal threat to life and attempted assassination, threat to life by the management of Maritime Academy of Nigeria, Oron; and illegal business transaction at Maritime Academy of Nigeria, Oron.	Not stated.
98.	Magboma S. O.	Premature retirement and loss of income and benefits.	Reinstatement and payment of his due benefits.
99.	Balaba Ahmed Chiroma	Loss of job and income and benefit.	Fair treatment and reinstatement.
100.	Levi I. Ibe	Unlawful retirement from service	Not stated.



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## VOLUME SEVEN

### SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

#### REVISITING THE HISTORICAL CONTEXT OF THE COMMISSION'S MANDATE

1. The Commission has attempted in this Report, to capture the faltering if slippery threads of Nigeria's chequered history. Africa's most populous nation has faced challenges of enormous proportions. It has been battered and bruised. Its national history reflects an undulating landscape, made up of curves, hillocks, valleys and little mountains.

2. The questions persist: Where did Nigeria take the wrong turn? What is the root of its problems? Is it with its leadership or the followership? Have its resources been its undoing or is it the inability of the ruling elite to manage or distribute these resources in a prudent, accountable and transparent manner? What went wrong? Can we put Nigeria back on track again? Or, as a famous Nigerian playwright has asked, "*Are the gods to Blame?*" Or else why would a nation so richly endowed turn so suicidal?

3. These and several other questions go to the heart of the interlocking problems of democracy and development, and of peace and security in the country. The problem of the Nigerian State, and of good governance in the country is ultimately bound up with the oxymoronic formulation of the federal idea as unity in diversity.

4. The Nigerian State is a multinational State in conception; yet the possibility of a Nigerian nation, demanding overarching loyalty from its diverse ethno-national groups, seems perpetually constrained and contradicted by the primordial demands of its multinational diversity. This

has been, and continues to be the fundamental problem of nation-building, of democracy and development in the country.

5. How do we transform the Nigerian State into the Nigerian nation, thereby confounding the cynics who contend that, almost 87 years after amalgamation in 1914, Nigeria is no more than a *mere geographical expression*, or who refer to her as the *mistake of 1914*.

6. Despite the lingering multifaceted and complex crises it has been going through since independence in 1960, the country has remarkably held together, always pulling away from the precipice, except for the civil war years between 1967 and 1970. Indeed, many would argue that perhaps the country's resilience is both its strength and its weakness.

7. In short, as if in a stupor, the country has tottered on, all the fears, anxieties and frustrations of nation building, notwithstanding. Many have concluded that indeed, rather than being seen as evidence of weakness or fragility, the sense and sentiments of nationhood actually run deep in the veins of Nigerians. Nigerians love their country. They want to see it united and strong. The real problem is, at what cost and who bears the brunt?

8. The missing link appears to be the inability of the ruling elite and the political class to establish a nexus between the yearnings, desires, hopes and aspirations of its young and coming generation and the design and construction of a new future for Nigeria.

9. It is arguable that the continuing frustration about the character of the polity is not unconnected with the general feeling among the Youth in the age brackets of 30-40 and below that earlier generations of the political class have squandered their hopes and future.

10. There is the feeling that the country's political leadership has been greedy, self-serving and lacking in serious political will, contributing in no small measure to the crises of democracy and development, which have delayed the country's march to nationhood.

11. When the military seized political power in January 1966, there was a general feeling in the country that they were motivated by altruistic intentions and objectives to save the country from descent into political chaos and instability.

12. As time passed, the country's military rulers and the military as an institution by and large lost their sense of direction. The greed of the military dragged the nation further and further away from the project of nationhood. The result is that by the end of almost thirty years of military rule, Nigeria is far more fragmented than it was in January 1966, when the military first seized power.

13. The democratic struggle against military rule in the country, whose high water mark was the return to democratic civilian rule on 29 May 1999, symbolizes and marks the return to *the project of the three Rs (Rehabilitation, Reconstruction and Reconciliation)*, which the military enunciated after the end of the civil war in January 1970.

14. After wandering in the wilderness, the country seemed ready and prepared to return to the path it had abandoned through the military option.

15. Looking back with the benefit of hindsight, we can see that, in a way, the noble and patriotic *project of the three Rs was a forerunner to the Human Rights Violations Investigation Commission*. Yet, the setting up of this Commission could be considered an indictment of the Nigerian political military class.

## **LAYING THE BASIS FOR A REGENERATED NIGERIA**

16. This is why we believe that there is need for this country, this nation-in-the-making to reflect more seriously on its future, so as to render the establishment of a similar Commission in the future unnecessary.

17. The preceding volumes of this Report have tried to show how the Commission grappled with the problems of providing a platform for Nigerians to confront their gory past, in order to gear themselves for the difficult but essential battles of laying the foundation for a just and democratic Nigeria.

18. Generally, it was evidently clear, from most of the petitions received by the Commission and from the verbal presentations and arguments canvassed during the Commission's Public Hearings, that there were genuine concerns among the petitioners and the generality of our people, the citizens, that Nigerians need a nation to belong to, a nation cemented by a social contract of mutuality and reciprocity in cultural, economic, political and social relations, a nation to be proud of, one that provides its citizens with an enabling umbrella of equality of opportunities, social and distributive justice, protection and security.

19. From the sentiments re-echoed in messages received and the keen interest demonstrated in the mandate and work of the Commission by innumerable Nigerians, within and outside our country, we are convinced that, with the right social, economic and political atmosphere, a united, powerful, purposeful, compassionate and egalitarian nation will emerge from the frustrations expressed and captured by such expressions as *marginalization, stranger, indigene, discrimination* etc.

20. There is enough evidence on the ground to suggest that, were Nigerians to see a leadership that can synchronize public sentiments for the emergence of a Nigerian nation with genuine policy programmes of national

reconciliation, reconstruction and national integration, in the next ten or so years, the country could achieve harmony.

21. In view of this, our aim in the present *Volume* is to highlight some of the major institutional and structural changes that the Federal Government of Nigeria needs to embark upon to ensure justice to its citizens and thus lay a durable and solid foundation for a democratic Nigerian nation.

22. After reviewing the tons of petitions submitted to it, the Commission has had to come face-to-face with the profoundly deep level of frustrations among the various communities in Nigeria.

23. But as we listened to the various petitions, we also detected the flaws in many of the assumptions. A very interesting picture emerges, when we put all the petitions together in perspective.

24. For example, it was interesting to find that there was hardly any consensus on what really constitutes *marginalization*. What is more, it was interesting to note that while the *Ohaneze* petition on behalf of the Igbos pointed accusing fingers at the Federal Government, their allegations were challenged by both the *Arewa Consultative Forum*, on the one hand, and the *Southern Minorities on the other*.

25. While the *Arewa Consultative Forum* claimed to represent the North, the *Joint Action Committee of the Middle Belt* also leveled accusations against the North, which the *Arewa Constultative Forum* claimed it was speaking for.

26. Indeed, from the submissions received by the Commission, it is possible to conclude that as clusters of ethnic or regional blocs, we are all marginalized, but as Nigerians, the story is different. For example, although a rather unsteady picture has emerged, most of the Memoranda received

by the Commission constituted a documentation of frustrations among ethnic blocs.

27. This ethnicised anger focused on the negative and did not give much thought to the substantial progress in many other areas that the country and the communities had made together in earlier periods of our national history.

28. We are of the view that a more consistent and objective reading of the country's history will lead to the inevitable conclusion that much progress had been made in the country's earlier post-independence history. For example, despite the excesses of military rule, we heard very commendable stories among various communities relating to what some patriotic and imaginative military administrators or governors had done when they governed States that were outside their own immediate States.

29. Evidence exists of the great works done by Muslim administrators in non- Muslim States and vice versa. We also recall periods when the nation knew tolerance and accommodation across ethnic and religious divides.

30. We are therefore of the view that there is need for the country to trace where the cracks set in and seek the best means of closing these cracks, in order to re-establish trust among the various segments of Nigeria.

31. We hold that this is possible and also very much desirable. It is a much easier goal to pursue under a democracy than under military rule. This prospect opened up by the nascent democratic dispensation in the country posed a challenge to the Commission. How could the Commission

contribute to charting a course for this noble objective, which is seemingly beyond its immediate Mandate?

32. The Commission was of the view that there was need to go beyond the Mandate, in search of pathways along which the project of nation building must proceed. This is more so, because the Commission is uniquely the best opportunity that Nigerians have had in several years to forge an informed understanding of their country's past and to put in place the necessary foundational building blocks on which a new Nigerian nation would rest.

33. After consultations with a broad spectrum of the stakeholders, it became clear to the Commission that the nature of Nigeria's chequered and fractured history demands that the Commission's work should serve as a mirror to reflect the trials and tribulations of our country. This was not easy.

### **THE GLOBALIZING CONTEXT OF HUMAN RIGHTS PROTECTION**

34. The terrain the Commission traversed was long and excruciatingly tortuous. In spite of this, the Commission believes that it has laid a firm basis for a proper understanding of its work and of the imperative need for reconciliation in the country. But the work of the Commission and the recommendations put forward in this Volume must be set in a wider globalized and globalizing perspective setting.

35. Contemporary Globalization has brought in its wake, as its predecessors had done before it, a wide range of challenges, problems and prospects. The Commission believes that every nation must work out its own *modus vivendi* in making choices that will enhance its national image and advance its national interests.

36. It is in the context of the challenges of globalization that, in making our recommendations, we have taken cognizance of the fact that the choices

Nigeria makes to strengthen respect for human rights and consolidate the nascent democratic experiment in the country will have an impact on the rest of Africa. Nigeria must be a model for Africa in this respect.

## **ESTABLISHING THE CAUSES AND NATURE OF HUMAN RIGHTS VIOLATIONS**

37. Among the first tasks of the Commission, when it began its work, was the identification of the causes and nature of all gross human rights violations in the country. This particular task required paying special attention to all cases of human rights violations committed in the country during the period (15 January 1966 to 29 May 1999) under the Commission's purview.

38. After reviewing the petitions, the Commission came to the conclusion that the issue was not a simple or straightforward one as such. It discovered from the evidence tendered by the representatives of various interest groups and communities that there have been accusations and counter-accusations targeted at particular communities, institutions or groups.

39. But on the whole, it was indisputably clear, from the evidence tendered before the Commission that the citizens of Nigeria generally believe that they have suffered badly in the hands of successive governments in the country, since independence, although this was more pronounced under military rule. However, it is clear that, beyond the accusations and counter-accusations of various ethno-communal, religious and other interest groups, the roots of bad governance in the country, historically and primarily, lie deep in the colonially-inherited structure and character of the post-colonial Nigerian State, and in the manner of its continuing incorporation into the world system.

40. As we shall try to show in the recommendations, justice and the protection of human rights in Nigeria must be anchored on fundamentally redesigned and restructured institutional (constitutional-legal, cultural, political and social) and structural (economic and resource-distributive) frameworks, which will help to forge and create in every Nigerian, a civic sense of belonging to a nation where we can all live with relative peace and security, a nation in which there is enough space for Nigerian citizens to be what God wishes them to become.

41. One of the major facts to emerge from the work of the Commission was that neither the federal government of Nigeria nor the Commission itself as well as the generality of informed Nigerians had an idea of how the work of the Commission would turn out. We have tried, in this Report, to explain the many difficulties that the Commission encountered.

42. However, the Commission felt strongly that there was no way it could answer *all* of the questions the country needed to address. Yet, the Commission was of the considered view that its greatest strength might lie in its ability to provide Nigerians with the rare opportunity to tell their own stories, even beyond the period covered by the Commission's mandate and with the possibility of drawing out some of the unanticipated consequences of a broader interpretation of its mandate.

43. This is why, as we have already indicated in this Volume, members of the Commission believed that, in spite of its limitations, the Commission offered the country one of the best chances of resolving some of the thorniest and seemingly intractable issues in its political and social history.

## **THE ARGUMENT OF VOLUME ONE**

44. In the Introductory Volume of this Report, we drew attention to the historical context for understanding not only the development of constitutional provisions for human rights but also the violations of those

rights in the country. The Introductory Volume also provided a theoretical basis for understanding and appreciating the burden of our colonial legacy and its implications for, and impact on human rights violations in the country.

45. It is clear from the analysis in the Volume that our present predicament is a product of a particular historical conjuncture. It is evident that colonialism by itself constituted a gross violation of the highest order of the human rights of the peoples of Nigeria. But the colonial inheritance can no longer be presented as the only or major reason for that predicament. Independence provided the opportunity for dissociation from that inheritance and for a new beginning. Unfortunately, the country's political class trifled with and, therefore, lost that golden opportunity for a national renaissance.

46. A proper understanding of the nature and character of the Nigerian State, as it is presently constituted and structured, and of current political practice in the country, is, therefore, fundamental to resolving the problematic issues of the future promotion and protection of human rights, the national question and democracy and development in the country.

47. In the same Volume, the Commission also gave the background to its establishment and highlighted some of its subsequent travails. Given the fact that this was a road that the country did not tread before the Commission was established, the challenges were enormous. What was even more frustrating was the fact that it became clear that the Federal Government had not made the necessary budgetary provisions for the work of the Commission. This led to a lot of unnecessary delays.

48. The Commission is of the considered view that a work of this nature clearly needs to be insulated from the vagaries and red tape of the bureaucracy. Given that the Government has always been perceived as the

accused in human rights violations, it is important that the Commission be seen to be insulated from or independent of the government. If this is seen to be the case, the better are the chances of the Commission being seen to be objective. This is more so in a society where suspicion of governments and their agencies runs high.

## **SUMMARIZING VOLUME TWO**

49. Volume Two of this Report considered the implications of the challenges posed by contemporary processes of globalization for the promotion and protection of human rights in Nigeria by looking at the ***International Dimensions and Contexts of Human Rights***. Globalization has made it impossible for any nation to try to be an island unto itself even it wished to be so.

50. The Volume examined at considerable length the implications of this internationalization or universalization of the core moral imperatives and values of the evolving international law and practice of human rights for Nigeria's municipal law generally and more specifically for its human rights domestic law and practice.

51. It is clear that membership of such sub-regional, regional and universal organizations like the Economic Community of West African States, the African Union (the successor to the Organization of African Unity) and the United Nations, impose on their member-states the obligation not only to subscribe to the common values enunciated in the relevant human rights provisions of treaties, conventions and other international legal instruments to which they have duly acceded by virtue of their membership of such supranational organizations, but also to reflect them in their domestic laws and practice and to implement them as public policy accordingly.

52. In the Volume, we traced the historical and philosophical-(jurisprudential) legal origins of some of the major themes relevant for our

work and we concluded that, in the main, the international community remains an important moderating force in guaranteeing the promotion and protection of human rights in the world generally and, particularly, in many developing nations.

53. In Africa in particular, the issues of human rights can no longer be left to the whims and caprices of its political leadership and the state. For example, it is of great significance that, even in the harsh and dark days of the military regime of the late General Sani Abacha, the regime sought international legitimacy by setting up a *National Human Rights Commission*, despite its atrocious and abysmal human rights record. This is obviously evidence of what international pressures can do to member-states.

54. Because the Commission believed that it did not possess all the wisdom and skill necessary to undertake its work, it commissioned researchers to help it unearth some very important aspects of human rights violations during the period under review, which had either been inadequately covered or neglected by the various petitions received by the Commission.

### **THE RATIONALE FOR VOLUME THREE**

55. *Volume Three* of this Report, ***Research Reports***, attempts to capture this neglected aspect of the country's history and politics. The Volume summarized the findings of the commissioned researchers by compressing them [the findings] into one volume.

56. The Research Reports underscored the fact that there are aspects of Nigeria's public life and public service that we need to take more seriously.

57. For example, given the prejudices and partisanship of both government-owned and privately-owned mass media, what happens when

the rights of citizens who do not have access to sympathetic media, are infringed? This was the point or justification of the Commission's *Public Hearings*—to provide such an access to aggrieved citizens and communities who have had no opportunity to present their cases to the Nigerian public.

58. The Commission realized in listening to evidence of witnesses, during the Public Hearings, from various communities, especially in the Niger-Delta and in other parts of Nigeria, that there were many other communities, which had experienced and are still experiencing gross human rights violations and immiseration similar to, or worse than those experienced by the Ogonis.

59. However, the cases of such aggrieved communities never really got national or even international attention, perhaps owing to either their lack of a celebrity or the status of a Ken Saro Wiwa, or their lack of resources as vital as Oil is to the national economy or to the peripheral or politically inconsequential nature of their location in the geopolitical calculations of the ruling elite.

#### **VOLUME FOUR: PROVIDING VOICE FOR THE WEAK**

60. We hope that by introducing this dimension of the Commission's work, we have enabled those without a voice to be heard through this outlet provided by the Commission. In Volume 4, we have looked at the **Public Hearings**.

61. This is perhaps one of the most significant Volumes in the Report. Its significance lies in the fact that it is the Volume that almost everyone who followed the proceedings is sufficiently knowledgeable about.

62. Despite the initial logistical problems over whether the Commission should have Public Hearings, it became clear that, beyond drawing public

attention to the work of the Commission, the Public Hearings were likely to create the most interactive phase of the work of the Commission.

63. For a population that is largely illiterate, the public hearings provided them the best opportunity to see things with their own eyes. The effect, by all accounts, was indeed electrifying. The victims unburdened themselves of the latent agonies they suffered and in some instances reconciled in the full glare of the public. It was therapeutic.

64. The objective of the Volume is primarily to capture those events, without imposing our own or some other interpretation on the material that had been assembled.

## **CONFRONTING THE PHILOSOPHICAL AND POLICY PROBLEM OF REPARATION: VOLUME FIVE**

65. *Volume Five*, titled ***Reparation, Restitution and Compensation***, examined the philosophical and legal basis for reparation, rehabilitation and compensation. Each and everyone of these three concepts, by raising ethico-philosophical issues, is loaded with a largely subjective meaning. But for the record, it is important to make a fundamental observation, in order to place the issues and controversies generated by the practical application of the concepts in proper context.

66. It is important at this juncture to state that when the Federal Government set up the Commission, it was more concerned with finding the truth and working towards reconciliation than dealing with the consequences or the spill-over effects of the work of the Commission.

67. Reparation and Compensation are largely consequences of the establishment of guilt and responsibility. The Commission's Public Hearings

were not Victim Hearings, as such. Thus, the issue of Reparation and Compensation became a bit problematic. For example, as we have indicated in the preceding paragraphs, there are ethico-philosophical questions, which we also need to pose.

68. What really constitutes compensation and how do you compute it? How much can compensation cure and is it such an important component in reconciliation? How much compensation is enough compensation? Who determines if compensation meets the standard? Who sets the standards? How do you compensate for Life, Injury (whether physical, psychological or structural)? How do you even quantify it?

69. These questions might on the surface sound escapist or abstract, but they are important if we are to take these concepts with the seriousness they deserve.

70. This Volume is important, even if it is to underscore the fact that in the final analysis, arbitration to determine, and the knowledge of the truth, attribution of guilt and admission of guilt are all part and parcel of the compensation that many seek for in, and expect from a Commission of this nature.

71. During our Public Hearings, almost all petitioners claimed some form of compensation and/or reparation. What is more, we need to underscore the fact that no matter how we may try, there can be no adequate compensation for life, but there is consolation when those in power or the perpetrators at least acknowledge the truth of the loss and sufferings of victims and their families. In Chile for example, the President, Patricio Aylwin apologized to Chilean people over the violation of his people's rights. **Also Pope John Paul apologized for the excesses of the Catholic Church during the Crusades. Following this, we recommend that all**

**the Presidents between 1966 and 1999 should apologize for all the human rights violations that took place during their tenures. Failing this, the President should apologize on behalf of his fellow former Heads of State.**

72. In making our recommendations, we have not lost sight of these problems. What is more, we are also not unaware of the fact that bringing many of the contested issues regarding the loss of loved ones is one major step in another direction. Indeed, in the final analysis, this must be considered the beginning of a long road for many of the victims and the petitioners.

73. As we see from the discussion of Rehabilitation in the Volume, the Commission has attempted to draw public attention to this much neglected theme. It is impossible for society to visualize a period when it will rid itself of deviants and criminals.

74. The process of sin, repentance and forgiveness as an endless circle of human life is not just a philosophical issue. This is why rehabilitation and renewal must be integrated into our national agenda.

75. To this end, our attitudes towards penitents and penitentiaries must be radically overhauled. It is to be hoped that our society will realize that, as St. Francis of Assisi is quoted as having said, at the sight of every less fortunate person, we must always say, "There goes I but for the grace of God!" This is what is sometimes referred to as metaphysical guilt, following Karl Jasper's articulation of the concept.

76. Such an attitude or "categorical imperative" will instill in us a sense of concern for one another's welfare and security. This attitude will facilitate

both the process of national reconciliation and ensure the guarantee and protection of individual and communal rights of citizens.

## **CONCLUSION**

77. Finally, in making our Recommendations, we have had to fall back on the relevant sections of the Instrument that set up the Commission, as a basis for finding the way forward.

78. For us, we see the driving force for the setting up of the Commission is the search for the truth about our past as the basis for the establishment of a framework for a just, fair and equitable Nigerian society.

79. Drawing from this, we found the relevant sections to be:

- i. To find out the root causes of human rights violations in Nigeria with special emphasis on gross human rights violations committed during the period covered by our mandate.
- ii. To identify the persons, authorities, institutions or organizations which may be held accountable and to also determine their motives.
- iii. To determine whether the state embarked on these as a state policy or whether its agents were merely overzealous.
- vi. To recommend measures to be taken either against the institutions or persons identified.

