

**NIGERIA**  
**“PERMANENT TRANSITION”**  
**Current Violations of Human Rights in Nigeria**

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## SUMMARY

Despite its stated commitment to return Nigeria to elected civilian rule by October 1, 1998, the military government continues to violate the rights of Nigerians to free political activity, including freedom of expression, assembly and association, freedom of movement, and freedom from arbitrary detention and trial. Its security forces in Ogoniland and elsewhere persist in a longstanding pattern of human rights abuses. Head of state General Sani Abacha continues to hold in arbitrary detention the presumed winner of the June 12, 1993 elections, Chief M.K.O. Abiola. Nigerians are deeply skeptical that this military government, after setting aside the fairest elections ever held in their country, will hand over power to a civilian government when it has promised to do so. Nigeria appears to be in a state of permanent transition, still governed by the armed forces a decade after a program to restore democracy was first announced by General Ibrahim Babangida.

Recent reforms announced by the government—including the restoration of a right to appeal to a higher court in some cases where it had been denied, the repeal of a decree preventing the courts from granting writs of habeas corpus in favor of detainees without charge, and the creation of a human rights commission—have had no effect in practice, and do not begin to address the need for fundamental reform and renewal. The transition program announced on October 1, 1995, is already slipping behind schedule, while the conditions that have been set for political participation seem designed to exclude the great majority of credible and committed pro-democracy activists. Above all, the program does not address the current status of the June 12, 1993 elections, thus ignoring the central issue of Nigeria's politics since the elections were annulled.

This report details the transition program, and the steps that have been taken towards its implementation to date, including an assessment of the unfree and unfair local government elections of March 1996. The report describes the impediments to free political activity that destroy the transition program's credibility, including the detention and imprisonment of opposition politicians, human rights and pro-democracy activists, trade unionists and journalists, as well as other restrictions on freedom of expression, assembly, association and movement. In the meantime, ordinary Nigerian citizens are regularly subjected to arbitrary detention and torture by the police, prison conditions are appalling, and forced evictions of market traders in Lagos have been carried out without any regard for due process, adding to Nigeria's army of dispossessed. Repressive legislation remains in place, including numerous decrees that prevent the courts from inquiring into the legality of acts carried out by the military government.

In Ogoniland, birthplace of executed minority rights activist Ken Saro-Wiwa, repression continues. Nineteen Ogonis continue to face trial before the same Civil Disturbances Special Tribunal that convicted Saro-Wiwa and eight others and sentenced them to death in October 1995—executions later described by British Prime Minister John Major as "judicial murder." Others suspected to be sympathizers of Saro-Wiwa's organization, the Movement for the Survival of the Ogoni People (MOSOP), were detained after demonstrations on January 4, 1996, celebrated by the Ogonis as "Ogoni Day" since 1993; still more were detained in March and April 1996, before or during the visit of a fact-finding team sent by the U.N. secretary-general—despite assurances given to the U.N. by the Nigerian government that nobody would be victimized for attempting to speak to the team. It is virtually impossible for outsiders to visit Ogoniland, where army and Mobile Police maintain a heavy presence, without government consent. While the Nigerian government has put in place token efforts at "reconciliation" in Ogoniland, it has not made any move to pay compensation to the families of the executed activists, as recommended by the U.N. fact-finding team.

International attention has shifted from Nigeria during 1996, after an outcry following the November 1995 executions of the Ogoni Nine. Although sanctions imposed following the executions remain in force, as well as those put in place in 1993, no further measures have been imposed, despite the lack of genuine progress in returning the country to a civilian elected government. The Commonwealth, which suspended Nigeria from membership in November 1995, has halted the implementation of further sanctions recommended in April 1996 pending further discussions with the Nigerian government. The Organization of African Unity has failed to take any measures against Nigeria, and the African Commission on Human and Peoples' Rights, which held an extraordinary session on Nigeria in December 1995, has yet to follow this up with further action or recommendations. The United States and the European

Union, which imposed various measures in November and December 1995, including an arms embargo and visa restrictions, have stated that they prefer to act in concert in taking any further action, and have thus failed to do anything concrete since last year—while maintaining that all measures are still under consideration. Economic considerations within Nigeria's largest trading partners appear to have taken over from the moral and political outrage expressed at the executions of the Ogoni Nine in the face of international pleas for clemency.

Although it consented to the fact-finding mission sent by the U.N. secretary-general, the Nigerian government has yet to grant permission for visits from representatives of a number of other international organizations that have requested to investigate the situation in Nigeria. It has, in theory, promised to allow missions from the U.N. special rapporteurs on the independence of judges and lawyers and on extrajudicial, summary or arbitrary executions and from the African Commission on Human and Peoples' Rights. However, dates have not been set for any of these missions, and various proposed times have been rejected as unsuitable for one reason or another. The Commonwealth Ministerial Action Group (CMAG), established in New Zealand in November 1995, at the time of the suspension of Nigeria from the Commonwealth, also proposed to send a mission to Nigeria. After initially refusing to consider a visit, in August 1996 the Nigerian government announced that it was inviting CMAG to come to the country, but terms for a mission are still under negotiation.

International pressure must be maintained and increased to ensure that the Nigerian government allows these missions to go ahead and—more importantly—takes steps to improve the human rights situation. Detainees must be released, free political activity restored, the rule of law respected, and fundamental human rights guaranteed. Above all, further sanctions are necessary to ensure that Nigeria is returned to rule by an elected civilian government as soon as possible, and certainly well before the current proposed date of October 1, 1998.

## RECOMMENDATIONS

### To the Nigerian Government

Human Rights Watch calls on the **government of Nigeria** to:

- Return Nigeria to rule by an elected civilian government as soon as possible, but in any event well in advance of the proposed October 1, 1998 deadline, and allow international observers to monitor all stages of the transition program;
- Repeal all laws suspending the constitutional protection of fundamental human rights; allowing indefinite detention without charge; providing for the establishment of military or special tribunals to try civilians who are alleged to have committed normal criminal offenses; ousting the jurisdiction of the courts from considering the legality of an executive act; or making it an offense to criticize the government or head of state of Nigeria, or their policies;
- Restore the rights of Nigerian citizens to freedom of expression, assembly and association, and cease the harassment of opposition politicians, journalists, students, trade unionists and all others whose efforts to obtain a change in government policies by peaceful means are obstructed;
- Immediately and unconditionally release, or release on bail, charge with recognizable criminal offenses and try promptly before a regular court respecting international standards of due process, all those arbitrarily held in detention, including but not limited to: Chief Moshood K.O. Abiola; detainees held under the State Security (Detention of Persons) Decree No. 2 of 1984; those convicted in 1995 of involvement in an alleged coup plot; and those Ogonis held in custody and facing charges in connection with the same facts as those for which Ken Saro-Wiwa and his co-accused were convicted by a special tribunal;
- Take immediate steps toward the abolition of the death penalty and to end the use of torture, summary executions, arbitrary detention and other human rights abuses by the security forces in all parts of Nigeria;

- Restore the independence of the judiciary by instituting appointment and removal procedures that do not involve the executive, giving the judiciary financial autonomy, ceasing to harass judges who give decisions against the government, and obeying court orders;
- Ensure that conditions of detention and imprisonment are in full compliance with international standards and obey all court orders for individuals held in custody to be released, produced before court, allowed visitors, access to lawyers or private doctors, removed to hospital where a prison or personal doctor recommends, or permitted reading material;
- Set up a process for paying compensation to the relatives of those executed on November 10, 1995, in accordance with the May 1996 recommendations of the fact-finding mission sent by the U.N. secretary-general;
- Fix firm dates for fact-finding visits to Nigeria, on terms that allow full investigation of the human rights situation, by the U.N. Special Rapporteurs on Extrajudicial Executions and on the Independence of Judges and Lawyers, by the Commonwealth Ministerial Action Group and by the African Commission on Human and Peoples' Rights;
- Appoint an independent judicial inquiry into the actions of the security forces in the oil producing areas, make public the findings of the inquiry, bring to trial those alleged to be responsible for human rights abuses and ensure that the rights of minorities in Nigeria are respected, in keeping with Article 27 of the International Covenant on Civil and Political Rights.

#### **To the International Community**

Human Rights Watch calls on the international community to press the Nigerian government to implement the above recommendations, by maintaining existing sanctions in place and implementing further measures, both unilaterally and through the medium of multilateral institutions. In particular:

Human Rights Watch calls on the **Commonwealth and its Member States** to:

- Maintain Nigeria's suspension from the Commonwealth until an elected civilian government is installed in power and no members of the army are still openly engaged in politics, in accordance with the Harare Declaration;
- Implement the sanctions recommended in the statement by the Commonwealth Ministerial Action Group (CMAG) of April 23, 1996;
- Publish the study carried out by the Commonwealth Secretariat and presented to CMAG in April 1996 on possible further sanctions which could be implemented against Nigeria;
- Press the Nigerian government to allow a full fact-finding mission by CMAG to investigate all aspects of human rights in Nigeria, and in particular the progress, or lack thereof, toward installing an elected civilian government;
- Implement further sanctions beyond those agreed in April 1996, including implementing a freeze of the assets of members of the Nigerian armed or security forces, the Provisional Ruling Council, Federal Executive Council and their families held in Commonwealth countries;
- Support the efforts of Nigerian human rights and pro-democracy groups both with technical and financial assistance and by issuing statements condemning violations of human rights.

Human Rights Watch calls on the **European Union and its Member States** to:

- Make public the report prepared for the European Council and Commission on the effectiveness of measures taken by the European Union as regards its relations with Nigeria, and put in place reporting and monitoring mechanisms to ensure that the sanctions currently in force against Nigeria, especially visa restrictions on members of the government and the arms embargo, are respected by the member states of the European Union;
- Impose a total ban on arms exports to Nigeria from the European Union, including exports relating to contracts entered into before the current embargo came into effect, and introduce a case-by-case review, with a presumption of denial, on all “dual use” equipment which may have both military/security and civilian purposes;
- Take steps to freeze the financial assets of members of the Provisional Ruling Council and Federal Executive Council and their families, as well as of members of the Nigerian security and armed forces, pending the return of Nigeria to civilian rule;
- Fund and publish studies by independent experts relating to the likely effectiveness of a multilateral oil embargo or similar measures in removing the Nigerian army from government and returning Nigeria to civilian rule;
- Fund and publish studies by independent experts of the impact of oil company activities in the Niger Delta, and develop codes of conduct to ensure that companies based in the member states of the European Union which operate in Nigeria respect and support international standards of human rights including those relating to freedom of association, freedom of expression and labor rights;
- Support the efforts of Nigerian human rights and pro-democracy groups both financially and by issuing statements condemning violations of human rights.

Human Rights Watch calls especially on the **United Kingdom** among European states to use the influence it has with the Nigerian government by virtue of its strong trade and political links to the maximum effect; in particular by publicly denouncing human rights violations of all kinds, exerting pressure on the Nigerian government to return Nigeria to civilian rule, and taking a lead in multilateral fora for the imposition of further sanctions against Nigeria pending the end of military government.

Human Rights Watch calls on the **United Nations and its member states** to:

- Press the Nigerian government to allow missions from the U.N. thematic Special Rapporteurs on the Independence of Judges and Lawyers and on Extrajudicial, Summary or Arbitrary Executions,

In particular, Human Rights Watch calls on:

- The U.N. High Commissioner for Human Rights to investigate and report on the current situation of human rights in Nigeria, with particular reference to the role of the military in politics and progress of the restoration of civilian rule;
- The U.N. Commission on Human Rights to appoint a Special Rapporteur on Nigeria at the next session of the Commission in Geneva in 1997;
- The U.N. Security Council to introduce sanctions against Nigeria, pending the restoration of civilian government, including a total arms embargo, visa restrictions and a freeze on the assets in other countries of members of the Nigerian armed or security forces or members of the Provisional Ruling Council or Federal Executive Council and their families.

Human Rights Watch calls on the **Organization of African Unity (OAU) and its Member States** to:

- Press the Nigerian government to accept a fact-finding mission from the African Commission on Human and Peoples' Rights;
- Introduce visa restrictions and an asset freeze on members of the Nigerian army and security forces, the Provisional Ruling Council and Federal Executive Council and their families;
- Appoint a team to monitor the Nigerian transition program and put pressure on the Nigerian government to allow such a team access to relevant information in Nigeria and to senior members of the military government;

Human Rights Watch calls in particular on **South Africa** to take a lead among African States in pressing the Nigerian government to make rapid return to civilian rule.

Human Rights Watch calls on the **African Commission on Human and Peoples' Rights** to insist forcefully to the Nigerian government that it should accept a fact-finding mission from the African Commission to investigate violations of the African Charter on Human and Peoples' Rights in Nigeria, to send such a mission as soon as possible, and to produce by the first session of the Commission in 1997—whether or not visas are granted to Commission members for the mission—a detailed, public, written report on the human rights situation in Nigeria, with recommendations for the return of Nigeria to civilian rule.

Human Rights Watch calls on the **United States** to:

- Take steps to freeze the assets in the U.S. of those members of the Provisional Ruling Council and Federal Executive Council against whom visa restrictions are in place;
- Pursue the introduction of further measures against Nigeria, including an arms embargo, at U.N. Security Council level and in other international fora, pending the return of Nigeria to civilian rule.

Human Rights Watch calls on **Shell and the other multinational corporations operating in Nigeria**, in particular in the field of oil exploration and production, to:

- Condemn publicly and privately individual cases and patterns of human rights violations by the Nigerian security forces in the areas where their companies are operating, including the detention and harassment of those protesting activities by the oil companies;
- Call on the Nigerian government to appoint an independent public inquiry into the actions of the security forces in the oil producing areas and to bring to trial those alleged to be responsible for violent abuses;
- Appoint responsible, high-ranking corporate officials to monitor the use of force by the Nigerian military in the oil producing areas, who should publicly denounce the unjustified or excessive use of force and urge the Nigerian government to exert proper control over the actions of the security forces;
- Urge the Nigerian government to respect the rights to freedom of assembly and expression, particularly with regard to the voicing of grievances against the oil industry;
- Publicly and privately call on the Nigerian government to release unconditionally all political prisoners, whether detained without charge or convicted in trials which did not respect international standards of due process, including in particular the Ogonis who still face trial by a Civil Disturbances Special Tribunal, and all other Ogonis held without charge;
- Call on the Nigerian government to allow freedom of association and protection of the right to organize in accordance with International Labor Organization (ILO) Convention 87, and to release detained union activists.



Human Rights Watch calls specifically on **Shell** to:

- Clarify whether Shell is currently engaged in negotiations for the purchase of weapons for the Nigerian police and undertake not to make any such purchases now or in the future;
- Clarify the role and responsibilities of the “supernumerary police” that protect Shell installations and in particular their instructions with regard to the use of weapons;
- Clarify the role, responsibilities and numbers of security guards employed by Shell itself, whether they are armed, and their instructions with regard to the use of weapons;
- Include explicit reference to the Universal Declaration of Human Rights in its General Business Principles, publicly and privately condemn individual cases of violations of the Declaration, and ensure that the Nigerian management of Shell is aware of the implications of support for international standards of human rights.

## THE LATEST “TRANSITION” PROGRAM

### **The Annulment of the 1993 Elections and the November 1993 Coup**

On June 12, 1993, presidential elections were held in Nigeria, following an extended “transition program” to return the country to civilian rule after years of military government. Officially promulgated by military ruler General Ibrahim Babangida in 1987, the transition had been repeatedly extended and date for the presidential elections that would complete the program repeatedly postponed. The terms on which the elections would be held had also been modified, so that only two government-created political parties were eventually allowed to contest: the “left-of-center” Social Democratic Party, led by Moshood K.O. Abiola, a Muslim from the south west of the country; and the “right-of-center” National Republican Convention, led by Bashir Othman Tofa, a northerner. Early returns indicated that Chief Abiola had won the presidential election, with strong support in all parts of the country; and unofficial results later indicated that he had gained 58.4 percent of the approximately fourteen million votes, to Alhaji Tofa’s 41.6 percent.

Before the announcement of results by the National Electoral Commission (NEC) was complete, however, it was broadcast on government-controlled Radio Nigeria that further announcements would be suspended because of “developments and actions pending in the courts”—including a court case seeking the cancellation of the election, filed on June 10 by the Association for a Better Nigeria, which had previously called for Babangida to remain in office for a further four years. An involved series of other suits and counter-suits concerning the elections were then filed in different courts around the country by pro- and anti-military groups, resulting in a conflicting set of injunctions ordering or prohibiting the announcement of further results. On June 23, the federal government announced that the elections were annulled and the NEC suspended. On June 26, Gen. Babangida justified the annulment in a nationwide broadcast, citing the confusion of court rulings as well as electoral malpractice, although he stated that the military was still committed to leaving office on August 27, the date set for the transfer of power by the transition program. Later it was announced that a fresh election would be held on August 14 under a reconstituted NEC. Nationwide protests erupted in response to the annulment, followed by a crackdown on those protesting.<sup>1</sup>

On July 26, 1993, it was announced that an “interim national government” would be installed with a mandate to hold fresh presidential elections. On August 27, Gen. Babangida officially handed over power to Ernest Shonekan, a civilian. Gen. Sani Abacha was made vice-president, and effective control of government remained in the hands of the army. Popular discontent, including nationwide strikes, continued, despite measures such as the banning of a number of newspapers. On November 10, in a remarkable judgment, the High Court in Lagos declared the interim government

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<sup>1</sup>Africa Watch (now Human Rights Watch/Africa), “Threats to a New Democracy: Human Rights Concerns at Election Time,” *A Human Rights Watch Short Report*, vol. 5, no. 9, June 1993; Africa Watch “Democracy Derailed: Hundreds Arrested and Press Muzzled in Aftermath of Election Annulment,” *A Human Rights Watch Short Report*, vol. 5, no. 11, August 1993.

illegal. On November 17, 1993, Shonekan was deposed by Gen. Abacha, who became head of state. A Provisional Ruling Council (PRC) replaced Babangida's Armed Forces Ruling Council (AFRC; known as the National Defence and Security Council from January 1993). A new Federal Executive Council (FEC), including compliant civilian politicians, was appointed to assist the PRC. While promising a swift return to democracy, Abacha banned all political parties (including the two "approved" parties that had contested the elections); dismantled those democratic structures that were already functioning, including the state and federal legislatures (elected in 1990 and 1992 respectively), and replaced civilian state governors with military administrators.<sup>2</sup> The Interim National Government (Validation) Decree nullified the November 10 High Court ruling that the Shonekan government was illegal, in an attempt to weaken the legal position of Chief Abiola. The Constitution (Suspension and Modification) Decree 107 of 1993 restored the 1979 constitution, but suspended the operation of those sections of the constitution giving protections to detainees, while ousting the jurisdiction of the courts to inquire into the validity of military decrees.

Opposition to the new military government and calls for the restoration of the results of the June 12 elections continued. In May 1994 a new pro-democracy group was formed, the National Democratic Coalition (NADECO), and released a "Lagos Declaration" calling for the military to leave politics within two weeks, for Abiola to be installed as president and form a government of national unity, and for the new government finally to convene the long-advocated "sovereign national conference" to determine the future shape of the Nigerian federation. Soon after, members of the disbanded House of Representatives and Senate, the two chambers of the National Assembly, reconvened and declared the Abacha government illegal; and on June 11, 1994 Chief Abiola declared himself president at a public rally in Lagos. A number of NADECO and National Assembly leaders were detained, and, on June 23, Abiola himself was arrested at his residence in Lagos, after addressing another rally. Nationwide strikes demanding the restoration of "June 12" and the release of Abiola, led by the National Union of Petroleum and Natural Gas Workers (NUPENG) and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) brought the country to a standstill. A crackdown on those involved in the demonstrations followed, in which several hundred people died, and many others detained. Frank Ovie Kokori, secretary-general of NUPENG, and Abiola himself have remained in detention since 1994.

### **The National Constitutional Conference**

While the protests continued, Abacha took steps to implement his own "transition program." In January 1994, echoing the long-standing calls of pro-democracy activists for the convening of a sovereign national conference, the government announced that a National Constitutional Conference (NCC) would be called to debate and draft a new constitution and set the stage for the holding of elections. Unlike the body called for by the democracy movement, however, the NCC would have only consultative status and its members would not all be elected. In addition, candidates for the elected positions were vetted before they were allowed to stand. Elections held in May 1994 under the terms of the Constitutional Conference Decree No. 3 of 1994 were largely boycotted; only 300,000 votes were reportedly cast nationwide. The constitutional conference convened on June 27, 1994. Of its 369 members, 273 were elected, and ninety-six nominated by the PRC. The chair and deputy chair, wielding control over the process, were appointed by the head of state. The rules for voting on decisions of the conference provided for a simple majority: that is to say, decisions could be taken by the ninety-six nominated members with the support of twenty-seven of those elected. Moreover, the decisions taken by the conference had no power to bind the PRC in any way, which could amend any of the recommendations it chose in determining the final shape of the proposed constitution and transition program.

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<sup>2</sup>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.

