

NIGERIA

THE OGONI CRISIS

A Case-Study Of Military Repression In Southeastern Nigeria

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SUMMARY

Two years after the annulment of the June 12, 1993 presidential election, which was widely viewed to have been won by Chief Moshood Abiola, the Nigerian political climate is volatile and human rights violations are pervasive. The repressive tactics of the current government of General Sani Abacha, who seized power in November 1993, have generated increasing skepticism throughout the country about the promised transition to democracy. In the week preceding the second anniversary of the annulment, the Abacha government stepped up arrests of human rights and pro-democracy activists and announced that a ban on *The Punch* and *The Concord* publications, imposed in the fall of 1994, would be extended for six months; a ban on *The Guardian* publications remains in effect. On June 5, the government commenced a closed trial by a military tribunal of twenty-three alleged coup plotters. Meanwhile, Chief Abiola, pro-democracy activists, trade union leaders, and journalists remain in detention. A government-appointed administrator is currently running the trade unions, and the powers of the judiciary have been progressively circumscribed. Human rights abuses in the oil-producing areas, most of which are concentrated in the Niger Delta in southeastern Nigeria, have been particularly severe. The government has been engaged in a systematic crackdown in Ogoniland since May 1994, and other communities have also been subject to attacks by the security forces.¹

The Movement for the Survival of Ogoni People (MOSOP), under the leadership of Ken Saro-Wiwa, has been at the forefront of the confrontation between the indigenous communities of the Niger Delta, the oil companies, and the government, which has sent in troops to crush local protest movements. Like other communities in oil-producing areas, the Ogoni contend that multinational oil companies, particularly the Shell Petroleum Development Company, with the active cooperation of the Nigerian government, have ravaged their land and contaminated their rivers, while providing little, if any, tangible benefit in return.

In the course of ongoing correspondence and discussion with Human Rights Watch, Shell officials have admitted requesting assistance from the Nigerian military authorities to defend the company's installations. While Shell suspended production in Ogoniland in mid-1993 in the face of increasing local and international protests, the abuses set in motion by Shell's reliance on military protection there continue. The Rivers State Internal Security Task Force—a special military unit—continues to target Ogonis for human rights abuses based on real or imputed association with MOSOP. The government's measures to suppress the Ogoni organization have not occurred in isolation: military operations have also been launched to quell protests by communities in other oil-producing areas with similar grievances. In the aftermath of military raids on villages associated with indigenous movements, community leaders have been detained without charge or faced trial by ad hoc courts.

This report, based on a three-week investigation by Human Rights Watch/Africa in southeastern Nigeria in late February and early March, focuses on the most recent phase of the military crackdown in Ogoniland, which began in late May 1994 following the murders by a mob of four Ogoni leaders who had been branded as pro-government. In the wake of the murders, which occurred under disputed circumstances, the Rivers State Internal Security Task Force embarked on a series of punitive raids on Ogoni villages. These raids were characterized by flagrant human rights abuses, including extrajudicial executions, indiscriminate shooting, arbitrary arrests and detention, floggings, rapes, looting, and extortion, which violate Nigeria's obligations under international law and the Nigerian Constitution. The case of detained Ogoni leader Ken Saro-Wiwa and other MOSOP activists, who are being tried by a special tribunal for complicity in the May 1994 murders, is also discussed in this report.

¹For more information regarding generalized human rights abuses since June 1993, see Africa Watch (now Human Rights Watch/Africa), "Democracy Derailed: Hundreds Arrested and Press Muzzled in Aftermath of Election Annulment," *A Human Rights Watch Short Report*, vol. 5, no. 11, August 27, 1993; Human Rights Watch/Africa, "'The Dawn of a New Dark Age': Human Rights Abuses Rampant as Nigerian Military Declares Absolute Power," *A Human Rights Watch Short Report*, vol. 6, no. 8, October 1994.

For the first time since the violence began in 1993, testimony about the Nigerian military's punitive campaign in Ogoniland has been taken from soldiers who were themselves involved in the violence, as well as from civilian victims. Two Nigerian soldiers described to Human Rights Watch their participation in clandestine military raids designed to appear like communal clashes; these testimonies are just part of a picture that discredits the government's claims that outbreaks of violence in Ogoniland prior to May 1994 were the result of ethnic strife. Two other soldiers described their roles in the most recent phase of the crackdown in interviews with Human Rights Watch.

To place the Ogoni crisis in context, the report documents attacks by the security forces on other indigenous communities in the Niger Delta, where local residents have begun to emulate MOSOP's well-organized protests. The report also addresses Shell's involvement in human rights abuses in Ogoniland and other oil-producing areas, as well as the efforts of Human Rights Watch to convince Shell to play a socially responsible role in ending such abuses. Finally, the report outlines policy initiatives taken to date by the international community to promote democracy and human rights in Nigeria. The Nigerian authorities have been impervious to these initiatives thus far.

Independent monitoring of the situation in Ogoniland has been severely restricted by the government since the violence began in 1993. Journalists and others who have tried to visit the area without a military escort have been arrested and sometimes deported. The authorities permitted Human Rights Watch researchers to tour part of the area only with a military escort. On another occasion, Human Rights Watch took a circuitous route to visit the destroyed villages of Eemu, Gbaeken, Tumbe, Ledor, and Oloko I, which were attacked prior to May 1994, without a military escort. Due to the heavy military presence in Ogoniland, Human Rights Watch also interviewed Ogoni villagers outside the restricted region. Human Rights Watch collected testimonies from over thirty Ogoni witnesses and victims of human rights abuse, who were all interviewed privately. For security reasons, the names of the interviewees cited in this report are indicated by an initial.

Human Rights Watch also met with local human rights activists, Ogoni leaders who have withdrawn from MOSOP, Nigerian government officials, Nigerian soldiers on active duty, and representatives of multinational oil companies. In addition, Human Rights Watch traveled to Brass, Nembe Creek, Obagi, and Rumuobiokani to interview witnesses and victims of military operations in those areas. Human Rights Watch researchers were denied permission to visit Ken Saro-Wiwa and other MOSOP activists detained at Bori Military Camp, but attended two sessions of the trial of Ken Saro-Wiwa and other MOSOP activists.

RECOMMENDATIONS

Human Rights Watch/Africa calls on the **Government of Nigeria** to:

1. Order the Rivers State Internal Security Task Force to cease immediately extrajudicial executions, indiscriminate shooting, arbitrary arrests and detention, floggings, rapes, looting, and extortion;
2. Disband the special tribunal established to try those accused of the May 21, 1994 murders of four Ogoni leaders;
3. Facilitate the immediate and unconditional release of all detainees held solely for the non-violent expression of their political beliefs, drop all politically motivated charges against them, and cease arbitrary detention without charge;
4. Convene an independent commission of inquiry to investigate the May 21, 1994 murders;
5. Insofar as credible evidence exists for any defendants accused of complicity in legally recognizable crimes, try them within a reasonable time before a competent, independent, and impartial court in compliance with Nigeria's

obligations under international human rights law and the Nigerian Constitution;

6. Convene independent commissions of inquiry to investigate the actions of the Internal Security Task Force in Ogoniland and as yet uninvestigated attacks on other oil-producing communities;

7. Publicly prosecute in accordance with international standards all members of the Nigerian security forces who are implicated in violent human rights abuses;

8. Pending conclusion of the prosecutions, suspend members of the security forces implicated in violent human rights abuses;

9. Open Ogoniland to independent observers and human rights monitors, who should be allowed unimpeded access to the area without military escort;

10. Open the Kpor and Bori detention centers to independent monitors and ensure that detention conditions are consistent with international standards;

11. Provide relief, rehabilitation, and resettlement assistance to residents of oil-producing areas who have suffered losses in government-sponsored attacks.

Human Rights Watch/Africa recommends that the **international community** press the Nigerian government to implement the above recommendations through public criticism, active monitoring of political trials, and policies of aid and trade. In particular:

Member States of the European Union should adopt a legally binding common position, in accordance with Article J.2 of the Treaty of Maastricht, incorporating some of those measures already agreed upon as "politically binding," namely:

- suspension of military cooperation,
- visa restrictions for members of the military and security forces who are reliably accused of participation in human rights abuses,
- suspension of visits by members of the military and intelligence service,
- imposition of case-by-case review, with a presumption of denial, for all new export license applications for defense equipment,
- cancellation of training courses for all Nigerian military personnel,
- review of new European Union aid projects on a case-by-case basis, and
- suspension of all non-essential high-level visits to and from Nigeria.

The European Union and its member states should also promote compliance by the Nigerian government with international human rights standards by:

1. Pressing the Nigerian government to implement the above recommendations;
2. Publicly naming those members of the Nigerian government to whom visas are denied as a result of their complicity in human rights violations;
3. Freezing all foreign assets of members of the Nigerian government who are responsible for serious human rights violations;
4. Moving beyond case-by-case review, with a presumption of denial, for export license applications for defense

equipment to embargoes on the sale and shipment of arms to the Nigerian government;

5. Using their leverage in the World Bank, the African Development Bank, and other international financial institutions to block all non-"basic human needs" loans and disbursements to Nigeria;

6. Publicly raising the issue of political prisoners with the Nigerian government and making efforts to visit prisoners in detention;

7. Sending observers to the trials of Ken Saro-Wiwa and other MOSOP activists charged with the May 21, 1994 murders;

8. Urging their embassies to support the efforts of Nigerian human rights groups by meeting regularly with Nigerian human rights activists and issuing statements condemning human rights abuses.

The **United States** should promote compliance by the Nigerian government with international human rights standards by:

1. Pressing the Nigerian government to implement the above recommendations;
2. Rigorously enforcing the existing policy of denying visas to Nigerians who formulate or implement policies impeding a transition to democracy in Nigeria or who benefit from such policies;
3. Rigorously enforcing the existing policy of case-by-case review of military sales, with the presumption of denial, and moving beyond this policy to an embargo of all arms sales and shipments to Nigeria;
4. Implementing other policies consistent with those recommended for the European Union and its member states.

Commonwealth member states should promote compliance by the Nigerian government with international human rights standards by:

1. Pressing the Nigerian government to implement the above recommendations;
2. Implementing policies consistent with those recommended for the European Union and its member states;
3. Urging the Commonwealth secretariat to condemn human rights abuses in Nigeria.

African governments should promote compliance by the Nigerian government with international human rights standards by:

1. Pressing the Nigerian government to implement the above recommendations;
2. Implementing policies consistent with those recommended for the European Union and its member states;
3. Urging the Organization of African Unity to condemn human rights abuses in Nigeria.

Human Rights Watch/Africa urges the **United Nations** to adopt a comprehensive approach to address the human rights situation in Nigeria. Specifically:

1. The U.N. should pass a resolution during the fifty-second session of the U.N. Human Rights Commission condemning human rights abuses by the Nigerian government, including abuses against residents of oil-producing

areas;

2. The U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities should investigate human rights abuses by the Nigerian government, including extrajudicial executions, indiscriminate shooting, arbitrary arrests and detention, floggings, rapes, looting, and extortion in Ogoniland; submit a report of its findings to the U.N. Human Rights Commission; and adopt a resolution condemning human rights abuses in Nigeria at its 1995 session;
3. The U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions should visit Nigeria and investigate killings of residents of oil-producing areas, submit a report to the U.N. Human Rights Commission, and continue to appeal to the Nigerian government regarding human rights abuses against residents of oil-producing areas;
4. The U.N. Special Rapporteur on the Independence of the Judiciary should attend the trials of Ken Saro-Wiwa and other MOSOP activists and submit a report to the U.N. Human Rights Commission;
5. The U.N. Working Group on Arbitrary Detention should investigate the cases of detained Ogonis who have been neither charged nor brought to trial;
6. The U.N. Special Rapporteur on Violence Against Women should investigate instances of rape by soldiers in the oil-producing areas and submit a report to the U.N. Human Rights Commission.

Human Rights Watch/Africa calls on **Royal Dutch/Shell and other multinational oil companies operating in Nigeria** to adhere to a set of basic human rights principles in the course of their business operations. By virtue of their influence in Nigeria and their participation in joint ventures in which the government is a principal stakeholder, the multinational oil companies are well placed to convey their concern about Nigeria's rapidly deteriorating human rights record in the course of their business dealings with local, state, and federal authorities. Because the Nigerian security forces have often employed grossly abusive measures to quell protests by residents of oil-producing areas against the activities of the multinational oil companies, the oil companies have a particular responsibility to address abuses perpetrated in this context. Human Rights Watch/Africa encourages the multinational oil companies to:

1. Appoint responsible high-ranking corporate officials to monitor the use of force by the Nigerian military in the oil-producing areas and to denounce the use of unjustified or excessive force;
2. Urge the Nigerian government to allow nonviolent freedom of association and expression, particularly with respect to grievances directed against the oil industry;
3. Publicly and privately call upon the Nigerian government to restrain the use of armed force in the oil-producing areas;
4. Publicly and privately condemn human rights abuses by the Nigerian security forces in the areas where the companies are operating;
5. Urge the Nigerian government to cease arbitrary detention of peaceful protesters and to release all individuals held for the nonviolent expression of their political beliefs;
6. Protest the Abacha government's dissolution of the governing bodies of the oil workers' unions and detention of oil union leaders without charge or trial, and press the government for their reinstatement;
7. Shell and Chevron should refuse to resume production in Ogoniland until the Nigerian government has ceased

human rights abuses against the Ogoni, has conducted an independent investigation of military and police activities in Ogoniland, has publicized the results, has brought to trial those who directed and carried out violent abuses, and has disbanded the special tribunal established to try Ken Saro-Wiwa and other MOSOP activists.

BACKGROUND

Nigeria's estimated population of 88.5 million includes several hundred ethnic groups. The largest of these groups, the Hausa-Fulani, the Yoruba, and the Igbo, have dominated Nigerian politics since independence. The Hausa-Fulani are concentrated in northern Nigeria, which is widely viewed as the seat of political and military power. The Igbo are based in the eastern region, while the Yoruba live primarily in Lagos and the surrounding areas in the western part of the country. Together, the Hausa-Fulani, the Igbo, and the Yoruba comprise about two-thirds of the population, with the remainder consisting of more than two hundred minority groups who are scattered throughout the country.²

Some minority groups have protested against what they perceive to be the inequities of Nigeria's federal structure. Members of minority groups in the Niger Delta, whose land is the source of over 90 percent of Nigeria's oil, have been especially vocal in this regard.³ They oppose the prevailing revenue allocation formula, under which the federal, state, and local governments have almost complete discretion over the distribution of oil proceeds.⁴ Communities in oil-producing areas contend that this system deprives them of their livelihood by enabling powerful elites in other regions of the country to reap the benefits of oil revenues. These communities advocate a return to revenue allocation based on derivation, which would require the federal government to pay each region a substantial share of the proceeds of royalties and mining rents derived from their areas.⁵

Communities in oil-producing areas, whose economies are based largely on subsistence farming and fishing, also believe that they have not been adequately compensated for the takeover of their land by multinational oil

²These figures were taken from Rotimi T. Suberu, "The Travails of Federalism in Nigeria," in Larry Diamond and Marc F. Plattner, eds., *Nationalism, Ethnic Conflict, and Democracy* (Baltimore: The Johns Hopkins University Press, 1994), p. 56.

³Oil accounts for about 90 percent of Nigeria's annual foreign exchange earnings and 80 percent of the federal government's revenue. The Shell Petroleum Development Company of Nigeria Limited (SPDC), "Nigeria Brief: The Ogoni Issue," London, January 25, 1995, p. 2.

⁴The Land Use Decree of 1978 vested control and management of all land comprised in the territory of each state in the military governor of that state. Section 40(3) of the 1979 constitution vested control of minerals, mineral oil, and natural gas in, under, or upon any land in Nigeria in the federal government and conferred upon the National Assembly the power to make laws regarding revenue allocation. The current revenue allocation formula is essentially enshrined in the Allocation of Revenue Act No. 1 of 1982, as amended by Decree 36 of 1984, which grants 55 percent of proceeds to the federal government, 32.5 percent to the state governments, 10 percent to the local governments, 1 percent to a fund for the amelioration of ecological problems, and 1.5 percent to the Oil Mineral Producing Areas Development Commission (OMPADEC). Under Decree 23 of 1992, the proportion of proceeds allocated to OMPADEC was raised to 3 percent. Ledum Mitee, "Changing the Formula," *Constitutional Rights Journal*, vol. 3, no. 9, January - March 1994, p. 13 (published in Lagos by Constitutional Rights Project); Human Rights Watch interview with Uche Onyeagocha, staff attorney, Civil Liberties Organisation (Port Harcourt), Washington, D.C., May 12, 1995.