80. To be faithful to our Terms of Reference in making our recommendations, we are conscious of the fact that certain persons and institutions would have to be CLEARLY IDENTIFIED AS BEING DIRECTLY OR INDIRECTLY ACCOUNTABLE FOR CERTAIN ASPECTS OF HUMAN RIGHTS VIOLATIONS IN THE COUNTRY.

81. We are not unaware of the fact that not all the agents and agencies of State appeared before the Commission. But whether we rely on the

testimony of petitioners, the result of our research or even our personal reflections as citizens on the Nigerian situation, there are certain conclusions that Nigerians are familiar with.

82. The Commission noted over and over again that it was not on a witch-hunting mission nor was any one directly or even indirectly on trial, as such.

83. However, in reviewing the material that was submitted to us both by our researchers and by the petitioners, we have come to the following conclusions, regarding the agents and institutions responsible for gross human rights violations in Nigeria.

84. We shall briefly identify them and try to show how certain State policies have enabled certain institutions and individuals to engage in human rights violations.

### **THE DIFFICULT TASK OF CRAFTING VOLUME SIX**

85. Volume Six of the Report, entitled Findings and Recommendations, however, presented the big but exciting challenge of sifting through the tons of material before us and stating the Commission's interpretation of the data before it.

86. There were many questions that emerged, as the Commission embarked on the task of analyzing and interpreting the data and the evidence it had gathered in the course of its work.

87. In so doing, the Commission found it necessary to go back to its Terms of Reference which demanded that it should try to establish not only what happened but also the nature of the circumstances that made human rights violations possible in the country.

We thematically summarize the findings as follows:

### **THE SCOURGE OF MILITARY RULE**

88 From the evidence before us, we hold that military rule has proved to be a cure that was worse than the disease. This much was admitted or conceded by military officers who appeared before the Commission.

89. It is plausible to argue that that in its heydays, military rule was indeed propelled by patriotism and the need to set Nigeria on a sound footing. Tragically, we all now know that things have worked differently. Military rule has left, in its wake, a sad legacy of human rights violations, stunted national growth, a corporatist and static state, increased corruption, destroying its own internal cohesion in the process of governing, and posing the greatest threat to democracy and national integration.

90. Clearly, *the military are to be held accountable for gross human rights violations in the country, during the period under review.* This is exemplified by cases of torture at the Intercentre, DMI headquarters in Lagos and Jos Prison by the military. All the other prisons in Nigeria failed so far below the standards of the United Nations that they became torture centres.

### **OIL: BLESSING OR CURSE?**

91. Oil, one of the greatest blessings God has showered on our nation, has turned out to be a curse. Instead of providing the basis for national economic, political, scientific/technological and social growth and development, cushioning its citizens from the scourge of abject poverty, squalor and want, oil became, in the hands of the ruling elite and the political class, an instrument sounding the death-knell of such key principles of good governance as democracy, federalism, transparency, accountability and national growth. Oil was the mainstay of the economy and the junta saw any inhibition to its flow as a breach of security. Consequently, legitimate

complaints/agitations against oil pollution by host communities were violently suppressed. We therefore had to pay a heavy prize in lives and human rights violations.

## **CIVILIAN COLLABORATORS OF THE MILITARY:**

### **THE BUSINESS/ POLITICAL CLASS**

92. The long years of military rule in the country were due as much to the greed of the military elite for power as to the collusion of equally greedy members of the country's political class. From the testimonies of senior military officers, those allegedly involved in coup plotting and investigations, it was clear that rich and powerful civilians played critical supportive roles to the military in destabilizing the political process and preparing the way for the military coups that overthrew various civilian and military regimes.

93. Unable to accept defeat, some politicians often turned to their military contacts as a means to regain access to political power and the access to the state coffers flowing from it. Given that politics is essentially about capturing power, the business class has often been unable to subordinate its interests to those of the nation. The result is that wealthy and influential Nigerians have used their resources to bankroll coup plotters. We therefore hold that they were accomplices and therefore should be held accountable for the resultant human rights violations. The politicians should imbibe democratic spirit. This is because the desperation to win at all costs propels them to use the army to resolve political problems through coups with resultant violation of human rights.

## **PRESCRIBING CONDITIONS FOR A VIABLE DEMOCRACY**

94. If democracy is to take firm roots in Nigeria, then the various segments of the stakeholders in the polity must realize that, no matter the

nature of their interests, such interests can only be attained within the boundaries of a democratic and stable nation.

95. This means that politicians must learn to accept the rules of the game. Those who win elections must realize that they have not won a price for themselves and their party, but that they have won a national trust. Those who lose elections must realize that it is easier to go back to the drawing board and wait for the political calendar to turn around than to resort to the military solution, which has no timetable, as such.

### **WHAT ROLE FOR RELIGION?**

96. One of the missing links in Nigerian politics has been in determining and reaching a consensus on the exact role and place of religion in the political process. The country has remained in the firm grip of so-called believers of the two Abrahamic religions: Islam and Christianity.

97. Sadly enough, both Islam and Christianity have never really been able to rise above the limitations of their intra- and inter- denominational and sectarian cleavages. The result is that the country is now caught up in what has come to be known as the *problem of religion in Nigeria*. Religious intolerance has been the main cause of communal clashes with attendant loss of lives and gross human rights violations.

98. The role of religion in politics is, therefore, largely seen in negative terms. Although we did not receive particular petitions from either Christians or Muslims as religious groups, there were submissions from various sections of the society that alleged religious discrimination, while also complaining of being under the stranglehold of religiously-inclined hegemonic groups. This much was clear in the submission by the Hausa Christian community in Northern Nigeria.

99. However, the religious bodies ought to have done much more than they did in the struggle against human rights violations, especially during the dark days of the late Abacha regime. On the whole, the politicization of religion has undermined religion.

100. A new responsibility has now devolved on both the leadership of Christianity and Islam to respond appropriately to the challenges of nation building and to help in laying a solid foundation for a Nigeria that promotes and respects human rights under the rule of law.

### **SECURITY AGENCIES AND HUMAN RIGHTS VIOLATIONS**

101. It is evident that under military rule, the security and survival of the Head of State and of his regime at all cost became an obsession. Regime security was equated to national security. Power became so personalized that the state became synonymous with the government of the day and its leader. Regime security became an excuse for the excesses of state security agencies, leading to various gross human rights violations.

102. As we found out during the public sittings, security agencies tended to resort to extra-judicial methods of extracting information from suspects. Most of these agents and operatives were guilty of the torture, and sometimes even the murder of innocent suspects.

103. We received petitions of the alleged deaths of many suspects in police custody. By and large, these deaths were sometimes the result of excessive torture by overzealous individual security agents. Nonetheless, it is clear that these tendencies are inevitable in a military environment, where violence is largely glorified and or, celebrated, and where due process is thrown overboard.

104. As was noted in Volume Five, our findings have led us to the conclusion that security agencies will require a fundamental restructuring, so as to re-orient them to respect due process and the human rights of Nigerians, including those of suspected individuals under interrogation or investigation.

### **RESIDUAL EFFECTS OF MILITARY RULE: ALIENATION, ANOMIE, ATOMIZATION AND POLITICAL VIOLENCE**

105. One of the very obvious fallouts of military rule has been its impact on individual, family, communal and national identities. Dictatorships function through a strategy of divide-and-rule.

106. Thus, the emergence of ethno-religious cleavages and the subsequent hardening of these identities led to the persistence of violence, well beyond the life of the dictatorship. This climate is often ripe for treachery within many opposition groups, as government tends to co-opt willing members of these groups into its service.

### **MILITARY RULE AND THE JUDICIARY**

107. The courts form the citizen's lastline of defence in his unequal combat with power and its abuse. The military, by suspending the fundamental rights provision of the Constitution and by its various decrees containing ouster clauses emasculate the courts and turn them into toothless bulldogs. During military dictatorship, the court found it difficult to perform their necessary function of upholding the fundamental human rights of the citizen.

108. Executive lawlessness and disregard for the rule of law became the order of the day. Although in theory, Nigerians are said to be equal before the law, in reality, this was not so. There were two laws: one for the

ordinary Nigerian and the other for those in power. Those in power were perceived to be above the law. Impunity and abuse of power created conducive climate for human rights violations, as security officers operated well outside the boundaries of their powers.

### **MINISTRY OF JUSTICE AND HUMAN RIGHTS ABUSES**

109 We observed during our public hearings that some State Counsel in the Ministries of Justice, when asked by the Police for legal advice, turned themselves into judge and jury and “decided” cases submitted for advice. This attitude may be as a result of ignorance. But we regret to say that in most cases, it looked like a deliberate attempt to protect perpetrators. We refer to the cases of Dr. Eneweri from Bayelsa State, and some cases from Kaduna, Kano and Plateau States.

110 We recommend that the Federal Ministry of Justice should try to educate Nigerians on the nature of the country’s international obligations, as we have noted in Volume Two of this Report.

111 The knowledge of these obligations will assist government functionaries and the generality of our people in knowing what our international and domestic obligations are with respect to human rights issues that have been settled internationally. In this respect, the African Charter of Human and People’s Rights should be popularized in the country through seminars, workshops and publications.

### **ATTORNEY-GENERAL CUM MINISTER OF JUSTICE**

112 In Nigeria, the Office of the Attorney-General of the Federation is usually fused with that of Minister/commissioners for justice. In England and America, the two offices are separated for very good reasons. We will recommend that what obtains in those developed countries be made to apply to Nigeria. We therefore recommend a separation of the two offices,

so that the Attorney-General becomes, as his name implies, the Chief Law Officer of the Federation or the State bound by the Unwritten laws of the Legal Profession. The Office of Minister/Commissioners for Justice should be a political office. When the two offices are separated, it will make far easier and more impartial discharge of the duties of the two offices.

### **CORRUPTION IN PUBLIC LIFE**

113. Nigerians agree that corruption in public life, which was pronounced under military rule, has reached alarmingly pandemic proportions, and should now be a matter of very serious and pressing public policy concern.

114. From the evidence, which the Commission received, it is clear that the quest for political power personal enrichment was largely the driving force for military interventions in politics. The military tended to treat the state as a conquered territory and proceeded to treat the proceeds of state as spoils of war to be shared among the members of the military, the conquering forces of occupation.

## CHAPTER 2

### STATE POLICIES AND HUMAN RIGHTS VIOLATIONS

1. It is our contention and conclusion that the state in Nigeria has failed its citizens. This much was clear from both the petitioners and their petitions. It is clear to us that the colonial nature of our historical experience is to a large extent responsible for the incapacity of the state to live up to its duties to its citizens.

2. It is easy to argue that colonialism was not peculiar to Nigeria and that indeed, many other nations, which had their own colonial experiences, have since moved on. However, Nigeria's peculiar regional, religious and cultural history sets it apart from other nations. But this is not an excuse.

3. It is clear now that the decision of the colonial administration to merge both the Northern and Southern Protectorates in 1914 was informed by reasons of British economic interests and not those of Nigeria. The legacy of dual administration and separateness, bequeathed by amalgamation, has become an albatross, casting a pall of mutual distrust, recrimination and antagonisms over the country's experiment in nation-building.

4. For example, the regional arrangements, which were introduced gradually through constitutional changes between 1945 and 1954 created more problems than they were designed to solve. They deepened the centrifugal tendencies, which amalgamation had set in motion and which were encouraged by colonial administrators.

5. What is more, the long period of preparation, during which regions became gradually self-governing, did not facilitate the process of

integration after independence, especially in relation to national economic development and minority ethnic groups' demand for self-government.

6. The impression had been created that all three regions would function independently, each protecting its turf and with little emphasis on inter-governmental cooperation among the regions and between them and the federal government, in what has been described as a classic case of dual and coordinate federalism.

7. Thus, at independence, it was evident that the three regions had progressed differently, in such major areas as education, health, social infrastructures and economic development, generally.

8. The result has been that post independence politics threw up challenges that ought to have been thrashed out much earlier. This largely explains why political parties were formed along ethno-regional and, sometimes, religious lines.

9. Our constitutional and political history is replete with many inherent contradictions, which show very clearly that there were discrepancies between what the colonial government sought and what Nigerians themselves wanted. Having inherited this skewed arrangement, our political class is responsible for not quickly addressing these visible discrepancies.

10. The result is that we have continued to tinker with the inherited system. Unfortunately, our national history has followed the logic of post-colonial states in many respects. The inheritance elites in many post-colonial states have tended to see their roles as being merely inheritors of the apparatus of power from the departing colonial masters. This is why we ended up with a situation whereby local elites took up residences in what is

still referred to even today as *European Quarters*, *Government Reservation Areas* etc. These were some of the privileges that set them apart from the rest of their societies.

11. The project of broadening the political space was delayed mainly because the new local elites were preoccupied with defending their local spheres of power and influence.

12. Let us take the character and nature of the Nigerian state in three areas, to illustrate the argument advanced here.

### **THE CHARACTER OF THE STATE: PARTY POLITICS**

13. We noted, while examining the texture of Nigerian history, that not much effort was made in the first years of independence to form broad based political parties. The fact that parties were largely formed along regional and ethnic lines bears witness to this observation.

14. There were four main parties that dominated the landscape in immediate pre- and post- independent Nigeria. These were the *Northern Peoples' Congress* (NPC), with a base mainly in the North, the *Action Group* (AG), with its base in the South West, while *the East* was dominated by the *National Council of Nigeria and the Cameroons*, later re-named the *National Council of Nigerian Citizens* (NCNC).

15. The NCNC was by and large the most broadly based party that had substantial presence beyond its catchment political base in the east.

16. There was also the *Northern Elements Progressive Union* (NEPU), which was based on a radical populist ideology, drawing the core of its membership and electoral support from the radical, anti feudal elements in the North, and with hardly any presence outside the Northern region.

17. What is evident is that these political parties combined and manipulated regionalism, ethnicity and religion as a resource in competitive electoral politics.

18. But what is also evident from the structure of electoral politics in the immediate post-independence years is the emergence of the state as the prized terrain over which the major ethnic groups staked out their hegemonic claims for political power. Control of the state by an ethnic group or combination of ethnic groups, under a zero-sum approach to electoral politics, was to the exclusion of other ethnic groups. In this way, electoral politics became a matter of life-and-death affair with its resultant effect on human rights.

### **THE CHARACTER OF THE STATE: EXPANDING THE POLITICAL SPACE**

19. The Minorities' Commission Report was testimony to the reluctance of the leadership of the majority ethnic groups in the three regions to accede to state-creation demands from minority ethnic groups in their respective regions. We have elaborated at some length on the politics of state creation in the penultimate years of colonial rule in *Chapter 3 of Volume 1* of this Report.

20. Even when concessions were grudgingly made in some of the regions to demands of minority ethnic groups for representation in institutions of governance, it was with a view to ridding certain ethnic blocks of members of other ethnic groups.

21. With independence in 1960, it did not take a long time for the system to begin to overheat, as the agitations for home rule in their own sub-regional heartlands by the various minority ethnic groups in each of the three regions, persisted.

22. Since the expansion of the political space was a project that the political class among the three major ethnic groups was largely averse to, it was left to the military to start and accelerate the project of state and local government creation. But, as events since the military took the initiative in this respect have shown, state creation has been beset with serious problems.

23. We are saddened that the successive fractions of the country's minority ethnic group-based political class have tended to use less noble objectives as a basis for championing the creation of new states and local government councils in the country, under military rule.

24. While state creation was designed initially to go into the heart of the country's ethnic minority problems, it appears that, much later, it became an instrument for pacifying or compensating political brokers or clients, through the creation of ethnic fiefdoms. The result, as we can see, is that state and local government council creation has tended to generate tension and crisis in its wake. What is evident is that these faulty starts, rather than hasten national integration, have only increased the pressures and resentments among the various minority ethnic and sub-ethnic groups whose demands for self-determination and self-rule were not satisfied, leading to acrimony and accusations against the state and its functionaries.

25. The Commission discovered that the roots of many of the ethnic or communal crises are to be located in this crisis of confidence and the sense of exclusion on the part of minority ethnic and sub-ethnic groups, generated by the partisan and unfair manner in which state creation exercises were perceived to have been carried out.

26. In many cases, the state seemed to have had very good intentions in responding to the problems of inter-communal relations, but these were

often diluted by the voices of men and women of influence, political entrepreneurs who deliberately misled government, regarding the composition of the various communities in the country. The result is that every time the state tried to *liberate* certain communities from their so-called enemies, it tended to create more problems for the project of nation-building in the country.

27. Given the interminable and seemingly intractable crises generated by geopolitical rearrangements of the states and local government councils, it is evident that the problems will persist because government is essentially trying to cure the symptoms, and not the disease.

28. *The real disease is the general perception of injustice of the state, its lack of concern for the welfare of its citizens and the high handedness of government agents, which all give the impression that the state is partial to some ethnic groups, and is indeed an active protagonist in inter-ethnic or intra-ethnic conflict on the side of some ethnic groups.*

29. *The result is that many citizens have come to rely on this process of tinkering with the state as a means of creating a feeling of belonging. To the extent that this process has created so much pain, suffering and death, as we have seen in some states in Nigeria, the state is solely responsible for the sad and ugly developments that have often led to death during state creation exercises and the inter-communal violence that followed them.*

30. For example, the government of General Sani Abacha must assume full responsibility for the tragedies that attended the creation of new local government councils in places like Osun and Delta States.

31. There is need for us to turn our attention to the specific nature and character of the state in Nigeria that has generally turned state creation

exercises into opportunities for some to engage in gross violations of the human rights of their fellow citizens.

## **THE MILITARY AND HUMAN RIGHTS VIOLATIONS**

32. The data and evidence, which the Commission gathered, very indisputably show that the military is primarily responsible for the persistence of human rights violations in the country. Military rule marked the rapid descent of the country into anarchy and destruction. It created conducive environment for gross violations of human rights, in three respects.

33. First, military rule violated the human rights of Nigerians to live under constitutional or limited government. Secondly, military rule militarized the country, creating in the process a climate of militarized fear. In fear, citizens were forced to retreat behind the security provided by ethno-communal and religious barriers. This militarized fear has taken its toll on the psyche of ordinary citizens in another respect: the language of the military has permeated our institutions and cultural life, through expressions that imitate military command.

34. Thirdly, the military turned their instruments of coercion on ordinary citizens. This was done by means of military personnel acting as enforcers for men and women of influence and power, who wish to settle personal matters and disputes arising from civil pursuits like land, rent and debts.

35. Ordinary citizens also fell back on their connections with military personnel to assert their authority and power over their fellow citizens.

36. Indeed, as military men took over law enforcement, they occasionally spun out of control in the application of their tools of violence. The evidence that was tabled before the Commission by various communities

especially in such areas as the Niger-Delta lent weight to this position. There were many instances in which military men went out on a frolic of their own. There were also many instances in which military personnel alone or in groups used their arms to intimidate citizens. Sometimes there were reports of pillage, rape and destruction of property. More often than not, these knee-jerk reactions by the military could be sparked off by such incidents as a motor accident around a military establishment or a quarrel.

37. In short, military rule disrupted almost every facet of our national life in a vicious cycle of violence, which expressed itself in various dimensions: in domestic violence, in armed robberies, in the rise in the spiral of ethno-communal and religious riots and in brigandage, impunity and lawlessness. Indeed, since 1966, the country has known no reprieve from the various spates of violence, which were precipitated by the contradictions of military rule.

38. In another sense, military rule was a fundamental violation of the Nigerian Constitution, which, by suspending relevant sections of the Constitution, replaced constitutional rule with rule by decree.

39. Military decrees, like the infamous Decree No. 2, were sometimes characterized by ouster clauses, which limited the courts' ability to entertain certain cases. In this way, the *rule of law*, the underlying basis for justice and democratic rule was replaced by the *rule of force*.

40. The pernicious impact of decrees on the promotion and protection of human rights cannot be over-emphasized and has been discussed at length in the preceding volumes, especially Volume 2, of this report. We only need to underscore here the fact that human rights were invariably the first casualty of military rule. Not only does military rule, by definition, truncate the human rights of Nigerians to constitutional government under

liberal democracy, as enshrined in the constitution, it also disempowers citizens, in cases where ouster clauses are involved, by denying them of access to courts to enforce their rights.

41. It is clear from the evidence before us that the State usually refuses to obey judgment of competent courts to the detriment of the citizens' rights as a creditor in breach of Section 287 of the 1999 Constitution.

42. The Commission has identified the implementation of certain public policies, like the Structural Adjustment Programme (SAP), by military regimes as being contributory to the violations of human rights. The reactions of Nigerians to SAP led to what came to be known in Nigeria as the *SAP riots*. These demonstrations took place within and outside university campuses and some students and workers lost their lives in the process.

43. Under the government of General Muhammad Buhari for example, we hold both himself and the Director-General of the National Security Organization (NSO) accountable for the various violations of the rights of several Nigerians notably Alhaji Rafindadi, Alhaji Shehu Shagari, Chief Solomon Lar, Isa'ac Shaahu and us, who were detained without trial in the various detain Centre. In addition, there is an evidence from Alhaji Dikko that he was "crated" by this regime for onward transmission to Nigeria.

44. We also hold both General Muhammed Buhari and the members of the Supreme Military Ruling Council, along with the Attorney General responsible for the death of Mr. Kenneth Owoh and three others over allegations of drug involvement. This is so because the Commission found out that their trial offended both the rule of law and the African Charter of Peoples' Rights.