In December 1994, the constitutional conference surprisingly recommended to the government that it should hand over power to an elected civilian government by January 1, 1996. This recommendation was reversed by the conference, however, in April 1995—after the arrest of the prime mover of the January 1, 1996 date, Maj. Gen. (rtd.) Shehu Musa Yar’Adua, in connection with an alleged coup plot—on the grounds that the previous date was “no longer feasible.”<sup>3</sup> The conference prepared a report and draft constitution, which was presented to General Abacha on June 27, 1995; in his speech accepting the draft, Abacha stated that the draft constitution would be considered and approved within three months by the PRC. At the same time he announced the partial lifting of the ban on political activities, while warning politicians “to guard against reckless and provocative utterances, political rallies and campaigns until the release of a comprehensive electoral timetable by the National Electoral Commission.”<sup>4</sup>

The draft constitution has not been published. Neither journalists nor lawyers have been able to see and comment on the whole document, although some of the contents have become known. For example, the draft constitution proposes rotation of offices between individuals from different areas, so that the presidency would switch between representatives of the north and south of Nigeria, governors would be drawn from different districts of a state, and so forth. Human Rights Watch/Africa has obtained a copy of the section of the draft constitution dealing with the judiciary, which perpetuates many of the problems of the 1979 constitution, by providing, for example, for the president or state governor to appoint judges rather than an independent body.

### **The Abacha Transition Program**

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<sup>3</sup>“Conference decides date set for handover to civil rule ‘no longer feasible,’” text of report by Nigerian TV April 25, 1995, as reported in BBC Summary of World Broadcasts (SWB) AL/2288 A/9, April 27, 1995.

<sup>4</sup>“Abacha addresses nation on draft constitution, lifting of ban on political activities,” text of live broadcast on Nigerian TV June 27, 1995, as reported in SWB AL/2342 A/10, June 29, 1995.

On October 1, 1995, General Sani Abacha gave a nationwide address, broadcast on Nigerian television, on the occasion of the thirty-fifth anniversary of Nigerian independence, in which he set out a timetable for a return to civilian rule.<sup>5</sup> The transition program elaborated in this speech envisages a gradual restoration of elected government, with elections at local government and state level, before a national presidential election takes place in the third quarter of 1998. A newly elected president is to be sworn in and “final disengagement” of the military completed on October 1, 1998. The creation of a number of bodies to oversee the transition process was also announced: a new National Electoral Commission of Nigeria (NECON) was to replace the National Electoral Commission (NEC) that presided over the 1993 elections under Babangida’s transition program; a Federal Character Commission was to examine the “imbalances which have disadvantaged sections of our citizenry” by working out an equitable formula for sharing of federal and state posts; and a Transition Implementation Committee, a National Reconciliation Committee, and a Committee on State Creation and Local Government Boundary Adjustment were to look at other aspects of the transition program. At the same time, banning orders on two publications critical of the government, *The Punch* and *The National Concord* (published by detained presidential candidate M.K.O. Abiola), were lifted.

The detailed timetable set out in the speech, which bears close resemblance to the timetable established for the Babangida transition, was as follows:

1995:

3rd Quarter—October to December

Approval of draft Constitution; lifting of ban on political activities; establishment of a National Electoral Commission of Nigeria (NECON); creation of Transition Implementation Committee, National Reconciliation Committee and Federal Character Commission; appointment of panel for the creation of states and local government boundary adjustments.

1996:

1st Quarter—January to March

Election and inauguration of local government councils on a “non-party” basis.

2nd Quarter—April to June

Creation of states and local governments; commencement of political party registration.

3rd Quarter—July to September

Registration of political parties; delineation of constituencies; production of an authentic voters’ register.

4th Quarter—October to December

Election of local government councils at party level; sitting of local government election tribunals and conduct of bye-elections.

1997:

1st Quarter—January to March

Inauguration of party elected local government councils; consolidation of new political party structures.

2nd Quarter—April to June

Party state primaries to select candidates for the state assembly and governorship elections; screening and approval of candidates by NECON

3rd Quarter—July to September

State assembly elections; sitting of state election tribunals and conduct of bye-elections.

4th Quarter—October to December

Election of state governors; sitting of state election tribunals and conduct of bye-elections.

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<sup>5</sup>“Abacha commutes plotters’ sentences, sets out political timetable,” text of address broadcast on Nigerian TV October 1, 1995, as reported in SWB AL/2423 A/1 October 2, 1995.

1998:

1st Quarter—January to March

Inauguration of state assemblies and swearing in of state governors; party primaries to select candidates for National Assembly elections; National Assembly election campaigns.

2nd Quarter—April to June

National Assembly elections; sitting of National Assembly election tribunals and conduct of bye-elections; primaries to select candidates for presidential elections; commencement of nationwide campaign for the presidential elections.

3rd Quarter—July to September

Presidential elections.

October 1, 1998

Swearing-in of newly-elected president and final disengagement by the armed forces.<sup>6</sup>

Members of NECON, the Transition Implementation Committee, the National Reconciliation Committee, and the State Creation and Local Government Boundary Adjustment Committee were appointed and sworn in during December 1995. In January 1996, three decrees were promulgated to give formal effect to the program: the Transition to Civil Rule (Political Programme) Decree No. 1 of 1996, the Transition to Civil Rule (Lifting of Ban on Politics) Decree No. 2 of 1996, and the National Electoral Commission of Nigeria Decree No. 3 of 1996. Section 6 of the Transition to Civil Rule Decree makes punishable by five years in prison any person who “organizes, plans, encourages, aids, cooperates or conspires with any other person to undermine, prevent or in any way do anything to forestall or prejudice the realization of the political programme”; or if any person “does or attempts to do any act to counsel, persuade, encourage, organize, mobilize, pressurize or threaten another person to join with him or with any other person or persons to misrepresent, accuse or distort the details, implications or purports of any item of the political programme.”<sup>7</sup> This section is broad enough to criminalize most of the activities of the pro-democracy movement in its efforts to obtain a quicker restoration of civilian rule.

### **Local Government Elections**

From March 16 to 23, local government elections were held on a “zero party” basis across Nigeria, according to NECON guidelines released on February 7. The tortuous system for selection of representatives involved the election of thirty delegates from each of 6,927 electoral wards in 593 local government areas. The delegates then constituted an electoral college to choose ten “super-delegates” and two councilors per ward, who in turn elected both councilors and council chairmen. The Chairman of NECON, Chief Sumner Dagogo-Jack, estimated that 60 percent of eligible Nigerians voted in the elections, or twenty-four million, against the 40 percent, or fourteen million, believed to have voted in 1993: opposition politicians and pro-democracy activists contended that these figures were vastly inflated.<sup>8</sup>

Candidates at all levels in the local government elections were screened by NECON before being allowed to stand. According to the News Agency of Nigeria (NAN), the official news agency, about 800 of the 2,283 chairmanship aspirants in twenty-two states and the Federal Capital Territory were disqualified in a screening exercise carried out by NECON, the State Security Service (SSS), State Boards of Internal Revenue and the National Drug Law Enforcement Agency (NDLEA), a rejection rate of about 35 percent. In Lagos state, 130 of 185 candidates were disqualified.<sup>9</sup> Each of those disqualified lost his or her non-refundable fee of ₦5,000 for the nomination form.<sup>10</sup> In

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<sup>6</sup>Transition to Civil Rule (Political Programme) Decree No. 1 of 1996, schedules one to four.

<sup>7</sup>Ibid., section 6(a) and (b).

<sup>8</sup>“Nigeria completes first step on road to democracy,” Reuters, March 25, 1996.

<sup>9</sup>“Chairmanship race: 800 dumped in 22 states, Abuja,” Reuters, March 15, 1996.

addition, the Local Government Elections Decree No. 6 of 1996 provides, in section 45(1), for the head of state to “remove the chairman or vice-chairman of a local government from office, or dissolve a local government council and appoint an administrator to manage the council’s affairs until a fresh election is conducted.” No criteria are set out by which such election annulments must be carried out.

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<sup>10</sup>“NECON makes ₦1.4 million from deposits survey,” Reuters, March 15, 1996. The exchange rate is approximately eighty to eighty-three naira (₦) for one U.S. dollar.

Ward-level elections for the delegates were held using an “open ballot” or queue system, while those for councilors and council chairs were on a “modified open ballot system.” No voters register was prepared, so that verifying voting figures was virtually impossible. According to NAN reports, administrative confusion was widely prevalent on the first voting day,<sup>11</sup> while violence marred the elections in some areas: in Kaduna, up to four people were killed in clashes that took place at voting stations.<sup>12</sup> Pro-democracy activists who had opposed the vote were subjected to harassment: the home of the imprisoned chair of the Campaign for Democracy (CD), Dr. Beko Ransome-Kuti, was raided by SSS members on March 14; the CD office next door was vandalized and Lagos State chair, Muyiwa Idowu, and CD member Osagie Obayuwana, were both arrested and held for several days.

Human Rights Watch heard directly of several cases of disqualification of candidates regarded by the government as being politically suspect. For example, in Ogoniland, a MOSOP student activist, Mmue Kpagane, reportedly attempted to stand in the elections for local government chair in the Tai-Eleme local government area. After he filed the necessary forms, he was called for an interview by the Internal Security Task Force, which he failed to attend. He was later accosted at the Bori police station, which he was visiting for other reasons, and beaten with both fists and the butt of a gun. After being hit on the head, he collapsed, and was later taken by his family for treatment at hospital.<sup>13</sup> In Ekeremor local government area, in Ijaw territory in Rivers State, the “first level” delegate from one community told Human Rights Watch how he traveled to Ekeremor to vote for the next layer of delegates. After arriving at the appointed place for the delegates to line up behind their preferred candidates, he discovered Mobile Police deployed there, and with the other delegates he was then told that the chair had already been chosen and that they could go home.<sup>14</sup>

#### **Guidelines for the Registration of Political Parties**

On June 17, 1996, guidelines for the formation of political parties were announced by NECON. Notable amongst the provisions of the guidelines are requirements that parties seeking registration must have at least 40,000 card-carrying members in each of the thirty states of the federation and 15,000 in the Federal Capital Territory of Abuja (an extraordinary and almost certainly unreachable total of 1,215,000 people for each party), and must produce a list of all members with names, ages and residential addresses, while issuing individual membership cards with photographs attached. Parties must demonstrate that they are organized in at least two thirds of the local governments in every state, and they must “accept the principle of power sharing and rotation of political offices as enshrined in Chapter VI of the Constitution of the Federal Republic of Nigeria 1995.” Each party must deposit a non-refundable deposit of ₦500,000 with NECON, as well as a “short profile” of the party and ten copies of the constitution and manifesto.<sup>15</sup>

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<sup>11</sup>“The local government elections: News from around the country,” Reuters, March 18, 1996.

<sup>12</sup>Reuters, March 17, 1996; Human Rights Watch/Africa interviews, Kaduna, July 1, 1996.

<sup>13</sup>Human Rights Watch/Africa interviews, Port Harcourt, June 19, 1996.

<sup>14</sup>Human Rights Watch/Africa interview, Rivers State, June 21, 1996.

<sup>15</sup>NECON, *Guidelines for the Formation and Registration of Political Parties* (Abuja: NECON, June 17, 1996).

Estimates of the cost to each party of complying with these requirements—including the maintenance of offices and payment of full-time administrative staff at state and local government level and the provision of photo-membership cards for each member—reached as high as ₦480 million for each party.<sup>16</sup> During the aborted transition under President Ibrahim Babangida, similar guidelines resulted in the National Electoral Commission finding that no party fulfilled the requirements, and eventually to the head of state creating two parties only to contest the final election of 1993 (which was then itself annulled). There is speculation that the same process may be underway with the latest transition organized by General Abacha.<sup>17</sup>

Twenty-three political parties collected forms for registration by the deadline of June 26; eighteen handed in completed forms by the next deadline of July 25, though all complained that they had been unable to fulfil all the requirements, especially those relating to membership numbers (if all eighteen groups registered the full complement of members required by the guidelines, a total of 21,870,000 people would have to become paid-up members of political parties, or seven million more than voted in the 1993 elections). The final deadline for registration of parties by NECON was originally set at August 29, 1996. However, already, there has been slippage in the transition timetable. On August 15, NECON extended the date for final registration of political parties by one month, to the end of September, while denying that this extension posed any problems for the rest of the transition timetable.<sup>18</sup> The Committee on the Creation of States and Local Government Boundary Adjustment only handed its report to the president in the second week of July 1996, six weeks after the date it was supposed to do so. The recommendations of the committee have still not been published.<sup>19</sup>

### **The Human Rights Commission**

At the same time as the transition program was announced, the Nigerian government established a national Human Rights Commission, by Decree No. 22 of 1995, “to facilitate Nigeria’s implementation of its various treaty obligations, including, but not limited to, the Universal Declaration on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the African Charter on Human and Peoples’ Rights.”<sup>20</sup> The commission is mandated to “deal with all matters relating to the protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria 1979, as amended, the African Charter on Human and Peoples’ Rights, the United Nations Charter and the Universal Declaration on Human Rights and other International Treaties on human rights to which Nigeria is a signatory”; to “monitor and investigate all alleged cases of human rights violation in Nigeria and make appropriate recommendations to the Federal Military Government for the prosecution and such other actions as it may deem expedient in each circumstance”; and to “assist victims of human rights violation and seek appropriate redress and remedies on their behalf.”<sup>21</sup>

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<sup>16</sup>Yusuph Olaniyonu, “New registration guidelines an old script,” *The Week* (Lagos), July 1, 1996.

<sup>17</sup>Ibid.

<sup>18</sup>On the same day, twenty-seven of the thirty state military administrators were dismissed and replaced, and the remaining three moved to new states. Reuters, August 15, 1996.

<sup>19</sup>Wale Oladepo, “Ball in Abacha’s Court,” *NewsWatch* (Lagos), July 15, 1996.

<sup>20</sup>Second preambular paragraph, National Human Rights Commission Decree No. 22 of 1995, September 27, 1995.

<sup>21</sup>Ibid., section 5(a), (b) and (c).



The commission is chaired by former Chief Justice P.K. Nwokedi, and includes officials of the ministries of justice, internal affairs and foreign affairs, as well as journalists and lawyers.<sup>22</sup> One of the commissioners is law professor Tom Badey, son of Albert Badey, one of the four prominent Ogonis killed on May 21, 1994, in connection with whose murder Ken Saro-Wiwa and eight others were executed in November 1995. Decree No. 22 specifies that three members of the commission shall be “representatives of registered human rights organizations in Nigeria”: when announcing the members of the commission, the government stated that one of the commissioners, Kunle Fadipe, was a member of the leading human rights organization, the Civil Liberties Organisation (CLO). The CLO denied all knowledge of Mr. Fadipe as a member, and stated that the CLO had never been approached to participate in the commission or in the appointment process. The Human Rights Commission was officially inaugurated on June 17, 1996 in Abuja. It does not yet have offices and is not yet functional.

## HARASSMENT OF THE OPPOSITION

“In case the western world has forgotten the rule of law, we in Nigeria are prepared to teach them.”  
—Nigerian Minister of Information and Culture Walter Ofonagoro, interviewed in *Tell* magazine, August 19, 1995.

The transition program announced by Gen. Abacha on October 1, 1995 cannot be deemed credible until there is free political activity in Nigeria. Nor can the Nigerian military government expect the internal opposition movement or the international community to take seriously its pledges to restore democracy while the presumed winner of the June 12, 1993 elections—probably the fairest in Nigeria’s history—remains in prison facing charges of “treasonable felony” (a lesser charge than the capital offense of treason). Indeed, the primary credibility problem of the current transition program is that Nigeria has already successfully conducted a similar program, which was prevented from reaching its conclusion only by military intervention. Meanwhile, many of the most prominent human rights and pro-democracy activists are in detention, and others are subjected to daily intimidation and harassment or have fled abroad; the independent press is severely restricted, and journalists are also in prison or under the threat of imprisonment; the internal broadcast media are government-controlled propaganda machines; the rights to freedom of assembly and association are regularly violated and hard-won elements of academic freedom are denied; and a military crackdown in Ogoniland remains in progress months after the “judicial murder” of Ken Saro-Wiwa, the leader of Nigeria’s first effective grassroots protest movement. Those efforts that have been made to promote reconciliation and dialogue over Nigeria’s problems and future appear to be solely cosmetic. No efforts have been made to prevent corruption, brutality and murder by the armed forces, endemic across the Nigerian federation.

### The Imprisonment of Chief Abiola

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<sup>22</sup>The full list of members is as follows: Justice P.K. Nwokedi (chair); Mohammed Tabih, attorney general of Jigawa state (executive secretary); Buhari Bello, from the Ministry of Justice; H.O. Suliman from the Ministry of Foreign Affairs; Mohammed Bal, from the Ministry of Internal Affairs; Prof. U. Oji Umzurike, law professor at Calabar University and member of the African Commission on Human and Peoples’ Rights; Tom Badey, lawyer; Kunle Fadipe, lawyer; Ray Ekpu, publisher of *Newswatch* magazine; Garoba Shehu, president of the Nigerian Guild of Editors; Adamu Augie, businessman and former senator; Ibrahim Sada, president of the Network for Justice, Kano; A.D. Sodangi, lawyer; V.J.O. Azinge, lawyer; Fatima Kwaku; and Obafemi Adewale, lawyer.

On June 23, 1994, several days after declaring himself president, Chief M.K.O. Abiola was detained at his residence in Lagos. The government ignored two orders by the Federal High Court in Lagos to produce him before the court and justify his detention, and on July 4 the court ordered the federal minister of justice to appear before it on July 7 to answer charges of contempt of court. On July 6, Abiola was brought before a Federal High Court in Abuja, specifically established for his trial, and charged with treasonable felony. On July 14 an application for bail was refused. On October 21, Justice Gbolahan Jinadu of the High Court in Lagos ruled, bravely, that Abiola's arrest and detention was unconstitutional and "most reckless, irresponsible and an excessive show of executive power"; declaring oneself president did not constitute an offense under the Nigerian criminal code. The government appealed the ruling. On November 4, the Court of Appeal in Kaduna set aside the decision of the Abuja High Court denying him bail; again the government appealed the ruling to the Supreme Court, and the Court of Appeal later allowed a postponement of the release order until the appeal was heard.<sup>23</sup> The bail hearing before the Supreme Court, the highest court of appeal in Nigeria, has been repeatedly adjourned, and appears to be indefinitely on hold, for lack of judges to hear the case. Seven of the eleven Supreme Court judges agreed to recuse themselves from hearing the case in May 1995, as a result of an application that they should do so on the grounds that they are also the plaintiffs in a libel case against *The National Concord*, a newspaper owned by Chief Abiola, in connection with a December 1993 article headed "Chief Justice Mohammed Bello: Kick Him Out Now Lawyers Demand," which alleged that Supreme Court judges had accepted "gifts" of Mercedes Benz cars from former head of state Gen. Babangida. A minimum of five judges is required to hear a case, and the government has failed to appoint further judges to replace those who are disqualified, despite representations from the lawyers representing Chief Abiola.

Chief Abiola has been held in solitary confinement and in poor conditions, has a history of hypertension and other problems, and has frequently been denied access to his personal physician. Dr. Ore Falomo, his doctor, was detained for some time in 1995, after arriving in Abuja on April 20 believing he would be able to see Chief Abiola. Although in general it is difficult for visitors to gain access to him, Chief Abiola has been seen on a number of occasions by visitors from overseas, including the representatives of the U.N. secretary-general who visited Nigeria on a fact-finding mission in April 1996. Chief Abiola is currently believed to be rotated between various different places of detention in Abuja.

The legal situation concerning Abiola's detention was further complicated in early 1996 by disagreements between Kola Abiola, M.K.O. Abiola's eldest son, and Kudirat Abiola, his senior wife since the death of Kola's mother in 1992 and an outspoken campaigner on his behalf, as to the lawyers who should represent the chief.<sup>24</sup> Godwin O.K. Ajayi led the defense team until February 1996, when Kola Abiola wrote to him withdrawing the brief and replacing him with another well-known Lagos lawyer, Rotimi Williams. On Monday May 6, at a hearing in which Ajayi was asking for accelerated hearing of the case, Kudirat Abiola filed an affidavit in the Lagos Federal High Court insisting that Ajayi should continue with the case and accusing Kola Abiola of spearheading a group that wanted Abiola to renounce his claim to the presidency. On May 8, at a hearing in which Rotimi Williams had filed a motion urging the court to strike off Ajayi's name, a Federal High Court in Abuja ordered the inspector-general of police to produce Moshood Abiola in court on May 10 to settle the controversy. In issuing his decision, Justice Chris Senlong criticized persistent police disobedience of court orders: "Such executive rascality is capable of lowering the image and status of the judiciary thereby impeding our march towards democracy."<sup>25</sup> The federal government appealed the ruling, and the controversy remains unsettled.

### **The assassination of Kudirat Abiola**

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<sup>23</sup>Amnesty International, Urgent Action, UA 282/94, July 21, 1994; "Abiola's Travails," *Constitutional Rights Journal* (Lagos), October-December 1994.