⁵Revenue allocation based on derivation had been the practice prior to 1979. Under section 134(1) of the 1960 constitution, the federal government was required to pay each region 50 percent of the proceeds of royalties and mining rents derived from that area. The same provision was reenacted without modification as section 140(1) of the 1963 constitution. Following the subdivision of regions into states, Decree 6 of 1975 reduced the states' share of the proceeds from 50 percent to 20 percent. Mitee, "Changing the Formula," *Constitutional Rights Journal*, p. 13.

companies or the ensuing environmental damage. On the issue of compensation, the communities contend that their original agreements with the oil companies, where they exist, were not negotiated on equal terms. On the environmental front, they insist that gas flaring has destroyed plant and wildlife by poisoning the atmosphere and giving rise to acid rain. They maintain that the oil industry has contaminated their local water supply, killed their fish, and ruined their farmland. They attribute all of this to a combination of oil spills, blow-outs, and air pollution. They are further angered by pipelines which pass above ground over land that was once used for agricultural purposes and open waste disposal pits.⁶ They point to the high rate of unemployment, the limited employment of indigenes, the lack of running water and electricity, the shortage of paved roads, and the lack of schools and hospitals in arguing that the oil companies and the government have failed adequately to share the oil wealth with the communities from which it was drawn. The substance of these grievances is beyond the scope of Human Rights Watch's expertise and mandate, but the freedom to express them nonviolently is an internationally recognized human right which Human Rights Watch strongly supports.

The Oil Mineral Producing Areas Development Commission (OMPADEC) was established under Decree No. 23 of 1992 to address the adverse effects of oil production on local communities. The Commission's stated objectives are to provide material compensation for communities, local government areas (municipalities), and states that have suffered environmental or economic deprivation as a result of oil production, and to facilitate various forms of infrastructural and physical development.⁷ The Commission is also available to mediate disputes between local communities and oil companies.⁸

The Shell Petroleum Development Company (SPDC), the Nigerian subsidiary of Royal Dutch/Shell, an Anglo-Dutch company, produces about 40 percent of Nigeria's crude oil output (800,000 barrels per day) and operates the largest joint venture in the country.⁹ The joint venture includes the state-owned Nigerian National Petroleum Corporation (NNPC) (55 percent), Shell (30 percent), Elf, a French company (10 percent), and Agip, an Italian company (5 percent). Prior to mid-1993, SPDC was the principal oil company operating in Ogoniland, with five major oil fields in Bomu, Korokoro, Yorla, Bodo West, and Ebubu.¹⁰ Prior to mid-1993, the SPDC joint venture had five major oil fields in Ogoniland in Bomu, Korokoro, Yorla, Bodo West, and Ebubu. Elf and Agip, the second and third largest onshore producers in the country, are also engaged in separate joint ventures with NNPC. They produce 250,000 barrels per day and 150,000 barrels per day, respectively. The principal offshore producers are Mobil (400,000 barrels per day) and Chevron (300,000 barrels per day), both U.S. companies, which are likewise engaged in separate joint ventures with NNPC.¹¹ In addition to providing a substantial amount of government revenue, the oil companies derive significant profits from their operations in Nigeria. Notably, SPDC contributes 14 percent of Royal Dutch/Shell's global oil production.

⁶Greenpeace International, *Shell-Shocked: The Environmental and Social Costs of Living With Shell in Nigeria* (Amsterdam: Greenpeace International, July 1994), pp. 9-15.

⁷Chief Albert K. Horsfall, Executive Chairman, OMPADEC, *The Dawn of a New Era* (OMPADEC policy briefing, Port Harcourt, December 22, 1992), p. 1.

⁸Chief Albert K. Horsfall, Executive Chairman, OMPADEC, "Oil Minerals Producing Communities In Conflict With Oil Companies: Which Way Forward?" (paper delivered at a seminar organized by the Petroleum and Natural Gas Senior Staff Association of Nigeria, Port Harcourt, March 24-25, 1994).

⁹World Bank, Industry and Energy Operations Division, West Central Africa Department, *Defining an Environmental Development Strategy for the Niger Delta*, vol. I (Washington: World Bank, May 25, 1995), p. 4.

¹⁰SPDC, "Nigeria Brief: The Ogoni Issue," pp. 1-3. Ogoniland is an area of 404 square miles situated in Rivers State, east of Port Harcourt. It includes three local government areas: Khana, Gokana, and Tai-Eleme. The population of Ogoniland is approximately 500,000.

¹¹World Bank, *Defining an Environmental Development Strategy for the Niger Delta*, vol. I, pp. 4-5.

In response to an array of grievances, local communities have increasingly targeted the oil companies in their protests. Protesters have on some occasions resorted to sabotage or seizure of property belonging to the oil companies, as well as attacks on employees: production has sometimes been brought to a halt.

The first major demonstration against SPDC occurred on October 30 and 31, 1990, at Umuechem, an oil-producing community about ten miles east of Ogoniland. On October 29, the divisional manager of SPDC's eastern division wrote to the Rivers State Commissioner of Police to request "security protection," with a preference for mobile police, in anticipation of an "impending attack" on SPDC's facilities in Umuechem allegedly planned for the following morning.¹² Following protests by village youths on SPDC's premises on October 30, SPDC made a written report to the military governor of Rivers State, a copy of which was sent to the Commissioner of Police. On October 31, mobile police attacked peaceful demonstrators with teargas and gunfire. The mobile police returned at 5:00 a.m. the next day, shooting indiscriminately, in a purported attempt to locate three of their members who had not returned the previous evening.¹³ Some eighty people were killed, and 495 houses either destroyed or badly damaged.¹⁴ A judicial commission of inquiry established by the government found no evidence of a threat by the villagers and concluded that the mobile police had displayed "a reckless disregard for lives and property." The commission recommended the prosecution of named police officers and payment of reparations for the loss of lives and property.¹⁵ As of late 1994, the perpetrators of the attack had not been brought to justice, however, and no compensation had been awarded.¹⁶

The Movement for the Survival of Ogoni People (MOSOP) was established in October 1990 and issued an "Ogoni Bill of Rights" as its manifesto.¹⁷ Since then, MOSOP has led protests in the region, while seeking dialogue with both the government and multinational oil companies operating in Ogoniland. In October 1990, MOSOP sent its Ogoni Bill of Rights to General Ibrahim Babangida, the former military president of Nigeria and members of the Armed Forces Ruling Council, but received no reply to its demands for autonomy. In December 1992, MOSOP sent its demands to SPDC, Chevron, and the Nigerian National Petroleum Corporation, along with an ultimatum to pay back royalties and compensation within thirty days or quit Ogoniland.¹⁸ On January 4, 1993, the Ogoni staged the

¹²Letter from J. R. Udofia, SPDC Divisional Manager (East) to the Commissioner of Police, Rivers State, October 29, 1990. The mobile police is a military body subject to the control of the federal government.

¹³Report of judicial commission of inquiry into Umuechem disturbances, under the chairmanship of the Hon. Justice Opubo Inko-Tariah (Rtd.), Rivers State, January 1991.

¹⁴Ibid.; Amnesty International, "Fear of extrajudicial execution/death penalty: Members of the Ogoni ethnic group," *Urgent Action*, UA 176/94, AI Index: AFR 44/02/94, London, May 4, 1994.

¹⁵Report of judicial commission of inquiry into Umuechem disturbances, January 1991.

¹⁶Anyakwee Nsirimovu, "The massacre of an oil-producing community: The Umuechem tragedy revisited" (paper issued by the Port Harcourt Institute for Human Rights and Humanitarian Law, November 1994), p. 3.

¹⁷MOSOP's Ogoni Bill of Rights called for "political autonomy" within the Nigerian federation, including the right to the control and use of a fair proportion of Ogoni economic resources for Ogoni development, adequate and direct representation in all Nigerian national institutions, the use and development of Ogoni languages in Ogoni territory, the full development of Ogoni culture, the right to religious freedom, and the right to protect the Ogoni environment and ecology from further degradation. The addendum to the Ogoni Bill of Rights affirms MOSOP's commitment to nonviolence. See p. 32, below, regarding allegations that some factions of MOSOP have since reneged on this commitment.

¹⁸Presumably because of the larger scope of SPDC's operations, Ogoni protests have been directed primarily toward SPDC. Like Shell, Chevron has ceased drilling in Ogoniland.

first mass demonstration under MOSOP leadership in conjunction with the start of the United Nations Year of Indigenous Peoples. MOSOP met with the Inspector-General of Police in Lagos on January 9, 1993. Mass education and mobilization efforts continued in February and March 1993. On May 13, 1993, a MOSOP delegation met with military officers representing General Babangida's government. MOSOP also met with representatives of the government of Chief Ernest Shonekan, who succeeded Babangida but was ousted when General Abacha seized power. The Abacha government has reportedly refused to respond to MOSOP's written requests for meetings, although Abacha sent a three-minister team to visit some of the oil-producing areas in January 1994.¹⁹

Following the series of protests in early 1993, MOSOP activists were repeatedly arrested and detained on spurious charges. Ken Saro-Wiwa, an internationally renowned writer and MOSOP's spokesperson, was arrested twice in April 1993 and again on June 21, 1993, along with N. G. Dube and Kobari Nwile, both MOSOP activists. On July 13, 1993, criminal charges were brought against the three men as a result of their activities on behalf of the Ogoni community. Ledum Mitee, another MOSOP activist, was arrested and detained without charge for a week in December 1993.²⁰

The government intermittently resorted to violence in an attempt to derail the Ogoni agenda. On April 28, 1993, Willbros, a U.S. pipeline contractor commissioned by Shell, began bulldozing crops on farmland in the Ogoni village of Biara in preparation for the construction of the Rumuekpe-Bomu pipeline. Their activities provoked a mass peaceful demonstration on April 30, prompting Willbros to call in government troops. Eleven people were reportedly injured when the security forces opened fire.²¹ According to a Willbros representative:

[By] 10.00 am ... a large crowd of villagers had gathered Fortunately there was a [m]ilitary presence to control the situation and to offer protection to the workers and equipment. The tension developed to a level where there was real danger to personnel, and the [a]rmy were drawn into a confrontation by the hostile [v]illagers.²²

Shell has claimed that it followed all legally required land acquisition procedures, reached agreements on compensation, and paid the local community.²³ According to the Unrepresented Nations and Peoples Organization, the leaders with whom Shell negotiated did not represent MOSOP, who organized the ensuing protest.²⁴ Following the incident, the general manager of Shell's eastern division wrote to the governor of Rivers State requesting "the

¹⁹Unrepresented Nations and Peoples Organization (UNPO), *Ogoni: Report of the UNPO Mission to Investigate the Situation of the Ogoni of Nigeria, February 17-26, 1995* (The Hague: UNPO, May 1, 1995), pp. 10, 17.

²⁰Amnesty International, "Extrajudicial executions: At least 35 members of the Ogoni ethnic group from the town of Kaa in Rivers State, including Mr. Nwiku and three young children," *Urgent Action*, UA 268/93, London, August 10, 1993; Amnesty International, "Prisoner of conscience/Legal concern/Health concern: Ken Saro-Wiwa, Ledum Mitee, Barinem Kiobel," *Urgent Action*, further information on UA 200/94, AI Index: AFR 44/07/94, London, June 27, 1994.

²¹Amnesty International, "Extrajudicial executions/Fear for safety: Members of the Ogoni ethnic group," UA 249/94, AI Index: AFR 44/06/94, London, June 27, 1994.

²²Letter from J. K. Tillery, Divisional Manager, Willbros West Africa, Inc., to J. R. Udofia, SPDC General Manager (East), May 3, 1993. This account was contained in a "Review of events leading to the withdrawal of workforce from the Bomu area," which was attached to the letter.

²³Letter from David Williams, Shell International Petroleum Company Limited, Regional Liaison, to Dr. van Walt van Praag, Unrepresented Nations and Peoples Organization, General Secretary, May 28, 1993.

²⁴UNPO, *Ogoni*, p. 23.

usual assistance" so that work on the pipeline could proceed.²⁵

As Ogoni protests continued, mounting disagreements regarding MOSOP's structure and strategies created a rift within the organization's leadership. A faction of MOSOP led by Dr. Garrick Leton, the original president, disagreed that MOSOP should become an umbrella for such subgroups as the National Youth Council of Ogoni People (NYCOP), the Federation of Ogoni Women's Associations (FOWA), and the Conference of Ogoni Traditional Rulers Association (COTRA). The Leton faction also alleged that Ken Saro-Wiwa sought complete control of the organization and had encouraged his supporters to employ "militant tactics" on several occasions.²⁶ Saro-Wiwa has repeatedly avowed his commitment to non-violence.²⁷ A controversial decision by the MOSOP steering committee to boycott the June 12, 1993 presidential election ultimately drove Dr. Leton and the late Chief Edward Kobani to resign as MOSOP president and vice-president.²⁸ Saro-Wiwa, who was in prison at the time, was then elected president in absentia by the leaders of all the subgroups making up MOSOP.²⁹ Meanwhile, protests against the government and SPDC continued, and outbreaks of violence in Ogoniland increased.

²⁵Letter from J. R. Udofia, SPDC General Manager (East) to the Governor of Rivers State, May 4, 1993.

²⁶Human Rights Watch interview with Dr. Garrick Leton, Port Harcourt, March 2, 1995.

²⁷See, for example, Ken Saro-Wiwa, "Sanitising Ogoniland," *The Guardian* (London), July 21, 1994.

²⁸Human Rights Watch interview with Dr. Garrick Leton, Port Harcourt, March 2, 1995.

²⁹Tayo Lukula, "Saro-Wiwa elected MOSOP's president in absentia," *The Guardian* (Lagos), July 13, 1993.

MILITARY CRACKDOWN IN OGONILAND

The Role of Communal Violence

The Nigerian government has publicly claimed that outbreaks of violence in Ogoniland prior to May 1994 were the result of ethnic clashes between the Ogoni and neighboring ethnic groups, including the Andoni in July 1993, the Okrika in December 1993, and the Ndoki in April 1994. However, evidence now available shows that the government played an active role in fomenting such ethnic antagonism, and indeed that some attacks attributed to rural minority communities were in fact carried out by army troops in plainclothes.

Professor Claude Ake, a well-known and independent Nigerian academic whom the military appointed in July 1993 to investigate the Ogoni-Andoni disturbances, commented with respect to one alleged clash:

I don't think it was purely an ethnic clash, in fact there is really no reason why it should be an ethnic clash and as far as we could determine, there was nothing in dispute in the sense of territory, fishing rights, access rights, discriminatory treatment, which are the normal causes of these communal clashes.

Ake condemned the hasty formulation of a peace accord among representatives of the Ogoni and Andoni communities, who met in October 1993 under the auspices of the Rivers State Peace Conference Committee and the National Council on Inter-governmental Relations.³⁰ Ake, who was attending a U.N. conference at the time, criticized the failure to investigate the intensity of the fighting and the military sophistication of the weaponry, which seemed to suggest that the conflict was more than merely communal. According to Ake, "One could not help getting the impression that there were broader forces which might have been interested in perhaps putting the Ogonis under pressure, probably to derail their agenda."³¹

Ake's interpretation is supported by Human Rights Watch's interviews with two Nigerian soldiers who described their participation in secret military raids on Ogoniland in 1993, which were designed to appear like intercommunal clashes. Corporal #1 and Private #2, interviewed in different cities in the north and south of the country, said they participated in military operations that took advantage of tensions between the Ogoni and the Andoni to launch 1993 attacks on Ogoniland from Andoni territory.³² Corporal #1 told Human Rights Watch that his unit was sent one night to an assembly point on Andoni land, allegedly as part of a mission to maintain peace between the warring communities. "When we arrived at the assembly point," he said, "they suddenly changed the orders. They said we were going across to attack the communities who had been making all the trouble." According to Corporal #1, a force of some 150 soldiers crossed a river into Ogoni territory on speedboats, trekked inland for some forty-five minutes, and then cordoned off the Ogoni village of Kpea in an L-shaped formation. When the troops opened fire, Corporal #1 said, "I heard people shouting, crying. I fired off about one clip, but after the first shots I heard screaming from civilians, so I aimed my rifle upwards and didn't hit anyone." After the shooting, Corporal #1 said, the troops moved into the village, burning and looting homes.³³

Private #2 said he had been on duty with the Nigerian contingent to the ECOMOG peace-keeping force in Liberia when his unit was ordered home to repel a Cameroonian invasion. "When we arrived," he told Human

³⁰Saro-Wiwa refused to sign the accord. Representatives of Ogoni and Andoni communities signed a subsequent agreement in early March 1995.

³¹Interview by Kay Bishop for Britain's Channel 4 documentary, *The Drilling Fields*, Catma Films, May 23, 1994.

³²Both Corporal #1 and Private #2 requested anonymity.

³³Human Rights Watch interview, March 5, 1995.

Rights Watch, "they told us to shoot everyone who crossed our path. I followed my orders until I realized that the approaching civilians were Nigerians." After escaping into the bush, Private #2 said, he learned from Ogoni villagers that they had believed themselves to be under attack by the Andoni.³⁴

Residents of the Ogoni village of Kaa told Human Rights Watch that they had seen soldiers attacking their village in August 1993 along with Andoni fighters. A Nigerian intelligence official acknowledged that there were men in military uniform involved in the attack, but claimed they were ex-soldiers who had kept their uniforms after being released from the army. "When ex-soldiers fight, they naturally put on their military uniforms as a matter of habit," he explained. He also suggested that some of the men in military uniforms might have been troops hired by Andoni leaders.³⁵ The removal of all Ogoni policemen from the region three weeks prior to the attack on Kaa and the military's failure to intervene when the attack occurred similarly suggest that the government supported or indeed orchestrated the attack.³⁶

Following the Ogoni-Ndoki clashes on April 3, 1994, in which some twenty people were reportedly killed and at least eight Ogoni villages were destroyed, there were allegations that security forces had encouraged Ndoki villagers to attack Ogoni villagers over a longstanding and previously nonviolent land dispute. The security forces then reportedly followed the Ndoki attackers, burning down several Ogoni villages, including Ledor on April 16 and Tumbe on April 18.³⁷ Interviews by Human Rights Watch with victims from Ledor and Gbaeken, another targeted village, as well as local church workers involved in rebuilding the affected communities, revealed that soldiers had in fact been involved in the destruction of property, massive looting, and extortion.