45. The case of Dele Giwa has been dealt with exhaustively in Volume Four and we restate that the case be re-opened for thorough investigation and possible prosecution.

46. We strongly recommend that the Federal Government reopen the case of the death of General Shehu Yar' adua, a prominent Nigerian and one time Chief of Staff, Supreme Headquarters, died in prison custody in mysterious circumstance. The Commission received a petition about his death.

47. With respect to the death of Chief Moshood Abiola, we hold that, on the basis of the testimony of General Abdusalami's Chief Security Officer, there are still more questions than answers. It is, therefore, important for the state to reopen this case along with that of the late General Sani Abacha, in order to lay some misconceptions to rest.

48. We cannot wish these cases away. Nor can we sweep them under the carpet. What is more, there is need to create a conducive atmosphere to enable anyone who might have some relevant information regarding these ugly events to come forward with such information. It will be important for the government to guarantee such citizens enough protection.

49. Unless the cloud over these mysterious deaths of important public figures is cleared, the truth will elude us, making the process of national reconciliation the more difficult and tortuous.

### **THE POLICE AND HUMAN RIGHTS VIOLATIONS**

50. From the data and evidence gathered by our field researchers and from submissions we received from the public, Nigerians see the Police not as a friend but as offenders and agents of human rights violations in the country.

51. As the section in the volume of the report dealing with the security agencies has illustrated, there is little doubt that the police has suffered the most in negative public perception of its role in society.

52. Since the first contact that citizens generally have with the agencies of government regarding security is with the police, it is evident that the hostility of citizens towards the Nigeria Police has been based on the unwholesome experiences of ordinary citizens with the Police Force. There are many allegations that are popular among Nigerians against the police.

53. The import of this negative perception is the fundamental belief among Nigerians that members of the Nigeria Police constitute the most corrupt stratum of the security agencies. Although the scale of their corruption pales into insignificance when compared to their military counterparts, it is evident that since their victims are largely the ordinary citizens, the proverbial common man/woman, who constitute the majority of the Nigerian population, their negative impact is therefore considerable and profoundly felt. The implications of their corruption and the strategies for managing that corruption are myriad.

54. They are the ones that Nigerians seeking justice through the courts have to go through. Here, they are considered the principal means of obstructing justice. They do this through bribe taking, intimidation, harassment and outright violence. In a majority of the petitions that came before us involving assassinations, murders, disappearances, etc, the police were presented as accomplices and seen as part of the conspiracy against justice and the protection of human rights.

55. Like their military counterparts and even more so, the Nigeria Police has been used to further the excesses of the rich and powerful. They have

been willing agents in the hands of those who have power, from the rich and sometimes dubious businessmen, drug barons, and the top strata of the power elite.

56. It is clear from the petitions, which we received, that the police have often been a vital link in the chain of conspiracy against justice in many parts of the country. From the evidence we received, police complicity is manifested in the following ways:

57. First, there were cases of victims of human rights violations in the hands of the police often ending up as the accused. Secondly, there were reports of the policemen and policewomen sometimes destroying evidence, losing it outright, or distorting it against the petitioner. The objective in such cases is to instill fear and deny the victims the chance to follow up their case against the police. Thirdly, we had cases of people who died in doubtful circumstances in police custody, or physically abused and injured, or victims of intimidation, unable to get justice because the police was clever in protecting some of its officers involved in such gross human rights violations. Fourthly, we discovered that the Nigeria Police was good in making police officers who were alleged to be perpetrators disappear from the area by way of very quick transfers. Thus, if a police man/woman infringed the rights of a citizen in Port Harcourt and was being sought out, such an officer would be transferred to a place as remote as Potiskum, Jalingo, or Katsina or some little corner of the country. Fifthly, we also discovered that in many instances, when the Governor of a State, a person of influence, a retired senior security personnel has *interest in a case*, it was not difficult for the police to hatch out a plan with the Office of the Attorney-General or the Director of Public Prosecutions to frustrate the case of the victim. We found some concrete examples with the Nigeria Police in Bayelsa State, Kaduna State, and Kano State, among others.

58. There are as many stories as there are victims of human rights violations. We are aware of the fact that the inability of the police force to play its role is connected with the overbearing attitude of the military. With the capacity of the police to bear arms less visible and less threatening, soldiers never trusted the police with the ability to contain civil unrest.

59. It is evident though that the corruption within the Nigeria Police is a product of the misapplication of funds and the attendant corruption, which has dogged Nigeria. The Nigeria Police is starved of funds. Living under unbearable social conditions, policemen and policewomen have had to fall back on innocent victims for “*family support*,” as a means of making up for their economic shortfall. This is why Nigerian policemen and women rationalize their bribe taking as necessary for their “*family support!*”

60. So, like the military, the Nigeria Police stands accused as a perpetrator of human rights violations. Although we are aware of the fact that there are many innocent and hard working policemen and policewomen in its fold, the Nigeria Police knows that it suffers a very serious image problem in the country.

61. Finally, we are of the view that the following factors have created a favourable climate for human rights violations by the police to occur:

- Poor service conditions:
- Lack of working tools
- Poor training
- Low morale under the military
- Lack of trust by the citizens.
- Lack of internal discipline.
- Lack of control and monitoring of weapons among the policemen and women.

62. The government would do well to look closely on the recommendations we have made about the Police in this Report.

### **THE SECURITY AGENCIES AND HUMAN RIGHTS VIOLATIONS**

63. The evidence before the Commission makes it clear that security agencies were identified as major agents of human rights violations. One of the strategies that the Commission employed to elicit information in this regard was the call for memoranda from civil society groups and the security agencies, among others.

63. In their various submissions, civil society groups, especially the Civil Liberties Organisation (CLO), Prison Rehabilitation And Welfare Agency (PRAWA) and the Constitutional Rights Project (CRP) all presented detailed account of the experiences of both their members and many other members of the Nigerian society in the hands of security agencies. We received so many petitions from many victims complaining of arbitrary arrest, detention, passport seizure against the Directorate of State Security Services. For example, Chief Frank Kokori, Femi Falana and Mr. Fidelis Aidelomon and many others.

65. From the evidence we gathered during public hearings and in various documentations submitted to us, there were allegations of torture during detention. Inhuman and unsanitary conditions of living and starvation or very poor feeding during detention were identified as some of the strategies employed by state security operatives. This much was graphically underscored by the testimonies of Olisa Agbakoba (SAN), Abdul Oroh, Professor Jide Osuntokun, Professor Femi Odekunle, Chris Anyanwu, Shehu Sani and Gani Fawehinmi, among others.

66. In the case of the Directorate for State Security Services (SSS), the nature of the organisation itself made it difficult for victims to name names.

More often than not, victims only came in contact with those who arrest or detain them and not with those who ordered the arrests or detention. As such, the common expression we found among members of the Agencies whom we summoned to appear was simply that they were *obeying orders from above*.

67. We also discovered, from the evidence gathered through research and petitions, that the Directorate of Military Intelligence (DMI) was mentioned as a gross violator of human rights.

68. We visited the DMI detention cell at Apapa where civilian suspects who had nothing to do directly with the military were detained and tortured.

69. We also had evidence to the effect that told by petitioners that the Directorate had indeed become a place where both military and other men and women of influence outside the military tended to send those with whom they had a grouse to be detained at will. This was largely borne out of the favourable climate, which the military had created that enabled men of influence to use their connection with senior military personnel to settle scores.

70. The case of Chuma Nzeribe exemplifies this situation most eloquently. The petitioner had come to the Commission to state the case of his alleged detention in a military facility, the DMI. The case ended up dragging on for some two weeks and became a celebrated case that exposed the underbelly of both the military as an institution and the Directorate as a tool in the hands of men of influence. Mr. Nzeribe's detention came at the time when the military was faced with a spate of bomb blasts across the country.

71. We also found that many civilians had been detained for very long periods of time as a result of these bomb blasts, which occurred mainly between 1996-7.

72. The Government of the late General Sani Abacha is singularly accountable for the human rights violations during this period.

73. One of the instances in which violations of the rights of many citizens occurred was during allegations of coups. Nigerians know already the hundreds of lives that the country has lost as a result of allegations of the involvement of military personnel and civilians in these alleged coup plots.

74. The coup plots of 1995 and 1997 were cited by petitioners as those periods in which their rights were grossly violated during the periods of detentions and trials. From the testimonies we received, the following were named as perpetrators of gross violations of the rights of citizens, under military rule: Col Frank Omenka, General Patrick Aziza, General Mujakpero, Col John Olu, ACP Zakari Biu, Major Hamza Al-Mustafa, Brigadier-General Ibrahim Sabo. Many of these officers have already retired or have been retired from the armed forces. Others like Colonel Frank Omenka, who was copiously mentioned in many petitions, had already fled the country. The Commission recommends that those of them not yet retired or relieved of their jobs should be so retired forthwith.

75. From the evidence before us, the Commission is of the opinion that there is an urgent need to seriously overhaul most of the security agencies and also re-orientate their staff towards imbibing and respecting the human rights of Nigerians the values of democracy.

76. The issue of the processes employed during military court martial raised many doubts in our minds, regarding due process. The proceedings of court martial fell far short of the Rule of Law and the African Charter, which is now part of our domestic law (see Sani Abacha vs Fawehinmi (2000) 6 NWR Part 660 at page 228. The process used in the court-martial fell far short of the requirements of the Rule of Law and the African Charter which is now part of our domestic law.

### **PUBLIC BUREAUCRACY AND HUMAN RIGHTS VIOLATIONS**

77. We received over 600 memoranda from civil servants alleging that the federal government and state governments had violated their right to work. From the private sector, we also received memoranda from employees, alleging violations of human rights through what the petitioners described as “wrongful dismissals” and termination of employment, without due process.

78. Upon investigation, we discovered that the issue of the dismissals and termination of employment in the federal public service was in response to a circular, which the Secretary to the Government of the Federation had issued to all heads of ministries and parastatals, requiring them, among other things, to reduce their staff strength, across the board, by a stipulated percentage.

79. When we took the matter up with the federal government, we were informed that the Government had set up a committee to examine the cases. On the basis of this information, all the mentioned cases were passed on to the Office of the Head of Service of the Federation for further action.

80. We found from the content and tone of the petitions that concern was expressed about religious, ethnic, gender and regional biases in government appointments, promotions and retrenchment.

81. For example, there were allegations to the effect that certain senior officials tend to effect changes in their ministries along ethnic or religious lines.

82. While some of the allegations are frivolous, others are heavy and deserve to be taken seriously. On the whole, we hold that these allegations are disturbing and it is hoped that the setting up of the *Federal Character Commission* will deal with this issue.

83. Allegations of corruption, inefficiency and ineptitude against the public services of the federation and the states persist. In fact, there are many who believe that the public services in the country constitute the greatest obstacle to efficiency and proficiency in the execution of government policies at the state and federal levels.

84. We recommend that the federal and state governments effect some very fundamental changes to enable the civil service become responsive to the challenges of democratization.

## CHAPTER THREE

### RECOMMENDATIONS

1. The first task of the Commission was to clarify the petition it received. We identify those that amounted to gross human rights violations. The Commission thereafter decided to conduct public hearings only in respect of the cases alleging gross human rights violation.

2. The adoption of the public hearings method was meant to serve two purposes. First, for the victims, the need to **get the story out** was very important. For many people, this was the beginning of the healing process. There was also the secondary advantage to the petitioners, many of whom were sufficiently delighted that the rest of world had heard their stories.

3. Secondly, there was the need for the society itself to know what had gone wrong, beyond the public purview. Therefore, for many citizens, the public hearings meant a chance to heave a sigh of relief and to say: **now we know!**

4. The military had operated under a cloud of secrecy in many respects. What is more, except for some celebrated individuals who were prominent in society, the majority of victims who were not so well known languished in jails and detention centers without any mention by the media. They lived under very harsh and inhuman conditions. The public hearings gave them and the society a chance to hear their stories.

5. The Commission helped Nigerians through public hearings to get an idea of how their country had been run. The Commission was able to bring many of the perpetrators and victims to confront one another. This

was a development that was very emotional for individuals, their communities and the nation at large.

6. We recall the developments among the Ogoni people in Port Harcourt, Rivers State where the Ogoni Four and Ogoni Nine were reconciled and reintegrated into the Ogoni Thirteen and comparative peace was brought into into Ogoni land. It is against this background that the Commission wishes to call on Nigerians to remain steadfast and firm on the road to national integration.

7. The aim of the Commission was not to reconcile all Nigerians within the period of its sittings or its life. No one can be under any illusion that this project will be realized in the immediate future. The life of a nation is not the same as the life of an individual. We therefore call on Nigerians to be patient, whatever the difficulties and the challenges. The end of military rule, hopefully, should be the end of impunity. Under democratic rule, things may be chaotic and messy, but the system will correct itself, because we shall, in the long run, learn from our mistakes and improve on our efforts.

8. We have under our mandate to make recommendations “*to redress injuries of the past and prevent or forestall future violations of human rights*” i.e. to say what happened in the past should never happen again. To ensure that this does not happen again is the responsibility of every Nigerian. Our recommendations below constitute some of then strategies to ensure that what happened in the past will not happen again.

9. The Commission is not unaware that this project is merely the beginning of a very long process. This is because there is no way that any society can claim to lay down a foolproof system to ensure that these violations do not happen again. A society can only try to devise protection

mechanisms and also hope that its citizens take the protection of their rights as part of their lives.

10. Many Nigerians were already complaining while the public sittings were going on that the Commission had failed to reconcile Nigerians. We are of the view that the primary aim of the Commission has been very much fulfilled.

11. We are aware that our *Recommendations* cannot be conclusive or even exhaustive. We believe that they will merely offer a take off point. We therefore call on the Federal Government to address some of these *Recommendations* with dispatch.

12. In many respects, the Commission more than anything else in the country, has offered Nigerians an opportunity to open up their minds over a range of issues that went beyond politics. It is therefore with this sense of responsibility that we are making the following *Recommendations*:

#### **THE FUTURE OF THE NIGERIAN STATE:**

#### **THE NEED FOR AN ALTERNATIVE PLATFORM**

13. Nigerians have said it loud and clear that they are not happy with the state of the federation. Their fears, anxieties and frustrations are legitimate. The political class must not panic every time citizens question the basis of the federation. We do not believe that the cries of marginalization are evidence that Nigerians want their country to be broken into ethnic or regional kingdoms.

14. Indeed, from the inter- and intra-ethnic crises across the nation, we know that no single ethnic, regional or religious unit can lay claim to any form of homogeneity. We are aware of the fact that in the last twenty or

so years, the country was subjected to gross injustice, misrule and brigandage by its rulers.

15. There is need for Nigerians to talk through the problems thrown up by their recent experience. Unlike the South Africans who had four years of negotiation before their transition ended, Nigerians had a rushed transition. We cannot undo the past, but we can at least correct the present, so that we can build a secure future for generations yet unborn.

16. We believe that there is need for Nigerians to have platforms from which to articulate their fears and grievances, beyond the present political party arrangements. These platforms need not be primarily national.

17. The discussions can start from the wards and local government councils to the states and then finally to the national level. There is need for a shopping list of issues, which Nigerians should be free to discuss. Their discussion could be summarized and finally tabled before the state assemblies, before they are forwarded to the National Assembly.

18. Since the idea of a Sovereign National Conference has become so chaotic and lacking in clarity, we believe that our alternative suggestion of a bottom-up, broad-based series of national seminars or *palavers* on our country's future political and constitutional structure, would not disrupt the current one.

19. Items to be discussed at the proposed palavers might include the following: *Human Rights issues, Basis for Representation; Resource Generation; Infrastructure; Taxation; Participatory democracy; Identity (religion, ethnic, communal); Constitutional Rights; Policing; Crime Prevention etc).*

## **HUMAN RIGHTS AND CIVIC/MORAL EDUCATION IN SCHOOLS**

20. We recommend a teasing out of the results of the Commission's work, including some of the discussions suggested above and making them

part and parcel of the curricula in schools. We also recommend an urgent return to civic/moral education from Nursery to Primary, Secondary School and Tertiary levels anchored on the principle of oneness and indivisibility of Nigeria.

21. Beyond the recitation of the National Pledge and the National Anthem, there is an urgent need for Nigerians to come to grips with the dynamics of their history, emphasising

22. It was clear to us that respect for Human Rights is very much a new concept in recent African political and social discourse. We have noted that many of the hierarchy of the security agencies did not see any thing wrong in the application of torture and kindred inhuman tactics to extract information during interrogation. We also noted that even for many victims, the idea of what constituted human rights violations was not very clear. ***We therefore recommend that human rights education become fully integrated into the curricula of the military, police and other security personnel in the country.*** The Law Faculties in our Universities should set up Departments for the inter-disciplinary study of Human Rights Law as a matter of urgency. It is our view that as more and more of our citizens become aware of their rights, the issue of violations will be minimized greatly. The fatherhood of God necessarily implies the brotherhood of all Nigerians. We as a sovereign nation under God, are resolved, “to live in unity and harmony as one, indivisible and indissoluble sovereign nation under God.”

### **ON EXPANDING THE POLITICAL SPACE**

23. We recommend that the federal government and the state governments place a moratorium on the further creation of more states and more local governments. It has become clear that states creation is far from being the answer to claims of marginalization. In fact, such exercises create more problems than they are designed to solve.

24. Many of the newly created states so far rely on Federal Government subvention and so progress development has not really been made, which the creation of states was intended to achieve has been frustrated.

25. We also recommend that state governments become more careful in creating more chiefdoms and districts as an alternative to concrete development programmes. It is important that the government realize that the fragmentation of identities could easily undermine the project of national integration.

### **ON RESOURCE GENERATION AND ALLOCATION**

26. The memoranda from the various communities in the Niger-Delta dwelt substantially on what has come to be known as *resource control*. While we commend the Federal Government for the progress that has been made by the creation of the Niger-Delta Development Commission (NDDC), we believe more can be done. For now, the Commission should be closely monitored in terms of project conception and execution, with the local communities playing a central role in the execution and evaluation of the projects.

### **SOVEREIGNTY AND CONSTITUTIONAL RULE**

27. Although the implicit and explicit prohibition of unconstitutional take-over of government in various Nigerian constitutions has never been respected, we recommend that from May 29, 1999, anyone who stages a coup in the country must be brought to trial, no matter for how long they had ruled and regardless of any decrees they had passed to shield themselves from future prosecution. We further recommend that thenceforth, the country must be governed by the constitution and in accordance with its provisions. No one who overthrows a government should expect to get away with it, no matter for how long they govern unconstitutionally.

## **THE MILITARY AND THE FUTURE OF NIGERIA**

28. We recommend a programme of civic and human rights education in the military formations across the country.

29. We also recommend that the military review its methods of internal discipline, especially in relation to detentions in the guardrooms, court-martial and other methods of justice that violate human rights. Proceedings in guardrooms and court-martial should conform with the African Charter, especially relating to torture.

30. We recommend an overhaul of the Directorate of Military Intelligence (DMI), with its powers and functions limited strictly to military intelligence gathering.

31. We recommend an urgent return to professionalism while encouraging the authorities to act decisively to sanction the display of any form of religious, ethnic or sectarian sympathies in the exercise of official duties in the armed forces. Every member of the armed forces must, at least, undergo some form of training and re-training. Training and re-re-training as an on-going process should be more vigorously be pursued.

32. The attention of the Chaplaincies of the military and those of the Directorate of Military Intelligence must be drawn to the creeping fragmentation of the Barracks, along religious lines by the intrusion of fanatics.

## **THE ACADEMIC COMMUNITY**

33. We recommend the immediate restoration of a climate that guarantees academic freedom in our universities. There is for proper fundings of the universities to enable them pursue Research and Development.

## **THE NIGERIA POLICE**

34. We recommend that urgent steps be taken immediately to restore the Nigeria Police to its lost, dignified place in our society.

35. As a matter of urgency, we recommend an immediate restoration and boosting of morale in the Nigeria Police. This should be done through proper funding and a programme of rehabilitation of their collapsed infrastructure.

36. We therefore recommend the following as a matter of urgency:

- \* Acquisition of the kits and tools required for modern day policing.
- \* Salaries and allowances should be paid as and when due.
- \* An improved barracks accommodation for serving police men and women.
- \* The need for change of uniforms at least every two years.
- \* Training and retraining to enhance professionalism.
- \* A comprehensive programme of education on the basic tenets of the law, civic education and human rights.
- \* Minimum entry qualification of secondary school education
- \* A review of the disciplinary measures, such as orderly room procedure to ensure that the trials conform to human rights norms.

## **THE JUDICIARY**

37. On the Judiciary, we recommend the immediate release of the findings and implementation of the Report of the 1997 Kayode Eso Panel of Enquiry on the Judiciary.

## **MINISTRY OF JUSTICE**

38. We recommend that the Federal Ministry of Justice and the National Human Rights Commission (NHRC) take very seriously the publication of readable summaries of citizenship rights and obligations in the country.

The idea is to provide Nigerians with a guidebook on their citizenship rights and obligations.

39. We commend the Federal Government and a number of State Governments for setting up a Ministry for Women Affairs. It is the view of the Commission that this Ministry should be properly equipped to take on the major difficulties, which women encounter in Nigeria only. There is need for concrete legal codes to shelter women from the daily harassment and discrimination that they constantly suffer in Nigeria.

40. With regards to the allegations of murders, assassinations and disappearances, we recommend that the Office of the Inspector- General of Police be made to act on the cases that the Commission forwarded to it for further investigation.