<sup>24</sup>Pini Jason, "Abiola in Hock," *New African* (London), May 1996; Reuter, May 6, 1996.

<sup>25</sup>Pan African News Agency (PANA), May 8, 1996.

While these court cases were proceeding, Kudirat Abiola, the principal campaigner on her husband's behalf, faced harassment from the Nigerian authorities. On May 8, she was charged, with two other people, with "conspiracy to cause misdemeanour and making false publications with intent to cause fear to members of the public." She was released on bail, having been arrested the previous day and held overnight. Police said the charges related to the printing of exercise books with pictures of Chief Abiola describing him as president elect.<sup>26</sup> Mrs. Abiola reported to the press, including in an interview with the outspoken *Tell* magazine on May 27, 1996, that she had on several occasions been trailed by security operatives.

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<sup>26</sup>PANA, May 8, 1996.

On June 4, 1996, Kudirat Abiola was shot and killed by unknown attackers while driving along the Lagos/Ibadan expressway on her way to visit the Canadian High Commissioner in Victoria Island, Lagos.<sup>27</sup> Most Nigerians assumed the killing was political, aimed at silencing one of the government's most vocal critics. Nevertheless, the police immediately announced a high-level investigation into the assassination, offering one million naira (about U.S. \$12,500) for information leading to the arrest of the killers. On June 5, a student demonstration protesting in Ibadan at the assassination of Kudirat Abiola was broken up by police: the president of the student union was detained overnight.

On June 12, Kola Abiola was arrested in connection with the assassination; over the next few days more than twenty more members of the Abiola family were arrested. Kola was held until June 29, and other members of the family released soon after. On June 17, four senior members of NADECO were also arrested in connection with the killing. The oldest, Chief Solanke Onasanya (80) was released on bail on July 1, but three others—Chief Abraham Adesanya (74), Chief Ayo Adebajo (69) and Alhaji Ganiyu Dawodu (63)—were kept in detention. Later in July, a Federal High Court in Lagos ordered the release of the remaining three, and awarded them ₦500,000 damages each. The Nigerian government appealed the order, saying it intended to charge the detainees in connection with the Kudirat Abiola assassination, and kept them in custody, where they remain to date, still uncharged. Opposition activists concluded that the detentions were an attempt to sow discord in the family of the most prominent symbol of the June 12, 1993 elections.

### **Detentions without Charge under Decree No. 2**

The State Security (Detention of Persons) Decree No. 2 of 1984 has been repeatedly condemned by international observers, including the U.N.'s Working Group on Arbitrary Detention. The Working Group has found in cases considered over several years that detentions under Decree No. 2 violate articles 9 (right to liberty and security of the person), 19 (right to freedom of opinion and expression) and 22 (right to freedom of association) of the International Covenant on Civil and Political Rights, to which Nigeria is a party. In 1996, the Working Group has declared a number of detentions carried out under the decree to be arbitrary, and has requested the government of Nigeria to "take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights."<sup>28</sup>

Particularly objectionable amongst the provisions of Decree No. 2 are the following:

- a detainee has no right to be informed of the reasons for his or her detention;
- he or she has no right of access to family, lawyers or private medical treatment;
- detention orders are renewable, thus permitting indefinite detention on grounds of "state security" without charge or trial;
- the courts' jurisdiction to review detention orders has been ousted, so that no civil proceedings may be brought in respect of anything done in terms of the decree, nor may the constitutionality of any action be inquired into by any court.

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<sup>27</sup>There have been a number of other assassinations or assassination attempts on political figures in Nigeria in the last year: on October 6, 1995, Alfred Rewane, veteran politician from the south west of the country and major financial backer of NADECO, was shot dead in his Lagos home; on February 2, 1996, Alex Ibru, publisher of the independent *The Guardian* newspaper and former minister of the interior, was shot and wounded in his car in Lagos.

<sup>28</sup>Working Group on Arbitrary Detention, Decision No. 2/1996 (concerning Meshack Karanwi, Batom Mitee and Lekue Loolo), and Decision No. 6/1996 (concerning Gen. Olusegun Obasanjo and nineteen others, Dr. Beko Ransome-Kuti, Dr. Tunji Abayomi and Chima Ubani), adopted on May 22 and May 23, 1996, respectively. In neither case had any response been received from the Nigerian government refuting the allegations in the communications during the ninety days allowed for responses before decisions are published. A communication on a further case was sent following a meeting of the Working Group in July, and is currently awaiting a response from the Nigerian government.

When the regular court system has attempted to ensure that the government complies with its obligations under international law, this has had no effect: court orders that detainees and prisoners be given access to independent medical attention or legal assistance, allowed to see members of their families, or brought to court are routinely ignored by the military authorities.

In June 1996, a number of amendments to Decree No. 2 were announced by the military government. Decree No. 14 of 1994, which had amended Decree No. 2 to exclude courts from granting writs of habeas corpus in respect of persons held under Decree No. 2 was repealed by the State Security (Detention of Persons) (Amendment) (No. 2) (Repeal) Decree, adopted on June 7. A panel was also established to review cases of detention and the review of all existing cases promised. However, the main ouster clause in Decree No. 2, preventing the courts from inquiring into the legality of a detention order, remains in place.

Amongst those currently detained without charge are the following:

**Frank Ovie Kokori**, secretary-general of NUPENG. He was arrested on August 20, 1994 by plainclothes security operatives who trailed him to the place in Lagos where he was living in hiding. Chief Kokori was one of the leaders of the two-month oil-workers strike of July and August 1994 to protest the military take over of one year earlier and to demand a return to civilian rule. Like many of the other detainees, Chief Kokori has been moved around between a number of different prisons, mostly in the north of Nigeria. He has intermittently been allowed to receive visitors, but is reported to be in poor health as a result of diabetes. Court orders that he be produced in court or released from illegal detention have been ignored by the government.

**Ayo Opadokun**, national secretary of NADECO. He was detained on October 13, 1994 under Decree No. 2, apparently in connection with his activities opposing continued military rule. Although his release was announced by the government in June 1996, he has not been seen by any colleagues or family members and is presumed still to be in detention.

**Kebir Ahmed**, chair of the Sokoto state branch of the Campaign for Democracy. He was arrested in his home in Sokoto by a team of plainclothes and uniformed policemen on March 10, 1995. He was questioned in Kaduna in connection with his pro-democracy activities, in particular the distribution of leaflets. It is not known where Mallam Ahmed is being held.

**Chima Ubani**, secretary-general of Democratic Alternative, a pro-democracy party, and Head of Campaigns at the Civil Liberties Organisation, one of Nigeria's best known human rights groups. He was arrested on July 18, 1995 by seven plainclothes policemen from the State Security Service (SSS), at his home in Lagos. The SSS searched his apartment for "subversive documents," and he is apparently held in connection with his human rights and pro-democracy activities. After being kept in the SSS facility at the Intercentre, Lagos with Abdul Oroh and Tunji Abayomi, Ubani was transferred after their release to Ikoyi prison, in Lagos. The authorities have ignored a series of court orders demanding that he be produced in court or released from custody.

**Milton Dabibi**, general secretary of PENGASSAN, until the dismissal of the union's national executive council by military decree in August 1994 and replacement by a sole administrator, was arrested in Lagos on January 25, 1996. He was initially held at the SSS office in Ikoyi, Lagos. News of his detention first appeared in a Nigerian newspaper on February 14. He is believed to be held at a prison in the north of Nigeria, far from his family in Lagos.

**Gani Fawehinmi**, human rights lawyer and leader of the National Conscience Party (NCP), which has been protesting the government's three year program of transition to civilian rule. Amongst other important cases, he led the defense team for Ken Saro-Wiwa and eight other MOSOP members in the trial before a special tribunal that led to their execution, and launched an action to challenge the constitutionality of that tribunal and of a further tribunal constituted to try nineteen other Ogoni activists. He was detained on January 30 of this year, shortly before he was due to address a rally at the University of Lagos. He has been detained by the military authorities on many previous occasions for his work.

After being held at the headquarters of the State Security Service (SSS) in Shangisha, near Lagos, Chief Fawehinmi was transferred to a prison in Bauchi State, in the north of Nigeria. Although Fawehinmi suffers from hypertension and became seriously ill while in detention on a previous occasion, the military authorities have ignored court orders for him to be allowed to receive medication from his family. Although he was visited once by his wife, he has since been held incommunicado: on June 4, the Court of Appeal sitting in Lagos ordered that Chief Fawehinmi's wife, Ganiat Fawehinmi, and his personal physician should be allowed access to him. On arriving at Bauchi prison, access was denied. Fawehinmi is reported by the Nigerian Medical Association to be in very poor health.

**Femi Aborisade**, deputy head of the National Conscience Party. Following the detention of Gani Fawehinmi, the NCP campaigned for his release, and also protested the local government elections to be held on a non-party basis at the end of March. On February 13, the government announced that it had promulgated the Transition to Civil Rule Decree which, among other things, made it a criminal offense to "do anything to forestall or prejudice the realization of the political programme." On February 14, Femi Aborisade was arrested. It is not known where he is being held.

**Femi Falana**, president of the National Association of Democratic Lawyers (NADEL), and a human rights lawyer who worked with Chief Fawehinmi in the defense of Ken Saro-Wiwa. He was arrested on February 14, 1996, after security police seized files from his chambers, including files relating to a case being brought on behalf of Fela Anikulapo Kuti, musician and brother of well-known democracy activist Beko Ransome-Kuti, against the National Drug Law Enforcement Agency as a result of his detention by that body for five days. He is held in Hadejia prison in Jigawa state, in the north of Nigeria.

**George Onah**, defense correspondent for *The Vanguard* daily newspaper, arrested by the Directorate of Military Intelligence on May 17, the day after a story appeared under his by-line titled "Army kicks out 220 officers," and held in DMI headquarters, Apapa, Lagos. Released later that day, he was told to report back with his editor the following Monday. The newspaper published an apology to the army. Onah, a former soldier himself, was then rearrested on May 22, and has been held since then. Director of Defence Information Brig. Gen. Fred Chijuka said that Onah was being held in order to find out whether he was properly discharged from the army, and not for any reason to do with the article on the dismissals.

**Abraham Adesanya, Ayo Adebajo and Ganiyu Dawodu**, NADECO leaders, arrested on June 17, 1996. While the police have indicated that they intend to charge them in connection with the assassination of Kudirat Abiola, they have not yet done so (see above).

Recently released after long detentions were Tunji Abayomi, chair of Human Rights Africa, a human rights organization, held from July 1995 to June 1996; Abdul Oroh, executive director of the CLO, held from July 1995 to June 1996; Fred Eno, assistant to Chief Abiola, held from August 1994 to June 1996; Mohammed Sule, writer and filmmaker, held from February 1995 to June 1996; and Nosa Igiebor, editor of the crusading *Tell* weekly magazine, held from December 1995 to June 1996. Others, who were released in January 1996 after a year or more of detention, include Sylvester Odion-Akhaine, secretary-general of CD, held since January 1995; Fidelis Aidelomo and Wariebi Agamene, both of NUPENG, held since August 1994; Olawale Oshun of NADECO, held since August 1994; and Ademola Adeniji-Adele, assistant to Abiola, held since August 1994.

The Nigerian government has also been known to announce releases which have not in fact taken place, apparently in an attempt to influence international opinion to reduce the pressure on Nigeria to improve its human rights record. The release of Chief Ayo Opadokun, national secretary of NADECO, held since October 1994, was announced in June 1996, at the same time as the releases of Abdul Oroh, Tunji Abayomi, Fred Eno and Nosa Igiebor, timed to coincide with the meeting of the Commonwealth Ministerial Action Group in London. However, he has not yet contacted his wife or any NADECO member, and is presumed by his family and colleagues still to be in detention. The release of three students was also announced in June 1996: two of them, Charles Titiloye and Hilary Ojukwu, had been

released in January 1996 after spending two months in detention; the third, Matthew Popoola, was among those convicted in the alleged 1995 coup plot, and is presumed to be still in prison.

Numerous activists are detained without charge for shorter periods, in many cases repeatedly, as a result of their human rights or pro-democracy activities. Those who have been held this year include:

**Nnimmo Bassey**, director of Environmental Rights Action (ERA), a project of the CLO, detained from June 5 to July 19, 1996, at the Alagbon Close police station in Lagos, after being picked up at the international airport while on his way to an environmental rights conference in Ghana. He was told his detention was in relation to student demonstrations in Benin City in 1994, in which he had been involved.

**Godwin Uyi Ojo**, project officer with ERA, arrested on January 25, 1996, in Lagos, and detained without charge until February 10 in the police station in Surulere, and then at the SSS offices in Shangisha. He was questioned in connection with a report on the January 4 disturbances in Ogoniland, of which he had a draft with him, and asked about his connections with the international community.

**Biodun Olamosu**, a member of Gani Fawehinmi's National Conscience Party, arrested in Kano in May 1996 and held without charge until July 2, when he was released but charged with sedition for distributing NCP posters in the city.

**Steve Aluko**, Kaduna regional director of the CLO, arrested on February 1, released on February 2, then rearrested on February 5 and held until March 8 by the SSS in Zaria and then Kaduna. He was questioned in connection with recent bomb blasts in Kano, Kaduna and Zaria.

**Bunmi Aborisade**, editor of *June 12*, a monthly magazine, arrested and detained at the Directorate of Military Intelligence head office in Apapa, Lagos on April 11. He was released on May 6.

**John Odion**, secretary-general of the National Union of Bank, Insurance and Financial Institution Employees, detained without charge between November 10, 1995 and February 22, 1996.

Other detainees are held for a few hours or a day or two at a time. On June 13, Mahmoud Abdul Aminu, staff attorney with the Civil Liberties Organisation (CLO) in Ijebu-Ode, was arrested and held till the following day. He was ordered to report back to the SSS station, but has gone into hiding. On May 8, Tunde Oladunjoye, publicity secretary of the Committee for the Defence of Human Rights (CDHR), Tunde Olugboji, projects officer at the Constitutional Rights Project (CLO), and three members of the CLO were arrested in Jos, at a workshop on the churches and human rights in Nigeria. They were detained at the SSS headquarters in Jos and released on May 11. On March 20, SSS members arrested Yemisi Odukoya, secretary at the offices of Femi Falana in Lagos, and questioned her about the whereabouts of Jiti Ogunye, secretary-general of the CDHR. She was released later that day. Further detentions are described in the sections on attacks on the independent press and on events in Ogoniland, below. It is impossible to give an accurate figure for the number of detentions without charge on political grounds at any one time; partly because monitoring every state is impossible for local human rights organizations, most of which are based in Lagos; partly because detentions are often for a brief time, and are very difficult to track accurately.

### **The "Coup Plotters"**

In March 1995, a number of armed forces officers and some civilians were arrested and charged with plotting a coup against the Nigerian military government.<sup>29</sup> In June and July 1995, a military tribunal sat in judgment over forty-three individuals charged in the case, including some who had simply publicized information about the arrest and detention of others supposed to be involved in the coup. Those tried were denied legal representation of their choice,

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<sup>29</sup>See Amnesty International, "A Travesty of Justice: Secret Treason Trials and Other Concerns," AI Index AFR 44/23/95, October 26, 1995.

there was no appeal procedure, the trial was in secret and the tribunal, consisting only of military officers, was specially constituted to hear the case under the Treason and Other Offences (Special Military Tribunal) Decree No. 1 of 1986. Many Nigerians expressed skepticism as to whether any coup was in fact ever planned, speculating that the trial was simply a means to remove military officers and others who posed a threat to the Abacha government's hold on power. Most of the "coup plotters" were sentenced in July 1995, some of them to death or life imprisonment, although the death sentences were in October 1995 commuted to terms of imprisonment and the terms of imprisonment reduced, after international appeals. Those convicted included former head of state Gen. Olusegun Obasanjo and his deputy Maj. Gen. Shehu Musa Yar'Adua. Among those civilians imprisoned for their alleged connections with the coup plot are the following:

**Dr. Beko Ransome-Kuti**, chair of the Campaign for Democracy (CD), and a well-known campaigner for the restoration of civilian rule. He was arrested by the Directorate of Military Intelligence (DMI) on July 27, 1995, five days after addressing a press conference on the conviction of the alleged coup plotters. He had earlier circulated to some international human rights groups the defense statement of Col. R.S.B. Fadile, head of the Army Legal Directorate and one of those allegedly involved in the coup plot. The Special Military Tribunal was specially reconvened to hear his case, and he was convicted on August 2, after a fifteen minute trial, of being an "accessory after the fact" to treason, having "illegally obtained sensitive documents pertaining to the coup trials which he faxed abroad to his collaborators in the UK and United States in order to subvert and blackmail the Federal Military Government." He was sentenced to life imprisonment, later commuted to fifteen years. He was also sentenced to two years in prison as an "accessory after the fact to felony" for faxing abroad a July 12 letter by Shehu Sani (see below). Both sentences were reduced to fifteen years in October 1995.

Dr Ransome-Kuti is being held in Katsina prison, in the north of Nigeria. He is reportedly currently in very poor health. He has not been permitted to see any other doctor than the prison doctor, nor has he been allowed to consult with lawyers. His family has obtained permission for him to have one visit a month, by his wife or one of his daughters, at which four prison warders must be present, including the Deputy Controller of Prisons. If the Deputy Controller is not available, no visit can go ahead. Otherwise he is held in solitary confinement, and he is not permitted letters. Orders that he be produced in court have been disregarded by the regime.

**Shehu Sani**, vice-chair of CD, Kaduna Zone, arrested in March 1995 by the DMI. He was convicted and sentenced by the Special Military Tribunal initially to seven years imprisonment for "managing an unlawful society"—though CD has not been declared an unlawful society. Then, on July 14 he was sentenced to life imprisonment, later reduced to fifteen years, for being an accessory after the fact to treason, based on a letter written on July 12 about his impending conviction, which was faxed abroad by Dr. Ransome-Kuti. He is held in Aba prison and has been denied visits.

**Rebecca Ikpe**, the sister-in-law of Col. R.S.B. Bello Fadile, convicted of being an accessory after the fact to treason, as a result of passing Col. Fadile's defense submission to Dr. Ransome-Kuti. At the time of her arrest, she was seriously anaemic. She is reportedly held in Zaria prison. It is not known whether she is receiving the necessary medical attention for her condition.

**Christine Anyanwu, Kunle Ajibade, George Mbah and Ben Charles Obi**, all journalists. Chris Anyanwu, editor in chief and publisher of *TSM* ("The Sunday Magazine"), George Mbah, assistant editor of *Tell* magazine, Kunle Ajibade, editor of *The News* magazine, and Ben Charles Obi, editor of *Classique* magazine, were sentenced to terms of imprisonment in connection with the "coup plot." The evidence cited against them consisted solely of publishing articles commenting on the trial, which were alleged to be "aimed at inciting the public against the Federal Military Government of Nigeria." They are held in various prisons at a distance from Lagos. Kunle Ajibade is reported to be in ill health, suffering from a kidney problem.

The Nigerian government has on numerous occasions denied that there are any political prisoners in Nigeria. In a communication to the U.N. Working Group on Arbitrary Detentions in July 1995, for example, it stated that "Nigeria denies any occurrence of arbitrary detention and reiterates that no one is detained except in cases recognised



and permitted by law. One of the cardinal points on which the body politic of Nigeria is based is the respect for human rights."<sup>30</sup>

### **Confiscated Travel Documents**

Traveling outside the country has become extremely difficult for human rights workers. A number of prominent activists have had their passports confiscated when entering or leaving the country, thus preventing further travel, including:

**Olisa Agbakoba**, former president of the Civil Liberties Organization, whose passport was confiscated on February 3, 1996, as he was returning from a trip to Canada and Europe;

**Ayo Obe**, current president of the CLO, whose passport was confiscated on March 29, 1996, as she was leaving the country to attend a meeting of the U.N. Human Rights Committee in New York;

**Tunde Olugboji**, project officer for the Constitutional Rights Project, whose passport was confiscated on April 9, 1996, as he was leaving to attend the meeting of the U.N. Commission on Human Rights in Geneva;

**Glory Afi-Kilanko**, president of Women in Nigeria (WIN), whose passport was confiscated on June 30, 1995, as she was returning from a Commonwealth Foundation conference in New Zealand on the subject of "The Path out of Poverty." She had spoken publicly there of the need to address questions of "political poverty," which were not on the agenda, and circulated materials given to her by the Federation of Ogoni Women.