Two villagers from Barako related to Human Rights Watch that they had attended a town meeting around July 1994, where Lieutenant-Colonel Paul Okuntimo, the commander of the Rivers State Internal Security Task Force, had denounced MOSOP and taken responsibility for outbreaks of communal violence.³⁸ S recalled Okuntimo telling residents of Barako:

You are the worst type of people. You killed the Andonis. Then the Andonis let us know. So we came and chased you people. After the Andonis, you fought with the Okrikas and then with the Ndokis. So they invited us to chase you people. So we are the people who chased you from your houses and destroyed them.³⁹

A local minister reported hearing Okuntimo boast at a village meeting in August 1994 that he had sent his troops to fight with Andonis against Ogonis.⁴⁰

³⁴Human Rights Watch interview, March 12, 1995.

³⁵Human Rights Watch interview, Port Harcourt, February 22, 1995.

³⁶Amnesty International, "Extrajudicial executions: At least 35 members of the Ogoni ethnic group from the town of Kaa in Rivers State, including Mr. Nwiku and three young children," *Urgent Action*, UA 268/93, London, August 10, 1993.

³⁷Amnesty International, "Fear of extrajudicial execution/death penalty: Members of the Ogoni ethnic group," *Urgent Action*, UA 176/94, AI Index: AFR 44/02/94, London, May 4, 1994; Human Rights Watch interview with a local church worker, Port Harcourt, February 21, 1995.

³⁸For more information about the Rivers State Internal Security Task Force, see p. 16, below.

³⁹Human Rights Watch interview, Port Harcourt, February 25, 1995.

⁴⁰Human Rights Watch interview, Port Harcourt, February 23, 1995.

These raids came amidst a series of ethnic clashes, which reportedly left hundreds dead and displaced thousands.⁴¹ It is unclear how many of the attacks included government forces. To date, the government has failed to press charges against those suspected of leading or instigating the alleged communal clashes.

The May 1994 Murders

On May 21, 1994, four prominent Ogoni leaders were brutally murdered at a meeting of the Gokana Council of Chiefs and Elders at the palace of the Gbenemene Gokana, a traditional chief, in Giokoo.⁴² These men—Chief Edward N. Kobani, formerly a commissioner in the Rivers State government and former deputy president of MOSOP, Chief Samuel N. Orage, another former Rivers State commissioner, Chief Theophilus B. Orage, formerly a secretary of the Gokana Council of Chiefs, and Mr. Albert T. Badey, a former permanent secretary, commissioner, and secretary to the Rivers State government—had previously been affiliated with the Leton faction of MOSOP and were viewed as government collaborators by some members of MOSOP. These men were reportedly attacked by a mob and beaten and hacked to death, but the precise chain of events leading to the murders is a source of great controversy.

In the early hours of May 22, 1994, the day after the murders, Ken Saro-Wiwa and Ledum Mitee, the deputy president of MOSOP, were arrested and detained without charge. Later that day, Lieutenant-Colonel Dauda Komo, the military administrator of Rivers State, announced at a press conference that "Ogoni is bleeding, not by federal troops, genocidal federal troops, as some of the papers carried some days back, but by irresponsible and reckless thuggery of the MOSOP element, which ... must stop immediately." He reported further that he had directed that "all the villagers ... that took part must be rounded up, MOSOP leadership that was part of this game must be arrested."⁴³

Following the murders, the Rivers State Internal Security Task Force, a military unit created in January 1994 to quell communal violence, was reinforced.⁴⁴ The Task Force then embarked on a series of raids on Ogoni villages in which whole communities were collectively punished for real or imputed association with MOSOP. Over the next several months, the Task Force reportedly raided at least sixty towns and villages in Ogoniland.⁴⁵ These

⁴¹Greenpeace International, *Shell-Shocked*, p. 20.

⁴²Giokoo is located in Gokana local government area in Ogoniland.

⁴³Videotape, press conference, Port Harcourt, Nigerian Television Authority, May 22, 1994.

⁴⁴Members of the Rivers State Internal Security Task Force are drawn primarily from the Second Amphibious Brigade, which is based at Bori Military Camp in Port Harcourt. It also includes contingents from the national mobile police force, air force, and navy. Many Task Force members were previously part of the National Guard, a paramilitary unit disbanded when General Abacha seized power. Lieutenant-Colonel Paul Okuntimo is the commander of the Task Force. Colonel Omar Mohammed is the overall commander of Bori Military Camp and of the Second Amphibious Brigade. Okuntimo is second-in-command of the Second Amphibious, while Major Afendidi commands the 300 soldiers of Battalion #1, also located in Bori Camp, which occasionally provides troops for the Task Force. Human Rights Watch interviews with Privates #3 and #4, February 25, 1995.

⁴⁵The towns and villages raided during this period reportedly included Oloko I, Oloko II, Gbaeken, Tumbe, Mumba, Eemu, Agbeta, Nwenkova, Boobee, Ledor, Nomaban, Gaagoo, Kemkora, Nweol, Giokoo, Biara, Barako, Deeyor, Bera, Nwebiaru, Deken, K-Dere, B-Dere, Mogho, Kpor, Lewe, Bomu, Bodo, Chara, Barobara, Bunu, Koroma, Itoro, Kpite, Korokoro, Ilegen, Gbenue, Botem-Tai, Semi, Bane, Bori, Wiyakara, Kono-bue, Buan, Yeghe, Okwali, and Uegwere/Bo-ue. Civil Liberties Organisation, "Terror in Ogoni" (Lagos: August 1, 1994), pp. 12-14; Amnesty International, "Extrajudicial executions/Fear for safety: Members of the Ogoni ethnic group," *Urgent Action*, UA 249/94, AI Index: AFR 44/06/94, London, June 27, 1994.

A memorandum attributed to J. D. Atawodi, the Assistant Commissioner of Police in Rivers State, to the Rivers State Commissioner of Police suggests that the raids may have been part of a planned operation intended to "restore and maintain law and order" in Ogoniland. Dated April 21, 1994, one month before the murders, the memorandum states that the purpose of the operation involving 406 troops from the Nigerian army, air force, navy, and police was, among other things, "[t]o ensure that

raids reportedly became almost a nightly occurrence during the summer of 1994.

Through interviews with victims of attacks on Nweol, Uegwere/Bo-ue, Bori, Bera, Barako, Bane, Biara, and Bomu, Human Rights Watch established that these raids generally involved the indiscriminate use of armed force and followed a consistent pattern. Troops entered towns and villages shooting at random, as villagers fled to the surrounding bush.⁴⁶ Soldiers and mobile police stormed houses, breaking down doors and windows with their boots, the butts of their guns, and machetes. Villagers who crossed their path, including children and the elderly, were severely beaten, forced to pay "settlement fees," and sometimes shot. Many women were raped. Security forces randomly arrested and detained several hundred Ogonis, primarily young men, while a number of other prominent MOSOP activists were declared wanted by Rivers State Police Commissioner Bukar Ali.⁴⁷ Before leaving, troops looted money, food, livestock, and other property. Although major troop movements in the region appear to have tapered off by late August 1994, the security forces reportedly continue to arbitrarily arrest, detain, and beat Ogoni civilians.

In response to Human Rights Watch's inquiries about allegations of widespread human rights abuses in Ogoniland following the May 21 murders, Lieutenant-Colonel Paul Okuntimo, the Internal Security Task Force commander, acknowledged that "there may have been a few small problems" during the "first few weeks." His troops were searching for the killers, he said, and the "process of separating the chaff from the wheat" was not an easy one. He labeled the rest of the allegations "propaganda."⁴⁸ This label has also been applied by Lieutenant-Colonel Komo, who has similarly denied allegations of atrocities committed by the Task Force.⁴⁹ In the course of his discussion with Human Rights Watch, Okuntimo assumed full responsibility for the actions of lower-ranking members of the Task Force and denied that they could have acted without his knowledge.⁵⁰

At a press conference broadcast by the Nigerian Television Authority, Okuntimo described his involvement in Ogoniland after the May 1994 murders as "psychological warfare" intended to facilitate constructive dialogue. He gave the following account of the maneuvers of his forces during the first three days of the operation:

The first three days, the first three days of the operation, I operated in the night. Nobody knew where I was coming from. What I will just do is that I will just take some detachments of soldiers, they will just stay at four corners of the town. They ... have automatic rifle[s] that sound death. If you hear the sound you will freeze. And then I will equally now choose about twenty [soldiers] and give them ... grenades—explosives—very hard one[s]. So we shall surround the town

ordinary law abiding citizens of the area, non-indigenes resident or carrying out business ventures or schooling within Ogoni land [sic] are not molested" and "[t]o re-establish [g]overnment presence in the area so as to bring to the knowledge of the citizenry that they are still part and parcel of Nigeria."

⁴⁶Local church workers confirmed that they had found many Ogoni villagers hiding in the bush when they went to deliver food between May and July 1994. Human Rights Watch interview, Port Harcourt, February 27, 1994. Some of those who fled to the bush reportedly died from sickness, starvation, or untreated bullet wounds. Amnesty International, "Nigeria: Military government clampdown on opposition," AI Index: AFR 44/13/94 (London: November 11, 1994), p. 7.

⁴⁷Those declared wanted reportedly included Dr. Monday Wiwa, Dr. Apollos Bulo, Lucky Dube, Komene Faamaa, Goodluck Diigbo, Fegalo Mitee, Noble Nwibani, Otua Hart, Bari Kumbe, Chief Marcus Tornwe, and Chief Benson Nwakpo. Evans Osi, "Ogoni: MOSOP members declared wanted," *The Vanguard* (Lagos), June 13, 1994.

⁴⁸Human Rights Watch interview, Port Harcourt, February 21, 1995.

⁴⁹Sam Olukoya, "The Ogoni Agony," *Newswatch* (Lagos), September 26, 1994.

⁵⁰Human Rights Watch interview, Port Harcourt, February 21, 1995.

The machine gun with five hundred rounds will open up. When four or five like that open up and then we are throwing grenades and they are making 'eekpuwaa!' what do you think the ... and they know I am around, what do you think the people are going to do? And we have already put roadblock[s] on the main road, we don't want anybody to start running ... so the option we made was that we should drive all these boys, all these people into the bush with nothing except the pant[s] and the wrapper they are using that night.

Okuntimo reported that he subsequently visited twenty-seven villages, along with representatives of local governments and the police, "addressing rallies, addressing people, asking them to have a change of heart."⁵¹

Okuntimo reportedly boasted at an open meeting with Ogoni communities in June 1994 and subsequently at a press conference that the army had taught him 204 ways of killing people. He claimed that he had practiced only three and that he would welcome the opportunity to exercise the rest of his repertoire.⁵²

According to Privates #3 and #4, the Task Force's human rights abuses were systematic, severe, and fully known to Lt. Col. Okuntimo.⁵³ Private #4 recalled that "we were told that any mature man in the Ogoni areas was a suspect. We needed to find as many as possible for interrogation. The idea was to go into villages, shooting in the air, and then when people ran, to grab some as prisoners. The orders were to shoot on sight able-bodied men, if they ran. The Ogonis, they lost many people," Private #4 said.⁵⁴

Private #4 recounted one incident from the end of May or the beginning of June 1994 in the village of Kpor: "We were shooting as we drove in. Women were screaming and crying. The young men ran. We shot at them. They told us to capture the place. We went into the bush and saw some corpses. I was firing randomly. I shot three people that day. I aimed at them when they ran and shot them down." Prior to the Kpor operation, Private #4 said, their captain had ordered them "to go in there, and if people were running, to shoot them if you want. Once we got there, no orders were given, it wasn't necessary. We were told to use our discretion." Many villagers were wounded in the gunfire, Private #4 said, but the military made no effort to care for them.⁵⁵ The testimonies of Privates #3 and #4 were consistent with accounts of local church workers, who told Human Rights Watch that soldiers had warned them against entering Ogoniland in the days following the murders because they had been given orders to shoot local villagers.⁵⁶

Extrajudicial Executions and Shootings

At least fifty Ogonis were reportedly extrajudicially executed by the Nigerian security forces in the wake of the May 21 murders.⁵⁷ Most shooting victims interviewed by Human Rights Watch were caught in random firing during the course of Task Force raids on Ogoni villages. Others were shot at close range by troops.

⁵¹Videotape, *MOSOP: The Ogonis and the Military -- The True Position*, Port Harcourt, Nigerian Television Authority, undated (1994).

⁵²Claude Ake, "War and Terror," *The News* (Lagos), August 22, 1994.

⁵³Privates #3 and #4 insisted on anonymity.

⁵⁴Human Rights Watch interviews, February 23 and 25, 1995.

⁵⁵*Ibid.*

⁵⁶Human Rights Watch interviews, Port Harcourt, February 27, 1995.

⁵⁷Amnesty International, "Nigeria: Military Government Clampdown on Opposition," p. 5.

H, a 15-year-old resident of an Ogoni village in Gokana local government area, told Human Rights Watch that her brother had been killed and that she had been shot in the leg by a soldier during a midnight raid on June 7, 1994. The same night, she said, "the door was suddenly kicked in, soldiers entered inside, and they immediately started to shoot. We began to crawl about on the floor to escape the bullets. I was the first one to be shot." The raid occurred after a suspected government collaborator had accused H's brother of striking him.⁵⁸

Three brothers arrested in a nighttime raid on the town of Bori on June 6, 1994—N, aged 15, S, aged 20, and B, aged 22—told Human Rights Watch of the attempted summary execution of one of them by soldiers acting under the command of an officer whom they believe to have been Lieutenant-Colonel Okuntimo. Near the village of Bo-ue, they said in separate interviews, the truck stopped, along with a Toyota Landcruiser carrying the commanding officer, his driver, and two bodyguards. S said the officer came around to the back of the brothers' truck and ordered him and five others to get down. After failing to offer satisfactory responses to questions about the May 21 killings and the identities of anti-government activists, the officer ordered a soldier to shoot S as he lay on the ground with five other men. S recalled:

I felt the bullet hit me in the leg. The soldier who fired was standing only three yards away. Then many shots were fired, hitting the ground near me. I pretended that I was dead. The commander called to another soldier, who cocked his gun, pointed, and fired at the guy lying down nearest to me. I saw that he was bleeding. There was blood in a pool near his body. Then the commander ordered five soldiers to stay with us and guard the trucks. The five had too many people to watch. Slowly, I began to drag myself off the road, towards the bush. It was dark and raining, and after I had crawled a few yards, they couldn't see me very well. I rolled away and hid behind some trees.⁵⁹

At the time of his interview, S was still limping heavily from a fractured femur.

Other Ogoni villagers were shot in seemingly haphazard encounters with soldiers and mobile police. T, a young man from Barako aged approximately twenty-six, related that he and his older brother encountered four trucks of troops on the Barako-Yeghe Road, as they were returning from a hospital in the town of Bori on May 27, 1994. He said Lieutenant-Colonel Okuntimo himself emerged from the front car and, without saying a word, shot T's brother twice in the chest with a "short gun," from a distance of about two meters. Okuntimo then threw the brother's bicycle on top of his corpse.⁶⁰

Many of the killings reported, such as those described above, were effectively summary executions—murder under Nigerian law and in violation of international norms prohibiting arbitrary killings. Other killings occurred as a result of indiscriminate shooting. The indiscriminate use of firearms by Task Force members is inconsistent with Article 3 of the U.N. Code of Conduct for Law Enforcement Officials, which permits law enforcement officials to use force "only when strictly necessary and to the extent required for the performance of their duty," which is generally interpreted in accordance with principles of proportionality. The use of firearms is generally prohibited, except in cases where a suspected criminal offender uses armed resistance or otherwise threatens the lives of others and less extreme measures are insufficient to restrain or apprehend the suspected offender.⁶¹

⁵⁸Human Rights Watch interview, Port Harcourt, February 24, 1995.

⁵⁹Human Rights Watch interviews, Port Harcourt, February 25 and 28, 1995.

⁶⁰Human Rights Watch interview, Port Harcourt, February 24, 1995. According to a local church worker, the Task Force banned travel by bicycle immediately following the murders. Human Rights Watch interview, Port Harcourt, February 27, 1995.