41. However, in the cases of Chief Moshood Abiola, Chief Alfred Rewane, Bagauda Kaltho, Dele Giwa, such as Baguda Kaltho and the others and others, we recommend as follows:

i. With respect to the cases of **Chief Rewane, Kudirat Abiola** and other cases the Commission passed the relevant files to the Honourable Attorney-General of the Federation for further action. The Attorney-General of the Federation then forwarded the files to the High Court in Lagos, where the cases are being prosecuted.

ii. As for the case of **Dele Giwa**, we are of the view that beyond the legal technicalities that some of the key witnesses hung on to, the federal government should be encouraged to re-open up this case for proper investigation.

iii. In the case of **Bagauda Kaltho**, there is enough *prima facie* to lead us to the conclusion that there was complicity by agents of government in the case. We therefore recommend that the case be

re-opened for proper re-investigation and possible prosecution of the perpetrators.

iv. In the case of **Chief Moshood Abiola**, we are of the view that the government of the day knows much more than it has admitted. We believe that the denial of Chief Moshood Abiola's mandate was a violation of the rights of Nigerians to freely choose their leaders. We regard this as serious infringement.

42. While we affirm that matters pending before our courts should take their normal course, we also wish to advise that in the spirit of forgiveness, reconciliation, unity and peaceful co-existence across the country, which this Commission has belaboured in this report, the President may wish to consider a political solution as an alternative to the on-going protracted judicial process.

43. We also believe that Chief Moshood Abiola's death was the result of his incarceration and the denial of access to adequate medical attention. The testimony of the Chief Security Officer to the then Head of State, General Abdulsalami Abubakar, was full of contradictions. From the evidence before us, Chief Abiola died in suspicious circumstances. The Commission therefore recommends a thorough investigation to throw light to and inform the Nigerian people on what killed Chief Moshood Abiola.

### **PRISON REFORM**

44. Nigerian prisons have become notorious for their inhuman conditions. We recommend an entire overhaul of the prison system in the country.

45. We recommend the rebuilding, refurbishing or renovation of all prison facilities across the country to conform with United Nations standards.

46. We also recommend the establishment of the Office of Ombudsman for Prison Welfare. This body should serve as a half-way house between the inmates, the prison authorities, government and the families of the inmates. The Ombudsman should monitor prison conditions to ensure that they meet international standards.

### **POPULARISING THE REPORT/CONSTITUTION**

47. The Commission is of the view that no Commission or any constitution, for that matter, can put an end to human rights violations. Security agencies and law enforcement agencies will continue to breach the law. What is more, there will always be individuals within the system who will go beyond the call of duty.

48. We recommend the production and publication of what the Commission refers to as a **Popular Version** of both the relevant Human Rights provisions in our Constitution and the relevant sections of this Report. The idea is to put into the hands of the mass of our people, a document that can be the human rights version of the human rights Highway Code or of a Catechism, with a **Question** and **Answer** format. This should be a document that should be within the reach of every ordinary, literate citizen. It should be produced at very subsidized rate, in collaboration with the National Human Rights Commission.

49. In view of the importance that the international community has now placed on Human Rights, we are of the view that the Office of Minister for Human Rights should be created. There should be no conflict with the Office of the Attorney-General. In fact, the person chosen or appointed to the office need not have a legal background. This office is essentially to serve as a whistle blower, while also seeking to coordinate and harmonize the work of the Human Rights Commission, Public Complaints Commission, Code of Conduct Bureau and the Federal Character Commission. It should

offer citizens another outlet to turn to for redress. To insulate it from the public bureaucracy, the Office should be independently funded with assistance from international agencies, corporate bodies and the United Nations.

### **REHABILITATION/PRESIDENTIAL FUND**

50. We propose the immediate setting up of a Human Rights Violations Rehabilitation Fund. This Fund is imperative as a foundational building block for national reconciliation. We are also of the view that this fund need not be solely a federal government venture. Afterall, during the heydays of apartheid, when Nigeria was in the forefront of the battle against the evil of apartheid, the government encouraged citizens of Nigeria to contribute to the South African Relief Fund. The response was very encouraging. We are of the view that the victims of human rights violations be treated the same way victims of other man-made disasters are treated, whether they are wars or of natural disasters like earthquakes.

51. We are of the view that the fund will be the beginning of the process of making Nigerians stakeholders in the promotion and protection of human rights.

52. We recommend a *National Human Rights Day* to draw public attention to the issues of human rights violations. We suggest June 14, the date of the inauguration of the Commission as that date. If this recommendation is accepted, then the relevant agencies will work towards ensuring that a series of events are prepared around this date.

## **COMMUNAL CLASHES**

### **HAUSA COMMUNITY IN KAFANCHAN**

53 This petition was very hurriedly written from all indications. However, read along with the petition of the non-Hausa Community in Kafanchan, it is clear that the events have been over taken. It is to be noted that the non-Muslim community in Kafanchan against whom this petition had been directed had failed to follow up their petition because their prayer had been answered by the creation of a Chieftdom by the Kaduna State Government. We are also satisfied that the Kaduna State Government has taken the appropriate steps, which in the long term, will bring lasting peace to the community. We call on the Kaduna State government to make public the findings of the Committee it set up, even if not to the public, at least to the Communities concerned, to allay their anxieties.

54 In creating Ussa Local Government, it would seem that the government ended up digging a hole to fill a hole. The Kutebs are of the view that Takum belongs to them while the Jukun/Chamba lay similar claim. Whatever may be the case it seems that two main issues are responsible for the problem. The first is the 1975 Government Gazette which revoked the existing one of 1963 which had apparently placed the control of Takum in the hands of the Kuteb. The second is the creation of Ussa Local Government Council ostensibly to deal with the Kuteb problem. It would seem from the two that there was interference with due process from above in the case of the creation and constitution of the newly created Ussa Local Government Council as can be seen from the two letters dated March 12th and April 28th.

55. We are of the view that the harm may have already been done and it is not possible to repeal the edict setting up the Local Government Council. We recommend a massive development programme of Ussa Local Government Council. The federal government should assist the state

government in rehabilitating those who were displaced by the series of communal riots spanning over the last ten years or so. We also recommend the elevation of the status of the traditional institution of the Kutebs to be at par with that of the Jukun/Chamba of Wukari so as to allay their fears and anxieties and enable them to have a sense of cultural freedom.

56. The case of the Sayawa Community in Bauchi state is one of the long-standing cases of serious communal clashes in the Northern states. Sadly, the Community has been victims of the lack of commitment of government to taking policies that may seem to be against the interest of the traditional ruling classes. When Bauchi state went through a spasm of violence in 1991, the Federal Government set up the *Babalakin Commission of Enquiry*. One of the most important recommendations of that Panel was the creation of a Chiefdom for the Sayawa people. Unfortunately, none of the successive governments has been courageous enough to implement this recommendation. Government has not told the people the reasons why it is unable to implement this very crucial recommendation. We very strongly recommend that the Federal Government requests the Bauchi State Government to comply with this recommendation and implement it to the fullest.

57. Secondly, we also recommend that the Bauchi State Government finds means to creating a more conducive atmosphere to guarantee harmony in the state. We are of the view that the State Government takes the necessary legal measures to ensure that the fears and anxieties of the non-Muslim communities are allayed and that adequate judicial arrangements be made to accommodate the cultural peculiarities of the State. In view of the fact that the media plays such an important role in the lives of citizens, we recommend that the state media tries to accommodate all shades of cultural and religious expressions that are not inimical to moral development and social harmony. We appeal to the Sayawa Community to cooperate with the

State Government, taking cognizance that democracy now offers us all the best opportunity for resolving our conflicts through dialogue and collaboration.

58 We appeal to the Bauchi State Government to carefully go over the relevant sections of the various Panels of Enquiry and find ways of alleviating the sufferings of all those across the board who may have suffered in one crisis or the other.

### **GENERAL LEKWOT AND SIX OTHERS**

59 The petition submitted by Major-General Zamani Lekwot and Six Others was titled, ***Violations of the Fundamental Rights of the Petitioners on the Trial of the Complainants by Justice Benedict Okadigbo Tribunal.***

60 The substance of the petition is the outburst of violence that occurred in Kataf land in 1992. The violence occurred as a result of persistent misunderstanding between the local people, the Katafs and their Hausa settlers who are predominantly Muslim. It was alleged that sometime in 1992, a letter was addressed to the Emir of Zaria making references to a *jihad*, or a Muslim holy war. The situation deteriorated, leading to violence which left many people dead and property destroyed. The retired General and his kinsmen were arrested amidst allegations of complicity in the violence and the deaths that followed. They were arraigned before the Justice Benedict Okadigbo tribunal and subsequently tried, convicted and sentenced to death. They alleged that the trial was a travesty of justice because, among other things, that even after the Attorney-General had filed a *nolle prosequi*, they were recharged, their lawyer filed a stay and applied for the right to enforce their fundamental rights. Although the order was granted, the learned judge declined to halt proceedings. Their lawyer filed an appeal at the Court of Appeal in Kaduna but the judge continued and even ended his trial before

the Appeal could be heard. They appealed to the Supreme Court but the appeal was struck out on the grounds that the record of proceedings was not supplied. The petitioners alleged that the trial violated their right to life, fair hearing and the Africa Charter. We have no right to review the sentence of a tribunal. But from the evidence before us the trial did not conform with the African Charter. Accordingly, we recommend a state pardon.

61. The Commission believes that it does not have the powers to order that a case in which the Supreme Court has ruled be open. During the hearings the petitioners tendered a document from the African Court for Human and Peoples' Rights in which it ruled that the Federal Government of Nigeria had erred in the handling of this case.

#### **NINZAM DEVELOPMENT ASSOCIATION**

62. This petition, titled, ***An Appeal for Government Intervention and Restoration of Ninzam Chiefdom***, was signed by Messrs James Ambi (President) and Aku A. Amboson (Secretary), presented the problems of the Ninzam community who live in the Southern part of Kaduna State. It was dated July 20, 1999.

However, the creation of Districts in Kaduna State by the new government of Governor Muhammad Makarfi has put paid to the request as the Ninzam people have been duly granted a Chiefdom.

#### **BELETIEMA/IGBABELEU COMMUNITY**

63. The above community presented a petition titled, ***Human Rights Violation by the Liama and Egwema on the total annihilation of the Beletiemma/Egbabeleu Community of Brass Local Government Area of Bayelsa State on 18th July, 1997 and April 9th 1999 respectively***. The petition was signed on behalf of the Community by Chiefs M. E Dakolo

Apiri, Lyton Owoidoi, Itari Collar Ikpikpi, Temple Ombu, Isaiah Bou and Alexander O. Diye.

64 The petition alleged that in the two occasions listed, they were set upon and attacked by their neighbours, the Liama community.

65 The Military Administrator of the time, Navy Captain Caleb Omoniyi Olubolade set up an Administrative Panel of Enquiry. The Community's demands for resettlement, compensation, provision of social services and so on must have been contained in their submissions to the Panel of Enquiry. As such, the much that the Commission can do is to request the present administration in Bayelsa to dust up the findings of the Lt Col. C. O. Omoregie Panel and implement its findings.

#### **MAROKO EVICTEES COMMITTEE**

66 The Petition, signed by Messrs S. A. Aiyeyemi (Leader) and 11 others is titled, simply Maroko Evictees Committee and simply dated, July 1999.

67 The petition chronicled the trials of this community in the outskirts of modern day, highbrow areas of Ikoyi and Victoria Island. The petitioners alleged that they had been the target of high handedness, executive recklessness and oppression, all because those in power wanted to take over their land. Obviously, they had been having series of running battles with almost all the Governors of Lagos state, going back to Brigadier Mobolaji Johnson in 1972. Whereas most of the battles against subsequent governments in Lagos had largely been legal, the climax came in July 1990 when the Government of Col Raji Rasaki ordered heavily armed soldiers into Maroko. Specifically on the 14th of July, the soldiers moved in and in less than one week, razed the houses of the 300,000 residents of Maroko to the ground. By the time the soldiers were through with their job, Maroko and its residents lay in ruins. This dastardly incident remains one of the

greatest tragic legacies of military excesses. The Maroko residents had since then roamed the courts of Lagos State in search for justice.

68 After reviewing the evidence submitted by the petitioners, the Commission is of the view that the Lagos State government should, on behalf of its predecessors, *apologise to the residents of Maroko and publicly condemn the high-handedness of Col. Rasaki's government* especially given that these innocent citizens went through this harrowing experience so as to satisfy the greed of a few elites whose residences have now sprung up in Maroko. We therefore propose that the Lagos State government should properly resettle the evictees of Maroko in the decent houses .

#### **KAFANCHAN INDIGENOUS PEOPLE'S FORUM**

69 This petition, titled, ***Kafanchan Crisis and Human Rights Abuses*** sought to draw attention to the needs of those who call themselves the Indigenous People of Kafanchan. Essentially, they, like the Ninzam community were also demanding a chieftom of their own. Again, like the Ninzam, this request has been granted by the Government of Kaduna state. In fact, the Community did not show up when their petition was called in Kano and they later informed the Commission that they felt that their petition had been overtaken by developments in Kaduna State.

#### **NWANIBA VILLAGE IN AKWA IBOM STATE**

70. This community submitted a petition titled, Human Rights Abuses meted out on the Nwaniba people by Ifiayong Usuk People with the support of Akwa Ibom State Police Command.

71. The body of the petition is made up of allegations of problems that border on boundary adjustment. We are of the view that the Akwa Ibom State Government should be able to deal with this problem as it is a boundary

adjustment issue. The state government might need to refresh its memory by making reference to the Gazette referred to in the petitioner's submission.

### **UMUODE COMMUNITY**

72 After reviewing the petition from the Umuode Community, we have come to the conclusion that the issues of human rights violations are indeed not the prerogative of governments and their agencies. Individuals, communities and organizations are sometimes worse culprits. The Umuode Community case clearly demonstrates the cruel cultural practices that are capable of bringing government efforts at securing human rights for its citizens to naught. Clearly, the predicament of this community is based on the false belief by the neighbouring community that the people of Umuode fall within a category of subhuman beings known as **Uhu**. Elsewhere in Igboland, this invidious cultural practice classifies the same groups as **Osu**. We condemn this philosophy in its entirety and call on the Federal Government to ban this assault on human dignity.

73 After reviewing the submissions by the various parties, we have come to the conclusion that although the problems are internal to the community, some influential agents within government have not helped matters. We note that this community has produced very important personalities such as a world renowned scientist. It is preposterous to think that he is such a figure is considered a non person where he hails from. We therefore call on the Enugu State Government to act immediately to resettle the people of Umuode and address the issue of creating a climate for peaceful coexistence within both communities. Over the issue of resettlement, there is the question of land. The bone of contention seems to be two pieces of land; namely, Abarri and Aguefi.

74. The Commission undertook a visit to the *locus in quo* and we were shown both pieces of land. Abarri land was said to be inaccessible and

hence the reason why Umuode found it unacceptable. Aguefi on the other hand had been a very much litigated land. The Commission believes whichever piece of land the state Government settles on with the communities, this matter can be resolved in an amicable way. Even if the Abarri land were to be accepted, we believe that the State government can be assisted by the Federal Government to create infrastructures, provide road and water. The Enugu State Government indicated that it was ready to consider this possibility. We are of the view that if the State government were to provide roads, light and water, there is really no reason why Umuode community should not accept this option.

75. Secondly, the Commission noticed that even at its public sittings, there were altercations between both chiefs in the communities. We are of the view that the Enugu state government should restore the autonomous community status that was given during the military era. If this is done, the traditional rulers of both communities can be encouraged to go back to the *status quo ante* whereby the Traditional stool was rotational.

76. In view of the role of the Catholic Church has played in arbitrating this case, given the fact that they have already got a priest on the ground and they were responsible for feeding the refugees, we are of the view that the State Government should continue to let them play the role of arbitration. We also noted that the Church is well respected and trusted by both Communities.

### **HAUSA-FULANI COMMUNITY, KAFANCHAN**

77 This memorandum simply sought to draw public attention to the allegations of threats to the rights of the Hausa- Fulani to live under their Emirate system. This Memo was largely a response to the crises that surrounded the attempt by the Kaduna State government to install the new Emir of Kafanchan. It will be recalled that a petition had already been

submitted by a group that called itself the ***Kafanchan Indigenes*** alleging subjugation to Hausa-Fulani rule in Kafanchan. That group admitted that subsequent developments in Kaduna state, leading to the creation of new chiefdoms had overtaken the petition. In this same way, the Emir of Jama'a has long been installed. We can only recommend further that since the prayers of the various communities have been duly answered, that the community leaders will ensure that their communities remain law abiding. They are to be encouraged to preserve, nurture and protect that which has been given to them.

### **UMUECHEN COMMUNITY**

78. This community was apparently one of the very first to suffer hardship in the hands of some rather overzealous security agencies in the quest to protect oil installations belonging to Shell Petroleum Development Company. According to its petition, the community was attacked and their houses razed to the ground after a night is raid at the instance of the Divisional Manager of SPDC who had alerted the Police of a planned peaceful demonstration by the community.

79. The Commission recalls that the hearing on this petition was stalled by the community lawyer who vanished in the cause of the hearings of the case. However, the Commission notes that already, the Rivers State Government had set up a Judicial Commission of Enquiry headed by Justice Opubo Inko-Tariah and a White Paper already issued. Again, we have noted that just like a lot of other Commissions on Enquiry, the community feels that the government has not implemented the findings. We therefore call on the Rivers State Government to heed the cry of the community and look more closely at the various compensatory measures recommended and duly accepted by its own White Paper and execute what remains.

## **OHANEZE NDI IGBO**

80. This petition was very comprehensive in its textual form and its representation. It traversed the historical landscape, extrapolating extensive evidence of what it alleges to be the planned marginalisation of the Igbo people from the scheme of things. According to the petitioners, the civil war was the climax of the excesses of the Federal government of Nigeria against the Ndi Igbo. Despite the atrocities of the civil war, the petitioners still believe that the successive governments of the federation have constantly sought through policy articulation, to exclude the Ndi Igbo from benefiting in the economic and political life of Nigeria. The petitioners drew attention to the tragic issue of Abandoned Property enunciated in the **Abandoned Property Act No 90 of 1979**. Also, Ndi Igbo argues in the petition that the absence of industrialization programmes in the entire area coterminous with the areas of abode indicate this policy of marginalisation. The petitioners argue that this marginalisation has persisted in appointments and promotions in the bureaucracy and the military, and even political offices. There were also the problems of the Aro Ikwerre Refugees and the Oji River and the murder of Gideon Akaluka, an Igbo man in the city of Kano.

81. This petition sparked off a response from across the country and we believe that Ohaneze is to be thanked for making it possible for the Commission to use this petition to elicit reactions from a cross section of the various communities in the country. After reviewing the mountain of evidence, the Commission makes the following recommendations in response to the prayers by *Ohaneze Ndi Igbo*:

\* We are of the view that the problems of the massive claims of marginalisation cut across the entire nation and we adduced enough evidence from the swelter of petitions. From all this, we can conclude that at least, every ethnic group in Nigeria claims marginalisation. However, none of this takes away the substance of this petition. On the request for

an apology from the Federal Government, we do not believe that this should be done by only one party. We are of the view that for this to happen, the Federal government along with those who led the civil war find a way of presenting a common front in working out the modalities for public apology for the civil war as an unnecessary evil.

\* We are of the view that the Abandoned Property issue remains very delicate, yet, it can and needs to be dealt with. Time does not heal an injustice, only truth can. We therefore recommend that the Rivers State government find a way of carefully going through the outstanding cases of the claims with a view to making amends where necessary.

\* On the issue of refugees, we are of the view that no matter the weaknesses of the Federal Government's policy of **Reconciliation**, **Rehabilitation** and **Reconstruction** may have been, it provided a platform for the successive governments to address the issues of refugees. We are of the view that the persistence of the Oji River Refugee problem is an indictment to various governments in the area.

\* On the issue of the Aro Ikwerre people, the Commission visited the *locus in quo* visit and we saw the terrible situation. However, we are of the view that the resettlement of the community cannot be the responsibility of the Government as proposed by Ndi Igbo. We however believe that the security of that community is the responsibility of the Rivers State government. We note that most of those living in the church premises were born in the area. We therefore suggest a systematic programme of their integration into the community rather than the creation of a Bantustan between Isiokpo and Elele as proposed by Ndi Igbo. Again, dialogue at the Local Government level can heal this wound.

\* In the case of Gideon Akaluka, we are of the view that this matter is a great tragedy. It is very unfortunate that the Government of the day did not handle this matter with the seriousness that was required. We therefore hold the prison authorities and the police responsible for the tragic circumstances that led to Mr. Akaluka's brutal murder. It is doubtful that

much can be done in terms of compensation by the Government of Kano State. The Commission is of the view that this ugly matter be laid to rest.

\* The Commission is of the view that the petitioners have a good case in their claim of marginalisation in the area of industries. However, if, as it is being said, the Federal Government is embarking on a policy of dredging the Niger, we encourage this project. We hope that it will open up opportunities for the nation to tap the vast resources available in this part of the country.

\* We further recommend that the Government looks very closely at the issues of boundary adjustments and mineral development in some states in the area under consideration. Those that qualify to be included in the Niger-Delta Development Commission should be included immediately.

