

NIGERIA

TRANSITION OR TRAVESTY?

Nigeria's Endless Process of Return to Civilian Rule

INTRODUCTION	3
RECOMMENDATIONS	5
To the Nigerian Government	5
To the International Community	6
TRANSITION FRAMEWORK	8
Nigeria's Obligations Under International Law	9
Timetable	10
Transitional Institutions	11
Political Party Registration	12
LOCAL GOVERNMENT ELECTIONS	15
Registration of Voters	15
Screening of Candidates	17
Irregularities	18
Executive Interference in Decisions by NECON	19
ELECTION TRIBUNALS	21
Langtang North, Plateau State	22
Mangu, Plateau State	23
Kagarko, Kaduna State	23
Lafia, Nassarawa State	24
SILENCING INDEPENDENT VOICES	24
Treason Trials	25
Detention of Human Rights and Pro-Democracy Activists and Opposition Members	26
Constraints on Press Freedom	28
The Kaduna Labor Crisis	29

MILITARY DYNAMICS	32
THE HUMAN RIGHTS COMMISSION.....	33
VISION 2010.....	35
NIGERIA'S INTERVENTION IN SIERRA LEONE	37
THE ROLE OF THE INTERNATIONAL COMMUNITY	42
The Commonwealth.....	42
The United Nations.....	43
The European Union and its Member States	44
The United States	45
The Organisation of African Unity (OAU) and its Member States	47
Other Countries	48
ACKNOWLEDGMENTS	49

INTRODUCTION

In November 1995, the Commonwealth Heads of Government Meeting (CHOGM), convened in Auckland, New Zealand, suspended Nigeria from membership in the Commonwealth pending its compliance with the principles of the 1991 Harare Declaration, which commits Commonwealth members to democratic political processes and respect for human rights and the rule of law. The suspension was in protest over the arbitrary execution of Ken Saro-Wiwa and eight other activists from the Movement for the Survival of the Ogoni People (MOSOP) on November 10, 1995, while CHOGM was in session, and also over the persistent hold of Nigeria's armed forces on government and their failure to return the country to civilian rule. The heads of government stated that if no demonstrable progress was made towards respect for the Harare Declaration, including the release of political prisoners, Nigeria would be expelled from the Commonwealth.

Two years later, the Nigerian military government led by Gen. Sani Abacha has failed to make progress with regard to any of the principles set out in the Harare Declaration. Despite the promulgation of a "transition program" for the return of Nigeria to an elected civilian government, first announced by General Abacha on October 1, 1995, Nigeria's armed forces show every sign of wanting to remain in power, even if they technically leave office. General Abacha has manipulated every aspect of the current transition program to ensure the success of his supporters, fostering widespread speculation that he may ultimately be planning to succeed himself. Political prisoners remain incarcerated, including Chief Moshood K.O. Abiola, presumed winner of the June 12, 1993 presidential elections. Human rights and pro-democracy activists, trade union leaders and outspoken journalists are harassed, arrested and detained, generally without charges, for prolonged periods.

Although General Abacha has repeatedly stated that an elected civilian government will take over power by October 1, 1998, the transition program is well behind schedule. Most recently, state assembly elections, originally scheduled to be completed by September 1997, were rescheduled for December 1997. Elections of state governors, which were slated for late 1997, have been postponed to coincide with presidential elections in the third quarter of 1998. These delays have been interpreted as a sign of Abacha's unwillingness to install civilian governors, who would be more likely than military governors to resist self-succession by Abacha. The government has not issued guidelines for gubernatorial, state assembly or presidential elections, and a draft constitution under which all these structures will operate has yet to be promulgated.

The political party registration process, organized by the National Electoral Commission of Nigeria (NECON), excluded political associations that opposed the government as well as those without sufficient financial resources to cover the exorbitant cost of onerous registration requirements. Chief Abiola, who remains in detention, is also excluded from the current process, as are all outspoken critics of the military government. A transition process that fails to include all elements of the Nigerian political spectrum is not credible.