⁶¹U.N. Code of Conduct for Law Enforcement Officials, U.N. Doc. A/CONF.121/12, paras. 20-25, commentary (c). The Code of Conduct for Law Enforcement Officials was formulated by the U.N. Committee on Crime Prevention and Control,

Arbitrary Arrest and Detention

In May and June 1994 the Rivers State Internal Security Task Force arrested and detained several hundred Ogonis, primarily young men, while ostensibly trying to locate the killers. A substantial number of the Ogonis interviewed by Human Rights Watch had been arbitrarily arrested and detained without charge for varying periods in 1994 at either Bori Military Camp or the military detention center set up in what used to be the local police station in Kpor. Privates #3 and #4 claim to have seen "maybe 2,000" Ogonis held at various times at Kpor.⁶²

Comments made by members of the Internal Security Task Force prior to the arrests and during interrogation indicated that many of those detained were targeted based on their real or imagined affiliation with MOSOP. For example, K, a Gokana resident, reported that he was among a group of some sixty-five youths and older men watching the World Cup on television in June 1994, when a group of about ten soldiers entered the house. After Nigeria scored, the soldiers ordered the entire group to lie flat on their stomachs, while about forty other soldiers entered and looted the house. Meanwhile, a few soldiers yelled "MOSOP" and beat those lying down with the butts of their guns, an axe, and a hammer. Following the beatings, one soldier asked whether the group was part of MOSOP. Although they responded that they were not, another soldier said, "They're NYCOP [National Youth Council of Ogoni People]. They are lying." The soldiers then took thirty-four members of the group to Kpor, where they were humiliated and severely beaten.⁶³

C, who is from the village of Bera, gave Human Rights Watch a detailed account of the attempts of Internal Security Task Force members to coerce her into confessing her complicity in the May 21 murders following her arrest in June 1994. Portions of her account follow:

When I open the door, ... four of them c[a]me inside and pointed guns at us. They rush[ed] in and started saying I hide people who kill people in my house. I said no [A]nother team of mobile police and SSS [State Security Services] men from Lagos ... asked me do I know anything about the killing. I said no. They asked me whether I wasn't in the village when it happened. I told them I went home that weekend. Where the thing happened, it was far from my compound. I told them I didn't know anything about it until I started hearing gunshots. They asked me where did I run to. I told them I ran from my home because the gunshot was too much, that nobody can withstand it, to Dere. By then I took a bus to Port Harcourt. It was in Port Harcourt I heard of the death of the people. I was shocked

They carried me to the SSS guest house on Odi Avenue. They ... kept me there until night. Around 6:00 they carried me to my house for searching with three policemen and one mobile police. They wouldn't let me talk to my husband. They collected [a copy of] an earlier judgment in favor of Ken [Saro-Wiwa] and another few papers. It was by then my husband knew I was kept in that place, but they refused him coming to see me. That night they carried me to SIIB [State Intelligence and Investigation Bureau]

At 8:00 the following morning, they carried me back to Odi Avenue for interrogation. It was then I made my statement. They bring a statement showing names of MOSOP and NYCOP members [who they said held] a meeting with Ken, [saying] that we are going to kill all the vultures from Ogoni. I

pursuant to the recommendation of the Fifth U.N. Congress on the Prevention of Crime and the Treatment of Offenders. It was adopted by the General Assembly by its resolution 34/169, annex, of December 17, 1979.

⁶²Human Rights Watch interviews, February 25, 1995.

⁶³Human Rights Watch interview, Port Harcourt, February 25, 1995.

said there was nothing like that. They asked what Ken addressed us from the prison in Owerri [in August 1993]. I say he thanked us, asked us to continue the struggle. They asked us why we should call some people vulture[s]. I told them that during our struggle we think some people backslide and go to government to collect some money. The people who eat what is no good remain as vultures. Even this name was introduced by those people [who were killed].⁶⁴

As in past years, soldiers dispersed peaceful demonstrations and made arrests during the most recent celebration of Ogoni Day on January 4, 1995. One leader of the Federation of Ogoni Women's Associations (FOWA) told Human Rights Watch that she and other Ogoni women from Bori were chanting when about twenty soldiers arrived and began shooting into the air. When the women refused to leave, the soldiers beat them with horsewhips. The soldiers then arrested fourteen FOWA members and took them to Kpor.⁶⁵

Most individuals reported that they had been released after Task Force members extorted sums ranging from 400 to 20,000 naira.⁶⁶ Some were forced to sign statements vowing to refrain from MOSOP activities.

Floggings and Other Forms of Cruel, Inhuman, or Degrading Treatment

Virtually all the men arrested said they were repeatedly flogged, in most cases with a knotted rope whip they referred to as a *koboko*. Some men reported that they had been flogged on a daily basis. Private #4, who was based in Kpor for three weeks, reported that he saw detainees being "tied to trees and flogged." Some detainees were flogged so many times, he said, that "you couldn't see their skin."⁶⁷ Some Ogoni victims reported that they were also subjected to other forms of torture and cruel, inhuman, or degrading treatment.⁶⁸

Chief D, who was taken to Kpor on the night of May 21, 1994, recounted that when he refused to respond to Lieutenant-Colonel Okuntimo's inquiries about the murders and MOSOP, he was ordered to strip and lie face down on the ground. He recalled:

As I was lying there with my arms out at a 90 degree angle, Okuntimo ordered two soldiers standing on either side of me to whip me on the buttocks. The two men took turns hitting me, thirty lashes each, striking only when Okuntimo told them to do so. I couldn't walk when they finished. Then I

⁶⁴Human Rights Watch interview, Port Harcourt, February 27, 1995.

⁶⁵Human Rights Watch interview, Port Harcourt, February 25, 1995.

⁶⁶At the height of the abuses in Ogoniland, the official exchange rate was twenty-two naira to the dollar. Nigerian sources estimate that the average salary in Ogoniland was approximately 700 naira per month.

⁶⁷Human Rights Watch interview, February 25, 1995.

⁶⁸This contravenes Article 7 of the International Covenant on Civil and Political Rights, Article 5 of the African Charter, and Section 31 of the 1979 Nigerian Constitution. Such treatment also violates Article 5 of the U.N. Code of Conduct for Law Enforcement Officials, which provides, in relevant part:

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as ... internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Although the U.N. Code of Conduct is not legally binding, the above-mentioned prohibitions on torture and other cruel, inhuman, or degrading treatment have acquired the status of customary international law. As such, the Nigerian government is legally obligated to uphold them, as well as its treaty commitments.

was told to go home and bring the skulls of the four men who were killed. I said I didn't know where they were buried. I was praying when the murders happened.⁶⁹

B, one of the brothers from Bori mentioned above, was detained at Kpor for three weeks in June 1994, during which he said he was whipped twice a day. The soldiers used various tricks to prolong the whipping, B recalled, the most common of which was forcing him to hold an empty soft drink bottle between his teeth while being flogged. "If I cried or dropped the bottle while they were hitting me," B related, "they would start over again, counting up until twenty-four lashes. Sometimes they wouldn't count. They would just do what they wanted." On other occasions when he was whipped, B was forced to balance on a wooden plank or lie face down with his hands clasped behind his back. If he fell off the plank or touched his back during the flogging, the soldiers started counting again. B still has scars from the whippings.⁷⁰

M, who was arrested at his home in Nweor in late June 1994 and taken to Kpor, recounted that he and four other villagers had been forced to walk on their knees inside their cell for close to an hour while soldiers beat them with kobokos.⁷¹ T, who was also whipped at Kpor, was ordered to show other Ogonis his lash marks so they would not participate in MOSOP activities.⁷²

E, a prominent MOSOP member, told Human Rights Watch that one Officer Hassan stopped him at a road checkpoint in June 1994 and "told about twenty of his boys to deal with me." Then, he recalled:

The soldiers beat me for about five minutes with guns and horsewhips. Then a lower-ranking officer was asked to drill me. I was asked to do frog jumps while holding my ears. I did the first hundred, but during the second hundred I fell down after fifty. Then I was forced to start again. I got to thirty and then fell. The third time I got to twenty before I fell. The other officers sat and watched. Every time I fell, they beat me [Later] I was forced to roll on the wet ground for about thirty minutes, about fifty meters each way. Two soldiers kicked me along the way. Then I was taken to Kpor Before I was finally released, I was forced to walk fifty meters on my haunches with my arm in the air while they continued to beat me. [Following my release,] I was hospitalized for a week.⁷³

A, a NYCOP officer, was arrested at his office in Port Harcourt on January 9, 1995 and taken to Government House, where soldiers ordered him to "go catch some fish" in the sewer that surrounded the building:

For over two hours, I walked on all fours in the sewer, in two feet of sewage water. At some times, they ordered me to lie down. When the sewage was covered, they ordered me to crawl under the covering. My head was just above the water, which was a mixture of rainwater and toilet sewage.

Although A was later informed that he was being charged with responsibility for issuing MOSOP handbills and interrogated about his role in MOSOP, he was never taken to court. He was subsequently detained for three days at

⁶⁹Human Rights Watch interview, Port Harcourt, February 24, 1995.

⁷⁰Human Rights Watch interviews, Port Harcourt, February 25 and 28, 1995.

⁷¹Human Rights Watch interview, Port Harcourt, February 24, 1995.

⁷²Human Rights Watch interview, Port Harcourt, February 24, 1995.

⁷³Human Rights Watch interview, Port Harcourt, February 25, 1995.

Bori Military Camp and then transferred to Kpor for four days.⁷⁴

On June 26, 1994, Oronto Douglas and Uche Onyeagocha, both lawyers with the Nigerian Civil Liberties Organisation, and Nicholas Ashton-Jones, a British environmentalist, were brutally beaten after Okuntimo found them talking to Ledum Mitee inside Bori Military Camp. When Okuntimo sighted them, according to an account by Douglas, he screamed to his men, "[W]hat are these people doing here, who is this white man and these two men? Why can't you people take common instruction? You beasts, why did you allow them?"⁷⁵ According to Onyeagocha, Okuntimo then pushed his pistol into one soldier's mouth, kicked another soldier in the groin, and pushed a third into a cell along with Mitee. He then pushed Douglas, Onyeagocha, and Ashton-Jones into a cell with some thirty Ogoni detainees. After about an hour, an officer known to the other detainees as the "Regimental Sergeant Major" took Douglas, Onyeagocha, and Ashton-Jones to another room and ordered his soldiers to give each of the men "one hundred strokes of the cane." Onyeagocha recalled that he was forced to lie prostrate while one soldier beat him with three electric cables and another kicked him.⁷⁶ Ashton-Jones gave the following account of the incident:

I was taken out and told to lie face down on the floor and given about 9 strokes across my lower back and buttocks: painful but not enough to break the skin. The whip was made of a double length of 10mm electrical cable and the man who used it was clearly as afraid of Major (now Lt. Col.) Okuntimo as we were (I think he was the one who had the pistol pushed down his throat) so we did not feel anything bad about him. Later as we were pushed into the waiting car (to be shot, we were told by Okuntimo) we were repeatedly beaten on the backs but not severely.⁷⁷

When Okuntimo returned, the Regimental Sergeant Major beat the men's driver, who had been waiting in the car outside. All four men were detained for the next three days at the State Security Services headquarters in Port Harcourt.⁷⁸

Detention Conditions

Former detainees generally reported that they had been held in cramped, windowless, unfurnished cells, deprived of food and basic amenities, and denied access to counsel.⁷⁹ Most of the individuals interviewed by Human Rights Watch had been detained either in the Kpor detention center or Bori Military Camp.

Regarding conditions at Kpor, L told Human Rights Watch that he and nine other youths arrested in Barako

⁷⁴Human Rights Watch interview, Port Harcourt, February 22, 1995.

⁷⁵Oronto Douglas, "Ogoni: Four Days of Brutality and Torture," *Liberty*, May - August 1994, p. 21 (published in Lagos by the Civil Liberties Organisation).

⁷⁶Human Rights Watch interview with Uche Onyeagocha, Washington, D.C., May 12, 1995.

⁷⁷Excerpt of letter from Nicholas Ashton-Jones to Michael Birnbaum, QC, April 8, 1995; reprinted in Michael Birnbaum, QC, *Nigeria: Fundamental Rights Denied* (London: Article 19, June 1995), Appendix 5A, p. 12.

⁷⁸Douglas, "Ogoni: Four Days of Brutality and Torture," p. 22.

⁷⁹Insofar as these conditions constitute cruel, inhuman, or degrading treatment, particularly by presenting a danger to the detainees' physical or mental health, they violate international law prohibiting cruel, inhuman, or degrading treatment. Moreover, these conditions contravene the U.N. Standard Minimum Rules for the Treatment of Prisoners, ECOSOC Res. 663 C (XXIV) of July 31, 1957 and ECOSOC Res. 2076 (LXII) of May 13, 1977. The Nigerian government is legally bound to uphold the U.N. Standard Minimum Rules for the Treatment of Prisoners, which, although non-binding, are considered the most authoritative interpretation of obligations Nigeria has acquired under the International Covenant on Civil and Political Rights.

on August 23, 1994 were detained in a cramped cell with no mattresses. L reported that he and the other detainees were allowed to use the toilet in the morning and in the evening. At other times, they had to use a bucket.⁸⁰ B, who was also detained at Kpor, recounted that the detainees depended largely on their families to provide them with food. Although some prison guards exacted bribes from the families in exchange for delivering meals, the guards sometimes ate the food themselves. Those detainees whose families did not bring them food were given the remains from a local market, which amounted to "very little, just to fill one handful." Moreover, according to B:

Seven people shared one [container] of water a day. They gave us a bucket to go to the toilet in, but it soon filled up, and they wouldn't allow us to empty it outside. If we had to defecate, we did it right there in the cell. There was no water to clean ourselves. If you wanted to go outside, you had to pay. Only those with money could go to the toilet.⁸¹

With respect to detention conditions at Bori Military Camp, A told Human Rights Watch that he was detained with about thirty other people, including soldiers and common criminals, in a cramped, unventilated cell measuring about two-by-three yards. He reported that the detainees at Bori depended completely on their families for food. Although the detainees were sometimes taken outside to relieve themselves, they generally had to relieve themselves inside the cell at least once a day.⁸²

Human Rights Watch interviewed a few individuals who had been detained in facilities outside Kpor and Bori Military Camp. Recalling the conditions under which he was held at the State Security Services headquarters in Port Harcourt, Orono Douglas wrote, "There [was] no bed, no foam, no blanket, nothing. It was a bare cold hard floor The room[s] were very tiny ones with no window at all."⁸³ T, who was detained for one week in a prison in Bera, reported that he was held with three other people in a three-by-three meter cell. He was given no food on the first day and only small quantities of food for the rest of the week. During his time at Bera, he was taken outside his cell to relieve himself.⁸⁴ Regarding the conditions under which she was held at the Special Intelligence and Investigations Bureau in Port Harcourt, C told Human Rights Watch:

There was nothing. We slept on the ground. The people in the cell asked me to pay 300 naira for [an] enrollment fee. That room is for women. We go [to the] toilet in the same place [on] paper At times there were fifteen or twenty in the room, at times we remained three. There were no beds, only the floor. When you don't [go to] sleep early, you [have room only to] sit down. At times my husband visited, but he could not come inside.⁸⁵

Rapes

Interviews with rape victims and relatives of rape victims revealed that soldiers raped young and old women alike in the course of raids on Ogoni villages. V told Human Rights Watch that she watched as two soldiers raped her thirteen-year-old sister at gunpoint during a midnight raid on Bori around June 1994. During the rape, according

⁸⁰Human Rights Watch interview, Port Harcourt, February 23, 1995.

⁸¹Human Rights Watch interviews, Port Harcourt, February 25 and 28, 1995.

⁸²Human Rights Watch interview, Port Harcourt, February 22, 1995.

⁸³Douglas, "Ogoni: Four Days of Brutality and Torture," p. 22.

⁸⁴Human Rights Watch interview, Port Harcourt, February 24, 1995.

⁸⁵Human Rights Watch interview, Port Harcourt, February 27, 1995.

to V, one of the soldiers said, "These Ogoni are wicked. We will deal with them."⁸⁶ R, a teenage orphan, said she had been raped by four soldiers whom she and her younger sister encountered one morning in June 1994, as they were returning from a well near their house:

The soldiers pursued us and pushed me down. They kicked me and hit my junior sister's mouth with a wooden stick. They ... tore my dress. One soldier held each of my legs. Then each of the four soldiers took turns. I was lying in a pool of blood when they left, unconscious. My small sister was there crying Since then, I have not had my period. I have severe pains in my lower abdomen. At times I can't move.⁸⁷

K, a woman in her late thirties from the village of Bera, gave a similarly harrowing account of her rape by five soldiers on the morning of May 28, 1994, when she returned from the bush to collect provisions following a raid on Bera the previous week. After locking her ten-year-old son in a room, K recalled,

The soldiers accused us of running because we were responsible for the murders. They beat me with the butts of their guns, pushed me onto the ground, kicked me. They tore off my wrapper, then my underwear Each of them took turns Two of them raped me through my anus, three the usual way While one soldier raped me, another would beat me. I tried to scream, but they held my mouth. They said if I made too much noise, they would kill me. By the time they left, I was in so much pain I couldn't move.⁸⁸

G, also from Bera, was raped the following week by soldiers who pursued her into the bush:

First, they beat me on my back with the butts of their guns. One kicked me in the lower abdomen. Then they raped me They covered my mouth, but I still tried to scream I was screaming until I couldn't scream anymore. The breath finished from inside me. One used his fingers in my anus, while the other raped me in front I was struggling. They said if I wanted to die, I could die there. One asked me what I was looking for. He had heard Ogonis say that soldiers could not get into Ogoniland. These soldiers wanted to prove otherwise. I was unconscious when they left The pain is so much sometimes that I can't cry My husband accused me of inviting it because he doesn't see emotion on my face.⁸⁹

Private #3 said he personally witnessed seven rapes by soldiers who took Ogoni village women into the bush when they got off guard duty. According to Private #4, Lieutenant-Colonel Okuntimo himself committed rape. On two separate occasions that he witnessed, Private #4 said, Okuntimo pointed out an Ogoni woman to a group of soldiers and asked that she be brought to a house he had requisitioned in the village of Kpor. When Okuntimo was finished, Private #4 and his colleagues took the women away.⁹⁰

Lieutenant-Colonel Okuntimo's participation in rape suggests that his soldiers committed rape with his consent or acquiescence. The rapes were both punitive and discriminatory because they occurred in the course of

⁸⁶Human Rights Watch interview, Port Harcourt, March 1, 1995.