Others whose passports have reportedly been confiscated include Chief Gani Fawehinmi; Kola Abiola; Chief G.O.K. Ajayi, counsel to Chief Abiola; Prof. Wole Soyinka, exiled Nobel prize-winner; Odi Ofeimun, newspaper columnist and president of the Association of Nigerian Authors; Eziuche Ubani, political editor of *This Day* newspaper; Dr. Ore Falomo, physician to Chief Abiola; Col. Abubakar Umar; Gen. Joshua Dogonyaro; Brig-Gen. Halilu Akilu; Lt-Gen. Aliyo Gusau; Chief Sobo Sowemimo, legal practitioner; Sen. Bola Tinubu, NADECO activist; Wale Oshun, NADECO secretary; Dr. Doyin Okupe, medical practitioner; Sen. Abraham Adesanya, NADECO activist; Chief Olu Adebajo, NADECO activist; Alhaji Ganiyu Dawodu, NADECO activist; and Chief Alao Aka-Bashorun, leader of Democratic Alternative.<sup>31</sup>

The U.N. Human Rights Committee criticized this practice in its observations of July 1996, after considering Nigeria's first report to the Committee under Article 40 of the International Covenant on Civil and Political Rights, noting information that members of the CLO were prevented from attending its previous session, although "[r]epresentatives of non-governmental organizations, whether internationally or locally based, are entitled to attend the meetings at which reports are being considered and to provide information to members of the Committee on an informal basis." It recommended that "[t]he Government of Nigeria should ensure that individuals (including members of non-governmental organizations) are not prevented from leaving Nigeria to attend the Committee's sessions."<sup>32</sup>

Many human rights activists choose to travel overland if they need to leave the country, to avoid passing through the security checks at the international airport in Lagos; however, even at the land borders they take serious risks in traveling to conferences and other meetings. Anyakwee Nsirimovu, of the Institute for Human Rights and Humanitarian Law in Port Harcourt, was detained at the Benin border on July 15, 1996, as he was returning to Nigeria by land after a trip to a human rights course in Canada. He was held for two days, beaten severely, and accused of planning subversive activities.

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<sup>30</sup>Communication from the Nigerian government to the U.N. Centre for Human Rights dated July 26, 1995.

<sup>31</sup>List supplied by Campaign for Democracy, London office.

<sup>32</sup>Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations by the Human Rights Committee* U.N. Document CCPR/C/79/Add.65 (Geneva: United Nations, July 24, 1996).

### **Harassment of family members of the opposition**

Family members of those involved in human rights or pro-democracy activities are also often targeted for harassment by the authorities. Threats are frequently directed against spouses or children, and pressure applied to get the individual concerned to stop his or her activities.

The twelve-year-old **son of Glory Afi-Kilanko**, president of WIN, was harassed at his school by men who told him his mother was in trouble because of what she wrote; on one occasion, people came to the school saying they had been sent to pick him up by his mother, when this was not the case (fortunately the boy checked with the school authorities who did not let him go). The boy and his ten-year-old sister have been moved to a different school.

**Bose Lijadu**, the seventeen-year-old daughter of the Ogun State chair of the Campaign for Democracy was detained in June 1996 while the authorities were looking for her father Olanrewaju Lijadu. She is reportedly still being held. In July 1996, Christina Lijadu, wife of Olanrewaju Lijadu, said her husband had not been seen since June 10, the day before SSS members searched their house and took away his daughter.<sup>33</sup>

**John Paul Mokuolu**, a thirteen-year-old boy with dual British and Nigerian citizenship, was detained for thirty-one days in April and May 1996, while on a holiday visit to see his father, a brother of imprisoned former head of state Olusegun Obasanjo. He was detained when members of DMI came to his father's residence, and held at DMI headquarters in Apapa, apparently as a hostage in the hope that his father would attempt to get him released. He was released only after diplomatic pressure from the British government.

### **Attacks on the homes and property of exiled opposition activists**

The Nigerian government has targeted those Nigerians in exile for political reasons who continue to speak out against the military regime in Abuja.

On December 5, 1995, the Abeokuta home of Nobel laureate Prof. **Wole Soyinka** was searched by armed soldiers for unexplained reasons;

On May 1, 1996, petrol bombs were thrown at the Lagos home of exiled former general and NADECO politician **Alani Akinrinade**, destroying the interior of the house.<sup>34</sup>

The property of Nigerian opposition activists in other countries has also been the subject of attack:

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<sup>33</sup>"Opposition radio says democracy campaigner reported missing," text of report by Radio Democrat International Nigeria, July 18, 1996, as reported in SWB AL/2671 A/13, July 23, 1996.

<sup>34</sup>Reuters, PANA, May 2, 1996.

On June 15, the Brooklyn, New York, house of **Jumoke Ogunkeyede**, chair of the United Committee to Save Nigeria, was burnt to the ground. The New York fire and police departments stated that they believed the cause to be arson.<sup>35</sup>

Exiled opposition figures report numerous other threats to their lives and property. In London, for example, it is common for opposition activists from NADECO, MOSOP, CD and others to be trailed and to receive telephone threats in connection with their activities. Cars have been vandalized or stolen in suspicious circumstances, or thefts occurred in which documents have been taken and valuables left.<sup>36</sup>

### **Attacks on the Independent Press**

The independent press in Nigeria has been forced to adopt a mode of operation referred to as "guerrilla journalism," its editors and journalists often operating underground and constantly on guard against the possibility of arrest. Despite these precautions, journalists are regularly picked up and held for questioning. Four journalists remain in prison in connection with their reporting of the alleged "coup plot" of 1995. George Onah, correspondent for *The Vanguard*, has been held since May 1996 under Decree No. 2. Nosa Igiebor, the editor of the outspoken weekly magazine *Tell*, one of the government's strongest critics, was released on June 24, 1996 after six months detention. On two occasions in December 1995 whole issues of *Tell* were seized by the SSS: 55,000 copies of an edition with the cover story "Abiola's Freedom: The World Waits for Abacha"; and 20,000 copies of the Christmas Day edition with the cover story "Abacha is Adamant: Terrorizes the Opposition." In June 1996 *Tell* management claimed that over 300,000 copies of the magazine had been seized in the preceding eight months.<sup>37</sup>

In December 1995, arsonists torched the offices of the Independent Communications Network Limited, publishers of *The News*, *Tempo*, and other independent newspapers; in the same month unidentified men broke into the offices of the daily newspaper *The Guardian* and set part of it on fire.<sup>38</sup> On February 8, 1996, Alex Ibru, publisher of *The Guardian* and former minister of the interior, was shot by unidentified men, though he survived the attack. Responsibility for the attack was claimed in the name of the Revolutionary Movement for Hausa-Fulani Interest, in a fax to an international news agency in Lagos which stated that the movement supported the transition program of Gen. Abacha and was "totally opposed to June 12 and all those southerners bent on defending the stupid, narrow and wicked assumption that the Hausa-Fulani will be overthrown in Nigeria."<sup>39</sup> From June 1994 to June 1995, *The Guardian* had been banned by military decree; simultaneously imposed bans on *The National Concord*, a daily newspaper owned by Chief Abiola, and the magazine *The Punch* remained in force until October 1, 1995.

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<sup>35</sup>Rose Umoren, "Arson Seen in Burning of Activist's House," IPS, June 21, 1996; Yusef Salaam, "Who torched Nigerian's home? Was it revenge?" *New York Amsterdam News*, June 29, 1996.

<sup>36</sup>Arien Harris, "Nigerian spies comb London for dissidents," *The Observer* (London), August 18, 1996; Human Rights Watch/Africa interviews with Nigerian activists in London, August 1996.

<sup>37</sup>"U.S. Press Freedom Group Condemns Attacks on Nigerian Independent Press," statement by the Committee to Protect Journalists, February 6, 1996; "Not Yet Freedom," Press Statement by *Tell* management, June 30, 1996.

<sup>38</sup>"Security Service Disrupts Two Publications," BBC Focus on Africa program, as reported in the U.S. Government Foreign Broadcast Information Service (FBIS) FBIS-AFR-95-243, December 19, 1995.

<sup>39</sup>James Jukwey, "Nigeria: Unknown Nigerian Group Claims Attack on Publisher," Reuters, February 8, 1996. Nigeria's military government is dominated by members of the northern Nigerian Hausa-Fulani ethnic group.

A week after the release from detention of Nosa Igiebor in June 1996, managers at *Tell* issued a statement that other staff at the magazine had been trailed by security operatives, received threatening phone calls, and been visited at their homes.<sup>40</sup> In response, the federal director of defense information, Brig. Gen. Fred Chijuka, said that only journalists writing articles that could “destabilize the country” needed to fear state security operations: “Anything the military intelligence can do to stop people from writing subversive articles and stories that put tension everywhere, they have to do it. It is their job.”<sup>41</sup>

Two independent Nigerian publications were forced to close in early June 1996, one of them *TSM* (“The Sunday Magazine”) edited by Chris Anyanwu, imprisoned in connection with the “coup plot,” the other the daily newspaper *A.M. News*. The editor of *A.M. News*, Bayo Onanuga, was arrested on June 19, one week after publication was suspended, together with four other employees of the Independent Communication Network, which publishes *A.M. News*. The arrests were apparently in connection with a story in *The News* magazine, published by the same company, on the investigation into the assassination of Kudirat Abiola. The journalists were held overnight and released. Bayo Onanuga and Babafemi Ojudu, a journalist with *The News*, were redetained on August 12, in connection with a cover story in *The News* about Oil Minister Dan Etete titled “The Man Abacha Can’t Touch.” Ojudu was released on August 13, and Onanuga on August 17.

Journalists do not have to be covering sensitive political matters to be the subject of harassment. Human Rights Watch spoke to one journalist who had gone one evening in June 1996 to cover a story of a woman being evicted from her house by naval officers allegedly acting on the instructions of a senior naval officer with whom the woman was in litigation. He observed the naval officers arresting six youths from the house, and was then detained himself, after his bag was searched and his press identification card and notebook found. He was taken to the naval base, where he observed the youths being severely beaten and kicked. He was eventually released at about midnight. He has not reported the story in the paper he writes for. He had had similar experiences on several previous occasions: in October 1995, when covering a disturbance at a market held on land owned by the airforce, he had been taken to the airforce building and told by an officer “if there is news here we will send for you to come to cover it,” and that if he wrote anything about the disturbances he would be treated as a rioter himself.<sup>42</sup>

In June 1996, the annual conference of the National Union of Journalists (NUJ) scheduled to be held at the NUJ press centre, Ibadan, was prevented from being held by a June 24 ruling of the Federal High Court in Abuja. Ten journalists brought the court action to stop the dissolution of the existing national executive council and the election of new officers. The incumbent NUJ president, Bonny Iwuoha, took office in March 1996, after winning a court action for the removal of Ladi Lawal, an activist president who was elected in 1994. The independent press speculated that the various court actions had been organized by the federal government, in an attempt to prevent a vocal leadership for journalists emerging at the NUJ.<sup>43</sup> On August 13, 1996, the deputy national secretary of the NUJ, John Bagu, was arrested in Abuja and detained for several days.

The broadcast media in Nigeria are wholly controlled by the Nigerian government. Both television and, more importantly, radio, from which most people get their information, transmit wholly one-sided broadcasts from which opposition viewpoints are excluded. From June 12, 1996, a radio station established by Nigerian exiles, Radio Democrat International Nigeria (RDIN), started broadcasting into Nigeria on short wave, at times to coincide with the

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<sup>40</sup>“Not Yet Freedom,” Press Statement by *Tell* Management, June 30, 1996.

<sup>41</sup>Madu Ouorah, “No need to fear, Chijuka tells media” *The Guardian* (Lagos), July 3, 1996.

<sup>42</sup>Human Rights Watch/Africa interview, June 1996.

<sup>43</sup>Kehinde Bamegbetan, “Mysterious Agenda,” *The Week*, July 15, 1996. The national executives of the Nigerian Medical Association and the Nigerian Bar Association are also currently in disarray, following similar court battles over the election of officers. With the dissolution of the Nigerian Labour Congress and the banning of the Academic Staff Union of Universities (reported below), the NUJ problems fit into a pattern of disruption of the national leadership of potentially troublesome organizations.

main news broadcasts of the government station, Radio Nigeria. (For some months from June 1995, another independent radio station, Radio Freedom Frequency, had broadcast on the FM waveband in Lagos.) The Nigerian government has indicated that it will try to block the transmissions of RDIN, now renamed Radio Kudiratu in honor of Kudirat Abiola, but appears not yet to have the appropriate technology to do so.

Journalists of foreign publications have also been subjected to harassment. On February 15, 1996, the new BBC World Service correspondent, Hilary Andersson, was detained and held overnight. The numerous stringers for the BBC's Hausa service are regularly picked up by the SSS and questioned. On May 9, Ray Power 100 FM, a private radio station, was instructed not to broadcast the BBC World Service's *Network Africa* program, as it had begun to do on a daily basis.<sup>44</sup> On July 1, an Egyptian reporter for the Middle East News Agency left Nigeria to return home having been detained for one week by the Nigerian authorities on vague allegations that he was in some way involved in activities other than journalism.<sup>45</sup> The one week detention in January 1996 of London *Financial Times* correspondent Paul Adams is described below.

### **Violations of Academic Freedom**

On May 15, 1996, the federal ministry of education issued a statement that the activities at national level of all unions at Nigerian universities had been banned: henceforward, only activities at campus level would be allowed, since the unions at national level had "constituted themselves into an impediment to the maintenance of peace and harmony on the campuses."<sup>46</sup> The unions affected included the Academic Staff Union of Universities (ASUU), the National Association of Nigerian Students (NANS), the Non-Academic Staff Union of Universities (NASU), and the Senior Staff Association of Nigerian Universities (SSANU). ASUU and NANS in particular, have been centers of resistance to government repression for many years, and were full participants in the pro-democracy demonstrations of 1993 and 1994 in support of the June 12, 1993 election results. The ban followed an all-out strike begun by ASUU on April 9—after one day strikes on March 18 and 25 and April 1— in support of better pay and conditions for university lecturers, better funding of universities and respect for the autonomy of university government, and was apparently designed to prevent the union from pursuing any aims not related simply to pay and conditions. Shortly after the ban was announced, the government issued a circular to the governing councils of universities instructing them to negotiate directly with the local chapters of the unions, but only in relation to salary and nonsalary conditions of service: "issues such as funding, university autonomy, composition of councils and appointment of vice-chancellors which are the prerogative of government may be entertained to generate ideas, but should not be part of the agreement or memorandum of understanding."<sup>47</sup>

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<sup>44</sup>Committee for the Defence of Human Rights, *Victims*, vol. 7, no. 21, April-June 1996 (Lagos).

<sup>45</sup>"Egyptian reporter released after detention, interrogation in Nigeria," text of July 2, 1996 report by the Middle East News Agency, as reported in SWB AL/2654 A/10, July 3, 1996.

<sup>46</sup>"Activities of university unions banned at national level," text of report by Nigerian radio on May 15, as reported in SWB AL/2615 A/9.

<sup>47</sup>Mohammed Abubakar, "Govt unfolds guidelines on talks with ASUU, others," *The Guardian* (Lagos), June 6, 1996.

ASUU was formed in 1978, with the objectives of restoring university autonomy, defending academic freedom and improving the conditions of staff and students. Since then, it has been involved in confrontations with the federal government on numerous occasions. In 1986, ASUU was forcibly disaffiliated from the National Labour Congress, the central labor organization; it was banned in 1988, reinstated in 1990 and again banned in 1992. On September 9, 1992, following a period of sustained university unrest which had caused its latest banning, ASUU concluded an agreement with the federal government, effective from June 1992, which partially restored university autonomy after decades of erosion, while also reforming university governance so that academic staff had influence in academic appointments and promotions. Until then, the council of each university, responsible for its overall management, was largely made up of government appointees; after the agreement council members elected through internal university organs had a majority of one. University senates were also democratized, so that they were no longer formed almost exclusively of appointees of the vice-chancellors; faculties underwent similar reforms. Advertising of vice-chancellors' posts (regarded as government patronage positions) was introduced, and a senate-council committee introduced for assessment of applicants, with the council then making a recommendation to the university "visitor" (at all federal universities this is the head of state; at state universities it is the state governor. The visitor is the final arbiter in all disputes concerning the university statutes and has the power to make recommendations following investigation on any aspect of university life).<sup>48</sup> The agreement was implemented by Decree No. 11 of 1993.

The 1992 agreement included a provision for it to be reviewed after three years. In May 1995, ASUU had made further proposals for change in the areas of funding and conditions of service, and approached the government to negotiate these terms for a revised agreement. The government would not agree to meet to discuss these proposals, and initially claimed that the agreement had lapsed, while ASUU asserted that it remained in force until revised. In November 1995 ASUU gave an ultimatum that negotiations for review should begin. On January 6, ASUU declared a trade dispute, in accordance with the relevant labor legislation, although strike action was postponed several times by the national executive committee to give the government opportunities to resolve the dispute. One-day-a-week strikes began on March 18, with a permanent strike to begin on April 9; on April 4 the government announced the formation of a negotiating team to meet with ASUU, though ASUU was not formally informed of the decision until April 10, the day after an all-out strike had begun, when the national executive was invited to negotiations on April 15. Negotiations between the federal government team and representatives of ASUU's national executive—in which the government representatives had indicated that their objections were to the clauses of the 1992 agreement dealing with university autonomy and granting academics a role in university government—were ongoing at the time of the May 15 banning of national activities by the university unions. The strike has continued despite a government ultimatum to all lecturers to return to work by June 19 or face dismissal, and despite harassment and intimidation by the SSS of members of the ASUU national executive regarded as ringleaders in the industrial action.<sup>49</sup> Striking staff have in fact been dismissed at a number of universities, and court actions are proceeding in various states concerning the strike and dismissals. On August 23, 1996, the government announced that it was banning ASUU, SSANU, and NASU, at local as well as national level, and confiscated their assets. On August 26, four university lecturers and committee members of ASUU at Tafawa Balewa University in Bauchi were arrested and detained for two days. On August 28, a meeting of ASUU members at Bayero University in Kano was disrupted after the vice-chancellor of the university called in the police. On September 4, Dr. Frank Dinowo, the chair of the University of Jos chapter of ASSU, and Dr. Ozo Eson, a member of the national negotiating team, were reported arrested in Jos. A few days later, three students from the University of Lagos accused of working with ASUU members were picked up.

## **Violations of Freedom of Association and Assembly**

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<sup>48</sup>For background on issues of academic freedom in Nigeria, see Abdul Raufu Mustapha "The State of Academic Freedom in Nigeria," in *The State of Academic Freedom in Africa 1995* (Dakar: CODESRIA, 1996). Three universities in Nigeria—Ahmadu Bello University (ABU), Zaria; University of Nigeria, Nsukka (UNN); and the Federal University of Technology, Minna—are governed by sole administrators; in the case of ABU, a center of student activism, a military administrator, Maj. Gen. (rtd.) Mamman Kontagora.

<sup>49</sup>Human Rights Watch/Africa interviews with ASUU members, Kano, July 3, 1996.

Opposition or nongovernment groups are frequently prevented from holding meetings. The lifting of the ban on political activities, announced on October 1, 1995, has made no difference to opposition activists who wish to hold rallies to protest government policies or even to hold closed meetings to discuss the political situation in the country. Moreover, section 6 of the Transition to Civil Rule Decree makes it an offense to engage in almost any activity in protest at the transition program. On November 17, 1995, the Campaign for Democracy (CD) organized a gathering in Ebute Metta, Lagos, to mark the anniversary of the coup which brought Abacha to power and protest the execution of Ken Saro-Wiwa. Demonstrators scattered at the appearance of a police patrol armed with assault rifles.<sup>50</sup> On December 19, 1995, a rally called by CD was banned by the authorities and police deployed to prevent people gathering. Several thousand people gathered nonetheless, and were dispersed by teargas.<sup>51</sup> On December 27, Nigerian police reaffirmed a ban on all public rallies in the state of Ogun, after CD announced a protest rally to be held on December 28 in Abeokuta, the home town of Chief Abiola, Dr. Beko Ransome-Kuti and Gen. Obasanjo, all of them in prison.<sup>52</sup> On January 15, 1996, police warned the public not to attend a gathering arranged by CD and NADECO, and subsequently dispersed the rally, held at the Shitta playing field in Lagos, near the national stadium.<sup>53</sup> In March 1996 two seminars funded by the U.S. Information Service in Jos and in Kaduna, on the political process in Nigeria and on American studies, respectively, to which participants were invited from different African countries, were prevented from going ahead by SSS members. A number of seminars sponsored by the Friedrich Ebert Foundation in May and June 1996 were similarly closed down, and in June 1996 the Foundation was summoned by the SSS to a meeting on the campus of the University of Lagos (where it has its office), in the presence of the deputy vice-chancellor of the university, at which its representatives were told that the Foundation should not support human rights and pro-democracy groups. The SSS representative refused to give his name.<sup>54</sup>

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<sup>50</sup>“Opposition Rallies Mark Abacha Anniversary,” Agence France Press (AFP), November 17, 1995, as reported in FBIS-AFR-95-223, November 20, 1995.

<sup>51</sup>“Forces Deploy to Prevent Rally,” BBC World Service, as reported in FBIS-AFR-95-243, December 19, 1995; “Rally Held Despite Clashes with Police,” BBC World Service, as reported in FBIS-AFR-95-244, December 20, 1995.

<sup>52</sup>“Police Ban All Protest Rallies in Ogun State,” AFP December 27, 1995, as reported in FBIS-AFR-95-250, December 28, 1995.

<sup>53</sup>“Police warn against opposition gathering due on 15th January,” text of report by Nigerian TV on January 11, 1996, as reported in SWB AL/2508 A/7, January 13, 1996; “Police Break Up Campaign for Democracy Meeting,” AFP January 15, 1996, as reported in FBIS-AFR-96-011, January 17, 1996.