### **OGONI COMMUNITY**

82. The case of the Ogoni, their experience with the Shell Petroleum Development Company and the agents of the Federal Government under the late General Sani Abacha attracted world-wide attention. The brutal murder of the writer, Ken Saro Wiwa, was the climax of the federal government's brutality in the community. However, the Commission was glad to note the amount of harmony that was finally created by the time the Commission finalised its sittings in Port Harcourt. Essentially, the lingering problems of the so called Ogoni 4 and Ogoni 9 were resolved. There were many outstanding issues. It became clear that the Ogoni problem had four dimensions: the Ogoni 4 vs Ogoni 9, Ogoni vs Federal Government of Nigeria, Ogoni vs Rivers State Government, and Ogoni vs Shell.

83. The Commission decided to set up a platform made up of the representatives of the Ogoni, the Movement for the Survival of Ogoni (MOSOP), the Rivers State Government and representatives of SPDC. In attendance were representatives of the Christian Association of Nigeria, CAN and the Commission.

84. Since the end of the sittings, the Commission has had extensive meetings with all the parties. We are of the view that these meetings will be able to resolve many of the outstanding issues on the short term. On the long term, only State and Federal Government policies on the one hand and Shell's behaviour can restore confidence, peace and harmony in Ogoniland. We believe that the Commission has set all parties on the path of dialogue.

### **NON APPEARANCE OF THE THREE GENERALS**

85. The issue of the appearances of Generals Muhammadu Buhari, Ibrahim Babangida and Abdusalami Abubakar, Nigeria's former Heads of State created a lot of public interest and understandably so. The Commission went out of its way to appeal to the goodwill, patriotism and sense of responsibility of the three former Heads of State. The Commission is at a total loss as to why these gentlemen decided to stay away. However, having reviewed the evidence in the cases involving all of them, the Commission wishes to state as follows:

i. On General Muhammad Buhari, the Commission is of the view that the General has a case to answer in regard to the killing of the three young men referred to in the petition brought by the Kenneth Owoh family. There was overwhelming evidence to show that the execution of the three young men fell well outside the time frame allowed by the Decree under which they were tried. We therefore recommend that the General tender an unreserved apology to the families of the deceased. We equally hold accountable the Supreme Military Council of General Muhammadu Buhari that confirmed the brutal execution of the three young men. We therefore hold the then Supreme Military Council accountable.

86. On General Ibrahim Babangida, we are of the view that there is evidence to suggest that he and the two security chiefs, Brigadier General

Halilu Akilu and Col. A. K. Togun are accountable for the death of Dele Giwa by letter bomb. We recommend that this case be re-open for further investigation in the public interest.

87. On the government of General Abdusalami Abubakar, the case against him had already been well argued by one of the witnesses, Col Idenhere, who testified in the case. Although he was not directly mentioned in the death of Chief Abiola, the inconsistency in the testimony of his Chief Security Officer, Lt Col Aliyu show that the Government of the day knows much more about the circumstances leading to the death of the chief. We therefore recommend that that government is accountable.

88. By refusing to appear before the Commission, they denied themselves the wonderful opportunity of explaining to Nigerians what happened in each case, like General T. Y. Danjuma and Dr. Walter Ofonagoro did.

### **BREAKDOWN OF MORALITY IN THE SOCIETY**

89. We note the near total breakdown of the moral fabric of our society with much pain, sadness and regret. The impact of this breakdown can be felt right across the entire spectrum of the Nigerian society. Children in schools have no qualms in cheating in their examinations, school leavers have taken on to armed robbery in frustration, family life has become precarious, politics, business and the social life of the nation are weakened by the weight of intense corruption. The Commission is of the view that all strata of the Nigerian society, from kindergarten right through to the entire polity must be renewed by way of a comprehensive programme of moral education and re-armament. With hindsight, it is tragic that the various *Wars Against Indiscipline* waged by the successive regimes failed so woefully under the weight of their own contradictions since the leaders were preaching one thing and doing another. We are of the view that this programme can

still succeed. Without a moral code of conduct that becomes natural to us all, our future remains in jeopardy.

### **INFERIOR STATUS OF CITIZENS**

90. We note with sadness the persistence of many ugly layers of injustice that persist in our society. Many communities came claiming violations of their rights by agents of government. Yet, we discovered that there are many of these societies that continue to harbour practices that are worse than what they claim against the government. We call on the Federal Government, the National Assembly and the various Houses of Assembly to enact legislation that protects the rights of citizens and criminalizes such wicked and inhuman practices that condemn citizens to inhuman and degrading stations in society under the claims that they are, **Osu, Ogbanje** or **Uhu**. We also call for similar legislation to deal with widowhood practices as they pertain to the inhuman treatment meted out to widows during the deaths of their husbands. Effective legislation should protect women's rights to own property with a view to ensuring the welfare of both the widow and her children.

### **VIOLATIONS OF WORKERS RIGHTS TO FAIR PAY**

91. As the scriptures say, *Every labourer is worthy of his hire*. We received hundreds of petitions from civil servants alleging a range of violations of their rights to work and pay. Although these petitions have been forwarded to the Office of the Head of Service as requested by the Federal Government, we are of the view that the Federal Government of Nigeria needs to take the welfare of civil servants more seriously. A situation where workers have no feeling of job security and their welfare not guaranteed, leads to despondency and corruption. Across the country, non-payment of salaries, pensions, retirement benefits are the order of the day. The worst-hit are teachers, that source almost invaluable of our nation's hope for greatness. We call on

the federal government to devise a strategy to lay a foundation for a sound civil service, that engine room of national growth.

### **SUMMARY OF RECOMMENDATIONS**

1. A bottom-up, broad-based series of national seminars to discuss our country's political and constitutional structure should be held as a matter of urgency.
2. Human Rights Education should be integrated into the curricula of our schools, with an urgent return to civic and moral education from nursery through secondary schools.
3. There should be harmonization of all education initiatives in the country, especially the Universal Basic Education Programme, to achieve higher national standards anchored on sound moral values.
4. There should be a moratorium on state and local government creation in the country, while caution should be exercised with respect to the creation of more chiefdoms – these exercises rather than weld the people together tend to emphasise division and to create enmity among our peoples and communities.
5. The Niger Delta Development Commission (NDDC) should be closely monitored, regarding project conception and execution, with local communities playing a central role in the process.
6. The National Assembly should, as a matter of topmost urgency, harmonise, in collaboration with the state legislatures, the findings of the

various constitution review initiatives, so as to bring into existence an acceptable constitution.

7. While we are of the view that Sharia is an integral part of our religion and customary law, the Constitution should be the supreme law of the land on criminal matters. The federal government should take action to make Sharia conform with all the international legal obligations Nigeria has subscribed to, as pointed out in Volumes Two and Five of this Report.

8. With effect from May 29, 1999, anyone who stages a *coup d'etat* must be brought to trial, no matter for how long and regardless of any decrees or laws they may have passed to shield themselves from future prosecution.

9. The Armed Forces should be pruned down to a manageable size, while they should also review their method of internal discipline.

10. The Directorate of Military Intelligence (DMI) should be overhauled and professionalized, with its powers and functions limited strictly to military intelligence gathering.

11. There should be an immediate restoration of a climate that guarantees academic freedom in our universities, and to fund them adequately.

12. As a matter of great urgency, steps should be taken to restore its lost dignity to the Nigeria Police, through proper funding, training and the rehabilitation of its collapsed infrastructures.

13. The Report of the 1997 Kayode Eso Panel of Enquiry on the Judiciary should be released immediately.

14. The Federal Ministry of Justice, in collaboration with the National Human Rights Commission, should publish readable summaries of citizenship rights and obligations in the country.

15. The Ministry of Women Affairs should be properly funded and equipped to take up major issues, which still confront women in Nigeria.

16. The Office of the Inspector-General of Police should be made to act expeditiously on the cases of murder that the Commission forwarded to it for further investigation (see appendix).

17. The Commission forwarded the cases of Chief Alfred Rewane and Alhaja Kudirat Abiola, to the Hon. Attorney-General of the Federation and Minister of Justice, who, in turn forwarded the files to the High Court of Lagos, where the cases are being prosecuted.

18. Arising from these cases are the arraignment of General Ishaya Bamaiyi and others before various High Courts in Lagos. The petitions from alleged victims about the alleged violations of their human rights by the aforementioned persons (General Bamaiyi and others) were dealt with in Volumes Four and Six of this Report. However, while we affirm that matters pending before our courts should take their normal course, we advise that, in the spirit of forgiveness, reconciliation, unity and peaceful co-existence, which the Commission has belaboured in this Report, the President may wish to consider a political solution as an alternative to the on-going protracted judicial process or else accelerate the hearing of these cases.

19 The federal government should open up the case of Dele Giwa for proper investigation.

20. The federal government should open the case of Chief Moshood Abiola again for proper investigation in the public interest.

21. There should be an overhaul of the country's prison system, with priority given to the rebuilding and refurbishing of prison facilities.

22. The Office of Ombudsman for Prisons Welfare should be created.

23. The Office of the Minister for Human Rights should be created.

24. A Human Rights Violations Rehabilitation/Presidential Fund should be established.

25. A National Human Rights Day should be proclaimed and celebrated annually on June 14. This coincides with the day the Commission was inaugurated.

26. A Popular Version of the Report of the Commission should be published.

27. It is recommended that security outfits such as the Strike Force, Body Guards and National Guard, which reared their ugly heads and were used to abuse the rights of Nigerians with impunity be scrapped. The outfits such as the SSS and NIA should be re-oriented to uphold the rights of Nigerians.

### **Military Trials:**

28. All cases tried under the DMI and SIP were in breach of the African Charter and the Rule of Law. As a result of the above, we recommend blanket pardon for such cases.

29. That a Presidential Fund be established for payment of compensation to victims. That the government, corporate organizations, multi-nationals, Non-Governmental Organisations and International Organisations be invited to contribute to such a fund. We further recommend that the funds are to be managed by the National Human Rights Commission or any other body to be appointed by the government.

### **Right To Life**

30 That in concert with Chapter Two of the 1999 Constitution (Fundamental Objectives and Directive of Principle of State Policy), government should give all Nigerians the chance to participate meaningfully in the socio-economic activities of the nation. This way, Nigerians shall have access to decent shelter, food, clothing and social amenities. This is essential because the imperatives of government is to secure and guarantee the welfare of the people. The right to life presupposes the existence of the means to sustain that life closely interwoven with the means to sustain that right.

### **Employment**

31 That the government should consciously and assiduously create jobs. This will reduce crime and poverty as there is a correlation between unemployment with crime and poverty. The government can accomplish this by:

- setting up cottage industries;
- reviving our infrastructures;
- reviving our manufacturing sector;
- giving out grants to small scale businesses for graduates.
- reviving our agriculture.

## MINISTRY OF JUSTICE

32. We recommend that the Honourable Attorney-General of the Federation and Attorneys-General of the State should ensure that State Counsel are properly instructed as to the limit of their functions in rendering legal advice to the Police and appropriate steps be taken to discipline erring State Counsel who, rather than give legal advice, turn themselves into courts and “decide” cases submitted merely for advice. In the Bayelsa case involving Dr. Eneweri, the Counsel was forced to recommend that those on board the outboard engine where Dr. Eneweri were supposed to have been drowned, be charged with the offence of murder. And that the State Counsel that proffered the advice be joined as an accessory after the fact. The Commission is sorry to say that in other jurisdictions we found the same practice still going on. We, however, did find in one or two jurisdictions such as the Rivers State when Mr. Adokie Amasiemeka was DPP, a correct advice being given and the Commission commended him for that.

i. As Chief Law Officers, Attorneys-General should appreciate the responsibility imposed on them by their high offices while rendering advice to the government especially on issues bordering on life and death. If such advice is rejected, he/she should have the courage to resign. We make this recommendation because the atrocities and human rights violations which occurred during the period under review would not have happened if the Attorneys-General lived up to expectation.

## EPILOGUE

When President Clinton visited Nigeria in 1999 he talked of “a Nigeria worthy of its peoples’ dreams, a new Nigeria which is to be the world’s next great opportunity to advance the cause of peace, justice and prosperity.”

Again in his Inaugural Address to the nation on the 29th day of May, 1999, President Olusegun Obasanjo charged all Nigerians as follows:

“Let us rise as one to face the task ahead and turn  
this daunting scene into a new dawn.”

The Nigerian scene from 1966 to 1999 has been very daunting indeed with many things falling apart including national unity, national loyalty, allegiance and patriotism. Of course, there has to exist a *patrios*; - fatherland; before one can talk about patriotism. The President wants Nigerians to see themselves as Nigerians and to put the interest of Nigeria over and above those of tribes or tongues. All the negative forces of *Fear of Domination, Tribalism, Ethnicity, Son of the Soil versus Stranger Element Syndrome* - all these should give way to “a new dawn of a People United; under one Flag, and bound together by common aspirations of liberty, freedom, justice and peace.” “A New Age of One Nation, One People, One Destiny” with the Culture of Unity in Diversity and of Brotherhood based on one Common Nigerian Citizenship and respect for the human rights of every Nigerian. It is in such a New Nigeria that any Recommendation of this Commission can achieve its purpose of healing and reconciliation, otherwise it will simply be pouring new wine into old bottles.

Hon. Justice Chukwudifu A. OPUTA, CFR

Dr. Mudiaga Odje, SAN, OFR

Rev. Fr. Matthew Hassan KUKAH

Barr. Bala Ngilari

Mrs. Elizabeth Pam, MFR

Mrs. Modupe Areola

Alhaji Adamu Lawal Bamalli

Nu'uman Dambata, mni



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6. Mike Ahamba
7. Enejike
8. Dan Njemanenze
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23. Adegboyega
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27. Afe Babalola
28. B. N. Wifa
29. Anthony Idigbe
30. Enechi Onyia
31. S. A. Ameh
32. A. S. Awolowo
33. Gani Fawehinmi

## LIST OF OTHER COUNSELENUGU

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25. U. E. Obiora
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36. Irene Nwosu
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115. J. I. Nuhu
116. Ibrahim Adamu

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424. Y. Afolabi
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428. T. K. Shitta-Bay
429. Mr. Famuyibo

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2. Inspector John Ehigbaye
3. Brig. Gen. Larinde Laoye
4. Major Hamza Al-Mustapha
5. Mrs Florence Omotehinwa
6. Mrs. Funmi Omotehinwa-Gbemudu
7. Mr. Alex Omotehinwa
8. Lt. Comdr. A. A. Bashir
9. Alfa B. O. Olorunkosebi
10. Alhaji R. A. Salawu
11. Alaafin of Oyo
12. Commissioner of Police, Oyo State
13. Oyo State Government
14. Col. M. A. Ajayi
15. Nosa Igiebor
16. Godwin Awoluyi
17. Maj. Gen. Felix Mujakperuo
18. Col. C. P. Izuorgu
19. Prof. D. A. Mokuolu
20. Mrs. M. Adesina
21. Mrs. Doris Rewane
22. Mr. Esijolomi Rewane
23. Eriwu Rewane
24. Brig. Gen. Yusuf Abubakar
25. Olayiwola Benson
26. Titilayo Araba
27. Alhaji Abubakar Tsav
28. Sergeant Ekong
29. Lt. Col. Femi Mapaiyeda
30. Chuks Nwana
31. Apostle T. O. Ogboru
32. Alhaji Ismaila Gwarzo
33. Chief Olu Falae
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35. ACP Zakari Biu
36. CP Sunday Aghedo
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52. Capt. Daramola
53. Lt. Col. S. E. Oyewole

54. Col. K. John Olu
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70. F. A. Fapohunda
71. Lt. I. S. Umar
72. Lt. Gen. I. R. Bamaiyi
73. Lewis Aimola
74. B. Adokie
75. S. A. Darma
76. Mrs. R. A. Akinyode
77. Major A. S. Mumuni Bashir
78. Mr. Kunle Ajibade
79. Chief O. Awotesu
80. Dr. Beko Ransome Kuti
81. Elisha Ogbonna
82. Sadau Babangida
83. Ben Charles Obi
84. George Mbah
85. Sylvester O. Akhaine
86. Lt. Col. George J. Okeadu
87. Mrs. Josephine Diya
88. Mrs. Deborahh Folashade Diya
89. Capt. L. B. Mohammed
90. Brig. Gen. Zedon
91. Col. Muku
92. Lt. Gen. Oladipo Diya
93. Mohammed Labbo
94. General Victor Malu (COAS)
95. Director General, SSS
96. Major Fadipe
97. Major A. S. Adamu Argungu
98. Bala Ibn Na'Allah
99. Chief Gani Fawehinmi
100. Mr. Ray Ekpu
101. Mrs. Rakiya Giwa
102. Adetokunbo Fakeye
103. Maj. Gen. A. Adisa
104. Tajudeen Oke
105. Orayemi Orafijiya
106. A. Omiyale
107. A. Okunnuga
108. Brig. Gen. S. Oviawe
109. F. Adeyemiwo
110. Uba Okeke
111. Peter Obi
112. Cmdr. A. R. Akowo
113. Lt. Cmdr. L. S. Tijjani
114. Mr. C. N. Nwaora
115. Maria Ifewekwu

## ENUGU

116. Prince John S. Madukasi
117. Princess C. A. Madukasi
118. Rev. Fr. D. P. C. Isidi
119. Rev. Fr. Ifeanyichukwu
120. Mrs. S. O. Arasitina
121. Dr. M. A. K. Metseagharun
122. Chief F. N. Nwandu
123. Sgt. Emmason Okoroafor
124. Joseph C. Duru
125. Nnaemeka C. Owoh
126. Justus Uwalaka
127. A. N. Agunwa
128. E. S. Aneke
129. Navy Capt. D. C. Olubolade
130. Lazarus J. Opara
131. Thomas U. Idu
132. Comrade Emeka Umeh
133. Mrs. S. Nwadinobi
134. Damien Ejikere
135. ASP Okpe
136. Francis Ede
137. Chief Gabriel Mbanisi
138. Uzoma Ezikpe
139. Ugoeze F. Ahumibe
140. Ucha I. Olua
141. Prof. Oleka K. Udeala
142. Mrs. Grace Udeala
143. Prof. Patrick Ngoddy
144. Mrs. Claret Ngochi Bot  
Duru
145. Festus S. Nwosu
146. Mrs. Rita Areh
147. Engr. Dr. M. M. Osadebey
148. Albert Kebo
149. Engr. Madukwe I. A.
150. Comrade Uche  
Chukwumerije
151. Justice Ezebilo Ozobo
152. Col. Ben Gbulie
153. Col. Patrick Anwuna
154. Prof. A. N. A. Nwadebe
155. Mrs. Cecilia E. Obioha
156. Dr. Ifeanyi Uria
157. Mrs. Lovinda Akaluka
158. Mr. Samuel Akaluka
159. Bishop (Dr.) E. Chukwuma
160. Dr. (Mrs.) Getrude C.  
Ogunkeye
161. Engr. Kenneth Nwokolo
162. Emma Okocha
163. Chief C. C. Onoh
164. B. Ukpai
165. Chief G. E. Nwanisiobi
166. Nweze Nzeribe
167. Sanusi A. Daura
168. H. R. Sanusi
169. Anayo J. Ofia
170. N. A. Onenze
171. Clifford Nzimanze
172. Emeka Onyiwe

173. Engrs. Akuru Nwokedi
174. Chief B. O. B. Ambulea
175. Ememerinyia S. Dagogo
176. Emmanuel Anaeme
177. Chidi I. Abali
178. Paul Anike
179. Engr. Raymond Okenwa
180. Emmaneul K. Apedo
181. O. E. Omene
182. Emmanuel C. Nwafor
183. Paul Allanah
184. Tim Akparewa
185. Sam Dede
186. Ifeanyi Onochie
187. Emmanuel Umeadi
188. Pro. Elochukwu Amuchiazi

202. Dr. A. E. Idyorough
203. Ben Akosa
204. Sgt. Emmanuel Ozigi
205. Abraham Momoh
206. Rev. Jonathan Ijor
207. Abubakar S. Umar
208. Ishaku Shedul
209. Nasiru M. Tsanyawa
210. Samuel Mapul
211. Idi Mairijiya
212. Fidelis Aidelomon
213. Alhaji Mustapha Garba
214. Maj. Gen Zamani Lekwot
215. Mr. Juri Babang Ayok

## **PORT HARCOURT**

## **KANO**

189. Menon Bagauda
190. Mrs. Martha Bagauda  
Kaltho
191. Babafemi Ojudu
192. DCP Mukтари Ibrahim
193. Godson E. Uzowulu
194. Samuel F. Caleb
195. B. U. Yerima
196. I. B. Mohammed
197. Muh. Gimba Alfa
198. Columba Opara
199. Matthew Abaraonye
200. Shuaibu Ahmadu
201. Mrs. Maria Gada

216. Col. Sam Inokoba
217. CP Musa Abdulkadir
218. Prof. E. E. Ezewu
219. Mr. F. Nwamae
220. Eno Out
221. Joseph E. Eyam
222. Rose R. Iwene
223. Jenny I. Osuaya
224. A. E. Atteh
225. Mr. Wari Etubo
226. Joseph Uzeroh
227. K. O. Appah
228. G. E. Dirikebamor
229. Oladipo Morohundiya
230. G. O. Akinluyi
231. Ihunwo Obi-Wali