⁸⁷Human Rights Watch interview, Port Harcourt, March 1, 1995.

⁸⁸Human Rights Watch interview, Port Harcourt, February 28, 1995.

⁸⁹Human Rights Watch interview, Port Harcourt, February 28, 1995.

⁹⁰Human Rights Watch interviews, February 27, 1995.

organized raids on Ogoni villages alone. Accordingly, the rapes constitute torture, as defined by Article 1 of the International Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.⁹¹

Looting and Extortion

The massive looting and extortion perpetrated by Task Force members in conjunction with the raids exemplify the rampant corruption within the ranks of the military in general.⁹² Privates #3 and #4 confirmed victims' reports that massive looting had taken place in Ogoniland. Private #3 claimed to have participated in looting some thirty villages. According to Private #4, "Okuntimo said it was our business if we carried anything to Port Harcourt."⁹³

Virtually all the victims interviewed by Human Rights Watch recounted that their houses and stores had been ransacked and most of their possessions taken.⁹⁴ K, one of the rape victims mentioned above, told Human Rights Watch that the perpetrators of the rape had loaded everything in her house, including her daughter's wedding gifts, into a Peugeot station wagon.⁹⁵ J, who works at a hotel in Bori, said that in the course of a raid on the hotel soldiers had stolen 80,000 naira from the manager's safe and 30,000 naira from a guest at the hotel. Then, according to J, "They went into the restaurant and took all the drinks. What they didn't drink, they broke. They ate all the food, broke into the cash box, and took everything from there."⁹⁶ N recounted that the soldiers who arrested him had taken 5,000 naira from his house, as well as his family's video cassette recorder, two televisions, two radio-tapedecks, a small refrigerator, and a generator.⁹⁷

Villagers reported that invading soldiers had often tried to extort "settlement" fees. In July 1994, for

⁹¹Under Article 1 of the International Convention Against Torture,

[T]he term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as ... punishing him for an act he or a third person has committed or is suspected of having committed ... or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

These rapes also violate the prohibitions against torture in Article 7 of the International Covenant on Civil and Political Rights, Article 5 of the African Charter on Human and People's Rights, and Section 31 of the Nigerian Constitution. In addition, these rapes violate the victims' right to personal integrity under Article 4 of the African Charter. Moreover, the participation of Lieutenant-Colonel Okuntimo and his soldiers in the rapes is inconsistent with Article 5 of the U.N. Code of Conduct for Law Enforcement Officials, quoted in footnote 68, above. The failure of the Nigerian government to take effective measures to prevent rape and to prosecute those soldiers who committed rape constitute violations of Articles 2 and 4, respectively, of the International Convention Against Torture.

⁹²Article 7 of the U.N. Code of Conduct for Law Enforcement Officials prohibits law enforcement officials from committing any act of corruption.

⁹³Human Rights Watch interviews, February 23, 1995.

⁹⁴This violates the prohibitions against arbitrary or unlawful interference with an individual's home under Article 17 of the International Covenant on Civil and Political Rights and Section 34 of the Nigerian Constitution.

⁹⁵Human Rights Watch interview, Port Harcourt, February 28, 1995.

⁹⁶Human Rights Watch interview, Port Harcourt, March 1, 1995.

⁹⁷Human Rights Watch interview, Port Harcourt, February 24, 1995.

example, following N's release from Kpor, a soldier and a policeman came to his house and accused him of involvement in the killings. They proceeded to beat N, his wife, and his children with a koboko and the butts of their guns. Before leaving, they exacted a payment of 7,000 naira.⁹⁸ As previously mentioned, most victims of arbitrary arrest and detention interviewed by Human Rights Watch reported that the authorities had extorted sums of varying amounts at the time of their release. An investigation by the Nigerian Civil Liberties Organisation (CLO) during the summer of 1994 similarly revealed a pervasive pattern of extortion. The CLO compiled a list of twenty-five Ogoni villagers who had made "ransom payments" of up to 80,000 naira to members of the Internal Security Task Force. According to the CLO, some villagers who could not afford to make ransom payments had their property destroyed or were arrested.⁹⁹

THE TRIAL OF KEN SARO-WIWA AND OTHER MOSOP ACTIVISTS

On November 21, 1994, the Federal Military Government of Nigeria appointed a three-man special tribunal to try Ken Saro-Wiwa, Ledum Mitee, Barinem Kiobel, John Kpuinen, and Baribor Bera.¹⁰⁰ The designated chairman of the tribunal is Justice Ibrahim Nadhi Auta, a judge in the Federal High Court in Lagos. The other members of the tribunal are Justice Etowa Enyong Arikpo, a judge in the Cross River State High Court, and Lieutenant-Colonel Hammid Ibrahim Ali. The stated authority for the establishment of the tribunal is the Civil Disturbances (Special Tribunal) Decree of 1987, as amended by the Special Tribunal (Offences Relating to Civil Disturbances) Edict 1994. The Special Tribunal Edict, which has retroactive effect from December 10, 1993, permits the death penalty for capital offenses committed in connection with civil disturbances, as well as previously non-capital crimes including attempted murder.¹⁰¹ The tribunal's judgment is not subject to review by a higher court, but only to confirmation by the Provisional Ruling Council, which is chaired by the head of state.

On January 11, 1995, Chief Gani Fawehinmi, who represents Saro-Wiwa, Mitee, and Kpuinen, filed a suit in the Federal High Court in Lagos challenging the composition of the tribunal and the lack of any provision for review by a higher court. On March 27, the Federal High Court issued a decision that it lacked jurisdiction to decide the issue.

The prosecution charged the accused with four counts of murder at the first session of the tribunal on February 6. Saro-Wiwa, Mitee, and Kiobel were alleged to have "counselled and procured" Kpuinen, Bera, and others still at large "to inflict grievous harm on the participants of the Council of Chiefs meeting at Giokoo." The eight-month delay in filing charges against the accused persons, in conjunction with the procedural irregularities that characterize the trial, strongly suggest that the charges are politically motivated—brought solely because of the defendants' leadership role in MOSOP. After the accused pleaded not guilty to the charges, the tribunal granted the defense team a two-week adjournment on the ground that they had been denied access to their clients since the time of their arrests.¹⁰² Meanwhile, at least thirty Ogonis were reportedly still in detention at the State Investigation and

⁹⁸Ibid.

⁹⁹CLO, "Terror in Ogoni," pp. 9-11.

¹⁰⁰Saro-Wiwa, Mitee, Kiobel, and Kpuinen had been detained without charge since late May 1994. Bera was arrested and detained in January 1995.

¹⁰¹Amnesty International, "Fear of extrajudicial execution/death penalty: Members of the Ogoni ethnic group," *Urgent Action*, UA 176/94, AI Index: AFR 44/02/94, London, May 4, 1994; Udenna Orji, "Rivers enacts death sentence edict for communal clashes," *The Guardian* (Lagos), April 25, 1994.

¹⁰²Access to counsel is guaranteed by Article 14 of the International Covenant on Civil and Political Rights, Article 7 of the

On March 28, 1995, the special tribunal assumed jurisdiction over the cases of Pogbara Afa, Saturday Dobe, Monday Donwin, Felix Nwate, Nordu Eawo, Paul Levura, Joseph Kpante, Michael Vizor, Daniel Gbokoo, and Albert Kagbara, who were formally charged on April 7, 1995 with the murders of the Ogoni leaders. Where relevant, the prosecution is permitted to present the same evidence and to call the same witnesses to testify against both sets of defendants.

Due Process Violations

The special tribunal lacks independence and impartiality because it was set up by the executive expressly to hear this case, and its members were hand-picked to this end. The presence of Lieutenant-Colonel Hammid Ibrahim Ali, an active member of the armed forces under the command of General Sani Abacha, the head of state, as well as the lack of any provision for independent review of the tribunal's judgment, render the tribunal's independence particularly questionable.

According to a representative of the Federal Minister of Justice, "Whatever negative influence the army officer might have should be taken care of by the two other judges."¹⁰⁴ This response suggests indifference to the standards of international law. The composition of the tribunal violates Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees "a fair and public hearing by a competent, independent and impartial tribunal established by law." The U.N. Human Rights Committee's General Comment Number 13/21 of April 12, 1984 (Procedural Guarantees in Civil and Criminal Trials) interprets Article 14 to require, among other things, that provisions regarding the appointment, tenure, and dismissal of judges be immune from the control of other state organs. With regard to special courts, the General Comment implies that these exceptional bodies do not normally comply with ICCPR standards. Both the African Charter on Human and People's Rights and the 1979 Nigerian Constitution contain guarantees analogous to those set forth in Article 14 of the ICCPR.

International legal guarantees appeared similarly irrelevant to Chief Philip Umeadi, the chief prosecutor. Umeadi conceded that the proceedings were not consistent with the African Charter or the fundamental rights provisions of the Nigerian Constitution, but explained that "special problems" cannot be solved by strict adherence to international standards in such a "primitive society." According to Umeadi, "the African Charter is an ideal."¹⁰⁵

The representative of the Minister of Justice sought to justify the absence of a formal appeal process, claiming that it was "unnecessary" in this case because the lower court was comprised of more than one judge. In addition, the representative explained that Justice Auta's experience, knowledge, and background obviated the need for an appeal, especially because an appeal would in any case have to have been submitted to Auta's "colleagues" on the Federal Court of Appeals.¹⁰⁶ Nonetheless, the absence of any formal appeal process directly contravenes Article 14(5) of the ICCPR, which provides that "[e]veryone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law." Trial courts comprised of more than one judge in no sense alleviate the need for a separate and independent tribunal to review the trial record, particularly in so serious a case as a murder prosecution.

African Charter on Human and People's Rights, and Section 33 of the Nigerian Constitution.

¹⁰³Letter to Human Rights Watch/Africa from Ledum Mitee, February 25, 1995.

¹⁰⁴Human Rights Watch interview, Federal Ministry of Justice, Lagos, March 14, 1995.

¹⁰⁵Human Rights Watch interview with Chief Philip Umeadi, Port Harcourt, February 23, 1995.

¹⁰⁶Human Rights Watch interview, Federal Ministry of Justice, Lagos, March 14, 1995. As previously mentioned, Auta presides over the Federal High Court in Lagos.

The imposition of the death penalty in this case would also violate basic principles of international law. Under Article 6 of the ICCPR, the death penalty can be imposed only "pursuant to a final judgment rendered by a competent court." The nature of such a "competent court" was clarified by the U.N. Economic and Social Council through a resolution enacted in 1984, entitled "Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty."¹⁰⁷ The requisite safeguards include those necessary to ensure a fair trial, as well as the right to appeal to a court of higher jurisdiction.¹⁰⁸

Notwithstanding several orders by Justice Auta granting the accused unfettered access to counsel since the start of the trial of the first set of defendants on February 6, 1995, members of the defense team have periodically been prevented from meeting with their clients. The defendants are permitted to meet with counsel only with the consent and generally in the presence of Lieutenant-Colonel Okuntimo, the commander of the Rivers State Internal Security Task Force.¹⁰⁹ On February 20, Mr. K. Wodu was refused entry into Bori Military Camp when he went to obtain the oaths of the accused persons on their bail applications.¹¹⁰

Tribunal Setting

On days when the tribunal is in session, extra military roadblocks prevent many Ogonis from traveling to Port Harcourt.¹¹¹ The tribunal premises are highly militarized, and observers are required to undergo an accreditation process at the local police station. On February 21, 1995, Lieutenant Stephen Hassan even stopped the defense team as they tried to enter the House of Assembly Complex and ordered them to go to the Commissioner of Police for accreditation. When Chief Gani Fawehinmi objected to this order on the grounds that the defense team, having appeared twice, needed no further authority, he was threatened with physical assault. One of the soldiers then proceeded to hit Femi Falana, another member of the defense team, on the order of Lieutenant Hassan.¹¹²

On the same morning, soldiers beat Saro-Wiwa's seventy-four-year-old mother, Jessica Wiwa, outside the courtroom, allegedly pursuant to the order of Lieutenant Hassan and in the presence of Lieutenant-Colonel Okuntimo. Saro-Wiwa's wife Mina, his sister-in-law Diana, and their driver were also beaten. Mina told Human Rights Watch that soldiers struck her six times, breaking the skin on her hand and her arm and resulting in scars on her lower back. When she complained to Okuntimo, he asked her what she had done to provoke his men. Following the beatings, Okuntimo, who had been standing a few yards away, approached his soldiers and told them that he had not ordered them to beat anyone.¹¹³ He then proceeded to arrest two of Saro-Wiwa's half-brothers, Saro-Wiwa's

¹⁰⁷U.N. Doc. E/RES/1984/50.

¹⁰⁸Because these due process guarantees have acquired the status of customary international law, the Nigerian government is legally obligated to uphold them.

¹⁰⁹Michael Birnbaum, QC, *Nigeria: Fundamental Rights Denied*, p. 57.

¹¹⁰Memorandum from chambers of Chief Gani Fawehinmi to Amnesty International, "Reports on the trial of Ken Saro-Wiwa and others before the Ogoni civil disturbances special tribunal holden [*sic*] at Port Harcourt, Rivers State, Nigeria," undated (1995).

¹¹¹Human Rights Watch interview with Femi Falana, defense counsel for Saro-Wiwa, Mitee, and Kpuinen, Lagos, March 5, 1995. This contravenes Article 12 of the International Covenant on Civil and Political Rights, Article 12 of the African Charter on Human and People's Rights, and Section 38 of the Nigerian Constitution, which guarantee freedom of movement.

¹¹²Oral application by Chief Gani Fawehinmi to special tribunal, Port Harcourt, February 21, 1995.

¹¹³Human Rights Watch interview with Mina Saro-Wiwa, Port Harcourt, March 3, 1995.

driver, and Fawehinmi's driver.¹¹⁴

Following the departure of busloads of observers from the tribunal premises on February 21, several hundred Ogonis converged on the premises of the assembly house and started singing the Ogoni solidarity song. Pursuant to Okuntimo's orders, troops used tear gas to disperse the crowd and arrested over 150 people.¹¹⁵

Substantive Merits of the Case

On March 23, 1995, the tribunal issued an order requiring the prosecution to submit copies of documentation presenting the evidence against the accused to both the tribunal and the defense team. The prosecution claims that security forces stopped the cars of Saro-Wiwa and Mitee at a junction in Gokana, preventing Saro-Wiwa from proceeding to a rally where he was supposed to campaign for upcoming elections to the Constitutional Conference. At the time, a meeting of the Gokana Council of Chiefs and Elders was taking place at the palace of the Gbenemene Gokana, a traditional chief, in the nearby village of Giokoo. According to the prosecution, Saro-Wiwa addressed a crowd of his supporters in a local dialect, telling them to "go to Giokoo and deal with the vultures," whom he held responsible for impeding his campaign efforts. The crowd then allegedly rushed towards the venue of the Giokoo meeting, where the murders occurred. Baribor Bera and John Kpuinen are alleged to have directed the attacks. This is the official account, reflected in summaries of statements attributed to prosecution witnesses that have been reviewed by Human Rights Watch.¹¹⁶

The prosecution apparently intends to bolster its case by presenting testimony from Dr. Garrick Leton, the original president of MOSOP, and other former MOSOP members alleging that Saro-Wiwa established militant groups such as the National Youth Council of Ogoni People (NYCOP), NYCOP vigilantes, and the Council of Ogoni Traditional Rulers Association (COTRA), which have in the past allegedly used violence to achieve their goals. Some examples of acts attributed to these groups that are cited in the summaries of statements of prosecution witnesses include attacks on two local police stations and oil installations, illegal trials and summary executions (murders) of Ogoni indigenes, the destruction and looting of houses of non-MOSOP sympathizers, the destruction of National Electoral Commission vehicles and election materials (to enforce the boycott of the June 12, 1993 election), and threats to eliminate moderate leaders. Saro-Wiwa, in reality, has consistently spoken out in support of nonviolence, denied collaborating with violent Ogoni splinter groups, and indeed criticized their actions.