The five registered parties are hard to tell apart, and most have close links to members of the military-political elite. Two of the parties have offered to adopt Abacha as their exclusive candidate for president. Although a few individuals from other parties have expressed presidential aspirations, official pressure has ensured a change of heart. Notably, former Minister of Petroleum Resources Don Etiebet abandoned his quest for the presidency following his arrest and detention for several days by the State Security Service.

The March 15, 1997 local government council elections, which were conducted on a party basis, were anything but free and fair. There has been no voter education program. The voter registration process was marked by administrative confusion due to shortages of materials and personnel, as well as by corruption—to the point that voter registration cards were reportedly on sale in some areas. A final voters' register was not published prior to the elections, causing chaos on election day when voters presented themselves at the wrong polling sites. NECON, the National Drug Law Enforcement Agency and the State Security Service screened prospective candidates, supposedly based on guidelines promulgated by NECON. Because these guidelines did not have the force of law, disqualifications could not

be challenged in court prior to the elections. A number of aspiring candidates were disqualified based on their alleged pro-opposition sympathies.

On the day of the elections, election monitors reported widespread bribery, with politicians seeking to compensate for their parties' lack of grassroots support by giving citizens money to vote for particular candidates. Due to a lack of screened voting compartments, required by the decree governing the election process, voters were often compelled to cast their votes while others looked on. Political party agents were frequently prevented from attending the final collation of votes at local government headquarters, creating the opportunity for massive tampering. In one of the most outrageous cases of executive intervention, Federal Capital Territory Minister Jeremiah Useni overruled NECON's announcement that there would be bye-elections in three area councils of Abuja, the Nigerian capital, and declared that the choice between candidates in a contested ward of one of these councils would be resolved by tossing a coin.

Although election tribunals have been established to resolve disputes arising out of local government elections, tribunal members have proven themselves so susceptible to bribes that the federal government has supposedly decided to review decisions of tribunals throughout the country. Through this review process, it is feared the government may seek to discredit the electoral process and create an excuse for further delays.

In an apparent effort to ensure that the so-called transition program achieves its objectives, the government has gone to great lengths to suppress perceived opponents. On March 12, 1997, three days before local government elections, sixteen pro-democracy activists were charged with treason. Although the presiding chief magistrate agreed with defense counsel that she lacked jurisdiction, she nevertheless adjourned the cases "for reports" from the director of public prosecutions and remanded the accused in custody. Numerous other human rights, pro-democracy or opposition activists are in prison—some of them held without trial, others following conviction by military tribunals in trials that blatantly failed to respect minimum standards of due process. These include twenty Ogonis held in connection with the same facts as those for which Ken Saro-Wiwa and his co-accused were arbitrarily executed.

General Abacha has also sought to silence elements of the armed forces whom he perceives as a threat. His methods include detention, dismissals, and transfers on questionable grounds; forced retirements and the filing of trumped up charges. The arbitrariness of Abacha's decisions to terminate the careers of military officers, two hundred of whom were reportedly sacked between 1995 and 1996, combined with their meager salaries, poor living conditions, and lack of functioning equipment, has caused morale within the armed forces to plummet.

Nigeria's recent intervention in Sierra Leone, supposedly to restore the democratically elected government of Ahmed Tejan Kabbah, who was deposed in a May 1997 coup, appears designed instead to provide Nigeria with a bargaining tool in international fora among those more reluctant to commit forces overseas, and to occupy some members of the armed forces who might otherwise cause trouble at home. It has successfully brought endorsements from a range of international actors, as Nigeria's leadership of the peacekeeping forces in Liberia has also done, but should not be allowed to deflect attention from Nigeria's domestic human rights record.

Over the last two years, international criticism of Nigeria has become more muted. While measures imposed in 1993 and 1995 remain in place, certain countries have expressed frustration with the failure of sanctions to achieve instant results and have indicated that they should therefore be relaxed. Human rights and opposition activists in Nigeria, however, are convinced—as is Human Rights Watch—that the situation in Nigeria would be far worse if these sanctions had not been imposed. Nigeria's international isolation should be maintained pending the installation of a civilian government elected following a transition program that allows all parts of the Nigerian political spectrum to participate and that respects certain basic minimum standards, as set out below. Accordingly, Human Rights Watch recommends to CHOGM that Nigeria be expelled at the meeting in Edinburgh, taking place in October 1997, two years after Nigeria was suspended from the Commonwealth at Auckland.