232. Williams Mwordi  
 233. Adokie T. O. Amasiemeka  
 234. Prince Sonny Oson  
 235. Peter Enewari  
 236. Okoro Ulakpa  
 237. Roxanna A. Spiff  
 238. J. B. Putnor  
 239. Joseph Kobani  
 240. Ledum Mitee  
 241. Mrs. Lapi Ibara  
 242. Mrs. Suano  
 243. Lesi Lawson  
 244. Mrs. Karalolo Kargbara  
 245. HRH. Nene J. N. Nulek  
 246. HRH. N. A. Gbarakoro  
 247. Elder W. H. Kpuneenu  
 248. Madam Kpabidi J. Gadey  
 249. Rev. Augustus  
 250. Chief Innocent Naduor  
 251. Yega Nnedi Nariko  
 252. Mrs. Beremaki  
 253. Col. Dauda Komo  
 254. Col. Paul Okuntimo  
 255. Mr. E. Ulogbo Imomoh  
 256. Ron Van Der Berg  
 257. Yohanna Bahago  
 258. Tae Mapie  
 259. Ken Saro-Wiwa Jnr.  
 260. J. Y. Yowika  
 261. Legor T. Senewo  
 262. HRH. Theophilus Karikpo  
 263. Damasus Ikpenu  
 264. Ipeneta nO. Senewo  
 265. Chief Femi Adekanye  
 266. Ralph Osayemeh  
 267. Eres Oruomah  
 268. Joe Mukoro  
 269. Theresa Elikwu  
 270. Chidi Elikwu  
 271. Kehinde Oyenuga, ACP  
 272. Sgt. Bassey Uket  
 273. Iorbee Ihagh (OCG)  
 274. L. Williams  
 275. Capt. Austin Omale  
 276. Sam Egbele  
 277. M. K. Iroanya
- ABUJA**
278. Alhaji Umaru Dikko  
 279. Gen. T. Y. Danjuma  
 280. Lt. Col. M. A. Igwe  
 281. Major General Patrick Aziza  
 282. Brig. Gen. O. Igata  
 Ikponmwen  
 283. Lt. Col. A. Y. Ahmed  
 284. Godson Offoaro  
 285. Dr. Walter Ofonagoro  
 286. Mike Jikima  
 287. Peter Ichull  
 288. Hon Ate Ahur  
 289. Yina Kogi  
 290. Derby T. Moti  
 291. Atsenda Ishwa

292. Dr. Solomon Nyagba
293. SP Musa M. Omika
294. Ibrahim James Pam
295. Ex-Major J. A. Achimugu
296. Chief Yomi Tokoya
297. Prof. Femi Odekunle
298. Mrs. R. Odekunle
299. Isaiah Adebowale
300. Rufus Akeredolu
301. Kore Jonah Shittu
302. Olatunde F. Shittu
303. Dr. Chiichii Ashwe
304. Chief Chuma Nzeribe
305. Capt. Felix Dulagha
306. Femi Falana
307. Gregory Kas Enegwa
308. Dr. B. O. Babalakin
309. Lt. Cmdr. T. O. Esan
310. Otunba W. O. O. Ajayi
311. Mr. Moses Adabosu
312. Joe B. Ekunife
313. S. O. Olusemo
314. Justice J. J. Umoren
315. Alhaji A. U. A. Tukur
316. Francis Sheen
317. George Sheen
318. Akinmo Adeshakin
319. Maj. Gen Musa Bamaiyi
320. Hadiza Pindar
321. Dooshima Ada'a
322. Franca Odache
323. Nwano Eze-Ukagha
324. Prof. Wole Soyinka
325. Rev. E. Andelfiki
326. Alhaji Sani Otto
327. Ogaga Ovrowah
328. John Jokotoye
329. SP Thomas Bangajiya
330. Lisa Olu Akerele
331. ACP Suleiman Abba
332. S. A. Darma
333. Gen. Olusegun Obasanjo  
(President, FRN)
334. Col. Bello Fadile
335. Chief Frank O. Kokori
336. Musa Adede
337. Lt. Col. Nathaniel Madza
338. Brig. Gen. Momoh L. Yesufu
339. Ex-Major Mohammed  
Magaji
340. Col. O. Oloruntoba

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			49 <sup>A</sup>	Signature of Brig. Sabo	Document	Abuja (2 <sup>nd</sup> )	2-7-01
			50	Diskette	Diskette	Abuja (2 <sup>nd</sup> )	2-7-01
			50 <sup>A</sup>	Transcript of Exhibit 50	Transcript	Abuja (2 <sup>nd</sup> )	2-7-01
			51	Report of the investigation and activities of Brig. Sabo	Report	Abuja (2 <sup>nd</sup> )	2-7-01
			52	Video tape marked A B C & D	Video tapes	Abuja (2 <sup>nd</sup> )	2-7-01
			53	“Provost Marshall dated 20/10/01	Document	Abuja (2 <sup>nd</sup> )	2-7-01
1.	CHIEF GABRIEL MBANISI	564	1	Petitioner’s memorandum	Memorandum	Enugu	23-4-01
			2	Petitioner’s son’s photograph	Photograph	Enugu	23-4-01
			A-H 3	Receipts of purchase of stationery	Receipts	Enugu	23-4-01
			4	Letter addressed to Hon. C. J.	Letter	Enugu	23-4-01
			5	Letter dated 6 <sup>th</sup> Dec. 1995	Letter	Enugu	23-4-01
			6	Writ of summons	Writ	Enugu	23-4-01
2.	CHRIS ANYANWU	575	1	Petition			
			2	Introduction			
			3	TSM Magazine, March 2 1995			
			4	TSM Magazine 12 <sup>th</sup> & 19 <sup>th</sup> March 1995			
		582	1	Letter from Hon. A. G. Kaduna State suit No.	Letter	Abuja (2 <sup>nd</sup> )	24-7-01

				918/93/C.O.P V Sgt Hamza Ibrahim dated 21 July 2001			
3.	GAMBO	587	1	Letter from Attorney General of Kaduna State dated 21/7/01	Letter	Abuja (2 <sup>nd</sup> )	24-7-01
			2	Letter requesting for transfer of venue.	Letter	Abuja (2 <sup>nd</sup> )	24-7-01
			3	Letter addressed to Comm. of Police Kaduna	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			4	Another letter to Comm. of Police Kaduna	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			5	A letter addressed to A. G. Kaduna	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			6	Letter addressed to Col. Jafaru Isah (RTD)	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			7	Letter addressed to D. I. G. Lagos	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			8	Letter addressed to Alh Commassie	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			9	Receipt of Bonus	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
4.	I.M. MOHAMMED MAIKUDI	624	1	Petition			
			2	Letter of Appointment			
			3	Staff Identity Card			
			4	Substituted petition			
			5	Letter of recovery of fund from security group dated 23 <sup>rd</sup> March 1998.			
5.	HON. ISAAC I.N. SHAAHU	738	1.	Letter from Gen. Buhari	Letter	Abuja (2 <sup>nd</sup> )	17-9-01
			2.	Petitioner's memorandum	Memorandum	Abuja (2 <sup>nd</sup> )	17-9-01
			3.	Addendum to petition	Addendum	Abuja (2 <sup>nd</sup> )	17-9-01
			4.	Petitioner's assets	Declaration	Abuja (2 <sup>nd</sup> )	17-9-01

				declaration			
			5.	Clearance certificate from the task force	Clearance cert.	Abuja (2 <sup>nd</sup> )	17-9-01
			6.	Protest letter from the petitioner to Gen. Babangida	Protest letter	Abuja (2 <sup>nd</sup> )	17-9-01
6.	BARR. FRANCIS KOZAH & ZAMANI LEKWOT (CONSOLIDATION)	742 & 794	1.	Petitioner's memorandum	Memorandum	Abuja (1 <sup>st</sup> )	25-9-2000
			2.	Accused's statement from the CID Alagbon close dated 3/1/97	Statement	Abuja (1 <sup>st</sup> )	25-9-200
			3.	Another statement of the accused at CID Alagbon Close	Statement	Abuja (1 <sup>st</sup> )	25-9-2000
			4.	Memorandum of Mrs Olubusola Ariosola Olabusuyi	Memorandum	Abuja (1 <sup>st</sup> )	25-9-2000
			5.	Memorandum of Lewis Aimola	Memorandum	Abuja (1 <sup>st</sup> )	25-9-2000
			6.	Plea for clemency written to Dr. Krobil to the head of state Gen, Sani Abacha dated 7/1/95			
			7.	Ken Saro Wiwa and the crisis of the Nigerian state. A CDHR special publication	Publication	Port-Harcourt	25-1-01
106.	LAYI ODUMADE	747	1.	Petitioner's memorandum	Memorandum	Lagos	24-11-2000
			1	Showing how he was			

			a,b,c	inhumanly treated		Lagos	24-11-2000
			2.	An extract from Nelson N's diary which contains the petitioner's name	An extract (document)	Lagos	24-11-2000
			3.				
			4.				
			5.				
			6.				
			7.				
			8.				
			9.				
			10.				
			11.				
			12.	Bayo Johnson's Passport			
			13.	Bayo Johnson's wife petition			
			14.	Petition of Nurudeen Yahaya			
107.	FEDERICK ISIOTUN FASEHUN	757	1.	Petitioner's memorandum	Memorandum	Lagos	23-11-2000
			2.	Search warrant executed on Dr. F. Fasehun	Search warrant	Lagos	23-11-2000
			3.	Medical report for Dr. F.I. Fasehun dated 29/1/97	Medical report	Lagos	24-11-2000
			4.	Sunday Aghedo the reaction of Benue State Comm. Of Police to the detention of Dr. F. Fasehun	Document	Lagos	24-11-2000
108.	FEMI ADEYEMIWO	762	1.	Petition	Memorandum	Lagos	28-11-2000
			2.	Police wireless message	Document	Lagos	28-11-2000

				the COP Ikeja to AIG Zone II			
			3.	Report on the bomb blast dated 28/11/96 titled Re: "Bomb Blast".	Document	Lagos	28-11-2000
			4.	Covering letter to the exhibit 3	Letter	Lagos	28-11-2000
			5.	Judgment of court awarding N1.9m.			
			6.	Medical report from University of Benin Teaching Hospital	Medical Report	Lagos	28-11-2000
109.	SAMUEL ANAKOR	787	1.	Memorandum of the petitioner through his counsel	Memorandum	Abuja (1 <sup>st</sup> )	30-10-2000
110.	JOHN JOKOTOYE & FAMILY	792	1.	Memorandum of the Jokotoye family	Memorandum	Abuja (1 <sup>st</sup> )	25-10-2000
			2.	2 <sup>nd</sup> memorandum of the petitioner	Memorandum	Abuja (1 <sup>st</sup> )	1-11-2000
			3.	Death Certificate of Jokotoye	Document	Abuja (1 <sup>st</sup> )	1-11-2000
			4.	Police investigation report on the offence of conspiracy and armed robbery	Police report	Abuja (1 <sup>st</sup> )	1-11-2000
			5.	Counsel's address	Address	Abuja (1 <sup>st</sup> )	3-11-2000
111.	ZAMNI LEKWOT	794	1.	Consolidated with petition No. 772 at No. 83. All the encloses were to be considered together	Same	Same	Same
112.	GEN. ABDULLAHI ADISA	834	1.	Petitioner's memorandum	Memorandum	Lagos	6-12-2000
			2.	Addendum of the	Addendum	Lagos	6-12-2000

				petitioner			
			3.	Drawing, showing how he was punished - chained	Drawing	Lagos	6-12-2000
			4.	Adisa's signature	Document	Lagos	6-12-2000
			5.	Second specimen of Adisa's signature	Document	Lagos	6-12-2000
113.	OTUNBA AJAYI	845	1.	Petitioner's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	21-9-2001
			2.	Failed Bank Tribunal Decree	Decree	Abuja (3 <sup>rd</sup> )	21-9-2001
			3.	Judgment of the tribunal that convicted the petitioner	Tribunal judgment	Abuja (3 <sup>rd</sup> )	21-9-2001
			4.	Response by NDIC's counsel	Response	Abuja (3 <sup>rd</sup> )	21-9-2001
			5.	Second specimen of Adisa's signature	Document	Abuja (3 <sup>rd</sup> )	21-9-2001
114.	MRS UZOMA EZEIKPE	859	1.	Petitioner's memorandum	Memorandum	Enugu	23-4-01
			2.	Addendum to petition	Addendum	Enugu	23-4-01
			3.	Photographs of Rev. Ezeikpe	Photograph	Enugu	23-4-01
			4.	Photographs of Rev. Ezeikpe	Photograph	Enugu	23-4-01
			5.	Letter dated 1/3/96 addressed to American Ambassador	Letter	Enugu	23-4-01
			6.	Medical report of Rev. Okoro Ezeikpe	Medical report	Enugu	23-4-01
			7.	Letter addressed to Comm. Of Police Abia State	Letter	Enugu	23-4-01
			8.	Letter addressed to			

				Inspector Gen. of Police dated 20/3/95	Letter	Enugu	23-4-01
			9.	Response of Comm. Of Police of Abia State	Response	Enugu	23-4-01
			10.	Letter addressed to Hon. Comm. for Justice and Hon. Attorney General of Abia State Umuahia	Letter	Enugu	23-4-01
			11.	Legal advice	Legal advice	Enugu	23-4-01
115.	LT. COMM. T.O. ESAN (RTD)	887	1.	Petition			
			2.	Addendum			
			3.	Photograph of petitioner with anus protruding.			
			4.	Problems that young officers face in the Army, Navy etc – written by T.O. Esan			
		896	1.	Petitioner's memorandum	Memorandum	Abuja (2 <sup>nd</sup> )	17-9-01
116.	THOMAS U. AKHIDIME	900	1.	Petitioner's memorandum	Memorandum	Abuja (2 <sup>nd</sup> )	6-7-01
			2.	Addendum to petition	Addendum	Abuja (2 <sup>nd</sup> )	6-7-01
117.	MRS R.A. SPIFF	908	1.	Petitioner's memorandum	Memorandum	Port-Harcourt	22-1-01
118.	ELISHA OGBONNA	922	1.	Petitioner's memorandum	Memorandum	Lagos	5-12-00
			2.	Photograph of Chidi	Photograph	Lagos	5-12-00
			3.	Echiele Development Union Lagos branch dated 3/7/98	Document	Lagos	5-12-00
			4.	Echiele Dev. Union Lagos branch dated 24/7/98	Document	Lagos	5-12-00
			5.	Latter from Lagos State			

				ACP dated 23/12/98	Letter	Lagos	5-12-00
			6.	Letter from Civil Liberty Org. dated 21/2/99	Letter	Lagos	5-12-00
			7.	Guardian of Sunday 6/3/99	Newspaper	Lagos	5-12-00
119.	REV. EMMANUEL ANDEIFIKI	934	1.	Petitioner's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	8-10-01
			2.	Addendum to the petition	Addendum	Abuja (3 <sup>rd</sup> )	8-10-01
			3.	List of victims in Kutels crisis	List	Abuja (3 <sup>rd</sup> )	8-10-01
			4.	Annexure A1	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			5.	Annexure A2	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			6.	Annexure 3	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			7.	Annexure 4	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			8.	Letter to Chief of Gen. Staff dated 14/9/2001	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			9.	Video cassettes	Cassettes	Abuja (3 <sup>rd</sup> )	8-10-01
120.	ADETOKUNBO FAKEYE	1296	1.	Petitioner's memorandum	Memorandum	Lagos	12-12-2000
121.	FEMI FALANA	1298	1.	Petitioner's memorandum	Memorandum	Abuja (2 <sup>nd</sup> )	5-7-01
			2.	Attachment from Ex. 1	Document	Abuja (2 <sup>nd</sup> )	5-7-01
			3.	Letter from Human Right Intern'l Law group dated 3/9/93	Letter	Abuja (2 <sup>nd</sup> )	5-7-01
			4.	Decision No. 67/1993 "addressed to the Nigerian Government	Document	Abuja (2 <sup>nd</sup> )	5-7-01
			5.	The petitioner's NYSC Certificate	Certificate	Abuja (2 <sup>nd</sup> )	5-7-01
122.	SOJI OMOTUNDE	1310	1.	Petitioner's memorandum	Memorandum	Lagos	12-12-2000
			2.	Concord magazine dated			

				July 1997	Magazine	Lagos	12-12-2000
			3.	Concord magazine of Omotunde Olasoji dated 17/1/2000	Magazine	Lagos	12-12-2000
			4.	Medical report of Omotunde Olasoji dated 17/1/2000	Medical report	Lagos	12-12-2000
			5.	Ruling of the Federal High Court holden at Lagos dated 16/12/97	Court ruling	Lagos	12-12-2000
			6.	Demand for Soji Olatunde	Document	Lagos	12-12-2000
123.	PROF. FEMI ODEKUNLE	1328	1.	Petitioner's memorandum	Memorandum	Abuja (2 <sup>nd</sup> )	27-6-01
			2.	Photographs of the petitioner during his detention	Photograph	Abuja (2 <sup>nd</sup> )	27-6-01
			3.	Medical report & X-ray of petitioner	Medical papers	Abuja (2 <sup>nd</sup> )	27-6-01
124.	CHIEF CHUMA NZERIBE	1364	1.	Petitioner's memorandum	Memorandum	Abuja (2 <sup>nd</sup> )	29-6-01
			2.	Backpage Editorial of News Magazine dated 22/4/96	Response	Abuja (3 <sup>rd</sup> )	10-9-01
			3.	Response of Col.	Response	Abuja (3 <sup>rd</sup> )	10-9-01
			4.		Document	Abuja (3 <sup>rd</sup> )	10-9-01
			5.	Tempo Magazine of 24 <sup>th</sup> September 1998	Publication	Abuja (3 <sup>rd</sup> )	10-9-01
			6.	Tell Magazine of Dec. 2 1998 pages 16-20	Publication	Abuja (3 <sup>rd</sup> )	10-9-01
			7.	Letter written by Mrs. Bagauda to the Head of	Letter	Abuja (3 <sup>rd</sup> )	10-9-01

				State concerning the former's missing husband.			
			8.	Zakari Hassan Biu's written response to the petition	Response	Abuja (3 <sup>rd</sup> )	10-9-01
			9.	News Magazine of February 1999 titled "an untouchable cult, the rise of Zakari Biu"	Magazine	Abuja (3 <sup>rd</sup> )	10-9-01
			10.	The News Magazine of 31 <sup>st</sup> August 1998	Magazine	Abuja (3 <sup>rd</sup> )	10-9-01
			11.	Report from Kaduna COP dated the 22 <sup>nd</sup> Jan. 1996	Report	Abuja (3 <sup>rd</sup> )	10-9-01
			12.	Medical Report	Report	Abuja (3 <sup>rd</sup> )	10-9-01
			13.	Coroner's report on the death of Bauguda Kaltho	Newspaper	Abuja (3 <sup>rd</sup> )	10-9-01
			14.	Police postmortem examination	Document	Abuja (3 <sup>rd</sup> )	10-9-01
			15.	Warrant to bury	Report	Abuja (3 <sup>rd</sup> )	11-9-01
			16.	Addendum to the Menon Bagauda's petition	Addendum	Abuja (3 <sup>rd</sup> )	11-9-01
			17.	Mrs. Bagauda's statement to the Police.	Statement	Abuja (3 <sup>rd</sup> )	11-9-01
			18.	Attachment J, statement volunteered by Caleb to the SSS	Documents	Abuja (3 <sup>rd</sup> )	11-9-01
			19.	Letter written by the SSS to IGP on 22/12/002	Letter	Abuja (3 <sup>rd</sup> )	11-9-01
			20.	Guardian Newspaper of			

				January 20, 1996 titled "Blasts in Kano and Kaduna"	Document	Abuja (3 <sup>rd</sup> )	13-9-01
			21.	Independent Communications Nig. Ltd. (ICNL) press statement	Legal advice	Abuja (3 <sup>rd</sup> )	13-9-01
			22.	Response of Majoyeogbe	Response	Abuja (3 <sup>rd</sup> )	13-9-01
			23.	Letter of retirement from Nigerian Army of Col. O. Majoyeogbe	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			24.	Letter from Army Headquarters to Col. O. Majoyeogbe	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			25.	Submission to HRVIC in the case of the petition by Major Adeka	Letter	Abuja (3 <sup>rd</sup> )	13-9-01
			26.	Report on the investigation reports on illegal activities	Report	Abuja (3 <sup>rd</sup> )	13-9-01
			27.	Video tape	Video tape	Abuja (3 <sup>rd</sup> )	13-9-01
			28.	Discipline of Col, Majoyeogbe dated 20/7/98	Document	Abuja (3 <sup>rd</sup> )	21-9-01
			29.	Discipline of Col. Majoyeogbe	Document	Abuja (3 <sup>rd</sup> )	21-9-01
			30.	Receipts of the purchase of things	Receipts	Abuja (3 <sup>rd</sup> )	21-9-01
			31.	Certificate of courses attended by Brig. Sabo	Certificate	Abuja (3 <sup>rd</sup> )	21-9-01
			32.	Tell Magazine dated 1/2/99	Magazine	Abuja (3 <sup>rd</sup> )	21-9-01
			33.	Police report on the Jeep found in possession of	Report	Abuja (3 <sup>rd</sup> )	21-9-01