To date, the defense has sought to cast doubt on the authenticity of the statements of prosecution witnesses by charging that some prosecution witnesses had responded to both threats and bribery in signing affidavits prepared for them by the military. The defense has submitted affidavits from two prosecution witnesses, Charles Danwi and Naayone Nkpah, who have claimed that security agents and other prosecution witnesses had bribed them and others to sign false statements, while making clear that "anything" could happen if they failed to accede to these demands. Charles Danwi has alleged that he was given 30,000 naira, employment in the Gokana local government council, as well as promises "of a house in any place in the country, a contract from Shell and OMPADEC and some amount of money to buy [his] music[al] instrument." Danwi also claimed that other prosecution witnesses, including David Kenmon, Celestine Meabe, Naayone Nkpah, Kenwin Badara, Saturday Eeye, and Peter Fii, had been bribed.¹¹⁷

¹¹⁴Human Rights Watch interview with Diana Wiwa, Port Harcourt, February 21, 1995.

¹¹⁵Human Rights Watch interview with Eze Anaba, judicial correspondent for *The Vanguard* (Lagos), Port Harcourt, February 21, 1995.

¹¹⁶For a more comprehensive analysis of the evidence against the accused, see Michael Birnbaum QC, *Nigeria: Fundamental Rights Denied* (London: Article 19, June 1995), pp. 62-80.

¹¹⁷Affidavit of Charles Suanu Danwi, February 16, 1995.

Justice Auta refused to accept the affidavit disclaiming Danwi's earlier statement unless Danwi, who is now in hiding, could be cross-examined. Although this exclusion is arguably reasonable on hearsay grounds, the tribunal should make provisions to protect the safety of the witness. At the same time, the evidentiary value of the earlier affidavit should be questioned on the same terms.

Naayone Nkpah has alleged that he signed a false statement presented to him by the police in exchange for 30,000 naira, employment in the Gokana local government council, promises of weekly allowances of between 1,000 and 2,000 naira, as well as awards of contracts from Shell and OMPADEC. Nkpah alleged that Kemwin Badara, Charles Danwin, Anderson Keenom, Baridi Komene, Barribor Tegbee, Saturday Iye, Peter Fii, and "Uzomah from Bomu" had been offered similar inducements.¹¹⁸ Both the chief prosecutor and Shell representatives have denied these allegations of bribery.¹¹⁹ The allegations should be addressed in the course of cross-examination.

Ken Saro-Wiwa's version of his activities on May 21, 1994 differs significantly from the accounts presented in the summaries of statements by prosecution witnesses. Saro-Wiwa contends that he arrived in Gokana under a military escort led by Lieutenant Hassan of the mobile police force and Navy Lieutenant P. C. Nwatu. He says he never got out of his car or spoke to anyone that day. He claims that his government escorts prevented him from going to the part of Gokana where he was scheduled to address a rally and advised him to return to Port Harcourt "in [his] own interest." He claims to have left Ogoniland immediately.¹²⁰

Ken Saro-Wiwa and MOSOP's efforts to quell vigilanteism also undermine the prosecution's claims. In November 1993, MOSOP issued a public notice warning the Ogoni community that vigilantes were claiming to act on behalf of or with the support of MOSOP or NYCOP.¹²¹ In January 1994, Saro-Wiwa called upon the military authorities to arrest Nwinka Asiga, Ike Ekpere, and Nathan Neebani, youths whom MOSOP believed to be running vigilante groups.¹²² Two of these youths were reportedly arrested in April 1994. Moreover, according to the Unrepresented Nations and Peoples Organization, the NYCOP Executive ordered its Gokana kingdom coordinator, Celestine Meabe, to disband a vigilante group he was allegedly running. When vigilante activities continued in Gokana, the NYCOP Executive dissolved the Gokana Kingdom Executive Council, dismissed Meabe, and held new elections.¹²³

Treatment in Detention

Human Rights Watch is concerned about reports of continuing mistreatment of the defendants, who have reportedly been held under harsh conditions, subjected to physical mistreatment, and periodically deprived of food, medical care, and family visits. According to his own account, Ken Saro-Wiwa, who suffers from a congenital heart condition, was held incommunicado, severely beaten and kicked, manacled for prolonged periods, and deprived of food, medical care, exercise, access to counsel, and family visits during the early months of his detention.¹²⁴ Ledum

¹¹⁸ Affidavit of Naayone Nkpah, February 27, 1995.

¹¹⁹ Human Rights Watch interview with Chief Philip Umeadi, Port Harcourt, February 23, 1995; Letter from G.E. Omene, SPDC Acting Managing Director, to Mr. Richard Akinnola, Editor, *The Masses* (Lagos), March 6, 1995.

¹²⁰ Letter from Ken Saro-Wiwa to the Editor, *The Guardian on Sunday* (Lagos), May 26, 1994.

¹²¹ L.A. Mitee, Deputy President, MOSOP, "Public Notice," November 10, 1993.

¹²² Letter from Ken Saro-Wiwa to the Commander, Peace Keeping [*sic*] Force, Bori, January 29, 1994.

¹²³ UNPO, *Ogoni*, p. 15. Meabe has since become a witness for the prosecution in the proceedings before the special tribunal.

¹²⁴ Affidavit of Ken Saro-Wiwa in support of application for bail, February 10, 1994. These allegations contradict the assertions of the Nigerian government in a letter of November 10, 1994, to the U.N. Special Rapporteur on Extrajudicial,

Mitee reported that he was held in a cell measuring about four-by-six feet, with thirty other detainees. He claimed that they were forced to defecate into waterproof bags and urinate into bottles in the cell.¹²⁵ On February 23, 1995, Baribor Bera removed his shirt to show the tribunal members scars from the beatings he had received while in detention. The bail applications of Saro-Wiwa, Mitee, Kiobel, Kpuinen, and Bera were denied on March 13, 1995.¹²⁶ According to the representative of the Minister of Justice, these defendants could not be transferred from Bori Military Camp to a regular prison "for security reasons."¹²⁷ However, the tribunal later ordered the transfer of the second set of defendants from the State Investigation and Intelligence Bureau to the Port Harcourt prison.¹²⁸

The accused have been denied access to family visits and medical care, despite Justice Auta's orders to the contrary. On February 21, Alhaji F. A. Oso, Kiobel's lawyer, reported to the tribunal that members of the security forces had assaulted and stripped his client's wife naked when she went to deliver food to her husband at Bori Military Camp the previous Sunday. Oso reported further that his client's wife had since been detained at an unknown location. On February 23, 1995 Fawehinmi reported to the tribunal that members of the security forces had flogged, arrested, and briefly detained Saro-Wiwa's mother when she tried to visit her son at Bori Military Camp that morning.¹²⁹

On April 5, the proceedings were adjourned because of the deteriorating health of Ken Saro-Wiwa, who, according to his lawyers, was experiencing severe chest pains, ulcers, and occasional fainting. At the time, Saro-Wiwa was reportedly being held incommunicado at Bori Military Camp. Saro-Wiwa was finally admitted to a military hospital in Port Harcourt on May 2, pursuant to an order of the tribunal on April 25, 1995. He was discharged and returned to Bori Military Camp on May 15 over the objections of the defense team. During his time in the hospital, he was denied access to newspapers and television and refused psychiatric treatment, although, according to the defense team, he was suffering from severe depression.¹³⁰

Recent Developments

The defense team has reported increasing evidence of the tribunal's bias against the defendants. Since the tribunal assumed jurisdiction over the cases of ten additional defendants on March 28, 1995, members of the tribunal have periodically confused the evidence presented in the two trials. Moreover, on May 18, the tribunal refused to admit into evidence a videotape of the government press conference on May 22, 1994, the day after the murders, where Lieutenant-Colonel Komo, the military administrator of Rivers State, accused MOSOP of carrying out the murders.¹³¹ The videotape also includes a statement by A. M. Kobani, a prosecution witness, which contradicts

Summary, or Arbitrary Executions that Ken Saro-Wiwa had been given necessary medical attention and free access to his family and attorney during his time in detention. Report of the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, U.N. Doc. E/CN.4/1995/61.

¹²⁵Affidavit of Ledum Mitee in support of application for bail, February 10, 1994.

¹²⁶Human Rights Watch phone conversation with Femi Falana, May 19, 1995.

¹²⁷Human Rights Watch interview, Federal Ministry of Justice, Lagos, March 14, 1995.

¹²⁸Human Rights Watch phone conversation with Femi Falana, May 19, 1995.

¹²⁹Okuntimo termed these allegations "a blatant lie" and responded that his men had refused to admit Saro-Wiwa's mother because she had arrived late. Justice Auta proceeded to order that Saro-Wiwa's mother should have unrestricted access to Bori Military Camp.

¹³⁰Human Rights Watch phone conversation with Femi Falana, May 19, 1995.

¹³¹*Ibid.* Human Rights Watch researchers have viewed a copy of the videotape in question.

his testimony in the case against Saro-Wiwa, Mitee, Kiobel, Kpuinen, and Bera, in several material respects. The defense team intended to use Kobani's earlier statement to undermine his credibility.¹³² The tribunal's stated reason for refusing to admit the videotape was that it could have been altered.¹³³

The defense team proceeded to apply for a subpoena ordering Lieutenant-Colonel Komo's press secretary, Fidelis Agbiki, and the general managers of Radio Rivers and Rivers State Television, Gloria Fiofori and Siene Rasaq Lawal, respectively, to produce a copy of the videotape and a transcript of the May 22, 1994 press conference. Of the three subpoenaed witnesses, only Agbiki appeared before the tribunal. On June 21, 1995, he claimed that the Rivers State government does not retain videotapes of press conferences. Fiofori and Lawal sent the tribunal letters saying that even if a videotape or cassette recording of the conference had once existed, it had since been erased.

In response, defense lawyer Femi Falana asserted before the tribunal that the refusal of the subpoenaed witnesses to provide the videotape and transcript was part of a "well planned and masterminded conspiracy between [the] government-controlled media [and] the ... prosecutors." He claimed further that "a denial of the video ... amounts to a denial of the right of fair hearing" and applied for leave to withdraw from the case. Several other members of the defense team then announced their own intention to withdraw from the case. Following a thirty-five minute adjournment, Justice Auta, the chairman of the tribunal, made the following statement:

It is unfortunate that the defense has not appreciated what this tribunal has been doing for them. It must be recalled that the defense applied for [a] subpoena, and notwithstanding the technical errors or flaws in their application (they misspelled dates, titles, and some of the [names of] officers) ..., the tribunal ordered [a] subpoena to issue on their behalf so that the defense has not been diligent enough. If there is anyone to blame, it is the defense, [who] did not investigate whether the video was in existence before we caused [a] subpoena to issue. The tribunal has heard the reasons given by the people who were subpoenaed and [the reasons for] their inability to bring forward the video. They are reasonable in the light of our economic circumstances [The] tribunal will give the defense one more chance to reopen its case.¹³⁴

Human Rights Watch has received unconfirmed reports that the defense team has since withdrawn from the case against Saro-Wiwa, Mitee, Kiobel, Kpuinen, and Bera, although they are reportedly continuing to represent the second group of defendants. According to one member of the defense team:

[Defense] counsel have realized from daily occurrences at the tribunal that their appearance will only serve the purpose of glorifying the tribunal which is set up for a pre-determined purpose. These continued appearance[s] at the tribunal will serve no other purpose [than] to mislead the Nigerian public and international community into believing that the tribunal was set up to pursue justice. That is not the case."¹³⁵

¹³²Human Rights Watch phone conversation with a member of the defense team, June 20, 1995. For security reasons, this lawyer's name is not disclosed.

¹³³Memorandum to Human Rights Watch/Africa from a member of the defense team, June 21, 1995. For security reasons, this lawyer's name is not disclosed.

¹³⁴Ibid. Because the defense team itself possesses a copy of the videotape, which the tribunal refused to admit into evidence, their request for production of the original videotape was appropriate.

¹³⁵Ibid.

MILITARY REPRESSION IN OTHER COMMUNITIES IN THE NIGER DELTA

The severity of the crackdown on the Ogoni appears to have stemmed from a fear on the part of the authorities that minority groups in other communities in the Niger Delta might seek to emulate the Ogonis' well-organized protests.¹³⁶ Following the precedent set by MOSOP, a number of southeastern minorities have in fact organized their own groups. In October 1992, the Movement for the Survival of the Ijaw (Ijaw) Ethnic Nationality in the Niger Delta (MOSIEND) presented the Izon People's Charter.¹³⁷ The Ogbia community in Oloibiri, the site of the first oil discovery in Nigeria in 1956, established the Movement for Reparation to Ogbia (MORETO) and produced a charter of demands in November 1992.¹³⁸ The Council for Ikwerre Nationality was established in 1993. The Southern Minorities Movement, which comprises twenty-eight ethnic groups from Rivers State, Delta State, Cross River State, Akwa Ibom State, and Edo State, has also become increasingly vocal in recent months. In addition, a number of other communities, including the Igbide, the Irri, and the Uzere, have reportedly organized ad hoc protests against Shell operations since 1992.¹³⁹

In addition to the Umuechem disturbances in 1990,¹⁴⁰ protests in other indigenous communities outside Ogoniland have been met with unlawful and disproportionate force by the authorities. In 1992 angry youths in Bonny, also located in Rivers State, are alleged to have destroyed police vans to protest the Shell Petroleum Development Company's refusal to employ indigenes. The police reportedly responded with indiscriminate shooting and beatings.¹⁴¹ In May 1994, protesters reportedly used sixteen boats strung together with cables to blockade the installations of Chevron Nigeria Limited at Opuekebo in Delta State. After Chevron called in the police to break the blockade, the police were reported to have sent in a self-propelled barge that rammed into the blockade and sank the sixteen boats.¹⁴²

¹³⁶Ken Saro-Wiwa has acknowledged that the Ogoni struggle was intended to have a "ripple effect" on other minority groups. See, for example, "1989 Constitution is Against Minority Rights," *Constitutional Rights Journal*, vol. 3, no. 8, October - December 1993, pp. 13-14 (published in Lagos by Constitutional Rights Project).

¹³⁷MOSIEND's main demands, as expressed in the charter, include political autonomy, exclusive control over Ijaw natural resources, and restitution for the harmful effects of oil exploration. In March 1994, MOSIEND began to collaborate with the Ijaw National Congress, an umbrella organization of Ijaw groups which claims to oppose MOSOP's confrontational tactics. Human Rights Watch interview with Dr. Dima Denni-Fiberesima, vice-president of the Ijaw National Congress, Port Harcourt, February 28, 1995.

¹³⁸The demands in the Ogbia Charter include the repeal of legislation granting the federal government authority over revenue allocation; payment of rents, royalties, and 50 percent of the profits from oil extracted from their land; compensation for environmental damage; greater representation in national institutions; greater employment of Ogbia in the oil industry and government agencies; a halt to gas flaring on Ogbia lands; the burying of high-pressure oil pipelines at least five feet below ground and away from residential buildings; and greater shore protection and erosion control.

¹³⁹Greenpeace International, *Shell-Shocked*, pp. 16-17.

¹⁴⁰See p. 10 for more information regarding abuses perpetrated by the Nigerian mobile police at Umuechem.

¹⁴¹Ngozi Anigwe and Dulue Mbachu, "Time to talk," *Constitutional Rights Journal*, vol. 3, no. 8, October - December 1993, p. 8 (published in Lagos by Constitutional Rights Project).

¹⁴²Moffat Ekoriko, "Price of Neglect," *Newswatch* (Lagos), July 4, 1994. Bill Edma, Chevron's managing director, reportedly issued a statement claiming that the protesters complied with the police's orders to disperse and that no one was injured. In contrast, a local journalist reported that Godspower Niki, age 27, Hebite Opuba, age 48, and Sarah Omoko, age 24, drowned, and several others were injured. *Ibid.*

Human Rights Watch investigated and documented recent attacks by the security forces on four oil-producing communities in areas of Rivers State outside Ogoniland. In each case, the local residents initially tried to express their grievances through peaceful channels, although their protests culminated in violence on some occasions. The authorities invariably responded with disproportionate force and usually targeted those members of each community who had taken the lead in articulating the community's demands.

Obagi

On October 4, 1993, following a demonstration, some five thousand residents of Obagi, led by angry youths, stormed the local Elf facility, damaging equipment and disrupting activities.¹⁴³ The executive chairman of the Oil Mineral Producing Areas Development Commission, Chief Albert K. Horsfall, brokered the ensuing dialogue between Dr. M. Cometet, the Managing Director of Elf Petroleum Nigeria Limited, and Professor J. G. Chinwah, who represented the Obagi Oil Field/Egi communities. Eze Kingdom Elenwa, the traditional leader of the Egi clan, of which the community of Obagi is a part, and the Assistant Inspector-General of Police were also present at the meeting. Resolution of the conflict was reportedly facilitated when Elf renounced any interest in recovering its looted property, and youths arrested and detained in the incident were released.¹⁴⁴ The negotiations resulted in a peace agreement signed on October 18, 1993.¹⁴⁵

On February 12, 1994, eight policemen arrived in Obagi for the stated purpose of recovering a computer that had been stolen from the Elf premises the previous October. Suspicious villagers seized the policemen and demanded to see their search warrant, which the policemen could not produce. In the ensuing brawl, one of the men was reportedly killed and an Obagi indigene suffered severe gunshot wounds.¹⁴⁶ On February 19, 1994, mobile police arrived in full force, destroying and looting houses and other buildings, making arrests, beating people who crossed their path, and shooting indiscriminately. Obagi negotiator Chinwah's two brothers were among those arrested. Two people reportedly received gunshot wounds. The local villagers stayed in the bush for more than six months.¹⁴⁷

Around mid-February 1994, Chinwah was summoned to the Deputy Commissioner of Police in Port Harcourt, who informed him that he was under arrest but did not specify his offense. The Deputy Commissioner then said that the authorities would deal with Obagi as they had with Umuechem. He was not detained.¹⁴⁸

¹⁴³Obagi accounts for about 70 percent of Elf's total oil production in Nigeria. The impetus for the protest was that the electricity in the village had been turned off on September 30, 1993 as a result of the villagers' inability to purchase meters. Human Rights Watch interview with Professor J. G. Chinwah, Port Harcourt, March 2, 1995.