<sup>54</sup>The seminars were on the following subjects: trade union rights and civil liberties, organized by the North East Zone of the Civil Liberties Organisation (Maiduguri, May 1-2, 1996); “Nigeria Beyond Adjustment,” organized by the Third World Forum (Lagos, May 9-10, 1996); human rights education, organized by the Committee for the Defence of Human Rights (Awolowo University, Ile-Ife, May 29-31, 1996), and on social advocacy, organized by the Civil Liberties Organisation (Ibadan, June 6, 1996). Human Rights Watch/Africa telephone interview with Gerhard Wendler, director, Friedrich Ebert Foundation, Lagos office, August 28, 1996.

While the government has announced various reconciliation initiatives in Ogoniland and the Niger Delta, efforts to discuss the problems facing the minorities in the Niger Delta area that are not officially sponsored by government are routinely disrupted by security forces. For example, the Southern Minorities Movement, an organization bringing together leaders from the various minority ethnic groups in the Niger Delta, attempted to arrange a colloquium to discuss minorities issues to be held on March 1-2, 1996. One of the scheduled speakers was Chief Anthony Enahoro, a veteran politician and leader of NADECO who has since fled from Nigeria. The SMM entered into correspondence with the police to get permission to hold the colloquium and to obtain security at the meeting. Permission was refused.<sup>55</sup> The SMM tried to arrange a further conference for June 13, 1996. Those scheduled to speak included Chief Harold Dappa Biriye, an octogenarian politician from the region, and Dr. Nwala, an academic and delegate to the constitutional conference. The SMM was instructed not to hold the conference, because its date was too close to June 12 (the anniversary of the canceled elections of 1993). Armored vehicles came to the hotel where the conference was to be held and security personnel prevented any participants from entering.<sup>56</sup>

Unions are also prevented from organizing freely. A single trade union system is established by law under which any registered trade union is compulsorily affiliated to the Nigerian Labour Congress (NLC), and a maximum number of affiliated trade unions, designated by category of worker, is also determined, fixed in 1986 at forty-one. In 1994, in response to nationwide strikes led by oil workers, the Nigerian government dissolved the executive councils of the NLC and the executive councils of the oil unions NUPENG and PENGASSAN, replacing them with sole administrators (Decrees No. 9 and 10 of 1994). By the Trade Unions (Amendment) Decree No. 4 of 1996, the government engaged in further restructuring of the trade union system, reducing the number of authorized trade unions from forty-one to twenty-nine, and excluding full-time union officers from holding elected office in individual unions or in the NLC. A number of union leaders are in detention, as reported above. This situation has been repeatedly condemned by the International Labor Organization (ILO), most recently at the general conference of the ILO in June 1996, at which the Committee on Standards of the conference noted that it "had not been able to discern any progress despite the observations made over a long period of time by the Committee of Experts [on Convention 87, relating to freedom of association] and the many discussions that had taken place in the Conference Committee on the important discrepancies between the law and practice and the Convention." The Committee "insisted that the Government take immediate measures with a view to the absolute respect of the civic liberties essential to trade union rights."<sup>57</sup>

## EVERYDAY VIOLATIONS OF THE RIGHTS OF NIGERIAN CITIZENS

Human rights violations do not affect only Nigeria's elite political classes and those involved in protests against military rule. Nigerian citizens with no political involvement are subjected to arbitrary and brutal actions of the Nigerian government in various forms on a daily basis. Police and soldiers are better known for extortion, torture and summary executions than for keeping law and order.

### Summary Executions and Torture by the Security Forces

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<sup>55</sup> In a letter to the Southern Minorities Movement, dated February 28, 1996, the Commissioner of Police, Rivers State Command, stated: "Having carefully considered your application and in view of the forthcoming local government elections on Non Party Basis coupled with other related security situation in the State and the country, the Police Command hereby convey its disapproval of your application and accordingly advise you and other organizers of the colloquium to cancel it. In fact, the Police Command will not permit the holding of such or similar meetings in Port Harcourt or anywhere in the State in the immediate foreseeable future."

<sup>56</sup> Human Rights Watch/Africa interviews, Port Harcourt, June 17, 1996.

<sup>57</sup> Report of the ILO Conference Committee on Standards, June 1996. Convention 87 of the ILO relates to freedom of association and protection of the right to organize, and provides in article 2 that "Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation."



Summary executions are routinely carried out by the police in their “crime-fighting” activities. In April 1996, police in Lagos boasted that they had killed at least eighty alleged armed robbers in the previous two months.<sup>58</sup> The Committee for the Defence of Human Rights (CDHR), a Nigerian nongovernmental human rights monitoring organization, reported the killing of forty-five armed robbery suspects in Lagos, Rivers, Ogun, Plateau and Kaduna States between April and June 1996; and fifty-two people between January and March 1996 in Rivers, Kaduna, Anambra, Bauchi, Ogun, Ondo and Lagos States.<sup>59</sup> On January 10, 1996, Olushola McCarthy, a former coordinator of the Campaign for Democracy, Lagos and a member of the staff of the Supreme Court in Abuja, was killed by members of the SSS in Lagos, with two companions, after he complained at the driving of an SSS car that nearly ran him down. On March 4, Kehinde Ehindero, the manager of a Total filling station in Ondo State, was beaten to death by members of the National Drug Law Enforcement Agency (NDLEA).<sup>60</sup> Following riots in Kaduna in June 1996 in which several people, including at least one policeman, died, unconfirmed reports indicated that a number of extrajudicial executions took place. Police had allegedly detained several people during the riots and later got them to point out the homes of the “ringleaders,” who had then been detained and shot.<sup>61</sup> Political detainees held in police stations report that criminal suspects are often taken out at night, shots heard, and then not brought back.<sup>62</sup>

Equally, Nigeria's various police forces and army detachments use torture routinely as a method of extracting information from criminal suspects, as well as a form of immediate punishment. Informants who spoke with Human Rights Watch during a visit to Nigeria in June 1996 indicated that the practice continues unchecked to the present, without any efforts by the federal or state authorities to prevent it. One popular method is to tie suspects to the central ceiling hooks to which fans should be attached, and beat them until they confess. Unknown numbers of people die in detention as a result of this type of treatment.<sup>63</sup>

### Prison Conditions

Prison conditions in Nigeria are notoriously bad. Prisoners are underfed, unless they have relatives who can bring them food; they receive no or inadequate health care; cells are overcrowded and without proper sewage or hygiene facilities. Prisoners suffer from skin and respiratory diseases as a matter of course, and above all from malnutrition: approximately ₦30 (U.S. 35¢) a day is budgeted for food for each prisoner. Mortality among prisoners is extraordinarily high, running at approximately 4,000 deaths a year or more than 7 percent of the prison population: in 1991, the worst year recently, 5,300 prisoners died in custody.<sup>64</sup> In March 1996, minister of the interior Babagana Kingibe stated that the prison population was 55,000, or 50 percent above capacity, of which 35,700, or over 60

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<sup>58</sup>“Nigeria Police Kill 80 Robbers in Two Months,” Reuters, April 26, 1996.

<sup>59</sup>CDHR, *Victims*, vol. 7, no. 20, March 1996, and vol. 7, no. 21, June 1996.

<sup>60</sup>CDHR, *Victims*, vol. 7, no. 20, March 1996.

<sup>61</sup>Human Rights Watch/Africa interviews, Kaduna, July 2, 1996. The riots were apparently provoked by the expulsion of some Muslim students, who were members of a fundamentalist group, from the Kaduna Polytechnic for examination fraud. Disturbances on campus on June 14 had resulted in some arrests and the closure of the campus, but when the students arrested had appeared in court, their colleagues had stormed the court room and released them. In clashes with the police outside the court room and in the Tudun Wada district of Kaduna a number of students were killed, and one or possibly two police officers.

<sup>62</sup>Human Rights Watch/Africa interviews, June 1996.

<sup>63</sup>The annual reports of Nigerian human rights organizations such as the Civil Liberties Organisation, the Constitutional Rights Project and the Committee for the Defence of Human Rights describe deaths in detention as a result of torture, but do not claim to have even an estimate of the numbers who die because of such treatment nationwide.

<sup>64</sup>Ebun Okusanya, “Deplorable Conditions in Prisons,” IPS March 3, 1996; Human Rights Watch/Africa interviews with human rights groups, Lagos, June 1996.

percent, were awaiting trial, held in conditions which are particularly bad. Fresh figures released by the minister in May 1996 indicated that the prison population had reduced to 45,000, and that the number of prisoners awaiting trial had reduced to 22,000. Human rights groups questioned these figures, while acknowledging that hundreds of remand prisoners, who had spent more years in jail than they would have done had they been convicted of the crime for which they were charged, had been released in April.<sup>65</sup> Despite any releases, prisons certainly remain dangerously overcrowded, while prisoners starve or succumb to contagious diseases and are dependent on the efforts of churches and mosques for their survival.

**“Clearing the Bridges”: forced removals in Lagos**

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<sup>65</sup>Ibid.; Dalue Mbachu, “Strange Figures on Prison Population,” IPS July 8, 1996; Yomi Adeboye, “In the Shadow of Death,” *The News (Lagos)*, August 5, 1996; information from the CLO.

In May 1996, the month before the U.N.'s HABITAT II conference in Istanbul, Federal Minister of Works and Housing Maj. Gen. Abdulkarim Adisa ruled that anyone living or working under the road bridges that dominate the Lagos urban landscape would have to leave or face removal within one week. The announcement followed a fire which damaged the Ijora flyover in Lagos on May 5, causing substantial damage. A task force of soldiers and Mobile Police began demolishing structures, ignoring pleas from a hurriedly formed "association of underbridge users." Adisa announced that the government would prosecute persons or organizations that built permanent structures under the flyovers, and that "worse days for squatters are yet to come."<sup>66</sup> According to press reports, confirmed by interviews carried out by Human Rights Watch/Africa, most of those evicted by the federal government had been paying rent for their stalls for some years to the local government authority for their area. In addition, many of the structures demolished were in fact some distance from the flyovers that they allegedly threatened.<sup>67</sup>

Human Rights Watch/Africa talked to a number of the traders evicted from their stalls during the recent clearances. At the Obalende market on Victoria Island, a substantial area was flattened, partly under the bridges of a road junction and partly at some distance. Thousands had lost their livelihood; one man, a panel beater, said he continued to come every day simply because he had nowhere else to go. The traders had paid rent in advance for their stalls to the local government authority, but there seemed no possibility of compensation. At the massive Oshodi market, located at a major highway junction close by bus terminuses for a number of long distance and local routes, vast areas had been bulldozed. Traders had paid anything up to ₦1,000 per month to the Ikeja local government for their solidly built stalls. While those within thirty meters of the highway flyover had been told that they had seven days in which to move, structures several hundred meters away had been demolished when the army and police came, leaving no time to pack up trade goods or salvage any reusable materials. Those with cash to hand had paid the security forces sums of ₦1,000 to be able to retrieve their goods. Teargas had been used to clear the area, and many traders had been beaten. A filling station and a bank were among the structures demolished. Since the evictions had taken place, members of the security forces had patrolled the market area regularly, often in civilian clothes, preventing traders from setting up temporary structures and harassing them to pay bribes if any were still trying to operate.<sup>68</sup>

These evictions form part of a pattern of arbitrary government action in defiance of the rule of law, using excessive force and without the semblance of due process. Most notorious of these evictions was the July 1990 removal of approximately 300,000 residents of the Maroko neighborhood, close by the upmarket diplomatic enclave of Victoria Island, so that the land could be redeveloped. Many of them remain homeless to this day. Smaller scale evictions take place on a regular basis: in November 1995, for example, the Agboju (Second Gate) market along the Lagos-Badagry expressway was demolished at the instance of the Federal Housing Authority. In February 1996, the Olorunsogo market at Oshodi was demolished by the Ikeja local government council after the traders based there had failed to pay money demanded by the local government supposedly to rebuild the market.<sup>69</sup> While Human Rights Watch recognizes the right of the Nigerian government to regulate the use of public (or private) space for reasons of public policy, such regulation should respect the rights of Nigerians to a fair hearing at which they may assert rights to occupancy or compensation, and should avoid the use of arbitrary and excessive force.

### **Criticisms by the U.N. Human Rights Committee**

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<sup>66</sup>Reuters, PANA, May 17, 1996.

<sup>67</sup>Human Rights Watch/Africa interviews, June 12, 1996; David Ogah, Steve Ajuly and Ibe Uwaleke, "We are ruined,' say victims of demolition in Lagos," *The Guardian* (Lagos), July 3, 1996.

<sup>68</sup>Ibid.

<sup>69</sup>Shelter Rights Initiative, *Shelter Watch Jan-May 1996* (Lagos, June 1996).

In April 1996, the U.N. Human Rights Committee, which is responsible for monitoring states' compliance with the International Covenant on Civil and Political Rights (ICCPR), considered Nigeria's first report. It noted "fundamental inconsistencies between the obligations undertaken by Nigeria to respect and ensure rights guaranteed under the Covenant and the implementation of those rights in Nigeria" and made a number of urgent recommendations, including the abrogation of all decrees establishing special tribunals or ousting normal constitutional guarantees of fundamental rights or the jurisdiction of the normal courts, and that any trials before special tribunals be suspended immediately. It also recommended that urgent steps be taken to ensure that persons facing trial are afforded all the guarantees to a fair trial and to having their conviction and sentence reviewed by a higher tribunal.<sup>70</sup> In July 1996, the Committee resumed its consideration of Nigeria's report and repeated its criticisms, expressing concern in particular that "the Government of Nigeria has not abrogated the Decrees establishing special tribunals or those revoking normal constitutional guarantees of fundamental rights as well as the jurisdiction of the normal courts." Among a large number of violations, it also stated its concern at the fact that "incommunicado detention is commonly ordered and often for indefinite periods and without access to judicial review," and noted "the high number of extrajudicial and summary executions, disappearances, cases of torture, ill-treatment, and arbitrary detention and arrest by members of the army and security forces." It recommended that "urgent steps be taken to release all persons who have been detained arbitrarily or without charges," as well as to prevent arbitrary executions, torture, and arbitrary arrest and detention.<sup>71</sup>

### THE SENTENCING AND EXECUTION OF THE OGONI NINE

On November 10, 1995, Ken Saro-Wiwa, President of the Movement for the Survival of the Ogoni People (MOSOP) and eight other Ogoni activists were hanged in Port Harcourt following conviction for the murder of four Ogoni chiefs killed by a mob on May 21, 1994. They were sentenced to death in two groups on October 30 and 31 by a tribunal specially constituted for the case under the Civil Disturbances (Special Tribunal) Decree No. 2 of 1987. The proceedings of the tribunal, in the two concurrent trials which led to the convictions, flagrantly violated international standards of due process, to the extent that Saro-Wiwa's team of defense lawyers withdrew in protest from the proceedings in mid-June 1995.<sup>72</sup> There was no appeal on grounds of fact or law from the conviction, although the death sentences were subject to confirmation by the PRC.

Only one of those convicted was alleged to have been present at the site of the killings, and the tribunal's judgment cited only one witness in support of the allegation that Saro-Wiwa and the others had actively incited the killings. No evidence was cited to indicate that any one present at the meeting where Saro-Wiwa was alleged to have incited the murders was also present on the day that the murders took place. Evidence that the defendants had tried to stop vigilante violence by NYCOP youth was ignored; as were statements by a number of prosecution witnesses that they had been bribed to give evidence against the defendants. The transcript of the judgment confirms the biased and unjust nature of the trial. An analysis by a leading jurist concluded:

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<sup>70</sup>Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Preliminary Concluding Observations by the Human Rights Committee*, U.N. Document CCPR/C/79/Add.64 (Geneva: United Nations, April 3, 1996).

<sup>71</sup>Human Rights Committee, *Concluding Observations*, July 24, 1996.

<sup>72</sup>See Human Rights Watch/Africa, "The Ogoni Crisis: A Case-Study of Military Repression in Southeastern Nigeria" *Human Rights Watch Short Report*, vol. 7, No. 5, July 1995, pp. 25-31, and Michael Birnbaum Q.C., *Fundamental Rights Denied: Report of the Trial of Ken Saro-Wiwa and Others* (London: Article XIX, June 1995), for discussions of the trial proceedings. Human Rights Watch/Africa

The judgement of the Tribunal is not merely wrong, illogical or perverse. It is downright dishonest. The Tribunal consistently advanced arguments which no experienced lawyer could possibly believe to be logical or just. I believe that the Tribunal first decided on its verdict and then sought for arguments to justify them. No barrel was too deep to be scraped.<sup>73</sup>

Those executed were: Ken Saro-Wiwa, President of MOSOP; Barinem Kiobel, former commissioner of Rivers State; John Kpuinen, vice-president of MOSOP's youth wing, the National Youth Council of the Ogoni People (NYCOP); Baribor Bera; Saturday Dobe; Nordu Eawo; Paul Levura; Felix Nuate; and Daniel Gbokoo. Six of the total of fifteen defendants in the two trials were acquitted, amongst them Ledum Mitee, Vice President of MOSOP ("on a basis which entirely undermined and contradicted the arguments by which [the tribunal] justified the conviction of Kpuinen").<sup>74</sup>

### THE U.N. SECRETARY-GENERAL'S FACT-FINDING TEAM

On December 22, 1995, the U.N. General Assembly adopted resolution 50/199 on the situation of human rights in Nigeria. Paragraph 7 of the resolution requested the secretary-general "to undertake discussions with the Government of Nigeria and to report on progress in the implementation of the present resolution and on the possibilities for the international community to offer practical assistance to Nigeria in achieving the restoration of democratic rule." In correspondence with the Nigerian government, it was agreed that the secretary-general should send a fact-finding mission to Nigeria to investigate the trial and execution of Ken Saro-Wiwa and the eight other minority rights activists, as well as the program for transition to civilian government announced by Gen. Abacha on October 1, 1995.

A fact-finding team accordingly visited Nigeria from March 27 to April 14, 1996. Its members were Justice Atsu-Koffi Amega, former minister of foreign affairs and president of the Supreme Court in Togo, and a member of the African Commission on Human and Peoples' Rights; Justice V.S. Malimath, member of the National Human Rights Commission of India; and John P. Pace, chief of the Legislation and Prevention of Discrimination Branch at the U.N. Centre for Human Rights in Geneva. The team visited Lagos, Abuja, Port Harcourt (from where it visited Ogoniland), Enugu and Osun states, Borno state and Kano, and met with both government and pro-democracy advocates. The team met with four political detainees—Moshood Abiola, Gani Fawehinmi, Femi Falana and Nosa Igiebor—but was denied permission by the government to meet with individuals sentenced in the "coup plot" trial of 1995 on the grounds that interviews with these individuals were outside the terms of reference of the mission. The mission presented its report to the secretary-general on April 23, 1996, and it was forwarded to the president of the General Assembly on May 23.<sup>75</sup>

The report examined the trial of Ken Saro-Wiwa and the other Ogoni activists in some detail, finding that, due to failure to follow the requirements of the Civil Disturbances (Special Tribunal) Decree of 1987, under which the tribunal was constituted: "The special tribunal to try Mr. Ken Saro-Wiwa and others, constituted in violation of section 1 of the Act, had no jurisdiction to try Mr. Ken Saro-Wiwa and others."<sup>76</sup> In addition, the team found that the procedures actually followed in the course of the trials were not fair for a number of reasons:

- (a) Denial of access to counsel for a long period prior to the opening of the trials. The mission notes that Mr. Saro-Wiwa and others were detained on the night of the incident, on 21 May 1994, without charge, and brought to trial on 6 February 1995. During this period they were held in inhuman conditions and denied access to counsel;

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<sup>73</sup>Michael Birnbaum Q.C., *A Travesty of Law and Justice: An Analysis of the Judgement in the Case of Ken Saro-Wiwa and Others* (London: Article XIX, December 1995), p.2.

<sup>74</sup>Ibid.

<sup>75</sup>Annex I to U.N. Document A/50/960.

<sup>76</sup>Ibid., paragraph 45.