RECOMMENDATIONS

To the Nigerian Government

Human Rights Watch calls on the government of Nigeria to:

- Respect the rights of the Nigerian people freely to elect their government and to return Nigeria to civilian government, in accordance with the standards established by the International Covenant on Civil and Political Rights and the U.N. Human Rights Committee, as well as its obligations under the Harare Commonwealth Declaration.
- Immediately and unconditionally release—or release on bail, charge with legally recognizable criminal offenses and try promptly before a regular court respecting international standards of due process—all individuals who are arbitrarily detained or imprisoned (including but not limited to Chief M.K.O. Abiola, those convicted of involvement in an alleged coup of March 1995, and those Ogonis held in connection with the same facts as those for which Ken Saro-Wiwa and his co-accused were executed) and cease arbitrary detention without charge.
- Create and promote a climate for free political participation by replacing the existing National Electoral Commission with a genuinely independent electoral commission and by developing an open and fair process for the registration of political parties and screening of candidates.
- Respect the rights of Nigerians to freedom of association, assembly and expression, and in particular ensure that all political parties are free to organize, hold meetings, campaign and canvass support from voters.
- Create and promote conditions conducive to the holding of free and fair elections by facilitating an orderly voter registration exercise culminating in the publication of a final voters' register prior to elections; carrying out a program of voter education; providing adequate voting materials, ballot boxes and screened voting compartments; ensuring an open collation process, and preventing voter intimidation and bribery.
- Permit international observers to monitor the transition program and to discuss with all parties measures by which to include in the political process individuals and groups who are currently excluded, including Chief M.K.O. Abiola, the National Democratic Coalition, other pro-democracy groups, and Nigerians in exile.
- Repeal all decrees and laws suspending the constitutional protection of fundamental human rights, allowing indefinite detention without charge, ousting the jurisdiction of the courts to consider the legality of executive acts, or criminalizing peaceful criticism of the transition program.
- Ensure that proceedings before election tribunals are fair.
- Guarantee the safety of human rights and pro-democracy activists, opposition politicians, journalists and all others who seek to change government policies by peaceful means, and bring to justice those responsible for the past harassment of such individuals.
- Guarantee media freedom and ensure that the state-controlled media grant political parties equal access and fair coverage.
- Prevent arbitrary dismissals, transfers, retirements and detention of members of state employees, including members of the armed forces, and ensure that dismissal and court-martial proceedings are conducted in accordance with international standards.
- Provide members of the armed forces with training opportunities that will enable them to enter new professions once Nigeria returns to civilian rule.

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 by implementing further measures, both unilaterally and through the medium of multilateral institutions. These measures should remain in place until an elected civilian government is installed in Nigeria, following a transition program that complies with the standards set out above. In particular:

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

- Expel Nigeria from the Commonwealth in accordance with the 1991 Harare Commonwealth Declaration, the 1995 Millbrook Commonwealth Action Programme, and the statement on Nigeria made by Commonwealth Heads of Government in New Zealand, November 11, 1995.
- Renew the mandate of the Commonwealth Ministerial Action Group (CMAG) and instruct CMAG to develop clear standards for the fulfillment by Commonwealth members of the principles of the Harare Declaration.
- Implement the sanctions recommended in the statement by 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.
- 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.
- Pursue the introduction of further measures against Nigeria, including an arms embargo, at the U.N. Security Council and in other international fora.
- 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:

- Continue renewing existing measures against Nigeria.
- Make public statements that existing measures against Nigeria will remain in place following the termination of the current transition program, unless steps are taken to ensure that the program conforms with the standards set out above.
- Put in place reporting and monitoring mechanisms to ensure that existing measures, 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 members of the Nigerian armed and security forces, the Provisional Ruling Council and the Federal Executive Council, and their families.