¹⁴⁴"Tension mounts," *The Sunday Magazine* (Lagos), May 15, 1994, p. 12.

¹⁴⁵In exchange for resuming operations in Obagi, Elf agreed to provide scholarships to students from the Obagi oil field community and Egi clan admitted to the Petroleum Training Institute in Warri, integrate at least five temporary workers into the company's permanent staff, and pay some compensation. The agreement also included a number of long-range resolutions by Elf, including accelerating the employment of indigenes, reinstating those employees who had been unjustifiably dismissed or retired, providing a specific quota of jobs and scholarships to indigenes, giving prior consideration to indigenes in awarding contracts, settling all outstanding cases of compensation, and improving the level of environmental protection. Agreement signed by Dr. M. Cometet and Mr. S. C. Iwuchukwu, for Elf Petroleum Nigeria Limited, and Professor J. G. Chinwah, Dr. A. J. Akor, Ike Isaiah, His Royal Highness Eze Kingdom E. Elenwa, for Obagi oil field communities and Egi clan, October 18, 1993; Agreement for immediate implementation, signed by Dr. M. Cometet and Professor J. G. Chinwah, October 18, 1993.

¹⁴⁶Ima Niboro, "Boom for some, doom for others," *The African Guardian* (Lagos), April 18, 1994.

¹⁴⁷Human Rights Watch interviews with Obagi residents, Obagi, March 3, 1995.

¹⁴⁸Human Rights Watch interview with Professor J. G. Chinwah, Port Harcourt, March 2, 1995.

Two months later, Chinwah learned that he was wanted for murder. On April 6, 1994, police forcibly removed him from a bed in Braithwaite Memorial Hospital in Port Harcourt, where he was undergoing treatment for a back injury. Chinwah was taken to the State Investigation and Intelligence Bureau (SIIB), where he was interrogated and shown a statement alleging that he had given orders to youths to beat a policeman in the February 13 incident. Pursuant to the order of a magistrate's court, he was sent back to the hospital on the condition that he remain under police surveillance. On April 14, 1994, however, armed policemen raided the hospital and moved Chinwah back to SIIB.¹⁴⁹ He was detained for seven days before being returned to the hospital under police guard. On April 28, 1994, Rivers State Police Commissioner Bukar Ali and an Assistant Inspector-General of Police reportedly visited Chinwah at the hospital to appeal for calm within the community.¹⁵⁰

Since Chinwah's release from the hospital, he has not been placed in detention, although the threat of charges against him continues and security agents have repeatedly come to his house to make inquiries. There have also been attempts to terminate his appointment at the Rivers State University of Science and Technology and to eject him from his university residence. On October 20, 1994, the vice-chancellor of the university issued a letter of interdiction suspending Chinwah's academic duties and cutting his salary in half because of "an alleged criminal offence."¹⁵¹ The terms of the letter were cancelled on November 8, 1994.¹⁵²

The Egi Joint Action Committee invited Chinwah to report on the status of the implementation of the agreement with ELF on September 11, 1994. A divisional police officer interrupted the meeting to inform Chinwah that he had been accused of inciting other members of the community to kill some local leaders and ordered him to report to the police station. Meanwhile, Chinwah's car was stolen.¹⁵³

When Chinwah arrived at the police station, he was presented with a statement by Eze Kingdom Elenwa. Chinwah later learned from his driver that his car had been taken to Elenwa's house, where a gun was planted inside. His driver was beaten outside Elenwa's house.¹⁵⁴

Brass

On November 29, 1993, some 3,000 townspeople of Brass participated in a peaceful demonstration outside a local Agip terminal.¹⁵⁵ Navy members and mobile police initially responded by throwing canisters of tear gas and shooting into the air. They then began to attack the demonstrators with kobokos and clubs. Many people were reportedly injured. According to Y, who owns a local restaurant, "We marched into the terminal with signs, placards. There were navy soldiers on duty at the terminal. While we were there, they called for mobile police reinforcements. We could see them flying in on a helicopter. They came on five different trips."

¹⁴⁹Ibid.; Letter from chambers of Chief Gani Fawehinmi to the Inspector-General of Police, April 18, 1994.

¹⁵⁰"Tension Mounts," *The Sunday Magazine* (Lagos), May 15, 1994, p. 14.

¹⁵¹Letter from M. B. Mieyebo, Registrar, Rivers State University of Science and Technology, to Professor J. G. Chinwah, October 20, 1994.

¹⁵²Letter from M. B. Mieyebo, Registrar, Rivers State University of Science and Technology, to Professor J. G. Chinwah, November 8, 1994.

¹⁵³Human Rights Watch interview with Professor J. G. Chinwah, Port Harcourt, March 2, 1995.

¹⁵⁴Ibid.

¹⁵⁵This account is based on Human Rights Watch interviews with Brass residents, Brass, March 2, 1995.

When the police blocked the only access route, the demonstrators were forced to escape by swimming through a mixture of oil and water in a nearby drainage ditch, which measures approximately fifteen yards wide and several yards deep. Many people suffered snake and insect bites in the process. For the next nine months, all access roads to the village were blocked. The only way out of the town was by boat.

Nembe Creek

Following an attack by residents on a local Shell flow station on December 4, 1993 and clashes between the Nembes and the Kalabaris over fishing rights, soldiers were dispatched to Nembe Creek in early February 1994.¹⁵⁶ Tension between the soldiers and the villagers mounted as the soldiers harassed local women and made threatening remarks about the attack on the flow station. Although Shell officials admitted to Human Rights Watch that the company contacted the Commissioner of Police following the attack on their facilities, they denied responsibility for the military's subsequent intervention.¹⁵⁷

On the morning of February 8, 1994, soldiers spotted Chief W and three other young men carrying an air conditioner from the Shell facility, presumably taken during the December 1993 attack. They arrested these four men, accused them of theft, and brought them to the town council building. Chief W told Human Rights Watch that at the time of the arrest, the soldiers said, "You are the guys who tried to stop oil production. We are going to charge you with economic sabotage."

At the town council building the men were forced to lie prone, bound, and publicly beaten with guns and kobokos. According to J, a youth leader who witnessed the beatings, soldiers stripped the men to their waists, walked on their backs, heads, and legs, and then carried out the beatings. Chief W reported that when he tried to escape, a soldier cut his arm and the bottom of his foot with a knife. One of the other men arrested was also stabbed in his foot.

That evening, some five hundred youths approached the town council building to demand the release of the four men. When the soldiers refused, several of the youths approached and tried to pull the prisoners away. The soldiers responded by opening fire, shooting one youth several times in his leg and another in his shoulder.

Rumuobiokani

Around 3:00 a.m. on February 21, 1994, several thousand residents of Rumuobiokani, which is located next to Shell's industrial facility in Port Harcourt, staged a peaceful demonstration in front of Shell's main compound.¹⁵⁸ The stated purpose of the demonstration was to demand a meeting with high-level executives of the Shell Petroleum

¹⁵⁶This account is based on Human Rights Watch interviews with Nembe Creek residents, Nembe Creek, March 2, 1995. The attack was allegedly precipitated by Shell's repeated failures to respond to the community's demands, which had previously been articulated through peaceful protests and letters. Members of the community destroyed and looted the flow station and held workers hostage for a brief period. On January 15, 1994, a delegation of Shell employees, federal officials, and OMPADEC representatives came to Nembe Creek to discuss the community's concerns.

¹⁵⁷Shell officials maintain that the company contacted the police for the exclusive purpose of facilitating the release of the local Shell supervisor, whom the villagers were holding captive. One Shell official claims that he asked the local mobile police commander to ensure that his unit refrained from shooting. By the time the police arrived, according to Shell officials, the villagers had released the supervisor. Human Rights Watch interview with Shell officials, Port Harcourt, March 15, 1995.

¹⁵⁸This account draws on Human Rights Watch interviews with Rumuobiokani residents conducted in Port Harcourt on March 2 and 3, 1994.

Development Company.¹⁵⁹ Rumuobiokani representatives reported that Shell representatives Steve Lawson-Jack and Precious Omuku arrived at the compound several hours after the demonstration had begun and initiated a discussion with representatives of the community. Meanwhile, according to Rumuobiokani residents, a Shell security agent ordered the demonstrators to disperse. About ten or fifteen minutes later, some thirty armed soldiers, mobile police, navy, and air force members arrived. In an interview with Human Rights Watch in mid-March, Shell officials claimed that the arrival of military forces in this context was "embarrassing."¹⁶⁰

One eyewitness reported that he heard (then) Major Paul Okuntimo order his soldiers, "Shoot at anyone you see." The troops began throwing canisters of tear gas, shooting indiscriminately, beating demonstrators with the butts of their guns, and making arrests. P, a community elder, still has a scar on his head from the brutal beating to which he was subjected. Five people were shot, and more than ten people were arrested.¹⁶¹

According to R, a Rumuobiokani woman in her mid-thirties, "We went for a peaceful demonstration. We did not go with any arms or knives. Immediately we reach there, we started singing and dancing." R tried to flee the premises after a mobile policeman beat her back with the butt of his gun. As she was running, a bullet hit her arm. She was taken to a local clinic, along with eight other demonstrators who received serious injuries. Mobile police unsuccessfully tried to force their way into the clinic soon after she arrived.¹⁶²

Twenty-five-year-old U, who was also shot during the demonstration, gave Human Rights Watch a graphic account of his encounter with a member of the navy:

When [the navy and police] arrived, they started using belts on elderly men. Blood was going out from their bod[ies]. We, the young men, tried to rescue our fathers. A navy man approached me when I was trying to rescue one of our elderly men. He told me that he will shoot me to death. I was afraid. When I tried to run away, directly he shot me. He was about one meter away. He was holding two guns, one long-range and one pistol. He cocked the long-range one, but it didn't work so he used the pistol. He shot me once in the stomach. The bullet passed through my body. One of my intestines was hanging out so I tried to push it inside with my hands. My people rushed me to the hospital to save my life. I was supposed to spend three-and-a-half months, but due to lack of funds I came home after one month. I am still having problems. Sometimes I can't trek long distances because of the pain and because I get weak.¹⁶³

Rumuobiokani representatives reported that they met with Shell representatives Lawson-Jack and Omuku

¹⁵⁹The residents of Rumuobiokani, who claim to be the indigenous owners of over 60 percent of the land occupied by Shell, contend that they have been inadequately compensated for the loss of their land. Their principal grievances include the high rate of unemployment in their community, the low number of Shell contracts awarded to Rumuobiokani residents, the lack of educational opportunities, inadequate roads, the lack of electricity and running water, and Shell's alleged omission of Rumuobiokani on a published map of Port Harcourt. The Rumuobiokani community argues that their land was labeled "Rumuomasi" on the map. As a consequence of this alleged omission, they contend that the people of Rumuomasi defaced all signposts bearing the name "Rumuobiokani" on December 18, 1993. Letter from the Rumuobiokani community to the Military Administrator of Rivers State and the General Manager (East), Shell Petroleum Development Company, February 24, 1994.

¹⁶⁰Human Rights Watch interview with Nnaemeka Achebe, SPDC Director and General Manager Business Development, and Chris Folarin Williams, SPDC Public and Government Affairs Manager, Lagos, March 14, 1995.

¹⁶¹Human Rights Watch interviews, Port Harcourt, March 2 and 3, 1995.

¹⁶²Human Rights Watch interview, Port Harcourt, March 3, 1995.

¹⁶³Human Rights Watch interview, Port Harcourt, March 3, 1995.

about three weeks after the incident. They told Human Rights Watch that the latter denied that Shell had been responsible for calling in troops and promised to consider the community's grievances. According to Rumuobiokani residents, the community's demands remain unmet.¹⁶⁴

THE ROLE AND RESPONSIBILITIES OF ROYAL DUTCH/SHELL

In early January 1995, Human Rights Watch initiated correspondence with Royal Dutch/Shell executives in the Netherlands and the United Kingdom, urging them to take constructive public steps to end egregious human rights violations in Nigeria. Shell responded by denying any responsibility to address human rights abuses and by misconstruing Human Rights Watch's request to play a socially responsible role in helping to mitigate these abuses as an appeal to intervene in Nigerian domestic politics. Human Rights Watch pursued this dialogue through meetings with Shell Petroleum Development Company (SPDC) representatives in both Lagos and Port Harcourt.

Human Rights Watch does not take sides in domestic political issues, but rather promotes respect for internationally recognized human rights as the best way to address those issues. Shell has in the past requested assistance from the Nigerian military authorities to defend its installations. The resultant intervention of the military has been characterized by the use of excessive and unjustified armed force.¹⁶⁵ Shell suspended production in Ogoniland in mid-1993 in the face of continuing intimidation and attacks by local communities and international protests about its own role there. Because the abuses set in motion by Shell's reliance on military protection in Ogoniland continue, Shell cannot absolve itself of responsibility for the acts of the military. Moreover, Shell continues to work in other areas where protests against the company's activities have been met with human rights violations by the authorities.¹⁶⁶ By virtue of owning and operating the largest joint venture in Nigeria, which includes the state-owned Nigerian National Petroleum Corporation and produces almost half of Nigeria's oil, Shell maintains significant interests and influence in the country.

In response to Human Rights Watch's inquiries, Shell denied collusion with the Nigerian security forces in attacks against the Ogoni and other communities in oil-producing areas.¹⁶⁷ Shell executives acknowledged that they hire members of the Nigerian police to provide internal security and that they contact the authorities in the event of disturbances and sabotage.¹⁶⁸ In the latter regard, Shell's explanation is that

the company is required by law to do so when operations are threatened with disruption. In this situation, a Shell company has no choice but to comply with the laws of the country, be it Nigeria or

¹⁶⁴Human Rights Watch interviews, Port Harcourt, March 2, 1995.

¹⁶⁵For example, see p. 10, above, regarding Shell's request for "security protection," with a preference for mobile police, in anticipation of an allegedly "impending attack" on the company's facilities at Umuechem in October 1990.

¹⁶⁶See pp. 41-42, above, regarding the security forces' use of disproportionate force to crush a peaceful protest by residents of Rumuobiokani outside Shell's main compound in Port Harcourt. Should Shell participate in the construction of the new Ikot-Abasi gas pipeline, which is intended to service a government-owned aluminum smelting plant on the border of Ogoniland, further protests are likely to result.

¹⁶⁷Letter from A. J. C. Brak, Shell Group Public Affairs Coordinator, to Human Rights Watch Executive Director Kenneth Roth, January 13, 1995; Human Rights Watch interview with Nnaemeka Achebe, SPDC Director and General Manager Business Development, and Chris Folarin Williams, SPDC Public and Government Affairs Manager, Lagos, March 14, 1995; Human Rights Watch interview with SPDC officials, Port Harcourt, March 15, 1995.

¹⁶⁸Human Rights Watch interview with Nnaemeka Achebe and Chris Folarin Williams, Lagos, March 14, 1995.

any other. We do not accept, however, that this makes SPDC responsible for the actions the authorities then take. Nor does it mean that we condone such actions [W]e categorically reject violence as a means of settling disputes.¹⁶⁹

In the event of a disturbance that presents a threat to security or that may lead to the closure of one of SPDC's facilities, Shell executives reported that Nigerian law requires them to contact the military administrator of Rivers State, the Rivers State police commissioner, the Department of Petroleum Resources, and Shell's joint venture partners, including the Nigerian National Petroleum Corporation. Shell executives maintained that the company's communications with the Rivers State military authorities are otherwise minimal.¹⁷⁰ However, a highly placed government source in Rivers State told Human Rights Watch that SPDC representatives meet regularly with the director of the Rivers State Security Service and Lieutenant-Colonel Paul Okuntimo, the commander of the Rivers State Internal Security Task Force.¹⁷¹

Shell, like other oil companies, essentially views itself as a "hostage" in the battle between the oil-producing communities and the government.¹⁷² Shell believes that the Ogonis' demands are "political" issues within the government's sphere of responsibility and that the company has been unjustifiably targeted in an attempt to raise the international profile of MOSOP's campaign.¹⁷³ Responding to MOSOP's allegations that Shell is complicit in human rights abuses perpetrated by the military in Ogoniland, Nnaemeka Achebe, Shell's director and general manager of business development, told Human Rights Watch that "the Ogonis think that the only way to solve their problems is to get Shell involved."¹⁷⁴

Terming Okuntimo "a savage soldier," one Nigerian SPDC representative, who requested anonymity, speculated that the lieutenant-colonel rationalized his role in Ogoniland as necessary to make the area safe for the oil companies. In seeming confirmation of this theory, Okuntimo reportedly told Oronto Douglas and Uche Onyeagocha, both lawyers with the Nigerian Civil Liberties Organisation, and Nick Ashton-Jones, a British environmentalist, that "Shell company has not been fair to him in these [o]perations" and that "he has been risking his life and that of his soldiers to protect Shell oil installations."¹⁷⁵ Later that month, Lieutenant-Colonel Dauda Komo, the military administrator of Rivers State, reportedly tried to convince a group of Ogoni chiefs to sign a statement calling for a ban on MOSOP and the resumption of economic activities, including oil exploration by Shell.