- (b) Whereas after the opening of the proceedings, the tribunal accorded two weeks for the defence counsel to prepare the brief, access to counsel was limited by the condition of detention of the accused in a military base;
- (c) The military was involved in all phases of the trial, as a result of which serious allegations were made affecting the credibility of witnesses, freedom of access to the tribunal and intimidation of the accused, their relatives and other members of the public;
- (d) The defence counsel were harassed by the military personnel by requiring them to request permission of them to enter the courts and submitting them in the process to hardship, indignities and waste of time;
- (e) Instead of furnishing the copies of the statements of witnesses as recorded by the investigation agency, only the summary of the statements of witnesses were furnished to the accused;
- (f) A videotape which was relied upon by the defence as an important piece of evidence was not permitted to be produced before the tribunal;
- (g) Mr. Ken Saro-Wiwa had a prepared statement which he tendered to the commission to be taken into consideration as his statement. The tribunal refused to receive the statement;
- (h) Affidavits on behalf of the defence by some of the witnesses examined by the prosecution stating that they had been bribed by the authorities to make their statements were not received in evidence;
- (i) The tribunal refused to stay further proceedings even though a request was made to that effect on the ground that an appeal had been preferred requesting the Appellate Court to stay further proceedings before the tribunal on the ground that its members were biased against the accused.<sup>77</sup>

In addition, the team was highly critical of the fact that the procedure before the civil disturbances tribunal “does not provide for judicial review by way of appeal or revision.” Furthermore, the process of confirmation by the PRC which is provided for was in this case “not legal and valid,” because “confirmation was recorded without the application of mind by the members of the Council to the records of the case.” Because the period between the date of judgment and the date of confirmation was only eight days and the period between the date of confirmation and the date of execution was only two days, the Nigerian government was additionally in violation of international law, since “[b]y any reasonable standards this can hardly be regarded as a reasonably sufficient period for the convicted persons to submit a petition for clemency.”<sup>78</sup> Finally, in the view of the mission “the composition of the special tribunal is not in conformity with the standard of impartiality and independence set out in applicable human rights law as found in the African Charter on Human and Peoples’ Rights (article 7(1)(d) and article 26) and the International Covenant on Civil and Political Rights (article 14(1)). The presence of a military officer on the tribunal is, in the view of the mission, contrary to these provisions.”<sup>79</sup>

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<sup>77</sup>Ibid., paragraph 47.

<sup>78</sup>Ibid., paragraphs 52 and 53. Article 6(4) of the International Covenant on Civil and Political Rights provides: “Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.”

<sup>79</sup>Ibid., paragraph 55.

As regards the declared commitment of the Nigerian military to restore the country to civilian rule, the mission found that there was “general consensus on the following: (a) the military government must come to an end and civil democratic rule should be restored; (b) the electoral process should involve international observation/monitoring; and (c) persons detained without charge and other persons currently in prison for political reasons or offenses should be released before the elections,” while the team had surprisingly gained “the impression that the Head of State is sincere in his commitment to restore civil democratic rule by 1 October 1998 in accordance with his declared commitment.”<sup>80</sup> Pro-democracy activists criticized the team for its credulity in this respect.

While the report failed to engage with the central issue in the Nigerian transition, the annulment of the June 12, 1993, elections and the current status of the results of those elections, it did state the importance of “confidence building measures” to ensure the success of the current transition program. These included in particular the release of political prisoners, including Chief Abiola, the presumed winner of the June 12 elections, while the U.N. team also remarked:

The abrogation of Decree No. 2 of 1984, concerning arrest without trial of political opponents of the regime, and section 6 of Decree No. 1 of 1996, concerning the promulgation of the transition programme which prescribes fines and imprisonment for those who criticise the programme, as well as other decrees restricting political activities and freedoms are essential steps to achieve national reconciliation.<sup>81</sup>

The report of the fact-finding mission finished by making a number of recommendations, including the repeal of the Civil Disturbances (Special Tribunal) Decree of 1987, or “in the alternative” a series of amendments to restore minimal due process protections to the tribunals constituted under the decree in the future. The mission suggested that “the government of Nigeria should consider establishing a panel of eminent jurists, nominated by the Chief Justice of Nigeria, to establish the modalities to determine who and to what extent financial relief could be accorded to the dependents of the families of the deceased.”<sup>82</sup> It further recommended that a committee comprising members of representatives of the Ogoni community and other minority groups in the oil producing regions should be formed for the purpose of introducing improvements in the socio-economic conditions of those communities.

With respect to the transition program, the mission recommended that membership of the various committees and commissions established to govern the program be widened; that an international team of observers from the U.N. and/or the Organization of African Unity (OAU) be stationed in Nigeria to monitor the transition and the elections; that a review committee chaired by a judge be constituted to examine all military decrees and recommend their repeal where they “encroach on the human rights provisions of the constitution or otherwise hinder the supremacy of the rule of law”; that the government ensure that the executive branch, especially the various security agencies, respect and promptly carry out court orders; that all persons detained under Decree No. 2 of 1984 be released, and amnesty be granted to those convicted for political offenses; that the restrictions on political and professional associations and labor unions be lifted; that restrictions on the rights to freedom of expression of the press be lifted and detained journalists released; and that the 1995 draft constitution be publicized widely.<sup>83</sup>

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<sup>80</sup>Ibid., paragraphs 66 and 73.

<sup>81</sup>Ibid., paragraphs 59 and 60.

<sup>82</sup>Ibid., paragraph 77.

<sup>83</sup>Ibid.

In response to the report of the fact-finding mission, the Nigerian government wrote to the secretary-general on May 21, 1996, promising that the Civil Disturbances Decree would be amended to exclude members of the armed forces from serving on the tribunal, and to make its verdict and sentence "subject to judicial review at the appellate level before confirmation by the confirming authority." These changes were implemented by the Civil Disturbances (Special Tribunal) (Amendment) Decree of 1996. The government stated that habeas corpus would be restored to persons detained under Decree No. 2, and the cases of all persons currently detained under Decree No. 2 would be reviewed, while a body would be set up to review future detentions every three months. As noted above, habeas corpus has nominally been restored by the repeal of Decree No. 14 of 1994 (although orders for detainees to be produced in court are still often defied in practice and the provision of Decree No. 2 preventing the courts from inquiring into the lawfulness of a detention remains in force). A review panel has reportedly been established and some detainees were released in June 1996, at the time of a Commonwealth meeting which would focus on Nigeria. The Nigerian government also promised that the Oil and Mineral Producing Areas Development Commission (OMPADEC) would be directed "to look into whether there are peculiar ecological and environmental problems in the Ogoni area with a view to ameliorating them."<sup>84</sup>

## EVENTS IN OGO NILAND SINCE THE EXECUTIONS

### Reactions to the Execution of Ken Saro-Wiwa

"We Ogoni are prepared to die: as they killed our headman, we go follow him die."  
— Ogoni elder, June 19, 1996.

The executions of Ken Saro-Wiwa and his eight codefendants caused an outpouring of grief and shock throughout the minority communities of southeastern Nigeria, and especially in Ogoniland. While the death sentences had been expected, it had been anticipated that they would be commuted to terms of imprisonment, and the sudden executions came as a complete surprise. In Port Harcourt and elsewhere, dazed crowds gathered during the days after the executions as the news sank in. On several occasions they clashed with the security forces.

Pius Waritimi, an artist whose house and studio is on the main road opposite the entrance to the cemetery where the Ogoni Nine are buried in an unmarked grave, described to Human Rights Watch/Africa the events of the day they were executed, November 10, 1995. He said he saw some Peugeot 504 and 505 station wagons, of the type used by the police coming down the main road, together with an armored car and a tipper truck with a tarpaulin over it. While Mr. Waritimi knew of the death sentence in the Saro-Wiwa trial, like most other people he had not expected the executions to be carried out so quickly, and his first assumption was that some "armed robbers" who had been executed were being buried. When armed men cordoned off the entrance to the cemetery, people started gathering and it became known that it was Saro-Wiwa who was being buried, Mr. Waritimi came out of his studio and started shouting at the soldiers, protesting the executions. When two armed soldiers attempted to grab him he ran into the house, but was followed into the internal compound where he was beaten and slapped on the left ear. When Mr. Waritimi's father, who is a retired assistant commissioner of police, protested, he was also assaulted. Mr. Waritimi was eventually taken and held in the armored car, where he was driven around for some time, being intermittently beaten, before being held overnight at the Mobile Police headquarters in Port Harcourt and eventually released on an undertaking of good behavior.<sup>85</sup>

For several months after the executions and burials, until the end of March 1996, an armored car was permanently stationed outside the cemetery. Mobile Police on the main road, at the cemetery gate and at the grave itself

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<sup>84</sup>Annex II to U.N. Document A/50/960.

<sup>85</sup>Human Rights Watch/Africa interview, June 17, 1996.



harassed and sometimes assaulted passers-by on foot and in cars, as well as extorting money from people going to the cemetery to bury their own dead. Funeral processions or other gatherings were dispersed with tear gas on several occasions.

The *Sunray* newspaper, an independent publication based in Port Harcourt, had covered the Ogoni trial extensively, with a correspondent based in the tribunal room and daily articles in the paper. The paper did not, however, publish any story on the executions themselves. Journalists working on the paper told Human Rights Watch that this decision had been made after the managing director of the paper and the chair of the Sunray Group had been summoned by SSS members and, presumably, instructed that it would be in their best interests not to cover the killings.<sup>86</sup> Staff protests did not succeed in overturning the decision. According to the journalists, the circulation of the paper, which had been in the region of 30,000, fell immediately to about 5,000 copies. Not till January 1996 did the newspaper begin to cover stories from Ogoniland again. Individual journalists have continued to face harassment when they cover sensitive stories.

On December 10, International Human Rights Day and one month exactly after the execution of the Ogoni Nine, the Rivers State Coalition, a newly formed umbrella body of human rights and environmental activist groups, joined with the National Union of Rivers State Students (NURSS), to stage a protest at the Rivers State University of Science and Technology (UST) in Port Harcourt. Student leaders from NURSS and the Coalition spoke in condemnation of the executions at a candlelight vigil. Two empty coffins, one for the military administrator of Rivers State, Lt. Col. Dauda Komo, and the other for head of state Gen. Sani Abacha, were displayed. On December 11, one of the student leaders who organized the demonstration, Felix Tuodolor, was picked up by the SSS at the house at which he was staying, beaten severely, and held for two days. On January 5, 1996, Kemedi von Dimieari, president of the UST chapter of NURSS—who, on November 10, the day of the executions, had written to the military administrator of Rivers State and the chair of the Council of Chiefs in Rivers State asking them to intervene for clemency in the case—was also picked up by the SSS on the campus of UST, the day following a meeting of campus presidents of NURSS from around the country at which possible future protests were discussed. Dimieari was kept in detention for thirteen days at the SSS detention facility in Port Harcourt, without food or drink for the first day and most of the second. He was interrogated on several occasions, and asked to write a statement about his activities. Before his release on January 18, Dimieari was taken, with the director of student affairs and the vice-chancellor of UST, to see the military administrator of Rivers State, Lt. Col. Dauda Komo, where he was given a lecture on his activities before being taken to the campus and released.<sup>87</sup>

### **Ogoni Day Celebrations**

On January 4, 1996, celebrated in Ogoniland as Ogoni Day since 1993, the U.N.-designated International Year of the World's Indigenous Peoples, Ogonis showed the strength of their feelings about the executions.<sup>88</sup> Large numbers of ordinary Ogonis and MOSOP supporters turned out to protest, largely spontaneously, while the National Union of Ogoni Students (NUOS) was responsible for a more organized demonstration in Bori, the chief town in Ogoniland. The security forces, however, attempted to prevent any demonstrations from proceeding. Ledum Mitee, vice-president of MOSOP under Ken Saro-Wiwa and a co-defendant in the trial before the civil disturbances tribunal in which he was acquitted, was arrested at his home in Kegbara-Dere (known locally as K-Dere) on January 3. After searching the house and questioning him about the plans for Ogoni Day, Mobile Police and members of the Internal Security Task Force told him he was under house arrest. He stated to them that Ogoni Day would be celebrated, like Christmas, whether or not he or MOSOP were involved.

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<sup>86</sup> Human Rights Watch/Africa, interviews, Port Harcourt, June 19 and 21, 1996. On May 21, 1994, on the day of the murders that led to the Ogoni trials, the editors of the daily and weekend editions of *Sunray*, together with the news editor of the weekend edition, were detained for several hours at Bori military camp by Lt. Col. Okuntimo, commander of the Internal Security Task Force, after following up reports of the murders with the army. They were ordered not to publish a story on the killings, and copies of the late edition which had been updated to run the story were seized.

<sup>87</sup> Human Rights Watch/Africa interviews, Kemedi von Dimieari and Robert Azibaola, June 16 and 18, 1996.

<sup>88</sup> The following section is based on interviews carried out by Human Rights Watch/Africa in Port Harcourt, June 16 to 20, 1996.

On Ogoni Day itself, students from NUOS took the lead in organizing a protest separate from the general celebrations. Those who managed to elude security force roadblocks converged during the night of January 3 at Kani, a community in Khana near Bori, the main town in Ogoniland. At midnight, they held a candlelight procession, and early in the morning of January 4 they gathered again and marched on Bori, dressed in black, singing songs and carrying placards. A number of NUOS members made speeches both in Kani and in Bori, condemning the executions and calling for compensation, as well as for the release of Ogonis remaining in detention. Large numbers of ordinary Ogonis gathered at Bori from all over Ogoniland, to participate in singing, dancing and other cultural activities, as they had in previous years. One eyewitness described the event to Human Rights Watch as like the day of Pentecost, the Ogoni people being possessed by the spirit of Ken Saro-Wiwa as they sang in his memory.

Soldiers and Mobile Police were posted along the roads leading to Bori, to turn people back, and within Bori town itself. In the mid-morning the security forces in Bori, both army and police, estimated to be about fifty or sixty in number by eyewitnesses, started shooting teargas into the crowds, and at about midday they started firing live ammunition into the air. At other locations on the roads into Bori, soldiers also fired on unarmed demonstrators, with automatic weapons, continuing to fire even as people ran into the bush. Eyewitnesses spoken to by Human Rights Watch reported seeing the bodies of three people shot and killed that day in Bori, and large numbers of wounded who had been shot or beaten by army or Mobile Police. MOSOP reported the names of three killed: Lucky Gbarabe, a twelve-year-old boy from Uegwere Bo-Ue shot in the back of the head and killed instantly; Barisi Deemua, a fourteen-year-old shot in the neck and killed instantly; and Kpannen Nicodimus, aged twelve, who died in Port Harcourt teaching hospital on January 6, after being shot in the abdomen. MOSOP reported eight others who survived bullet wounds, six of them under fifteen years old: given the difficulties of collecting information, this is unlikely to be a comprehensive list.<sup>89</sup>

Ledum Mitee was within earshot of one of the killings. Early on the morning of January 4, he heard gunshots near his house. He came out to find that a disabled boy (Kpannen Nicodimus, who later died) had been shot, and that his own younger brother, Batom Mitee, had been arrested at a military check point near K-Dere and badly beaten by soldiers. Ledum was also arrested. The brothers were taken by Maj. Obi Abel Umahi, commander of the Rivers State Internal Security Task Force,<sup>90</sup> to the health center where the wounded boy had been taken. Staff at the health center were viciously beaten by Task Force members, on the orders of Umahi, with whips made of electrical cable. Ledum and Batom Mitee were then made to walk through the center of K-Dere, with Umahi following in an armored vehicle. As they approached, the people, who were singing and dancing for Ogoni Day, ran off in fear. They were then taken to the Task Force detention center in Kpor, where people gathered outside singing protest songs, until asked to disperse by a note from Ledum Mitee smuggled out of the barracks. Late at night, they were returned to K-Dere. Along the way, Maj. Umahi threatened Ledum Mitee, while giving orders for anyone they met along the road to be beaten, without regard to their age or what they were doing.<sup>91</sup>

In the evening of January 4, after the activities were over, and during the next few days, a number of those involved in the demonstrations were arrested at roadblocks or in their homes. Many of them were severely beaten and taken to the Internal Security Task Force base at Kpor. Some were held for a few hours or days, others for longer: many of those released paid substantial bribes, of several thousand naira, to regain their freedom. MOSOP reported the names of forty-nine people, amongst them two ten-year-old girls, detained in this way. Human Rights Watch spoke to a number of others, not mentioned on the MOSOP list, who were arrested and beaten, including a NUOS member from the University of Port Harcourt, who was picked up on January 6 at his home in Bodo and severely beaten by about seven Task Force members. His arm was dislocated and his head also injured, to the extent that he needed hospital treatment in Port Harcourt. Scars from the beating were still visible six months later. Twenty-two people were charged with

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<sup>89</sup>“Victims of the Ogoni Day Celebration 4-1-96,” document supplied by MOSOP.

<sup>90</sup>Maj. Umahi took over command of the Task Force from Lt. Col. Paul Okuntimo, featured extensively in the Human Rights Watch/Africa report, “The Ogoni Crisis.”

<sup>91</sup>Human Rights Watch/Africa interview. Ledum Mitee. London, August 19, 1996.

unlawful assembly or similar charges after being detained, and released on bail after being held for about one week. Four others were later separately arrested in connection with the Ogoni Day demonstrations, of whom three were released after paying bribes. One who refused to pay a bribe, Sunday Nyorben, is still held in detention in Port Harcourt prison.

Also detained on Ogoni day was Paul Adams, Nigeria correspondent for the *Financial Times* of London. Adams had traveled to Port Harcourt to interview Ledum Mitee. He was not aware of the extent of the public participation in the Ogoni Day celebrations, nor of Mitee's arrest the previous day, and hence was taken by surprise by the level of security force activity. He drove into Ogoniland to K-Dere, where he expected to meet Mitee, but found that he had been detained. At the village he saw a number of people who had been beaten by members of the Internal Security Task Force, one of them a nurse at the clinic where the disabled boy who later died was brought. Adams drove on to Kpor, and was arrested at a roadblock, where his car was searched and a statement by MOSOP that had been given to him in K-Dere confiscated. Maj. Umahi held Adams for one night in Bori Camp, close to Port Harcourt, after which he was transferred to the custody of the SSS and then to the police headquarters. Adams was eventually charged with possession without excuse of a seditious document—that is to say, the MOSOP Ogoni Day statement—and granted bail on January 11. After several court appearances, the charge was eventually dropped on April 18.<sup>92</sup>

On January 5, the military came back to Ledum Mitee's house, and searched it for two hours, apparently looking for a video film or photographs of the demonstrations, and alleging that Paul Adams must have left notes or pictures at the house. On January 6, Maj. Umahi came again to the house, searched it again, and told Ledum Mitee that he would have to return to Port Harcourt. On the way to Port Harcourt, Batom Mitee was also intercepted on the road and arrested. The brothers were released in Port Harcourt, and told that they were forbidden from traveling to Ogoniland. Maj. Umahi lifted this ban in mid-February, at the time of a visit to Nigeria organized by the American Center for International Leadership whose members had specifically requested to see Ledum Mitee.<sup>93</sup>

On February 6, 1996, U.S. Nation of Islam leader Louis Farrakhan visited Ogoniland. A number of Ogonis living near Giokoo, the site of the murders of the four Ogoni chiefs on May 21, 1994, were arrested at random and beaten by security forces at the time of his visit.<sup>94</sup>

### **The U.N. Visit to Port Harcourt and Ogoniland**

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<sup>92</sup>Human Rights Watch/Africa interview with Paul Adams, Lagos, June 11, 1996.

<sup>93</sup>Human Rights Watch/Africa interview with Ledum Mitee, London, August 19, 1996

<sup>94</sup>MOSOP video recording of several of those beaten.

The authorities made strenuous efforts to ensure that human rights and pro-democracy or minority rights activists based in Port Harcourt, the capital of Rivers State, where the U.N. team stayed for several days, were not able to meet with the fact-finding team sent by the U.N. secretary-general or submit documentation of rights abuses.<sup>95</sup> Anyakwee Nsirimovu, director of the Institute for Human Rights and Humanitarian Law in Port Harcourt, for example, faced difficulties in his efforts to make a submission to the team. On March 27, prior to the U.N. visit, about eleven or twelve SSS members came to the offices of the institute, and confiscated a large amount of material on human rights, including training manuals, reference works, computer disks and correspondence files. Nsirimovu was then taken to the SSS headquarters in Forces Avenue, Port Harcourt, and interrogated about his involvement with MOSOP and links to external organizations. He was held for four days.

During the visit of the U.N. team, April 8 to 10, 1996, those who attempted to call the Presidential Hotel, where the team was staying, were told by the switchboard that they had instructions to let no calls through. Human rights activists who wished to speak with the team managed to smuggle a note to them explaining that they had been unable to make contact otherwise, and went to wait one evening in the lobby of the hotel—which was packed with members of the SSS—where they met with the team as they were returning late from a reception at government house. It was arranged that the activists, among them Nsirimovu, would meet with the team at 9 a.m. the following morning, April 10. However, as they were leaving the hotel car park in several cars, the car in which Nsirimovu was driving was stopped by Mobile Police. After being pointed out by an SSS member, the five people in the car (Nsirimovu, Stanley Worgu, Robert Azibaola, Nelson Azibolanari and Felix Tuodolor) were taken to Mobile Police barracks near the hotel, where they were detained overnight. Stanley Worgu managed to escape early the next morning and raised the alarm with human rights organizations and the U.N. itself. At about 10 a.m. the commanding officer came, alleging that he did not know of the detentions, which had been in error. Nsirimovu was taken to see the commander of the Rivers State Internal Security Task Force, Maj. Umahi, before the four were released. At the Presidential Hotel, Nsirimovu was told at the gate that it was too late to see the team and that they were no longer expecting him. At that moment, however, one of the members of the team came outside, and Nsirimovu was allowed into the hotel to speak to the team and hand over a copy of a report on the situation in Ogoniland. The next morning, however, the SSS came again to the offices of the institute looking for Nsirimovu (who was not there). Since April SSS agents have continued to harass members of the staff of the institute on numerous occasions.