- 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.
- Pursue the introduction of further measures against Nigeria, including an arms embargo, at the U.N. Security Council and in other international fora.
- 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 on:

- The **U.N. Commission on Human Rights** to appoint without delay a special rapporteur on Nigeria, as called for in Commission Resolution 1997/53, and to do so without reference to the preference of the Nigerian government for particular candidates. Member states of the U.N. should press for an early appointment of a strong candidate.
- The **U.N. Security Council** to introduce sanctions against Nigeria including a total arms embargo, visa restrictions, and a freeze on the assets in other countries of members of the Nigerian armed and security forces, the Provisional Ruling Council, and the Federal Executive Council, and their families.

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

- Introduce visa restrictions and an asset freeze on members of the Nigerian armed and security forces, the Provisional Ruling Council, and the Federal Executive Council, and their families.
- Appoint a high-level 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 on the **African Commission on Human and Peoples' Rights** to make public a written report on its fact-finding mission to Nigeria of March 1997, which should include a detailed description of the human rights situation in Nigeria, as well as recommendations for the return of Nigeria to civilian rule under a transition program that respects the minimum standards set out above.

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

- Make a public statement that existing measures against Nigeria will remain in place following the termination of the current transition program, unless steps are taken to ensure that the program conforms with the standards set out above.
- Take steps to freeze the assets in the U.S. of members of the Nigerian armed and security forces, the Provisional Ruling Council, and the Federal Executive Council, and their families.
- Pursue the introduction of further measures against Nigeria, including an arms embargo, at the U.N. Security Council and in other international fora.

TRANSITION FRAMEWORK

The current Nigerian transition program, announced by Gen. Sani Abacha in a nationwide address on October 1, 1995 and governed by the Transition to Civil Rule (Political Programme) Decree No. 1 of 1996, is the fourth such

effort by a military government in Nigeria.¹ The structure of General Abacha's proposed plan, which is supposed to culminate in the handover of power to an elected civilian government on October 1, 1998, recalls that of previous transition programs. As before, the process includes the drafting of a new constitution, the lifting of a pre-existing ban on political activities, the establishment of transitional institutions, the election of local government officials on a non-party basis, the redrawing of state and local government area boundaries, the formation of political parties and, finally, the holding of elections on a party basis.²

The most striking parallels are with the transition program supervised by General Ibrahim Babangida, who annulled the results of Nigeria's last presidential election on June 12, 1993. For example, Decree No. 1 of 1996 renders subject to five years' imprisonment any person who "organizes, plans, encourages, aids, co-operates 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 who "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."³ Offenses under Decree No. 1 are triable only by a special tribunal and appealable to a Special Appeal Tribunal, with any sentences imposed subject to confirmation by the Provisional Ruling Council.⁴ The decree specifically ousts the jurisdiction of regular courts.⁵ Decree No. 19 of 1987, which governed the Babangida transition program, set forth a virtually identical arrangement for the trial of persons whose acts or omissions undermined the program.⁶

To an even greater extent than General Babangida, under whom he served as chief of army staff, General Abacha has manipulated every aspect of the current transition process to his own advantage, suggesting that his ultimate aim may be self-succession.

Nigeria's Obligations Under International Law

The International Covenant on Civil and Political Rights (ICCPR), to which Nigeria is a party, provides in Article 25 that:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 [forbidding discrimination] and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

¹The three previous transition programs were promulgated by heads of state General Yakubu Gowon (in office 1966-75), General Murtala Mohammed (1975-79) and General Ibrahim Babangida (1985-93).

²For a detailed comparison of transition programs promulgated by Nigerian military governments to date, see Chidi Anselm Odinkalu, "The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996)," a reference paper prepared for the International Workshop on "The Nigerian Democratization Process and the European Union," organized by the *Centre d'Etude d'Afrique Noire*, Bordeaux, September 12-14, 1996. For additional information on the early stages of the current program, see Human Rights Watch/Africa, "Permanent Transition': Current Violations of Human Rights in Nigeria," *A Human Rights Watch Short Report* (New York: Human Rights Watch, September 1996).

³Transition to Civil Rule (Political Programme) Decree No. 1 of 1996, section 6.

⁴Decree No. 1 of 1996, sections 7 and 13.

⁵Decree No. 1 of 1996, section 14(1).