				Brig. Sabo			
125.	MENON BAGAUDA	1393	1.	Petitioner's memorandum	Memorandum	Kano	12-3-01
			2.	Newspaper	Newspaper	Kano	12-3-01
			3.	Newspaper	Newspaper	Kano	12-3-01
			4.	The Guardian of 12/9/1998	Newspaper	Kano	12-3-01
			5.	The Tempo 24/9/98	Newspaper	Kano	12-3-01
			6.				
			7.	Letter addressed to the Head of State datd10/8/98	Letter	Kano	12-3-01
			8.	Written response by Zakari Biu	Response	Kano	12-3-01
			9.	The News magazine of Feb.98	Magazine	Kano	12-3-01
			10.	The News magazine of 31/8/98	Magazine	Kano	12-3-01
			11.	Report addresserd to ACP Biu	Report	Kano	12-3-01
			12.	Medical report of caise of death of Bagauda	Medical report	Kano	12-3-01
			13.	Death report to coroner	Report	Kano	12-3-01
			14.	Post moretem examination of Bagauda Katho dated 15/1/96	Document	Kano	12-3-01
			15.	Warrant to bury of Bagauda Kaltho dated 19/1/96	Warrant to bury	Kano	14-3-01
			16.	Further memorandum of the petitioner	Memorandum	Kano	14-3-01
			17.	Statement of witness "marked G"	Statement	Kano	14-3-01
			18.	Statement of Caleb	Statement	Kano	14-3-01

			19.	Letter addressed to ACP Zakari Biu dated 22/12/97	Letter	Kano	14-3-01
			20.	Guardian Newspaper dated Jan. 1996	Newspaper	Kano	14-3-01
			21.	Press release	Press release	Kano	14-3-01
			22.	Letter from Inspector General dated 19/1/98	Letter	Kano	14-3-01
			23.	Report on Bagauda Kaltho's cause(s) of death dated 7/8/98	Report	Kano	14-3-01
			24.	5 photographs of the person found at bombs blast	Photographs	Abuja (2 <sup>nd</sup> )	9-7-01
			25.	Video tape	Video tape	Abuja (2 <sup>nd</sup> )	9-7-01
			26	Economic state of the Federal Republic of Nigeria	Document	Abuja (2 <sup>nd</sup> )	9-7-01
126.	MRS. FLORENCE A. OMOTECHINWA	1402	1.	Petitioner's memorandum	Memorandum	Lagos	13-11-2000
			2-4.	Evaluate reports for 1993, 94 & 95.			
			5.	Covering letter to exhibits 2,3,4.			
			6.	Note to Bashir			
127.	PROF. WOLE SOYINKA	1403					
			7.	Statement of claim	Document	Abuja (3 <sup>rd</sup> )	15-10-01
			8.	Motion for extension of	Document	Abuja (3 <sup>rd</sup> )	15-10-01

				time			
			9.	Prof. Wole Soyinka's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	15-10-01
			10.	Report	Report	Abuja (3 <sup>rd</sup> )	15-10-01
			11.	Ruling of High Court	Court ruling	Abuja (3 <sup>rd</sup> )	15-10-01
			12.	Cheques signed by Prof. Soyinka			
128.	CHIEF OLU FALAE	1411	1.	Petitioner's memorandum	Memorandum	Lagos	23-11-2000
129.	UBA OKEKE	1412	1.	Petitioner's memorandum	Memorandum	Lagos	28-11-2000
			2.	A letter addressed to Comm. of Police Benin City	Letter	Lagos	28-11-2000
			3.	Medical receipts of Uba Okeke	Receipts	Lagos	28-11-2000
			4.	CTC Judge of Uba Okeke	Receipts	Lagos	28-11-2000
			5.	Uba Okeke Hospital Medical report from UDTH	Medical report	Lagos	28-11-2000
130.	LEDUM MITEE	1420 & 1467	1.	Mitee's petition	Petition	Port-Harcourt	24-1-01
			2.	MOSOP petition	Petition	Port-Harcourt	24-1-01
			3.	Constitution for MOSOP	Constitution	Port-Harcourt	24-1-01
			4.	Ogoni Bill of Rights	Document	Port-Harcourt	24-1-01
			5.	"Before we are killed" press statement by Dr. Garrick Leton (the President MOSOP)	Press release	Port-Harcourt	24-1-01
			6.	Letter by Shell to			

				Governor Ada George of Rivers State requesting for assistance with respect to disruption of work on the 36 inches Umuagbe Bomu trunk line	Letter	Port-Harcourt	24-1-01
			7.				
			8.	Letter written to Gov. Ada George by MOSOP publicized in Guardian of Friday 5 <sup>th</sup> Nov. 1993.	Agreement	Port-Harcourt	24-1-01
			9.	Appendix 4, page 389-391 "Ken Saro Wiwa" and the crisis of Nigeria state"	Document	Port-Harcourt	24-1-01
			10.	"Public notice to all Ogoni people denouncing lawlessness signed by L.A. Mitee (Deputy President for MOSOP)	Publication	Port-Harcourt	24-1-01
			11.	Ken Saro Wiwa and the crisis of Nigeria page 381-391 – steps taken by MOSOP distance itself from nefarious activities	Publication	Port-Harcourt	24-1-01
			12.	Police order – the restoration of law and order in Ogoni land dated 21/4/94.	Document	Port-Harcourt	24-1-01
			13.	Government house fax sheet	Fax sheet	Port-Harcourt	24-1-01

			14.	Memo from Chiyoda Nig. Ltd. Titled "Restriction of unauthorized visitors especially from Europe to Ogoni"	Letter	Port-Harcourt	24-1-01
			15.	Video tape of press conference organized by Col. Komo	Video tape	Port-Harcourt	24-1-01
			16a,b, c	Receipts purportedly issued to Shell for purchase of ammunition	Receipt	Port-Harcourt	24-1-01
			17.	Human Rights and Environmental Operations, information in a Royal Shell Group of companies 1996-1997 page 10	Document	Port-Harcourt	24-1-01
			18.	Charge sheet of sedition framed against a foreigner Brian Adam for being in possession of Ledum Mitee's speech	Charge sheet	Port-Harcourt	24-1-01
			19.	Decree no. 29 "treason and treasonable offences Decree 1993	Decree	Port-Harcourt	24-1-01
			20.	Recommendation of United Nations fact finding team published in the International Commission of Jurists page 207 to 237	Document	Port-Harcourt	24-1-01
			21.	Report of United Nations Special Rapporteur on the Human Rights	Document	Port-Harcourt	24-1-01

				situation in Nigeria.			
			22.	National Concord of Feb. 5, 1996 denying that police never gave Shell licence to import arms	Newspaper	Port-Harcourt	24-1-01
			23.	Letter to milad Rivers State dated 14/3/94	Letter	Port-Harcourt	24-1-01
			24.	Confidential report on reconciliation meeting between Shell and MOSOP 19-20/1/2000	Report	Port-Harcourt	24-1-01
			25.	Payment of land compensation	Document	Port-Harcourt	24-1-01
			25a.	Deposition land Bonny West dated 8/4/83	Document	Port-Harcourt	24-1-01
			25b.	Deposition of land rental (Bonny West deep. Revised drilling location dated 27/7/83	Document	Port-Harcourt	24-1-01
			26.	Ogoni work plan overview 1998, 1999, 2000, 2001			
			27.	The Ogoni crisis: A case study of military repression in Southern Nigeria vol. 7 no. 5/7/95	Document	Port-Harcourt	24-1-01
			28.	A.M. News dated 5/4/95 "Nigerian soldier confers on atrocities in	Document	Port-Harcourt	25-1-01

				Ogoni land.			
			29.	A book titled "price of oil"	Textbook	Port-Harcourt	25-1-01
			30.	Photograph of Latum Gbara and Tambari Gbara both children of Mrs. Lapi Gbara who were shot at and killed by the army at Ogoni	Photographs	Port-Harcourt	26-1-01
			31.	List of items damaged at Chief Jonathan Nule's Palace.	List	Port-Harcourt	26-1-01
			32.	Petition written by HRH Mene W.A. Gbarakoko Mene Bua Kua	Petition	Port-Harcourt	26-1-01
			33.	Photographs of Chief N.A. Gbarakoro's residence that was burnt.	Photographs	Port-Harcourt	26-1-01
			34.	Elder N.H. Kumenu's petition	Memorandum	Port-Harcourt	26-1-01
			35.	Elder N.H. Kumenu's submission to the Commission	Document	Port-Harcourt	26-1-01
			36.	Elder N.H. Kumenu's hand written recommendations to the Commission	Document	Port-Harcourt	26-1-01
			37 a,b	Two photographs of late children of Jerry Vabibi	Photographs	Port-Harcourt	26-1-01
			38.	Letter written from internal security task force Kpor Ogoni dated	Letter	Port-Harcourt	26-1-01

				12/12/97			
			39.	Photograph of Mr. Nasiko (a witness) while in detention without medical attention	Photograph	Port-Harcourt	26-1-01
			40.	Report of counsel to Shell	Report	Port-Harcourt	26-1-01
			41.	Report of petition's counsel	Report	Port-Harcourt	30-1-01
			42.	Respondent's counsel report	Report	Port-Harcourt	30-1-01
			43.	A letter addressed to Ken Saro Wiwa dated 27/9/98	Letter	Port-Harcourt	30-1-01
			44.	Neloki & Asa National Congress (NANC) Oyigbo LGA	Document	Port-Harcourt	30-1-01
			45.	Presentation of Col. Panco Okuntimo dated 30/1/81	Document	Port-Harcourt	30-1-01
			46.	Report of mourning solders dated 27/12/93	Report	Port-Harcourt	30-1-01
			47.	Letter of appreciation signed by Jaja dated 8/11/94	Letter	Port-Harcourt	30-1-01
			48.	Letter signed by Nforve LF dated 20-9-99	Letter	Port-Harcourt	30-1-01
			49.	Letter from Ken Saro Wiwa dated 15/12/93 addressed to Brig. Commander 2 amphibious brigade	Letter	Port-Harcourt	30-1-01

			50.	Letter from Ogoni youth dated 24/1/94	Letter	Port-Harcourt	30-1-01
			51.	Letter from NEPA addressed to the military administrator Rivers State dated 17/10/94	Letter	Port-Harcourt	30-1-01
			52.	Short submission of Imomoh Imomoh	Submission	Port-Harcourt	1-2-01
			53.	Writ of summons and statement of claim in suit No. FHC/L/CS/849/95.			
			54.	Newspaper cutting showing that Shell refuted the publication of importing firms	Newspaper	Port-Harcourt	1-2-01
			55.	Memo from IGP to the CP Lagos, Bendel and Rivers States titled "Request for arms for supernumerary Police Constables".	Document	Port-Harcourt	1-2-01
			56.	Guideline force use of statement security	Document	Port-Harcourt	1-2-01
			57.	SPDC guidelines to the use of external security and guideline for the external security personnel on duty in SPDC's location and	Document	Port-Harcourt	1-2-01

				facilities			
131.			58.	SPDC's business principle	Document	Port-Harcourt	1-2-01
132.			59.	People and environment annual report 1999 showing SPDC activities.	Report	Port-Harcourt	1-2-01
133.			60.	A letter dated 6 <sup>th</sup> Nov. 1996, Shell International Ltd in respect of "Activities of Shell in Ogoniland" signed by Eric Mickson	Letter	Port-Harcourt	1-2-01
			61.	A memo from Shell security East to security Lagos Shell			
			62.	A letter dated 18 January 1994 signed by the Legal Adviser Shell on the briefing of counsel.			
			63.	A letter written by a counsel complaining of harassment by Shell using the Internal Security Task Force.			
			64.	Letter dated 1 <sup>st</sup> Dec. 1994 requesting O.C.J. Okocha (SAN) to appear before the Judicial Panel on Ogoni Disturbances and present Shell.			
			65.	Letter from O.C.J. Okocha (SAN) advised to			

				Shell intimating the later about the proceedings of Ogoni Disturbances Tribunal on 6/2/95.			
			66.				
			67.	Gas flames in Nigeria	Document	Abuja (2 <sup>nd</sup> )	24-7-01
			68.	Statement/submission presented by the MD Shell Mr. Ron Van Berg	Submission	Abuja (2 <sup>nd</sup> )	24-7-01
			69.	Publication of Shell 2000 people and environment annual report	Report	Abuja (2 <sup>nd</sup> )	24-7-01
			70	Report of the stakeholder review by SPDC Community Department project completed in the year 2000	Report	Abuja (2 <sup>nd</sup> )	24-7-01
			71.	Report of the stakeholder review of SPDC Community Dept. Project completed in the year	Report	Abuja (2 <sup>nd</sup> )	24-7-01
			72.	Recent cases of pipeline vandalisation and arson in Ogoni land dated 6/7/2001	Document	Abuja (2 <sup>nd</sup> )	24-7-01
			73.	Re-unwarranted interference in the internal affairs of Ogoni land	Document	Abuja (2 <sup>nd</sup> )	24-7-01
			74.	Shell Branch of			

				Petroleum and Natural Gas Senior Staff association of Nigeria	Document	Abuja (2 <sup>nd</sup> )	24-7-01
			75.	Letter dated 13/2/2001 (Re-work shippage at Elingbu Community due to instituted court injunction) suit no: FHC/2132/2000 by Eze J. A. Ulohan (JP)	Letter	Abuja (2 <sup>nd</sup> )	24-7-01
			76.	Application for an order of interim injunction	Document	Abuja (2 <sup>nd</sup> )	24-7-01
			77.	Letter written to Mr. Moody Slurt by MOSOP dated 21/3/2000	Letter	Abuja (2 <sup>nd</sup> )	24-7-01
			78.	Letter to Ledum Mittee dated 3/4/200	Letter	Abuja (2 <sup>nd</sup> )	24-7-01
			79.	The Guardian Newspaper of 25/6/2000	Newspaper	Abuja (2 <sup>nd</sup> )	24-7-01
			80.	Response by Mr. Yohana Bahago Comptroller of Prison Kogi State	Response	Abuja (2 <sup>nd</sup> )	24-7-01
134.	KING RICH	1428	1.	Petitioner's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	17-9-01
135.	MOSOP	1467	1.	Consolidated with 1420. see serial no 122. (the same evidence)			
136.	CHIEF AKIN OMOBORIOWO	1473	1	Letter from Abdullahi Ibrahim & Co.	Letter	Abuja (3 <sup>rd</sup> )	17-9-01
			2	Petitioner's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	17-9-01
			3	White paper on the	White paper	Abuja (3 <sup>rd</sup> )	17-9-01

				detention of Chief Akin Omobonowo			
137.	TIM AKPAREVA	1474	1	Petitioner's memorandum	Memorandum	Enugu	4-5-01
			1A	Petitioner's submission	Submission	Enugu	4-5-01
			2	A hand book on the Association	Handbook	Enugu	4-5-01
			3	Jacket with the drawing of Human skull on it	Cloth	Enugu	4-5-01
			4	Sunday Punch of October 6 <sup>th</sup>	Newspaper	Enugu	4-5-01
			5	Guardian of 17 <sup>th</sup> April 1999	Newspaper	Enugu	4-5-01
			6	Written statement of Kingsley at the Police Station	Document	Enugu	4-5-01
			7	Register of all members	Register	Enugu	4-5-01
			8	Statement of Tim Akpareva at the Police Station.	Document	Enugu	4-5-01
			9	Memorandum of Ben O.	Memorandum	Enugu	4-5-01
			10	Response by N. P. F. Officer	Response	Abuja(3 <sup>rd</sup> )	26-9-01
			11	Statement of a suspect	Statement	Abuja (3 <sup>rd</sup> )	26-9-01
			12	Human skull	Skull	Abuja(3 <sup>rd</sup> )	26-9-01
			13	Note from the suspect whom skull was found in his possession	Note	Abuja(3 <sup>rd</sup> )	26-9-01
			14	Term of joint investigation panel on suspect cultist	Document	Abuja(3 <sup>rd</sup> )	26-9-01
			15	First legal advice	Legal advice	Abuja(3 <sup>rd</sup> )	26-9-01
			16	2 <sup>nd</sup> legal advice	Legal advise	Abuja(3 <sup>rd</sup> )	26-9-01
			17	Court order from	Court order	Abuja(3 <sup>rd</sup> )	29-9-01

				Eastern Zone holden at P/H			
			18	Court order	Court order	Abuja(3 <sup>rd</sup> )	29-9-01
			19A	Photograph	Photograph	Abuja(3 <sup>rd</sup> )	29-9-01
			19B	Photograph	Photograph	Abuja(3 <sup>rd</sup> )	29-9-01
			20	Chairman's peace review pages 25-87.	Document	Abuja(3 <sup>rd</sup> )	29-9-01
138.	A. A. ADESHAKIN	1506	1	Petitioner's memorandum	Memorandum	Abuja(2 <sup>nd</sup> )	16-7-01
			2	Recommendation on re-instatement of the petition	Document	Abuja (2 <sup>nd</sup> )	16-7-01
			3	Written statement of Adeshakin	Statement	Abuja (2 <sup>nd</sup> )	16-7-01
			4	Submission by Temi ) Esq. NDLEA's counsel	Submission	Abuja (3 <sup>rd</sup> )	3-9-01
			5	Newswatch of 14/2/2000	Magazine	Abuja (3 <sup>rd</sup> )	3-9-01
			6	Recommendation of NDLEA	Document	Abuja (3 <sup>rd</sup> )	3-9-01
139.	CHIEF GANIYU ADE ADESANYA	1518	1	Petitioner's memorandum	Memorandum	Lagos	29-11-00
			2	Medical report	Medical report	Lagos	29-11-00
			3	An eye witness of the petitioner's inhuman treatment by Prof. Femi Odubayo	Testimony	Lagos	29-11-00
140.	DAMIAN MGBE	1529	1&2	Petitioner's memoranda	Memorandum	Enugu	3-5-01
			3	Remand/correction warrants	Warrants	Enugu	3-5-01
			4	Correction warrant	Warrant	Enugu	3-5-01
141.	DR. F. A. FAPOHUNDA	1564	1	Petitioner's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	17-9-01
142.	EMMANUEL KWAME APEDO	1580	1	Petitioner's	Memorandum	Lagos	5-12-00

				memorandum			
			2	Photocopy of petitioner's international passport	Document	Abuja (3 <sup>rd</sup> )	3-9-01
			3	Petitioner's passbook	Document	Abuja (3 <sup>rd</sup> )	3-9-01
			4	X-ray of petitioner	X-ray	Abuja (3 <sup>rd</sup> )	3-9-01
			5	Letter from immigration Dept	Letter	Abuja (3 <sup>rd</sup> )	3-9-01
			6	Another letter dated 6 <sup>th</sup> day of March 1989.	Letter	Abuja (3 <sup>rd</sup> )	3-9-01
			7	C.T.C. of the Judgment of the High Court dated 19/2/91	Court judgment	Abuja (3 <sup>rd</sup> )	3-9-01
			8	C. T. C. of ruling	Court ruling	Abuja (3 <sup>rd</sup> )	3-9-01
			9	Letter	Letter	Abuja (3 <sup>rd</sup> )	3-9-01
			10	Letter from Comptroller of Immigration dated 21-2-89	Letter	Abuja (3 <sup>rd</sup> )	3-9-01
			11	Statement of the petitioner dated 2 <sup>nd</sup> day of Feb. 1989.	Document	Abuja (3 <sup>rd</sup> )	3-9-01
143.	JOSEPH UZEROH	1626	1	Petitioner's memorandum	Memorandum	Port Harcourt	18-1-01
			2	Letter addressed to C.O.P. Port Harcourt, Rivers State 1/8/95	Letter	Port Harcourt	18-1-01
			3	Letter to D. I. G. 10-8-95	Letter	Port Harcourt	18-1-01
			4	Letter to C.O.P. Directorate of Finance Admin. Dated 16-8-95	Letter	Port Harcourt	18-1-01
			5	Reply to the petitioner's letter			
			6	Legal advice to the Police	Legal advice	Port Harcourt	18-1-01

144.	FRANCIS SHEEN	1645	1	Petitioner's memorandum	Memorandum	Lagos	29-11-00
145.	LEGOR TSENEWO	1647	1	Petitioner's memorandum	Memorandum	Port Harcourt	23-1-01
			2	Affidavit 12-9-94 deposed to by the petitioner's older brother.	Affidavit	Port Harcourt	23-1-01
			3	"The masses" dated Jan. 95 published by Chief Gani Fawehinmi	Document	Port Harcourt	23-1-01
			4	"Ogoni trial and travail" by CLO	Document	Port Harcourt	23-1-01
			5	Fax sheet dated 12/5/94	Document	Port Harcourt	23-1-01
			6	Response to the petition by P. O. Okuntinus	Response	Port Harcourt	23-1-01
			7	Video tape of activities of Okuntimo	Video tape	Port Harcourt	23-1-01
			8	Letter from Ken Sao Wiwa MSN dated 15 <sup>th</sup> December '93	Letter	Port Harcourt	23-1-01
146.	OHANAEZE NDIGBO, A.C.F., J.A.C. OMB, AFENIFERE, IKWERRE, ETC.		1	Joint memoradum of Ohana-eze Ndigbo	Memorandum	Enugu	25-4-01
			2	Proposed amendment to the petition	Memorandum	Enugu	25-4-01
			3	Executive summary of petition	Memorandum	Enugu	25-4-01
			4	Report of Kano State riot	Report	Enugu	25-4-01
			5	Nigeria/Biafra conflict	Document	Enugu	25-4-01
			6	Maginalisation of Nigeria policy	Document	Enugu	25-4-01