On April 9, the U.N. team visited Ogoniland itself. Soldiers were stationed along all the main roads in Ogoniland. Town criers told the villagers not to come out, or they would be risking arrest. Despite the heavy security force presence, large numbers of Ogonis dressed in black and carrying placards turned out to line the roads, as the team traveled to visit the site where four Ogoni leaders were killed in May 1994. However, despite assurances given to the U.N. team that those who wished to speak to them would not face victimization of any kind, a number of detentions took place before and during the U.N. visit, clearly aimed at preventing activist Ogonis from speaking to the U.N. team. MOSOP lists forty-three people detained during the days preceding the U.N. visit, almost all of them held for several weeks before being released, after signing documents denouncing MOSOP and paying substantial bribes (in the order of ₦10,000).<sup>96</sup> MOSOP alleges that two lost their lives as a result of the torture inflicted upon them. Five were released as late as August 13, 1996. Sunny Kobo, a student at UST and president of NUOS who was arrested in Bori town (and badly beaten) on April 7, two days before the U.N. team visited, was the last to be released, on August 26.

### **The Current Situation in Ogoniland**

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<sup>95</sup>Those attempting to see the U.N. team elsewhere in the country were also harassed. In Lagos, the team stayed in the Sheraton Hotel, near the airport, which was surrounded by Mobile Police, soldiers and SSS members in an attempt to intimidate pro-democracy and human rights activists from seeing them. Two representatives of NADECO, Chief Bola Ige and Dr. Frederick Fasehun, were arrested by police as they arrived at the hotel, and released only on the intervention of a staff member with the team, Mr. Amer Ar`raim, who accompanied them to the police station. In Kano, the Prince Hotel was also under surveillance. Two members of Democratic Alternative—Eni Ahibe, national chair, and Labaran Maku, a member from Lagos—were detained at state house, the residence of the governor or military administrator, in Kano and held for four days and overnight, respectively.

<sup>96</sup>Human Rights Watch/Africa interviews, Port Harcourt, June 16 to 18, 1995; other information supplied by MOSOP-UK.

Ogoniland remains under a strong security force presence. Although Human Rights Watch/Africa was not able to travel to Ogoniland, due to concerns for the safety of our representative and of those we might speak to, we did interview a number of Ogonis who traveled to Port Harcourt to speak with us. They told us of continuing harassment by soldiers and Mobile Police of anyone perceived to be a MOSOP sympathizer. Short-term detentions are frequent for student activists and outspoken community leaders. Meetings by groups perceived to be critical of the government are not permitted. Church leaders in Ogoniland have also reportedly been warned against “political preaching” by Maj. Umahi.<sup>97</sup>

At the same time, a number of youth organizations have been established with the encouragement of the military authorities, with names such as “The Peacekeeping Movement in Ogoniland,” or “Patriotic Ogoni Youth.” These groups hold meetings without harassment, where they call on the people to support the government, avoid conflict and forget MOSOP. Two student activists whom Human Rights Watch spoke to had been approached by the “Youth Organisation of Oil Producing Communities” and told that dynamic people of their type should not be in non-profitable activities when they could be well paid. They were made to understand that a basic salary and other grants—up to ₦10,000 was mentioned as a one-off payment at the outset—would be available if they joined the pro-government group.<sup>98</sup> The Ogoni Council of Church Ministers, supportive of MOSOP, has denounced activities by a church group by the name of the Indigenous Council for Peace, Reconciliation and Recovery in Ogoni, alleging that its leader, Dr. Friday Nwator, has been paid by the government to undertake his activities, which include travel to Europe to promote the government line.<sup>99</sup> In early July 1996, the National Reconciliation Committee, one of the bodies established under the transition program, visited Ogoniland and held a public hearing in Port Harcourt. According to press reports, the committee’s chair, former minister of information and culture Alex Akinyele, said that the Ogoni issue had been overblown, and the Ogoni people misled by what he called a group of miscreants: “It is a terrible thing for any leader to mislead his followers. Such leaders should have heavy stones tied round their necks and thrown into the ocean as stipulated in the Bible.”<sup>100</sup>

MOSOP reported that fifteen people were arrested on August 13, including the president of the Federation of Ogoni Women, allegedly for holding meetings to plan for a forthcoming visit to Nigeria by the Commonwealth Ministerial Action Group (CMAG) announced by the Nigerian government. A further raid by the Internal Security Task Force reportedly took place on August 16, at K-Dere and a neighboring community, Baranyonwa Dere. Six people were reported detained at Kpor, before being released after the payment of bribes. Several were badly beaten, and a number of properties looted. On July 31, MOSOP reported that a producer with the local radio station (Radio Rivers) was arrested by the Internal Security Task Force for playing an Ogoni song on the radio. Also reported to be currently in detention, arrested on May 6, is Clement Yerekina, an employee at the immigration service, who is alleged by the authorities to be responsible for issuing travel documents to MOSOP leaders without authorization.<sup>101</sup> According to press reports, a woman from Kogi state living in Abuja has been held in detention by the police since November 13, 1995, after writing a letter pleading for clemency in the Saro-Wiwa case. She has appealed to the National Human Rights Commission for assistance.<sup>102</sup>

### **Ogoni Refugees in the Benin Republic**

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<sup>97</sup>Chris McGreal, “19 more Ogonis face hanging as Nigerian major shows who’s boss,” *The Guardian* (London), November 11, 1995.

<sup>98</sup>Human Rights Watch/Africa interview, Port Harcourt, June 18, 1996.

<sup>99</sup>Ogoni Council of Church Ministers, Press Release, July 29, 1996; MOSOP, Press Release, August 2, 1996.

<sup>100</sup>Udenna Orji, “Akinyele’s team disagrees with reports on Ogoni,” *The Guardian* (Lagos), July 5, 1996.

<sup>101</sup>MOSOP Press Release, August 19, 1996; list of current detainees, supplied by MOSOP.

<sup>102</sup>Joel Gure, “Lady detained over Saro-Wiwa,” *The Sunday Punch* (Lagos), July 28, 1996.

In March 1996, the U.N. High Commissioner for Refugees (UNHCR) issued a statement that around 1,000 Ogonis had crossed the Nigeria border to seek refuge in neighboring Benin since the celebration of Ogoni Day on January 4. While the numbers were relatively small, "the rate of increase is worrisome." Many of those seeking assistance were professional people, including doctors, clergy and lawyers, and all claimed to be MOSOP members facing persecution since the execution of Saro-Wiwa. Nigerian Federal Minister of Information Walter Ofonagoro dismissed the reports, stating that "there is no situation of unrest or civil disturbances in Ogoniland today to justify such an alleged upsurge of refugees.... alleged Ogoni refugees in the Benin republic are economic migrants."<sup>103</sup>

According to UNHCR, there are currently approximately 800 Ogonis living in a camp in Benin, of whom 400 have been interviewed and recognized as refugees. The remaining 400 have not yet been interviewed. A further 200 have been registered as refugees, but have since departed elsewhere, twenty-five of them to the U.S. About eighty Ogonis have been refused registration as refugees. (By contrast, of the two or three applications from other Nigerians to UNHCR in Benin every day, only six have been registered as refugees over the last year.) The refugees mostly arrived in Benin between December 1995 and March 1996, the majority in February and March 1996. There have been a number of threats to the refugees from the Nigerian security forces.<sup>104</sup>

### **Outstanding Trials for the Murder of the Four Ogoni Leaders on May 21, 1994**

Nineteen Ogonis remain on trial for murder in connection with the same facts and before the same Civil Disturbances Special Tribunal that convicted Saro-Wiwa and his eight co-defendants in 1995.<sup>105</sup> Eighteen Ogonis, most of them held without trial since mid-1994, were charged in May 1995 before a magistrates court in Port Harcourt on a "holding charge"<sup>106</sup> of murder, pending the constitution of the Special Tribunal. Of these eighteen, one died in detention, and two were released, leaving fifteen. Four others were also charged with murder in the magistrate's court on October 27, 1995.<sup>107</sup> One of those included in the charge had been held in Bori military camp since March 1995 for other reasons, but was reportedly moved to the same cell as the others, and then surprisingly "identified" by the brother of one of those killed on May 21, 1994.<sup>108</sup>

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<sup>103</sup>"Ogoni Activists Flee Nigeria, Says U.N.," Reuters, March 29, 1996; "Ogonis Not Fleeing, Says Nigerian Minister," Reuters, March 31, 1996.

<sup>104</sup>Human Rights Watch/Africa telephone interview with UNHCR representative in Benin, August 27, 1996; Fernand Azonnanon, "Des rapports difficiles à gérer," *Le Matin* (Cotonou), May 17, 1996.

<sup>105</sup>Their names are: Sampson Ntignee; Nyieda Nasikpo, Benjamin Kabari, Friday Gburuma, Popgbara Zorzor, Samuel Asigha, John Banatu, Baritule Lebe, Adam Kaa, Kagbara Basseeh, Blessing Israel, Paul Deekor, Godwin Gbodor, Nwinbari Abere Papah; Babiina Vizor, Taaghalobari Monsi, Ngbaa Baovi, Baribuma Kumanwee, and Michael Dogala.

<sup>106</sup>The filing of "holding charges" before magistrates' courts, even when those courts do not have jurisdiction to try the case (as in the case of murder) is a common practice of the Nigerian police, despite criticisms from human rights organizations and rulings of the Court of Appeal that no such procedure exists in Nigerian law. The charge is used to obtain an order that the accused be kept in custody pending the preparation of the case before the tribunal in which it will be heard. Eze Onyekpere, *Justice for Sale* (Lagos: Civil Liberties Organisation, June 1996), pp.125-136.

<sup>107</sup>Copies of charge sheets dated May 19 and October 27, 1995.

<sup>108</sup>"19 More Ogonis for the Justice Auta Special Military Tribunal," MOSOP Press Statement, November 23, 1995.

The papers filed with the charges indicated that fourteen of those charged would be identified by just one eyewitness; five of them were alleged only to be “among the crowd” at the scene of the murders.<sup>109</sup> In December 1995, the Federal High Court sitting in Lagos gave an interim injunction in favor of the detainees, preventing the special tribunal from hearing the case until an application alleging that such tribunals were unconstitutional was heard. On January 30, 1996, Chief Gani Fawehinmi, the lawyer acting on behalf of the detainees and the head of the defense team for Ken Saro-Wiwa before withdrawing from his trial, who had brought the constitutional application, was detained under Decree No. 2; on February 14, Femi Falana, also on the defense team, was detained. The application regarding the constitutionality of the tribunal is still pending before the High Court.

On July 17, 1996, fifteen of those facing charges were brought before a magistrate's court in Port Harcourt—it was the first time since the holding charge had been filed against them in May 1995 that the accused had been brought to court, although several other hearings at which the case was adjourned had been held, and also the first time since then that they had been seen by lawyers, family or friends. Despite this, counsel for the accused was forced to argue for some time before the police would agree to bring the Ogonis to court. Robert Azibaola, a lawyer with the Niger Delta Human and Environmental Rescue Organization (ND-HERO), a human rights and environmental group formed after the November 10 executions, appeared on behalf of the accused together with Uche Ukwukwu, and argued that the director of public prosecutions (who must bring murder charges) had shown no interest in prosecuting the case of murder against the accused in the ordinary courts.<sup>110</sup> The magistrate adjourned the case to August 5. The four others also held on holding charges did not appear in court, but their case was adjourned to August 6.<sup>111</sup> On August 5 and 6, the cases were adjourned again, without producing the detainees in court, to October 3 (for the fifteen) and September 3 (for the four). After the hearings Azibaola and Ukwukwu were detained by members of the State Intelligence and Investigation Bureau (SIIB) and held overnight at the SIIB facility in Port Harcourt. Chris Ikunze, photographer with *The Vanguard* newspaper, was assaulted and his camera confiscated, as he tried to photograph the detainees, who were all in poor physical condition. Azibaola and Ukwukwu were charged in court the next morning with obstructing the course of justice, allegedly for attempting to prevent the arrest of the photographer, and released on bail.

Conditions of detention for the Ogonis held in connection with these charges, as for other Nigerian prisoners, are appalling. One Ogoni of the group held in detention since mid-1994, Clement Tusima, died on August 14, 1995, reportedly after a long illness that went untreated. Letters smuggled out of prison in Port Harcourt have alleged that one of those charged, Babiina Vizer of Giokoo, has suffered the partial loss of his eyesight as a result of the conditions; the others suffer from problems related to poor nutrition, as well as skin ailments and respiratory problems. A letter given to *The Times* of London in May 1996 describing conditions and appealing for assistance resulted in the detainees being placed in solitary confinement.<sup>112</sup> A further letter of July 13, 1996, indicates that virtually all the detainees are suffering from severe weight loss, skin rashes on the body and genitals, and intermittent fever. Others have partial loss of hearing or blurred vision.

### **Harassment of other minorities in the Delta**

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<sup>109</sup>Chris McGreal, “Flawed case against Ogonis,” *The Guardian* (London), December 1, 1995.

<sup>110</sup>On November 12, 1995, Azibaola, a former law student and activist from Port Harcourt who had been completing his national youth service in Abuja, symbolically burnt his wig and gown in public at the main bus terminal in Port Harcourt, in protest at the executions of Ken Saro-Wiwa and the other eight Ogoni activists. A crowd soon gathered, attracting the attention of the police. Azibaola escaped on a motor bicycle. Human Rights Watch/Africa interview, June 1996.

<sup>111</sup>“Report of the Ogoni 20 trial before the Magistrate Court 2, Port Harcourt, on Wednesday 17th July, 1996,” document supplied by MOSOP; “14 of Ken Saro-Wiwa’s Ogoni people indicted for murder” AFP, July 18, 1996; “The Trial of the Ogoni 19,” MOSOP Press Release, August 2, 1996.

<sup>112</sup>Michael Dynes, “Ogoni activists in plea to West over Nigeria ‘frame-up,’” *The Times* (London), May 15, 1996; “Cry Nigeria” *The Times* May 16, 1996; Michael Dynes, “Prison puts Ogoni 19 in solitary,” *The Times* May 20, 1996.

Restrictions on freedom of association, expression and assembly are not confined to members of the Ogoni community, although they may be most severe in Ogoniland. Other communities in the Niger Delta have also been warned of the dangers of protesting government policies, in government statements which seem to be initiated as a result of concerns at the knock-on effect of the MOSOP mobilization of youth. One community chair in Ijaw territory in Rivers State—many miles from Ogoniland—told Human Rights Watch/Africa that he had been called to a “security meeting” at his local government headquarters on June 19, 1996, where the local government chair, elected in the recent elections had warned those present that if they did not obey Abacha’s government they would be locked up, and that they should ensure that youths from their areas also obeyed the government, or the army would be sent to impose order. The local government chair stated that if any community chair knew of problems in his village, he should report it or face problems if anything were later discovered by the authorities. When one person attending the meeting asked what they should do if there were any problems with the oil companies, the local government chair said that they should also report it. Upon being challenged whether he would support the federal government in such disputes, he replied that, yes, he was the eyes and ears of the federal government at local government level, that the federal government put him there, and that he must therefore speak in the federal government’s favor.<sup>113</sup>

### **THE ROLE OF THE INTERNATIONAL COMMUNITY**

The November 10, 1995 executions of Ken Saro-Wiwa and eight other Ogoni activists caused a huge outcry from the international community. Sanctions put in place since the annulment of the 1993 elections and the military coup which followed were strengthened in the weeks after the executions. Nigeria has been isolated to an unprecedented degree as a result of the “judicial murder” of one of its best-known activists. Nevertheless, international attention on Nigeria has lessened during 1996, as Nigeria’s major trading partners have returned to protecting their short-term economic interests in the absence of the focus of the trial of an internationally known and charismatic figure. While existing sanctions have been maintained in place, no further concrete measures have been taken to speed the return of civilian rule. The Nigerian government has been able to maintain some sort of dialogue with different international bodies, despite preventing several fact-finding missions from going to Nigeria to see the situation on the ground. Although representatives sent to Nigeria by the U.N. secretary-general and a group sponsored by the American Center for International Leadership were allowed into the country and met with several of those in detention, missions from the Commonwealth, the African Commission and the U.N. thematic special rapporteurs have been stalled indefinitely. Despite this, the Commonwealth has suspended the imposition of sanctions recommended in April 1996 against Nigeria, the U.N. Commission on Human Rights did not resolve in April to appoint a special rapporteur on Nigeria, and pressure elsewhere seems to have eased, even though the fundamental issues remain the same.

In the face of actual and threatened sanctions from western nations, the Nigerian government has increased its contacts with eastern states such as China, Korea and Iran. To make sanctions more effective, it is necessary for action to be taken at U.N. Security Council level, so that all states are obliged to comply. Pressure needs to be stepped up across the board, not reduced, to force the Nigerian government to take its international human rights responsibilities seriously.

#### **The Commonwealth**

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<sup>113</sup>Human Rights Watch/Africa interview, June 20, 1996.



The Commonwealth Heads of Government Meeting (CHOGM) that was taking place in Auckland, New Zealand at the time of the executions immediately demonstrated its outrage by suspending Nigeria from the Commonwealth, the first time that this step had been taken. Nigeria was given two years within which to comply with the terms of the Commonwealth Harare Declaration, which commits Commonwealth members to democratic governance, failing which they face expulsion.<sup>114</sup> At the same meeting CHOGM adopted the Millbrook Commonwealth Action Programme on the Harare Commonwealth Declaration, which included a commitment to take measures in response to violations of the Harare principles. A Commonwealth Ministerial Action Group (CMAG) was appointed to deal with persistent violations, which committed itself to examining, in the first instance, the cases of Nigeria, Sierra Leone and the Gambia, the three Commonwealth countries without democratically elected governments.<sup>115</sup>

On December 19-20, 1995, CMAG met for the first time, noted existing restrictions against Nigeria consequent to its suspension from the Commonwealth, and requested a study on possible further measures. On April 23, 1996, following its second meeting, CMAG recommended various measures for implementation by Commonwealth members against Nigeria, including visa restrictions on and denial of educational facilities to members of the Nigerian regime and their families, withdrawal of military attachés and cessation of military training, an embargo on the export of arms, a visa-based ban on sporting contacts, and the downgrading of diplomatic and cultural links. It was also recommended that a ban on air links and additional economic measures, including freezing the financial assets and bank accounts in foreign countries of members of the regime and their families, should be considered in consultation with the E.U., U.S. and other members of the international community. At a further meeting on June 24-25, 1996, however, the imposition of the sanctions agreed to in April, which had been delayed to give Nigeria time to engage in dialogue with CMAG about its human rights record, was further postponed, although existing measures consequent on Nigeria's suspension from the Commonwealth remained in place. No consensus was reached between CMAG and the high-level Nigerian delegation on the way forward for Nigeria—to the extent that the final press release from the meeting referred only to an agreement to meet again in September—but there was also no consensus between the members of CMAG as to the steps that should be taken against Nigeria. After the meeting, Canada announced that it would go ahead and impose unilaterally the sanctions agreed to in April and already implemented by the European Union and United States (see below). Jamaica has also taken a strong line against Nigeria, but Ghana, Malaysia and Zimbabwe have been sympathetic to the Nigerian government's position.

In January 1996, Nigeria refused to accept a fact-finding mission from the Commonwealth, detailed to travel to Nigeria by the CMAG meeting in December 1995, alleging that it was being unfairly singled out for attention among Commonwealth members. The mission has still not been allowed to visit Nigeria, although in August 1996, the Nigerian government indicated that it had invited representatives of CMAG to travel to Nigeria on August 29 and 30. A number of foreign ministers from CMAG met to consider the offer, and agreed to send a delegation of senior Commonwealth Secretariat officials to Abuja “for discussions with Nigerian officials on the modalities and new dates for a visit to Nigeria by CMAG.”<sup>116</sup> CMAG is due to meet again to discuss Nigeria at the end of September 1996.

## **The United Nations**

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<sup>114</sup>On October 20, 1991, the Commonwealth Heads of Government Meeting adopted the Harare Declaration, which committed members of the Commonwealth to “certain fundamental principles,” including liberty of the individual, equal rights for all citizens, and “the individual's inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives.”

<sup>115</sup>The eight members of CMAG are Zimbabwe (chair), New Zealand, United Kingdom, Canada, Ghana, Malaysia, Jamaica and South Africa.

<sup>116</sup>Commonwealth News Release, “Fourth Meeting of the Commonwealth Ministerial Action Group on the Harare Declaration: Concluding Statement,” London, August 28, 1996.