⁶Odinkalu, "The Management of Transition to Civil Rule," citing Decree No. 19 of 1987, sections 9, 14 and 16. In fact, the tribunals under both programs consist of five persons with the same credentials, namely a chairman who is a serving or retired judicial officer of any of the superior courts of record and four other members, one of whom is a serving member of the armed forces. Decree No.1 of 1996, section 7(2); *Ibid.*, citing Decree No. 19 of 1987, section 9(2)(b).

- (c) To have access, on general terms of equality, to public service in his country.

The U.N. Human Rights Committee, which monitors compliance with the ICCPR has elaborated on states' obligations in a general comment on Article 25.⁷ States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Among other measures, this implies that any abusive interference with registration or voting, as well as intimidation or coercion of voters, should be prohibited and the law strictly enforced. Voter education and registration campaigns are also necessary. The Committee specifies that freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote. Also, persons entitled to vote must have a free choice of candidates and restrictions on the right to stand for election must be based on objective and reasonable criteria. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind. Most importantly, perhaps (in the Nigerian context), the results of genuine elections should be respected and implemented.

The Human Rights Committee also specifies that an independent electoral authority should be established, to supervise the electoral process and ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant. The secrecy of the vote should be guaranteed, the security of ballot boxes must be guaranteed, and votes should be counted in the presence of the candidates or their agents. There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process to ensure that electors have confidence in the security of the ballot.

Finally, the Committee elaborates on the need for free communication of information and ideas about public and political issues between citizens, candidates and elected representatives. There must be a free press and other media able to comment without censorship or restraint. There must be freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election, and to advertise political ideas.

The Harare Commonwealth Declaration, adopted by Commonwealth Heads of Government in 1991, echo the obligations of states parties to the ICCPR. Commonwealth states are committed, among other things, to respect "the individual's inalienable right to participate by means of free and democratic political processes in forming the society in which he or she lives."

The following sections of this report indicate to what extent Nigeria is falling short of these obligations.

Timetable

⁷General Comment No.25(57), U.N. Document CCPR/C/21/Rev.1/Add.7.

The current transition timetable has been subject to repeated postponements, reminiscent of the recurrent delays that plagued the Babangida transition.⁸ According to the timetable, a new constitution was to have been approved by the Provisional Ruling Council (PRC), the military cabinet (which is paired by a civilian Federal Executive Council, FEC), by the fourth quarter (October - December) 1995. Although the government convened a National Constitutional Conference, which presented a draft constitution to General Abacha in June 1995, the constitution has yet to be promulgated, so that voters do not understand the foundation of the system for which they are voting.⁹ Local government elections on a party basis, which were originally scheduled for the fourth quarter of 1996, did not take place until March 15, 1997. Government and electoral officials cited a variety of reasons for this delay, including the threat of bomb blasts at polling centers and the administrative burden of delineating new constituencies and updating the voters' register following the creation of new states and local government areas in October 1996.¹⁰

Further revisions to the original schedule were imposed through the Transition to Civil Rule (Political Programme) (Amendment) Decree No. 9 of 1997, which, while maintaining "the inviolability" of October 1, 1998 as the terminal date of the transition program, empowers the National Electoral Commission of Nigeria to alter the previous timetable "to meet the exigencies of the due and faithful implementation of the programmes specified therein."¹¹ Under Decree No. 9, local government bye-elections, which were to be completed by the fourth quarter of 1996, were shifted to July 1997; state assembly elections, which were supposed to take place between July and September 1997, have been rescheduled for December 6, 1997. In addition, elections of state governors, which were scheduled for the fourth quarter of 1997, will now coincide with the presidential elections, slated for the third quarter of 1998.¹² To date, no rules for gubernatorial, state assembly, or presidential elections have been published.

⁸The end of the Babangida transition program, which was initially slated for 1990, was postponed until 1992 and later to 1993.

⁹The National Constitutional Conference has been widely criticized for its lack of independence from the government. The chair and deputy chair, who wield control over the process, were appointed by General Abacha. Of the 369 members, 273 were elected, and ninety-six were nominated by the Provisional Ruling Council (PRC). Candidates for the elected positions were vetted before they were allowed to stand, and elections were largely boycotted by the public. Decisions could be taken by a simple majority, i.e. by the ninety-six nominated members with the support of only twenty-seven of those elected. Moreover, the decisions taken by the conference members were not binding on the PRC. Human Rights Watch/Africa, "Permanent Transition," pp. 9-10.