¹⁶⁹Letter from A. J. C. Brak, Shell Group Public Affairs Coordinator, to Human Rights Watch Executive Director Kenneth Roth, February 15, 1995.

¹⁷⁰Human Rights Watch interview with Shell officials, Port Harcourt, March 15, 1995.

¹⁷¹Human Rights Watch interview, Port Harcourt, February 22, 1995.

¹⁷²Human Rights Watch interview with Nnaemeka Achebe and Chris Folarin Williams, Lagos, March 14, 1995.

¹⁷³SPDC, "Nigeria Brief: The Ogoni Issue," p. 2.

¹⁷⁴Human Rights Watch interview with Nnaemeka Achebe and Chris Folarin Williams, Lagos, March 14, 1995. Shell representatives admitted to Human Rights Watch that their approach to community relations had previously been more reactive than proactive, in the sense that more vocal communities got comparatively more assistance. They said that since late 1993 community assistance has been allocated according to production. *Ibid.*

¹⁷⁵Human Rights Watch interview with Uche Onyeagocha, Washington, D.C., May 12, 1995; Oronto Douglas, "Ogoni: Four Days of Brutality and Torture," p. 22. These statements were made in the course of a conversation with Douglas, Onyeagocha, and Ashton-Jones after Okuntimo's soldiers had beaten the latter at Bori Military Camp. See pp. 23-24, above, for more information about the beatings.

The chiefs reportedly declined to sign the statement.¹⁷⁶

Since mid-1993, Shell has refused to send its staff back to Ogoniland—notwithstanding the government's offer of security, according to Shell executives interviewed by Human Rights Watch. According to Achebe, "our withdrawal from Ogoniland should be interpreted by the government as the result of the breakdown of law and order." Achebe also told Human Rights Watch that the company would prefer to operate without soldiers and police, whose presence interferes with community relations.¹⁷⁷ In an interview with Geraldine Brooks of *The Wall Street Journal*, Shell spokesman Eric Nickson said that Shell "'deplores' cases of the military's 'heavy-handed' clampdown."¹⁷⁸ Similarly, another high-ranking oil executive told Human Rights Watch that his company avoids using armed soldiers to guard its facilities because they "are not in control" and ultimately "become another constituency to be paid off." He explained further that:

To deal with the government would be the worst thing we can do. Even if the government will react, it will be for one day, one week, then it will disappear. The best possible situation is to deal only with the communities. We pay a lot of money to OMPADEC [the Oil Minerals Producing Development Commission], and there is no return.¹⁷⁹

Such disclaimers appear to be freely made in the context of interviews with foreign researchers and journalists. Human Rights Watch does not know whether Shell has expressed these concerns directly to the authorities because company representatives have communicated only privately with government officials. Human Rights Watch urges Shell and other multinational oil companies to issue and publicize such statements within Nigeria in order to pressure the security forces to cease human rights abuses in oil-producing areas.

Shell's General Business Principles state that "it is ... [the Shell companies'] legitimate right and responsibility to speak out on matters which affect the interests of their employees, customers and shareholders, and on matters of general interest where they have a contribution to make based on particular knowledge."¹⁸⁰ In addition, "the need is recognised to take a constructive interest in societal matters which may not be directly related to the business."¹⁸¹ The Nigerian government's disregard for the rule of law has had extremely severe consequences

¹⁷⁶Uche Maduemesi, "This is Conquest," *Tell* (Lagos), July 18, 1994. A leaked memorandum addressed to the military administrator of Rivers State and allegedly signed by Okuntimo, also suggests that military operations in Ogoniland were intended to facilitate the resumption of SPDC's operations. The memorandum, dated May 12, 1994, states: "Shell operations still impossible unless ruthless military operations are undertaken for smooth economic activities to commence." The strategies proposed to remedy this situation include "intra-communal/kingdom formulae ... as discussed," "wasting operations during MOSOP and other gatherings making constant military presence justifiable," "wasting targets cutting across communities and leadership cadres especially vocal individuals in various groups," "psychological tactics of displacement," and "restriction of unauthorised visitors especially those from Europe to the Ogoni." An "initial disbursement of 50 million naira" and "pressure on oil companies for prompt regular inputs" are requested. The memorandum also mentions the need for "surveillance on Ogoni leaders considered as security risks/MOSOP propellers" and labels MOSIEND and MORETO, two other indigenous movements in Rivers State, as additional "targets for clampdown." Human Rights Watch has tried to establish the authenticity of this memorandum but is, as of this writing, unable to vouch for it.

¹⁷⁷Human Rights Watch interview with Nnaemeka Achebe and Chris Folarin Williams, Lagos, March 14, 1995.

¹⁷⁸Geraldine Brooks, "Slick Alliance: Shell's Nigerian fields produce few benefits for region's villagers," *The Wall Street Journal*, May 6-7, 1994.

¹⁷⁹Human Rights Watch interview, Lagos, March 8, 1995. This executive requested anonymity.

¹⁸⁰Royal Dutch/Shell Group of Companies, "Statement of General Business Principles," July 1994, point 5.

¹⁸¹*Ibid.*, point 7.

for the Nigerian people, as well as for commercial ventures. The Nigerian military's defense of Shell's installations has become so intertwined with its repression of minorities in the oil-producing areas that Shell cannot reasonably sever the two. Accordingly, Human Rights Watch urges Shell and other multinational oil companies operating in Nigeria to take more active steps to ensure that the behavior of the Nigerian security forces complies with international human rights standards.

THE INTERNATIONAL RESPONSE

The defeat of a resolution on Nigeria at the February 1995 session of the United Nations Commission on Human Rights is just one indication of the divided sentiments of the international community with respect to human rights abuses in Nigeria.¹⁸² The draft resolution expressed concern regarding pervasive violations of human rights and fundamental freedoms in Nigeria and urged the government to respect and ensure the rights of all individuals, including minorities. In addition to advocating a return to democratic rule, the draft resolution called upon the Nigerian government to reinstitute the right of habeas corpus, release political prisoners, restore press freedom, lift arbitrarily imposed travel restrictions, and respect the rights of trade unionists.

The European Union and the United States have made strong public declarations condemning the Abacha government and undertaken policy initiatives intended to facilitate a transition to democracy in Nigeria and to promote human rights. The Nigerian authorities have failed to respond to such pressure thus far. Although the subject of human rights abuses against the Ogoni people has been raised before numerous U.N. human rights bodies,¹⁸³ there is little evidence that military repression in Ogoniland and neighboring oil-producing areas has weighed heavily in E.U. or U.S. policy.

European Union Policy

To date, the European Union has adopted a number of constructive measures which are "politically binding" on member states. By incorporating some of these measures into a common position under Article J.2 of the Treaty of Maastricht, the E.U. could make them legally binding, which would not only recognize the strong commitment of member states but also require them to adopt stronger implementing mechanisms.

On July 14, 1993, the European Political Cooperation (the foreign ministers of the European Community) issued a statement on Nigeria in which the European Community and its member states agreed to suspend military cooperation, suspend visits by members of the military and intelligence service, and impose visa restrictions for members of the military, the security forces and their families. In early December 1993, the E.U. reiterated these measures and further recommended travel restrictions for all military staff of Nigerian diplomatic missions; case-by-case review, with a presumption of denial, for all new export license applications for defense equipment; cancellation of training courses for all Nigerian military personnel; case-by case review of new E.U. aid projects; and suspension of all non-essential high-level visits to and from Nigeria. The E.U. called upon the Nigerian

¹⁸²The resolution was rejected by twenty-one votes to seventeen, with fifteen abstentions. The countries that supported the resolution were Australia, Austria, Bulgaria, Canada, Chile, Finland, France, Germany, Hungary, Italy, Japan, The Netherlands, Poland, Romania, the Russian Federation, the United Kingdom, and the United States. Algeria, Angola, Benin, Cameroon, China, Ivory Coast, Cuba, Egypt, Ethiopia, Gabon, Guinea Bissau, India, Indonesia, Malawi, Mauritania, Mauritius, Pakistan, Sri Lanka, Sudan, Togo, and Zimbabwe opposed the resolution. Bangladesh, Bhutan, Brazil, Colombia, the Dominican Republic, Ecuador, El Salvador, Malaysia, Mexico, Nepal, Nicaragua, Peru, the Philippines, the Republic of Korea, and Venezuela abstained from the vote.

¹⁸³These include the U.N. Human Rights Commission, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee for the Elimination of Racial Discrimination, and the Working Group on Indigenous Peoples. UNPO, *Ogoni*, p. 16.

government to take immediate steps to restore democratic rule, to address the problem of corruption, to promote respect for human rights, and to deal with underlying economic problems. The E.U. has condemned serious violations of human rights by the Abacha government on several other occasions, most recently in a declaration of March 22, 1995 advocating the "re-establishment of a constitutional regime and public liberties." The declaration specifically called upon the Nigerian government to release political prisoners, restore freedom of expression and the independence of the judiciary, and guarantee the safety of detainees.

In early 1995 the E.U. provided 400,000 Ecu (approximately \$535,200) to a local relief organization for rehabilitation and resettlement within Ogoniland. An E.U. representative and representatives of E.U. member states, including the United Kingdom, periodically attend sessions of the trial of Ken Saro-Wiwa and other MOSOP activists. The European Parliament has also made representations to General Abacha regarding the plight of the Ogoni.¹⁸⁴

The constraints adopted by the E.U. have been selectively enforced. As discussed below, weapons shipments from the United Kingdom have continued. Moreover, notwithstanding the Nigerian government's deteriorating human rights record, the European Development Fund has promised substantial assistance, including funds for export promotion and hard currency facilities for the government. Other beneficiaries include the telecommunications industry, news agencies, and universities.

United Kingdom Policy

On June 24, 1993, the United Kingdom imposed measures similar to those adopted by the European Political Cooperation in its statement of July 16, 1993.¹⁸⁵ These included discontinuing military training courses for members of the Nigerian armed forces in the U.K.; suspending assistance to the National War College in Lagos and withdrawing the British military advisory team; imposing visa restrictions for members of the Nigerian armed forces, the National Guard, as well as the Nigerian State Security and Intelligence Services and their dependents; discontinuing special treatment for visa applications from officials of the Nigerian federal government, state governments, and parastatals; and introducing case-by-case aid assessments.¹⁸⁶

The U.K. implemented the E.U.'s recommendations of December 2, 1993 by restricting Nigerian defense staff from traveling outside London without prior permission; initiating case-by-case review, with the presumption of denial, of export license applications for defense equipment to Nigeria; asking Nigerian military students on courses in the U.K. to leave by December 31, 1994; withdrawing a grant for the Nigerian power sector; and suspending non-essential high-level visits to and from Nigeria.¹⁸⁷ In fiscal year 1994, the British government provided £4.9 million (approximately \$8 million) in financial assistance to Nigeria. Most of these funds were allocated for humanitarian purposes and channeled through non-governmental organizations, although government parastatal organizations and state and local governments also received some assistance.¹⁸⁸

¹⁸⁴Letter from Jacques Santer, President of the European Commission, to Abdullahi An-Na'im, Executive Director, Human Rights Watch/Africa, and Lotte Leicht, Brussels Director, Human Rights Watch, May 18, 1995.

¹⁸⁵U.K. policy warrants particular scrutiny because the U.K. has historically exercised considerable influence in Nigeria, a former British colony.

¹⁸⁶Human Rights Watch interview with British Foreign and Commonwealth Office representative, February 15, 1995.

¹⁸⁷Ibid. The presumption of denial for export license applications for defense equipment does not apply to non-lethal defense equipment that can be employed for non-military uses. Ibid.

¹⁸⁸Human Rights Watch phone conversation with British Foreign and Commonwealth Office representative, June 22, 1995.

Notwithstanding the provision for case-by-case review, the British government has issued thirty export licenses for military equipment since January 1, 1994.¹⁸⁹ The President of the British Board of Trade has described all of this equipment as "non-lethal," although he refused to disclose the precise nature of the equipment.¹⁹⁰ Moreover, the U.K. is reportedly completing delivery of eighty Vickers tanks pursuant to a contract executed in 1991. When the new provisions were implemented, only forty-six tanks had reportedly been delivered.¹⁹¹ The British Foreign and Commonwealth Office does not deny that weapons shipments have taken place since December 1993 pursuant to export licenses granted prior to the imposition of restrictions.¹⁹² In light of the severity of the human rights abuses that gave rise to the restrictions, the existing exception for outstanding contracts should be reconsidered.

United States Policy

Following the annulment, the United States cancelled all foreign assistance to Nigeria, with the exception of humanitarian aid.¹⁹³ In July 1993, the U.S. announced that commercial military sales would be reviewed on a case-by-basis, with the presumption of denial. In response to Abacha's coup in November 1993, the White House issued a proclamation "suspending the entry into the United States of immigrants and nonimmigrants who formulate or implement policies impeding a transition to democracy in Nigeria or who benefit from such policies, and the immediate families of such persons." These steps have all been maintained to date.

In April 1994, President Clinton decertified Nigeria for its failure to control illegal drug trafficking, precluding the U.S. from granting any foreign aid to Nigeria and from supporting Nigerian applications for loans from international lending institutions.¹⁹⁴ Adamu Mohammed, Abacha's special advisor on drugs, money laundering, and advance fee fraud, visited the U.S. in May 1995 (pursuant to a waiver of visa restrictions) to discuss recent efforts to combat illegal drug production. The U.S. government has scheduled a special mid-year review of Nigeria's drug decertification status.

On March 14, 1995, the U.S. Department of State issued a statement of concern regarding the Nigerian government's arrests of at least thirty active and retired military officers in connection with an alleged coup attempt. The statement called on the Nigerian government "to assure the safety and security of all detainees and to respect their right to due process under the law." The statement also urged the government to expedite its efforts to return the country to civilian rule. In a statement of May 31, 1995, the State Department spokesperson reiterated these

¹⁸⁹*Official Report of the House of Commons*, January 27, 1995, Col. 397.

¹⁹⁰*Official Report of the House of Commons*, May 10, 1995, Cols. 517-18.

¹⁹¹"Secret arms exports evade ban," *Observer*, May 21, 1995.

¹⁹²Human Rights Watch interview with British Foreign and Commonwealth Office representative, February 15, 1995.

¹⁹³In fiscal year 1993, the United States provided approximately \$39 million in financial assistance to Nigeria. Following the annulment, the U.S. government withdrew \$11 million in administrative support funds, which had previously been allocated to the Nigerian Ministry of Health. In fiscal year 1994, U.S. aid to Nigeria amounted to \$23.5 million, about 41 percent of which went to the Nigerian Ministry of Health for project assistance. Phone conversation with USAID representative, May 26, 1995.

¹⁹⁴The decertification had minimal effect on U.S. assistance to Nigeria for fiscal year 1994 because most of the funds allocated had already been paid. Proposed U.S. assistance for fiscal year 1995 is \$21 million, which, because of the decertification, would go exclusively to the private sector. Phone conversation with USAID representative, May 26, 1995.

By March 31, 1995, the World Bank had disbursed \$207 million to the Nigerian government in fiscal year 1994, with an undisbursed balance of \$1.7 billion. In April 1995, the World Bank refused to extend new loans or credits to Nigeria beyond a limited core of \$25 million per annum for poverty alleviation on the ground that Nigeria's macroeconomic framework was not conducive to growth and development. Phone conversation with World Bank representative, May 19, 1995.

concerns and criticized the continued detention of Chief Abiola, as well as the recent arrests of pro-democracy activists. The statement also expressed concern that persons charged with wrongdoing, including Ken Saro-Wiwa and his colleagues, receive fair and open trials. The State Department's recommendations to the Nigerian government were to remove the bans on closed media houses, release or charge detainees, respect due process, and end harassment of government critics.

A delegation from the U.S. embassy in Lagos that visited Ogoniland in the spring of 1994 was held up at gunpoint when its members attempted to meet with the military governor of Rivers State. There have been no subsequent visits to Ogoniland or to other oil-producing areas. The U.S. embassy intermittently sends representatives to observe the trial of Ken Saro-Wiwa and other MOSOP activists.

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This report was written by Melissa Crow, Sophie Silberberg Fellow with Human Rights Watch/Africa, and edited by Janet Fleischman, Washington Director of Human Rights Watch/Africa, and Michael McClintock, Deputy Program Director of Human Rights Watch. It was reviewed by Claude Welch, a member of the Advisory Board of Human Rights Watch/Africa. All interviews inside Nigeria were conducted by Melissa Crow and James Ron, a consultant to Human Rights Watch/Africa. Kimberly Mazyck, Human Rights Watch/Africa associate, prepared the report for publication.

Human Rights Watch/Africa

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