The United Nations General Assembly adopted a resolution on Nigeria on December 22, 1995, in which it condemned the executions of Ken Saro-Wiwa and the others, welcomed the steps taken by the Commonwealth, and expressed “the hope that these actions and other possible actions by other States” would encourage Nigeria to restore democratic rule, thus (unusually) encouraging member states to impose their own sanctions even without Security Council action.<sup>117</sup>

The U.N. Commission on Human Rights adopted a resolution on April 22, 1996 in which it requested two thematic special rapporteurs (on the independence of judges and lawyers and on extrajudicial, summary or arbitrary executions) to submit a report at the next session of the Commission in 1997 and an interim report to the U.N. General Assembly meeting in late 1996. However, a paragraph calling for the appointment of a special rapporteur on Nigeria, proposed by the member states of the European Union and supported by the U.S., was not adopted, largely because of the failure of African countries to support the measure (see below). While it has indicated that it will accept a mission from the thematic special rapporteurs, as resolved by the Commission on Human Rights, the Nigerian government has not yet agreed to a time for the visit and has rejected one set of dates as unsuitable. The thematic special rapporteurs have indicated that they will prepare their reports whether or not the Nigerian government grants them visas to visit Nigeria.

As noted above, the U.N. Human Rights Committee, monitoring compliance with the International Covenant on Civil and Political Rights, condemned violations in Nigeria in April and July 1996, on considering Nigeria’s first report submitted to the Committee in accordance with the terms of the covenant; the Working Group on Arbitrary Detention has repeatedly denounced the practice of detention without trial in Nigeria; different organs of the ILO conference have also adopted resolutions condemning Nigeria’s violations of the right to freedom of association; and in March and April 1996, a fact-finding mission sent by the U.N. secretary-general visited Nigeria. No action has been taken against Nigeria at Security Council level.

#### **The European Union and its Member States**

All European Union member states recalled their ambassadors for consultation following the executions. By Common Positions of the Council of the European Union dated November 20, 1995 and December 4, 1995, European Union member states agreed to impose visa restrictions on members (including civilians) of the Nigerian Provisional Ruling Council and the Federal Executive Council and their families (in addition to members of the Nigerian military and security forces and their families, on whom restrictions were imposed in 1993); to expel all military personnel attached to the diplomatic missions of Nigeria in member states and to withdraw all military personnel attached to diplomatic missions of E.U. members in Nigeria; to deny visas to official delegations in the field of sports and to national teams; to introduce a prospective embargo on arms, munitions and military equipment (allowing existing contracts to be fulfilled); and to suspend development cooperation except to projects through NGOs and local civilian authorities. These sanctions were extended in June 1996, without discussion, and will be reconsidered and extended or modified in November 1996. On July 1, 1996, Ireland assumed the presidency of the European Union for the following six months. In May 1996, a delegation of Irish parliamentarians were denied visas for a visit to Nigeria arranged by Trócaire, the Dublin-based Catholic Agency for World Development.

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<sup>117</sup>U.N. Document A/RES/50/199, March 11, 1996, reporting General Assembly resolution 50/199 on the Situation of Human Rights in Nigeria, of December 22, 1995.

On November 10, 1995, U.K. Prime Minister John Major, asked on television for his opinion on the Saro-Wiwa case, described it as “a fraudulent trial, a bad verdict, an unjust sentence, and it has now been followed by judicial murder.”<sup>118</sup> As a member of the European Union, the United Kingdom has implemented the measures against Nigeria adopted in 1993 and the additional measures by the Common Positions of November 20 and December 4, 1995. However, since November 1995, the U.K. has adopted a position arguing against further isolation of Nigeria. Nigeria is the second largest sub-saharan trading partner of the U.K., after South Africa, with exports from the U.K. of approximately £400 to \$450 million each year, according to the Nigeria-British Chamber of Commerce, though this has been declining in recent years.<sup>119</sup> One of the parent companies of Royal Dutch/Shell, the largest oil company in Nigeria, is British-based. Accordingly, the British government has argued against further economic measures against the Nigerian government at various international fora. A trade delegation sponsored by the British Department of Trade and Industry (DTI) traveled to Nigeria in February 1996, and a similar delegation is planned for November 1996.

In the list of export licenses granted and refused for the first half of 1996, which the DTI publishes under the Export of Goods (Control) Order 1994 and the Dual-Use and Related Goods Regulations (Export Control) 1995, a number of export licenses for Nigeria were included in categories which appeared to contravene the E.U. embargo, including licenses for “small arms, machine guns and accessories,” “vehicles specially designed for or modified for military use including tanks and armoured vehicles,” and “smooth-bore weapons.” In a letter to Human Rights Watch, the DTI stated: “Whilst it has been the policy of successive administrations not to reveal details of export licences, I can say that the end-users of the goods covered by these licences are not in any way associated with the Nigerian regime....In view of the public interest, the Department is prepared to say that two of the licences, issued in February 1996 ...covered sporting guns for use of two foreign diplomats temporarily resident in Nigeria. The other licence in question, issued in March 1996, covered two ex-Ministry of Defence office trailers to be used as secure storage on a building site by a foreign contractor in Nigeria.”<sup>120</sup> Human Rights Watch believes that the processes for granting export licenses for arms or dual-use equipment should be transparent, most of all when licenses are apparently in contravention of an arms embargo. Strict monitoring procedures should be put in place, by the E.U. or other bodies agreeing on embargoes, to ensure that the licensing process is public and includes details of the end users in every case.

France, Germany, Italy, the Netherlands and Spain also have significant trading interests with Nigeria: in the case of France, Italy and the Netherlands, these interests include participation in the oil industry (through the oil companies Elf, Agip and Royal Dutch/Shell, respectively).<sup>121</sup>

## The United States

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<sup>118</sup>“Statement by the Prime Minister, 10 November 1995,” transcript by the Foreign and Commonwealth Office.

<sup>119</sup>Invitation to Nigerian-British Chamber of Commerce meeting on the Nigerian budget, March 14, 1996.

<sup>120</sup>Letter dated September 11, 1996, from the Department of Trade and Industry to Human Rights Watch.

<sup>121</sup>Imports to Nigeria in 1991 were estimated at U.S. \$436 million, \$872 million, \$295 million, \$296 million, and \$58 million respectively; exports to Europe at \$305 million, \$412 million, \$429 million, \$472 million, and \$1,106 million. *Africa South of the Sahara 1996* (London: Europa Publications, 1996).

The United States also responded to the executions by recalling its ambassador, Walter Carrington for consultation. In addition, it extended pre-existing restrictions on military links (which included the termination in July 1993 of all military assistance and training) by banning the sale and repair of military goods. It extended a pre-existing ban on the issue of visas to senior military officers and senior government officials and their families to cover "all military officers and civilians who actively formulate, implement or benefit from policies that impede Nigeria's transition to democracy"; and introduced a requirement that Nigerian government officials visiting the U.N. or international financial institutions in the U.S. remain within twenty-five miles of those organizations. It also stated it would begin consultations immediately on appropriate U.N. measures.<sup>122</sup> Since April 1994, when Nigeria was denied counter-narcotics certification under Section 481 of the Foreign Assistance Act,<sup>123</sup> the U.S. has been required to vote against Nigeria in six multilateral development banks, including the International Bank for Reconstruction and Development and the African Development Bank; it has ceased all FAA and Arms Control Export Act assistance to Nigeria; and it has cut the USAID budget, while reprogramming all USAID assistance exclusively through the nongovernmental sector.

In 1996, however, the U.S. like other countries has been stronger on rhetoric than action. While the U.S. Ambassador to Nigeria and senior members of the administration who have visited Nigeria have issued strong statements condemning military rule and human rights violations, and the appointment of a special rapporteur on Nigeria was supported at the U.N. Commission on Human Rights, no further concrete measures have been adopted. In June 1996, Assistant Secretary John Shattuck visited Nigeria and noted "a steady deterioration in the human rights situation in Nigeria since 1993."<sup>124</sup> Like the European Union, the United States has publicly stated that all possible measures against Nigeria, without exclusion, are still under consideration; but no steps have been announced by the administration to put these statements into effect. The U.S. is by far the largest importer of Nigerian oil, taking about 40 to 50 percent of its output, and any steps taken towards an oil embargo depend on U.S. action and cooperation for that reason.

Partly to encourage stronger measures against Nigeria by the administration, a draft "Nigeria Democracy Act" was introduced in the Senate and House of Representatives in November 1995, by Senator Nancy Kassebaum and Representative Donald Payne, which proposes further sanctions, including a ban on air links and new investment, and an asset freeze. It is unlikely, however, that the bill will obtain sufficient support to pass—not least because of the divided response of the African-American community to the Nigerian situation (by contrast, for example, to the united pressure on the U.S. government to take strong action against the South African government during the 1980s). For example, Senator Carol Moseley-Braun visited Nigeria in August 1996 and defended Nigeria against criticism from human rights groups; Louis Farrakhan of the Nation of Islam visited in February 1996 and urged Americans to "give the Nigerian government a chance" with its transition program; and Roy Innis of the Congress for Racial Equality has defended the Nigerian government from its critics. Meanwhile, Randall Robinson of Transafrica, with the support of other well-known figures such as Jesse Jackson, has sponsored a high-profile campaign for further strong measures against the Nigerian government and in support of a return to democratic rule.<sup>125</sup>

## Japan

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<sup>122</sup>"Statement by the Press Secretary," Office of the Press Secretary, The White House, November 10, 1995.

<sup>123</sup>Section 481 of the FAA provides for an annual certification procedure that countries are cooperating fully with the U.S. in counter-narcotics procedures. If certification is denied, as has happened in the case of Nigeria in 1994, 1995 and 1996, funds for U.S. assistance may not be obligated nor expended for that country, while the U.S. must vote against multilateral development bank assistance.

<sup>124</sup>Transcript of press conference, Lagos, June 1, 1996.

<sup>125</sup>See generally, Ron Nixon, "Divide and Rule: Selling Nigeria to American Blacks," *The Nation*, May 26, 1996.

Japan, previously the largest bilateral donor to Nigeria, suspended government-to-government economic assistance in March 1994, eliminating its aid program, which had reached U.S. \$50 million in 1992. No further sanctions have been imposed since then. Japan supported the appointment of a special rapporteur on Nigeria at the U.N. Commission on Human Rights in April 1996.

### **The Organization of African Unity and its Member States**

Key to action against Nigeria at an international level is the active cooperation of other African countries in efforts to put pressure on the military regime. Without an African lead, other members of the Non-Aligned Movement are unwilling to take strong action against Nigeria, and without support from developing countries sanctions proposed in international fora are unlikely to be successful and can be portrayed by the Nigerian government as a western conspiracy. For example, the proposal for the appointment of a U.N. special rapporteur on Nigeria, included in the draft resolution submitted by European Union member states to the 1996 meeting of the U.N. Commission on Human Rights, was not supported by most of the African delegates and had to be deleted before the resolution could be adopted.

In December 1995, OAU Secretary-General Salim Ahmed Salim spoke against the response of the international community to the hangings of the Ogoni Nine, stating that, although the OAU would like to see a democratic Nigeria, with greater respect for human rights, "we do not subscribe to the campaign to isolate Nigeria.... We would not want anything to be done which would have the effect of destabilizing Nigeria."<sup>126</sup> Robert Mugabe, president of Zimbabwe, the chair of CMAG, ruled out action against Nigeria at the June 1996 meeting of the OAU in Cameroon: "The spirit of brotherhood prevails even when wrongs are recognized and taking measures against a brotherly state is not easy.... Nigeria will not be punished by the OAU unless some sanctions become United Nations-imposed."<sup>127</sup> The Nigerian government itself is fond of pointing out—apparently to good effect—that it contributes roughly one tenth of the OAU's budget, and also by far the largest component of the peacekeeping forces deployed in Liberia by the Economic Community of West African States (ECOWAS).<sup>128</sup>

West African states, including Ghana, Niger, Senegal and the Gambia, have been very reluctant—for obvious reasons—to endorse any type of action against Nigeria at any international forum, including the OAU, and indeed indicated their support for Nigeria against "threats to its sovereignty" from the condemnation surrounding the November 10, 1995 executions. Southern African states, meeting at a summit of the Southern African Development Community (SADC) in December 1995, also failed to take measures against Nigeria. In March 1996, Namibian president Sam Nujoma indicated that a 1995 invitation to Abacha to visit Namibia still stood.<sup>129</sup>

As Nigeria was central to the international anti-apartheid movement, so South Africa has an important role to play in pressurizing Nigeria to install a democratic government. At the CHOGM meeting in New Zealand in November 1995, South Africa led the call for strong action against Nigeria, and President Nelson Mandela spoke to both U.K. Prime Minister John Major and U.S. President Bill Clinton to urge multilateral action beyond the Commonwealth member states. South Africa has since become less outspoken, failing, for example, to support the proposal at the 1996 meeting of the U.N. Commission on Human Rights for the appointment of a special rapporteur on Nigeria. In July 1996, President Mandela, speaking ahead of the OAU summit in Yaounde, Cameroon, acknowledged that "Africa is

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<sup>126</sup>Reuters, December 6, 1996.

<sup>127</sup>"Mugabe: OAU Not To Suspend Nigeria at Organization Summit," South African Press Agency, May 9, 1996, as reported in FBIS-AFR-96-092.

<sup>128</sup>For example, in statements to the African Commission on Human and Peoples' Rights in December 1995 and March 1996.

<sup>129</sup>Chris Ndivanga, "Nujoma sticks to his guns on Nigeria," *The Namibian* (Windhoek), March 20, 1996.

not speaking with one voice,” and indicated that he had “received representations from countries in West Africa as well as from [U.N. Secretary-General] Boutros Boutros-Ghali,” who had reminded him that “Nigeria is responsible for law and order in Sierra Leone and Liberia.”<sup>130</sup> South African diplomats have indicated to Human Rights Watch/Africa that South Africa feels that it cannot act against Nigeria without African support, and indeed that there is no point in its doing so, given the lack of effective measures that South Africa could take alone.

On December 18 and 19, 1995, at the instance of Nigerian and international nongovernmental organizations, the African Commission on Human and Peoples’ Rights (an organ of the OAU) held its second ever extraordinary session at Kampala, Uganda, in order to consider the human rights situation in Nigeria. The Commission had been amongst those bodies pleading for clemency in the case of Ken Saro-Wiwa and his codefendants after the death sentences were passed. In addition to representations regarding the case, and other cases in Nigeria, the Commission resolved to send a fact-finding mission to Nigeria composed of the Commission’s chair, vice-chair and special rapporteur on summary and arbitrary executions. The report of the mission was to be considered at the next ordinary session of the African Commission, in Ouagadougou, Burkina Faso in March 1996; however, dates for the mission originally agreed with the Nigerian government for February 1996 fell through. No alternative dates have yet been agreed, and the Commission has prepared no report on Nigeria in the absence of the mission.

### **Royal Dutch/Shell**

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<sup>130</sup>“Appeals from UN. West Africa Softened Mandela Stance on Nigeria.” AFP, July 2, 1996.

As a result of strong lobbying from nongovernmental organizations, C.A.J. Herkströter, the president of the Royal Dutch Petroleum Company, one of the parent companies of the Royal Dutch/Shell Group of companies that owns the Shell Petroleum Development Company (SPDC) of Nigeria, sent a personal letter to Gen. Abacha on November 9, 1995, pleading for commutation of the death sentences against Ken Saro-Wiwa and his co-accused on humanitarian grounds. At the same time, Shell explicitly denied that this intervention was a comment on the proceedings of the tribunal, stating that “as a multinational company ... to interfere in such processes, whether political or legal, in any country would be wrong.” Since the trial and execution, Shell has publicly reaffirmed on several occasions its commitment to the Universal Declaration of Human Rights, while continuing to state that it cannot comment on particular cases.<sup>131</sup> In May 1996, in response to concerns about the trial facing the nineteen Ogonis before the civil disturbances special tribunal, Shell stated: “The Nigerian Government has a duty to investigate the murder of the four Ogoni leaders. And if those investigations lead to the arrest and trial of suspects, then no-one has the right to oppose due legal process. But trials must be fair. And they must be seen to be fair.”<sup>132</sup> It did not take the opportunity to state that proceedings before the special tribunal were unfair and in violation of international standards.

SPDC is responsible for the production of approximately 40 percent of the oil extracted every year in Nigeria. The federal government of Nigeria derives 80 percent of its budget from oil, and oil provides 90 percent of Nigeria's foreign exchange earnings.<sup>133</sup> In this context, Shell clearly has opportunities to exercise influence over the Nigerian government. It is futile to insist, as Shell continues to do, that it would be wrong for the company to get involved: Shell is involved in Nigeria, by virtue of its dominant position in the oil industry, and the choices it has concern the manner in which it exercises its influence. While Human Rights Watch agrees that it would be wrong for Shell to be involved in party politics, it is well established in international law that human rights questions are the concern of the international community, and that states cannot hide behind arguments of sovereignty to fend off criticism. On occasion, moreover, Shell has already reportedly used its influence to secure the release of detainees, undermining its arguments in other cases.

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<sup>131</sup>“Execution of Ken Saro-Wiwa and his co-defendants,” Statement by SPDC director Brian Anderson, November 14, 1995; “Shell reaffirms support for Human Rights and Fair Trial,” Shell International Limited Press Release, January 30, 1996.

<sup>132</sup>“Fair Trials for the Ogoni 19,” Shell International Limited Press Release, May 17, 1996.

<sup>133</sup>“Nigeria Brief: The Ogoni Issue,” SPDC, January 1995.

Moreover, Shell has been complicit in abuses by the Nigerian government in a more direct way than by not using its influence to encourage the government to respect human rights. On a number of occasions, people involved in demonstrations against Shell have been killed, detained and beaten by police called in by Shell executives.<sup>134</sup> Over the last year, it has been shown that Shell has recently been in negotiation for the import of arms for use by the Nigerian police. In January 1996, in response to allegations relating to the import of weapons, Shell stated that it had in the past imported side arms on behalf of the Nigerian police force, for use by the “supernumerary police” who are on attachment to Shell and guard the company’s facilities (and other oil company facilities) against general crime. The last purchase of weapons by Shell was said to be of 107 hand guns, fifteen years before.<sup>135</sup> “Although approval for local purchase of arms was given by the police in 1994, SPDC decided that it would be inappropriate to proceed with the purchase. SPDC was sensitive to the possibilities that upgrading weapons purchased for the police on SPDC protection duties could be misconstrued in the prevailing circumstances.”<sup>136</sup> However, court papers filed in Lagos in July 1995 and reported in the British press in February 1996 revealed that Shell had as late as February 1995 been negotiating for the purchase of weapons for the Nigerian police. Shell acknowledged to the London *Observer* Sunday newspaper that it had conducted these negotiations but stated that none of the purchases had been concluded.<sup>137</sup> The weapons on order—Beretta semi-automatic rifles, pump-action shotguns and materials such as tear gas clearly designed for crowd control—do not seem appropriate for protection from armed robbers and “general crime,” as Shell has claimed.

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<sup>134</sup>In its report on the Ogoni crisis of July 1995, Human Rights Watch/Africa detailed the role of Royal Dutch/Shell in the conflict. Human Rights Watch/Africa, “The Ogoni Crisis,” pp. 36-40.

<sup>135</sup>“Firearms—The Shell Position,” SPDC Press Release, January 17, 1996; “Shell does not import firearms into Nigeria,” SPDC Press Release, January 31, 1996.

<sup>136</sup>“Shell and the Supernumerary Police in Nigeria,” SPDC Press Release, February 9, 1996.

<sup>137</sup>Polly Ghazi and Cameron Duodu, “How Shell tried to buy Berettas for Nigerians,” *The Observer* (London), February 11, 1996. The proceedings were brought by XM Federal Limited, a company dealing in arms registered in London, and its Nigerian subsidiary against SPDC for breach of contract. Human Rights Watch/Africa has seen copies of the court documents, in which the plaintiffs allege that they had initiated purchases for Shell in reliance on a contract for the supply of weapons and ammunition, when SPDC unexpectedly indicated in a letter to the police that it believed the price too high and that “consequently we may have to suspend all activity on arms procurement until further notice.” SPDC had subsequently re-invited tenders from the plaintiffs for the same weaponry. The managing director of the Nigerian subsidiary had obtained the authorization of the Inspector General of Police for the weapons upgrade and purchase of semi-automatic weapons, with which the contract was concerned, only after personal intervention at the behest of Shell. The Nigerian subsidiary noted in correspondence to SPDC that “since the country is under some form of embargo by the Western Nations, we have had to arrange a delivery through a third party.” Statement of claim and annexures in *X.M. Federal Limited and Humanitex Nigeria Limited v. SPDC and Mr. V. Oteri*, Case No. [FHC/L/CS/849/95](#).



### *Human Rights Watch/Africa*

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. The staff includes Kenneth Roth, executive director; Michele Alexander, development director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Barbara Guglielmo, finance and administration director; Robert Kimzey, publications director; Jeri Laber, special advisor; Lotte Leicht, Brussels office director; Juan Méndez, general counsel; Susan Osnos, communications director; Jemera Rone, counsel; and Joanna Weschler, United Nations representative. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Africa division was established in 1988 to monitor and promote the observance of internationally recognized human rights in sub-Saharan Africa. Peter Takirambudde is the executive director; Janet Fleischman is the Washington director; Suliman Ali Baldo is the senior researcher; Alex Vines is the research associate; Bronwen Manby and Binaifer Nowrojee are counsels; and Alison DesForges is a consultant. William Carmichael is the chair of the advisory committee and Alice Brown is the vice chair.