In February 1997, lawyer Tunji Abayomi, on behalf of twelve nongovernmental organizations, filed a petition in Lagos Federal High Court seeking, among other things, a declaratory judgment that "the 1995 constitution" is invalid and court orders mandating redrafting of the constitution by an assembly of popularly elected representatives in consultation with the public. He subsequently filed a motion for an injunction restraining the Abacha regime from using, issuing, publishing or enacting the 1995 constitution pending the determination of the above-mentioned petition. A hearing on the government's preliminary objections to the petition was scheduled for October 8, 1997.

¹⁰"Abacha Lauds Record Ruling Nigeria," *The Washington Times*, January 30, 1997; James Jukwey, "Nigeria says democracy timetable still intact," Reuters, December 23, 1996.

¹¹Decree No. 9 of 1997, section 2.

¹²Decree No. 9 of 1997, sections 3 and 4.

Whether the political parties requested these postponements of their own accord or were instead asked by the government to “rubber stamp” its pronouncements is a subject of controversy. Politicians who supported the postponements have cited the importance of preventing state governors from acquiring too much control over the operations of the political parties or the nomination of National Assembly candidates (scheduled for early 1998). They have also expressed the view that NECON needs additional time to overcome the problems that arose during the local government elections. More skeptical sources have pointed out that civilian governors would be more likely than military governors to resist any attempt by Abacha to succeed himself.¹³

Transitional Institutions

A number of government institutions have been established with responsibilities in respect of the transition, in accordance with the Transition to Civil Rule (Political Programme) Decree No. 1 of 1996. These institutions include the National Electoral Commission of Nigeria (NECON), the Transitional Implementation Committee (TIC), the Federal Character Commission (FCC), the National Reconciliation Committee (NARECOM), and the Panel for the Creation of State and Local Government Boundary Adjustment. In addition, a Power Devolution Committee, mentioned by General Abacha in his October 1, 1995 independence day address, but not provided for in the decree, has been established.

The principal body entrusted with overseeing the transition process is NECON, headed by Chief Sumner Dagogo-Jack, which was created under the National Electoral Commission of Nigeria Decree No. 3 of 1996. NECON has broad range of functions, including registering political parties, monitoring the organization and conduct of political parties, screening candidates, registering voters, preparing and maintaining a voters' register, as well as organizing, conducting and supervising all elections. In some cases, NECON has overstepped the bounds of its authority in an apparent effort to micromanage the day-to-day operations of the political parties. Shortly before the March 1997 local government elections, for example, Chief Dagogo-Jack nullified the positions of National Leader in the National Centre Party of Nigeria (NCPN) and National Coordinator in the Democratic Party of Nigeria (DPN), which he considered to be in violation of the parties' constitutions.¹⁴

Apart from NECON, the transitional institutions appear to be ineffectual at best. Most are chaired by individuals whose interests are closely aligned with the current regime. Distinctions between the mandates of the Transitional Implementation Committee, which is supposed to supervise the transition program, and NECON are unclear, making the TIC seem redundant. The TIC is chaired by retired Justice Mamman Nasir, a core member of the northern political establishment, from which General Abacha derives his strongest backing, and former vice-chairman of the National Constitutional Conference which drafted the yet-to-be-promulgated 1995 constitution. Not surprisingly, Justice Nasir has announced that General Abacha is legally eligible to run for president.¹⁵

¹³Remi Oyo, “Shift in Transition Programme,” InterPress Service, July 1, 1997.

¹⁴*Transition Review*, January 31, 1997 (published in Lagos by Civil Liberties Organisation); Nats Agbo, “The Remote Control,” *Newswatch* (Lagos), February 24, 1997.