			7	Report of the Panel of investigation between May – Oct. 1966.	Report	Enugu	25-4-01
			8	“Nigeria Five Majors”	Book	Enugu	25-4-01
			8A	Pages 158-159 of Exhibit 8	Document	Enugu	25-4-01
			9	“Why we struck”	Book	Enugu	25-4-01
			9A	Pages 23-24 of Exhibit 9	Document	Enugu	25-4-01
			10	Nigerian civil war	Document	Enugu	25-4-01
			11	Record of service of Patrick	Record	Enugu	25-4-01
			12	Petition of Patrick	Memorandum	Enugu	25-4-01
			13	Acknowledgement receipt of his petition.	Document	Enugu	25-4-01
			14	An introduction of Chief Prof. A. N. A. Modebe	Document	Enugu	26-4-01
			15	Program crisis 1966	Document	Enugu	26-4-01
			16	Memorandum on U.N.C.P.	Memorandum	Enugu	26-4-01
			17	Lease	Document	Enugu	26-4-01
			18	Subleasing	Document	Enugu	26-4-01
			19	C.T.C of the ruling of F. H. C. holden at Kano.	Court ruling	Enugu	26-4-01
			20	Petition of Igbo Community Association, Kano	Memorandum	Enugu	26-4-01
			21	Violation of Asaba People’s rights	Document	Enugu	26-4-01
			22	Reply of Engr. K. U. Nwokolo	Reply	Enugu	26-4-01
			23	“Blood on the Major”	Book	Enugu	26-4-01
			23 <sup>A</sup>	Pages 125 – 127 of Exhibit 23	Pages	Enugu	26-4-01
			23 <sup>B</sup>	Pages 115 – 116 of	Pages	Enugu	26-4-01

				exhibit 23			
			24	Memorandum presented by the President.	Memorandum	Enugu	26-4-01
			25	Pages 23 – 24 of Exhibit 1	Pages	Enugu	26-4-01
			26	Memrandum of Mazi Ukpabi Ukpabi for Ikwere Community.	Memorandum	Enugu	26-4-01
			27	Affidavit sworn on 17/8/70	Affidavit	Enugu	26-4-01
			28	Affidavit sworn also on 1970	Affidavit	Enugu	26-4-01
			29	Financial agreement dated 3-5-84.	Document	Enugu	26-4-01
			30	Copy of detention warrant dated 22 <sup>nd</sup> November 1994.	Document	Enugu	3-5-01
			31	Written report on the cause of death of Gideon.	Report	Enugu	3-5-01
			32	Report of investigation on the death of Gideon.	Report	Enugu	3-5-01
			33	Daily Mirror of July 1968	Newspaper	Enugu	3-5-01
			34	Daily Mirror of July 1968	Newspaper	Enugu	3-5-01
			35	Daily Mirror of July 1968	Newspaper	Enugu	3-5-01
			36	Daily Mirror of July 1968	Newspaper	Enugu	3-5-01
			37	Daily Mirror of July 1968	Newspaper	Enugu	3-5-01
			38	Daily Mirror of April 1968	Newspaper	Enugu	3-5-01

			39	Letter to HRIVC	Letter	Enugu	3-5-01
			40				
			41	Letter dated 18/4/66	Letter	Abuja (2 <sup>nd</sup> )	26-7-01
			42	Interim report on unification of Civil servants.	Report	Abuja (2 <sup>nd</sup> )	26-7-01
			43	The constitution (suspension and modification) Decree 5	Constitution	Abuja (2 <sup>nd</sup> )	26-7-01
			44	“Defamatory and offensive”	Document	Abuja (2 <sup>nd</sup> )	26-7-01
			45	Daily times “Zik is 76”	Newspaper	Abuja (2 <sup>nd</sup> )	26-7-01
			46	Institution constituting the Northern group of provinces (disturbances) tribunal of inquiry No. 56 of 1966.	Document	Abuja (2 <sup>nd</sup> )	26-7-01
			47	The constitution suspension and modification (Decree 1967)	Constitution	Abuja (2 <sup>nd</sup> )	26-7-01
			48	“Story of the Ibibio Union” Sir Woo Idoma’s book	Book	Abuja (2 <sup>nd</sup> )	26-7-01
			49	“The plot thickness’ chap xii	Chapter	Abuja (2 <sup>nd</sup> )	26-7-01
			50	New Nigerian publication date 18 <sup>th</sup> May 1974.	Newspaper	Abuja (2 <sup>nd</sup> )	26-7-01
			51	New Nigerian dated 13/2/74	Newspaper	Abuja (2 <sup>nd</sup> )	26-7-01
			52	National military Government Decree	Decree	Abuja (2 <sup>nd</sup> )	26-7-01
			53	“No Genocide”.	Document	Abuja (2 <sup>nd</sup> )	26-7-01

			54	Response o Ohana-eze petition	Response	Abuja (3 <sup>rd</sup> )	6-9-01
			55	Map of Port Harcourt	Map	Abuja (3 <sup>rd</sup> )	6-9-01
			56	A book titled "No place to hide"	Book	Abuja (3 <sup>rd</sup> )	6-9-01
			57	International politics of Nigerian civil war 1967-1970.	Book	Abuja (3 <sup>rd</sup> )	6-9-01
			58	Fed. Republication of Nig. army	Document	Abuja (3 <sup>rd</sup> )	6-9-01
			59	Copy of the torn Quaran	Quaran	Abuja (3 <sup>rd</sup> )	6-9-01
			60	Case diary.	Case diary	Abuja (3 <sup>rd</sup> )	6-9-01
			61.	Addendum to petition	Addendum	Abuja (3 <sup>rd</sup> )	6-9-01
			62.	Amendment to ACF petition	Memorandum	Abuja (3 <sup>rd</sup> )	7-9-01
			63.	Addendum to ACF petition	Addendum	Abuja (3 <sup>rd</sup> )	7-9-01
			64.	Summary of ACF petition	Memorandum	Abuja (3 <sup>rd</sup> )	7-9-01
			65.	Gazette no. 63 of 5/12/1983	Gazette	Abuja (3 <sup>rd</sup> )	7-9-01
			65a.	Appendix 6 of ACF pages 299-308	Appendix	Abuja (3 <sup>rd</sup> )	7-9-01
			66.	"Nigeria: the two political amalgam"	Book	Abuja (3 <sup>rd</sup> )	7-9-01
			67.	"Kindle Nigeria history" by M.D. Yusuf	Book	Abuja (3 <sup>rd</sup> )	7-9-01
			68.	Report from Kano State Police Command on Gideon Akaluka	Report	Abuja (3 <sup>rd</sup> )	8-10-01
			69.	Response of the government of Rivers State	Response	Abuja (3 <sup>rd</sup> )	8-10-01
			70.	Response of Ogbakor			

				Ikwere curation	Response	Abuja (3 <sup>rd</sup> )	8-10-01
			71.	Joint Action Committee of the Middle Belt (JACOMB)	Memorandum	Abuja (3 <sup>rd</sup> )	8-10-01
			72.	Newswatch magazine	Magazine	Abuja (3 <sup>rd</sup> )	8-10-01
			73.	“Beckoned to serve”	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			74.	“Nzeowu by Olusegun Obasnjo”	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			75.	Guardian Newspaper	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			76.	The News “ZIK: 1904-1996”	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			77.	“Readings on federalism”			
			78.	“The International politics of the Nigeria Civil War 1967 – 1970	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			79.	A book title “AWO”	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			80.	“The Nig. Situation, facts and background”	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			81.	Embattled men by Mkango Okoye	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			82.	“AWO and Nigeria Civil War”	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			83.	Letter titled “secret” addressed to Kaduna State Government	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			84.	“In God’s Hands” by Nehe	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			85.	Irebo Attah part 2 “The Abyss descent”	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			86.	Africa today Newspaper	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			87.	Report of the Commission appointed to inquire into the fears	Report	Abuja (3 <sup>rd</sup> )	8-10-01

				of minorities and the means of allaying their fears (page 104) (unilinks report)			
			88.	“Life of Abubakar Bello pages 215-216	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			89.	“Nigeria in conflict”	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			90.	“But always as friends”	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			91.	Map of minorities in Nigeria	Map	Abuja (3 <sup>rd</sup> )	8-10-01
			92.	Dr. Yusuf Yaraki page 56	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			93.	Aminu Mohammed book page 12	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			94.	Visit to Shagari in Benue State	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			95.	A book titled “Kaduna mafia” p.49	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			96.	Letter from ACF dated 1/5/01	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			97.	The original summons	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			98.	“Let truth be told”	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			99.	Names of 20 people who were extra judicially killed by Kano State Govt.	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			100.	Abandoned properties enacted act	An Act	Abuja (3 <sup>rd</sup> )	8-10-01
			101.	Rivers State Govt. on allocation of plots	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			102.	Opening remark by ACF	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			103.	Revelation remark by ACF	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			104.	The Army nations of	Document	Abuja (3 <sup>rd</sup> )	8-10-01

			1966				
			105.	“Northern Emir’s killed Sardauna not Ibos”	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			106.	Address of President of FRN	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			107.	Lesson in Governor’s apology	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			108.	“Reminiscence of Lt. Col. Francis Adekunle Fajuyi. Hero of our time”	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			109.	“The death of Biafra”	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			110.	“Nigeria be reconciled”	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			111.	Pope’s olive branch to the orthodox (BBC News) Friday 4/5/2001	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			112.	Nzeogwu page 150	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			113.	Pani’s application for loan	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			114.	Certificate of Occupancy No. 11545 plot No.51 Sultan Bello Road	C of O.	Abuja (3 <sup>rd</sup> )	8-10-01
			115.	Northern Nigeria Staff Housing Scheme policy No. 2205	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			116.	Housing Loan Scheme of late Mr. J.Y. Pani	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			117.	Document of 24 non-member extracted from 1906	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			118.	This day vol.7 no. 2326 P.13	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			119.	The Guardian 29/1/2001	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			120.	Middle Belt Solidarity	Document	Abuja (3 <sup>rd</sup> )	8-10-01

			121.	Guardian 6/7/2000	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			122.	Punch 10/10/2000	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			123.	Punch	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			124.	Punch 16/10/2000	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			125.	Standard 10/8/2001	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			126.	Politics on Monday 30/10/2001	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			127.	The News 22/5/2000	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			128.	Tell Magazine 31/7/2000	Magazine	Abuja (3 <sup>rd</sup> )	8-10-01
			129.	Bedrock	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			130.	Vision Magazine	Magazine	Abuja (3 <sup>rd</sup> )	8-10-01
			131.	Guardian 5/7/2001	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			132.	Letter (27/7/99)	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			133.	Letter (26/7/94)	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			134.	Letter (7/5/98)	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			135.	Letter (22/8/94)	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			136.	Letter	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			137.	Letter (14/4/98)	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			138.	Letter (20/4/98)	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			139.	Letter (20/4/98)	Letter	Abuja (3 <sup>rd</sup> )	8-10-01
			140.	The Week	Magazine	Abuja (3 <sup>rd</sup> )	8-10-01
			141.	Guardian 11/6/2000	Newspaper	Abuja (3 <sup>rd</sup> )	8-10-01
			142.	Abandoned property edict	Edict	Abuja (3 <sup>rd</sup> )	8-10-01
			143.	Federal Act	Act	Abuja (3 <sup>rd</sup> )	8-10-01
			144.	National Boundary Commission Act	Act	Abuja (3 <sup>rd</sup> )	8-10-01
			145.	Annexure A	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			146.	Suit AK/42/87	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			147.	“Sunset in Biafra”	Book	Abuja (3 <sup>rd</sup> )	8-10-01
			148.	“Prisoner”	Document	Abuja (3 <sup>rd</sup> )	8-10-01
			149.	Memorandum of retired			

				Chief Judge of Anambra State	Memorandum	Abuja (3 <sup>rd</sup> )	8-10-01
			150.	Annexure of exhibit 149	Annexure	Abuja (3 <sup>rd</sup> )	8-10-01
			151.	Yoruba petition (Afenifere)	Memorandum	Abuja (3 <sup>rd</sup> )	8-10-01
147.	JESSE ADVANCEMENT MOVEMENT (O.E. EMENE)	1673	1.	Petitioner's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	8-10-01
148.	AMAEKE ITEM DEVELOPMENT UNION	1685	1.	Petitioner's memorandum	Memorandum	Enugu	27-4-01
			2.	Written evidence of Chief Emmanuel Amaeke	Document	Enugu	27-4-01
			3.	Written evidence of Chidi	Document	Enugu	27-4-01
			4.	"A secured lease of life". A true miraculous experience of deliverance during the Nigeria Civil War	Book	Enugu	27-4-01
			5.	Video cassette of Chidi	Video cassette	Enugu	27-4-01
			6.	Rivers State of Nigeria official gazette publishing Authority P.H. 1/11/72	Gazette	Enugu	27-4-01
			7.	Govt. of Rivers State Housing and Property Development Authority Edict 1985	Edict	Enugu	27-4-01
			8.	The Rivers State Govt. of Nigeria headed paper titled "The abandoned property custody and management Edict 1969 Edict No.8 of 1969	Document	Enugu	27-4-01

			9.	Rivers State Govt. of Nigeria abandoned properties Authority titled "release of abandoned properties"	Document	Enugu	27-4-01
			10.	Mascot Abali headed paper titled "Renewal of lease 99 years in no. 2 Mbonu Street plot 80 Ogbunabah West layout P.H. Rivers State 21/5/1975	Document	Enugu	27-4-01
			11.	Renewal of lease 99 years in No.2 Mbonu Street plot 80 Ogbunabah West Layout P.H. Rivers State 21/5/1975	Document	Enugu	27-4-01
			12.	PCO letter written by M.I. Abali Applying for the renewal of his lease at the same plot address above date	Letter	Enugu	27-4-01
149.	IHUNWO OBI-WALI	1710	1.	Petitioner's memorandum	Memorandum	Port-Harcourt	19-1-01
			2.	Legal advice from the DPP of Rivers State	Legal advice	Port-Harcourt	19-1-01
150.	MR.& MRS. S. ONWADINOBI	1714	1.	Petitioner's memorandum	Memorandum	Abuja (2 <sup>nd</sup> )	17-4-01
			2.	Report of a British subject Nkechi Nwadinobi killed by the Nigerian Police at Enugu	Report	Abuja (2 <sup>nd</sup> )	17-4-01

				State dated 18/4/94			
			3.	(No.26/94) letter to the Minister of Foreign Affairs by the British High Commission	Letter	Abuja (2 <sup>nd</sup> )	17-4-01
			4.	Police report addressed to AIG of Police Zone 4	Report	Abuja (2 <sup>nd</sup> )	17-4-01
			5.	Reminder letter dated 1/8/94	Letter	Abuja (2 <sup>nd</sup> )	17-4-01
			6.	(Govt. of Enugu State) letter addressed to AIG 2 GD Zone 4 Headquarters Makurdi dated 2/1/97	Letter	Abuja (2 <sup>nd</sup> )	17-4-01
			7.	Statement of driver who conveyed the deceased	Statement	Abuja (2 <sup>nd</sup> )	17-4-01
			8.	Second statement of the drive	Statement	Abuja (2 <sup>nd</sup> )	17-4-01
			9.	I.D. Card as Exhibit	I.D. Card	Abuja (2 <sup>nd</sup> )	17-4-01
			10.	Signature of the driver	Document	Abuja (2 <sup>nd</sup> )	17-4-01
			11.	Response of Damian Ejikere	Response	Abuja (2 <sup>nd</sup> )	17-4-01
			12.	Report from Zone 4 Makurdi	Report	Abuja (2 <sup>nd</sup> )	17-4-01
			13.				
			14.	Statement made at Enugu	Document	Abuja (2 <sup>nd</sup> )	17-4-01
			15.	Statement at zone 4	Document	Abuja (2 <sup>nd</sup> )	17-4-01
			16.	Report written at State CID Enugu	Report	Abuja (2 <sup>nd</sup> )	17-4-01
			17.	Signal	Signal	Abuja (2 <sup>nd</sup> )	17-4-01
151.	RUFUS AKERDOLU	1720	1.	Petitioner's memorandum	Memorandum	Abuja (2 <sup>nd</sup> )	11-4-01
152.	SANUSI MATO	1761	1.	Petitioner's	Memorandum	Lagos	21-11-00

				memorandum			
			2.	Amended petition		Lagos	21-11-00
			3.	Claims for losses suffered by Commodore company.	Document	Lagos	21-11-00
153.	CAPT. A.A. OGUNSUYI	1771	1.	Petitioner's memorandum	Memorandum	Lagos	29-11-00
			2.	Newspaper publication	Newspaper	Lagos	29-11-00
			3.	Newspaper publication	Newspaper	Lagos	29-11-00
			4.	Newspaper publication	Newspaper	Lagos	29-11-00
			5.	Newspaper publication	Newspaper	Lagos	29-11-00
			6.	List of investment removed	Inventory	Lagos	29-11-00
154.	FRANCIS EDE	1772	1.	Petitioner's memorandum	Memorandum	Enugu	23-4-01
			2.	Sketch of the where the petitioner was put	Drawing	Enugu	23-4-01
			3.	Photograph of the petitioner in chairs	Photograph	Enugu	23-4-01
			4.	Medical report in respect of the petitioner	Report	Enugu	23-4-01
			5.	Prison Medical Report	Medical report	Enugu	23-4-01
			6.	Letter (8/3/1998)	Letter	Enugu	23-4-01
			7.	Letter (9/9/1998)	Letter	Enugu	23-4-01
			8.	Letter (17/9/1998)	Letter	Enugu	23-4-01
			9.	Detention order	Document	Enugu	23-4-01
			10.	X-ray	X-ray	Enugu	23-4-01
			11.				
			12.	CTC of the judgment in Edet Francis' case			
155.	CHIEF OLUSANYA AWOTESU	1773	1.	Petitioner's memorandum	Memorandum	Lagos	4-12-00
			2.	Appendixes to the petition	document	Lagos	4-12-00

			3.	Letter dated 9/1/84	Letter	Lagos	4-12-00
			4.	Letter dated 9/1/84	Letter	Lagos	4-12-00
156.	GEORGE MBA	1773B	1.	Petitioner's memorandum	Memorandum	Lagos	5-12-00
			2.	Medical report	Report	Lagos	5-12-00
157.	CHARLES OBI	1774	1.	Petitioner's memorandum	Memorandum	Lagos	5-12-00
158.	CHRISTIAN OKONGWU	1776	1.	Petitioner's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	13-9-01
159.	UMUODE COMMUNITY	1778	1.	Petitioner's memorandum	Memorandum	Enugu	30-4-01
			2.	Letter written to the Police command Enugu titled "Re-reception for Hon. Prof. Batholomew Nnaji (former Minister for Science and Tech. Dated 2/10/95)	Letter	Enugu	30-4-01
			3.	Letter dated 4/10/1998	Letter	Enugu	30-4-01
			4.	Radio message	Document	Enugu	30-4-01
			5.	Court order on the Umode Community	Court order	Enugu	30-4-01
			6.	Letter addressed to COP	Letter	Enugu	30-4-01
			7.	Letter to the milad Enugu State dated 4/3/1999	Letter	Enugu	2-5-01
			8.	Letter to the Chairman Nkanu East LGA dated 5/5/99	Letter	Enugu	2-5-01
			9.	Creation/reorganization of autonomous Community letter dated 28/9/98	Document	Enugu	2-5-01
			10.	Enugu State official			

				gazette published in 1995	Gazette	Enugu	2-5-01
			11.	Deed of Assignment dated 20/7/95	Document	Enugu	2-5-01
			12.	Letter addressed to the head of State. Re-location of Umuode people resident in Oruleu	Letter	Enugu	2-5-01
			13.	Letter addressed to the Executive Council Head of Service 15/3/1992	Letter	Enugu	2-5-01
			14.	Amended 1976 constitution – code of conduct for chieftaincy affairs in Oruku town Enugu	Document	Enugu	2-5-01
			15.	Enugu State of Nigeria official gazette published in 1999 22 <sup>nd</sup> April	Gazette	Enugu	2-5-01
			16.	Govt. of Engu State report of the administrative panel of inquiry into recent disturbances in Oruku Community Nkanu LGA Enugu State.	Report	Enugu	2-5-01
			17.	Deemed necessary report as chairman Oruku caretaker committee	Report	Enugu	2-5-01
			18.	Enugu State Govt. report of the panel on creation of autonomous	Report	Enugu	2-5-01

				communities out of the oresent Oruku Community Enugu State			
			19.	An album containing the destroyed houses	Album	Enugu	2-5-01
			20.	Video cassette	Video tape	Enugu	2-5-01
			21.	Response of Engr. Raymond	Response	Enugu	2-5-01
			22.	Masterplan of Oruku	Plan	Enugu	2-5-01
160.	EMMANUEL U.	1781	1.	Petitioner's memorandum	Memorandum	Enugu	3-5-01
			2.	Response of Prof. Elu- Anucheazi	Response	Enugu	3-5-01
161.	LILI GAMBARI	1782	1.	Letter from Gen. Buhari	Letter	Abuja (3 <sup>rd</sup> )	17-9-01
			2.	Petitioner's memorandum	Memorandum	Abuja (3 <sup>rd</sup> )	17-9-01
162.	MR. S.O. OLUSEMO	1799	1.	Withdrawal letter of petition	Letter	Abuja (3 <sup>rd</sup> )	17-9-01
163.	SYLVESTER A.	1913	1.	Petitioner's memorandum	Memorandum	Lagos	5-12-2000
			2.	Photograph	Photograph	Lagos	5-12-2000
			3.	Prison watch	Document	Lagos	5-12-2000
			4.	Prayers	Document	Lagos	5-12-2000
			5.	Detention warrant under Decree 2	Document	Lagos	5-12-2000

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