¹⁵Human Rights Watch/Africa interview, Lagos, August 26, 1997. A decision by General Abacha to run for president while he is still acting as head of state would contravene a government directive that public office holders must refrain from involvement in politics. “Nigeria’s Abacha reiterates promise to hand over,” text of September 29, 1997 report by *The Guardian* (Lagos), as reported in the U.S. government Foreign Broadcast Information Service (FBIS), FBIS-AFR-97-272, September 30, 1997. Human Rights Watch/Africa

The other bodies are concerned with the resolution of problems related to Nigeria's diverse ethnic and religious makeup. NARECOM has been preoccupied with collecting information about intercommunal disputes among minority groups, with little success.¹⁶ The chairman of NARECOM is Alex Akinyele, minister of information under General Ibrahim Babangida. With respect to the Federal Character Commission, which is supposed to work out an equitable formula for individuals from different regions of the country to share posts in the federal and state civil services, government-owned corporations and parastatals, and the Power Devolution Committee, which is charged with the task of redistributing power from the federal government to state and local council authorities, any recommendations that may have been made by these institutions do not appear to have been implemented as yet.¹⁷ The FCC is chaired by Alhaji Gidado Idris, secretary to the government of the federation, while the Power Devolution Committee is chaired by Alhaji Abdulrahman Okene, the chairman of the Northern Elders Forum, a pro-government body. As for the Panel on State and Local Government Creation and Boundary Adjustment, the government announced the establishment of six new states—three in the north and three in the south—and 183 additional local government areas on October 1, 1996. The chairman of this Panel is Chief Arthur Mbanefo, who has not previously featured prominently in Nigerian politics. A separate panel was then convened to formulate recommendations regarding the adjustment of local government boundaries, which were announced in December 1996.¹⁸ Given that the recommendations of the Committee were never made public, it is not clear whether the government took them into account.

Political Party Registration

In late September 1996, NECON announced the registration of five political parties (out of eighteen that applied): the United Nigeria Congress Party (UNCP), the Committee for National Consensus (CNC), the National Centre Party of Nigeria (NCPN), the Democratic Party of Nigeria (DPN) and the Grassroots Democratic Movement (GDM). All political associations that failed to qualify for registration were pronounced to have been dissolved and were thereby barred from participating in the planned elections. Parties which included many known opponents of the Abacha regime, such as the People's Progressive Party (PPP), made up largely of members of the National Democratic Coalition (NADECO) formed from the remnants of Chief Moshood Abiola's dissolved Social Democratic Party, which contested the 1993 election, were not registered.¹⁹

¹⁶The relocation of local government area headquarters under the transition program, often at the last minute and on an apparently arbitrary basis, has resulted in serious disturbances in several parts of Nigeria, notably in the Warri area of Delta State and in Ile Ife, Osun State. Ill-advised decisions by military administrators in the states have contributed to, or caused, these crises, which are substantial enough to warrant a full report in themselves. Neither NARECOM nor the security forces have proved effective in resolving the problems contributing to the violence or in protecting Nigerian citizens from the violence, in which tens if not hundreds of people have been killed.

¹⁷Human Rights Watch/Africa interview, Lagos, August 26, 1997; "Abacha Inaugurates 'Character Commission,'" text of December 27, 1995 report by Kaduna Radio Nigeria, as reported in FBIS-AFR-95-249, December 28, 1995.

¹⁸The new states are Bayelsa (carved out of the southeastern state of Rivers), Ebonyi (from the eastern states of Enugu and Abia), Ekiti (from the western state of Ondo), Nassarawa (from the middle-belt state of Plateau), Gombe (from the northern state of Bauchi) and Zamfara (from the northern state of Sokoto). "General Abacha announces creation of six new states," text of recorded speech, broadcast by Nigerian TV on October 1, 1996, as reported in BBC Summary of World Broadcasts (SWB) AL/2732 A/2.

¹⁹Other parties that were not registered included the All Nigerian Congress (ANC), the National Solidarity People's Alliance (NSPA), the National Democratic Alliance (NDA), the All Peoples Alliance (APA), the People's Redemption Party (PRP), the Nation Builders Congress for Unity and Democracy, the People's Consensus Party (PCP), the Social Progressive Party (SPP) and the National Democratic Party (NDP). "Five part(ie)s of the same coin," *Constitutional Rights Journal*, vol. 6, no. 20, July - September 1996 (published in Lagos by Constitutional Rights Project).

NECON claimed that registration decisions were based on objective criteria set forth in its guidelines announced in June 1996.²⁰ However, it is doubtful that any of the parties was able to comply fully with such onerous registration requirements. The NECON guidelines required parties seeking registration to have at least 40,000 members in each of the thirty states of the federation and 15,000 in the Federal Capital Territory of Abuja, with each member to receive a photo-membership identification card. Parties had to submit a comprehensive list of their members with names, ages and residential addresses; set up offices throughout the country, and demonstrate that they were organized in at least two thirds of the local governments in every state, including Abuja. In addition, each party was obligated to pay a nonrefundable deposit of ₦500,000 (US \$6,025) to NECON and to submit a "short profile" of the party and ten copies of its constitution and manifesto.²¹ In tacit acknowledgment of the difficulty of fulfilling all the requirements, NECON extended the original deadline of June 26, 1996 to provide the opportunity for associations to merge into more "politically viable" groups.²²

Human Rights Watch interviewed a number of politicians who had been affiliated with parties that were disqualified. Most expressed frustration with the short time period allotted for submitting registration applications and the exorbitant costs they had incurred in the process. One politician noted that each of the five registered parties could not possibly have enlisted 15,000 members in Abuja because the total population is well under 75,000.²³ Even a member of the UNCP, which is reportedly dominated by the Kanuri political elite (from Abacha's home region) and is viewed to be Abacha's party of preference, conceded to Human Rights Watch that his party had been unable to comply with the requirement to issue photo-membership identification cards.²⁴

²⁰"Nigeria approves five political parties; other associations dissolved," text of September 30, 1996 report by Nigerian TV, as reported in SWB AL/2732 A/2, October 2, 1996.

²¹NECON, Guidelines for the Formation and Registration of Political Parties (Abuja: NECON, June 17, 1996). Similarly stringent guidelines were promulgated by the National Electoral Commission (NEC) during the aborted Babangida transition. Although NEC initially recommended registration of six of the thirteen political associations that applied, the Babangida administration later disqualified these six associations under Decree No. 27 of 1989, which provided for the exclusion of persons who had held political offices in past civilian governments. The government thereafter put in place two new parties, the National Republican Convention and the Social Democratic Party, which provided the exclusive platforms for candidates in the annulled 1993 elections. In addition to building secretariats for these two political parties, the government wrote their constitutions and manifestos, paid their secretariat staff and funded their campaigns. "Transition programme stumbles along," *Constitutional Rights Journal*, vol. 1, no. 1, December 1990 (published in Lagos by Constitutional Rights Project); "Babangida's Transition Trap," *Constitutional Rights Journal*, July-September 1993; Nats Agbo, "The Remote Control," *Newswatch* (Lagos), February 24, 1997.

²²"Five part(ie)s of the same coin," *Constitutional Rights Journal*, July-September 1996.

²³Human Rights Watch/Africa interviews, Lagos, August 28, 1997; Kaduna, September 1, 1997.

²⁴Human Rights Watch/Africa interview, Kaduna, September 2, 1997.

A more probable explanation of the rationale behind registration decisions is the government's desire to ensure a compliant set of parties unwilling to challenge the military. Minister for Special Duties Laz Unaogu stated publicly that, in order to avert political instability, neither "progressive" nor "conservative" parties would be registered.²⁵ That the registered parties have commonly been described as "five fingers of a leprous hand" attests to the fact that the government achieved its goal. Even a UNCP member interviewed by Human Rights Watch was frank about the fact that the ideologies of the five registered parties were "centrist" and essentially interchangeable.²⁶ Based on the inability of four out of the five parties to provide any printed materials to Human Rights Watch, the scope of public knowledge of their respective ideologies—if they have ideologies—is questionable.²⁷ Only the UNCP was able to produce its manifesto and constitution, at the cost of ₦100 (US \$1.20) each. Given the desperate state of the Nigerian economy, it is doubtful that an average citizen could afford such an expenditure.

To date, none of the five registered political parties has officially specified a presidential candidate. There is much speculation that General Abacha will ultimately decide to run for president on one or more of the parties' platforms. Many senior members of the registered parties have said publicly that they would be willing to promote Abacha's candidacy, and the UNCP and the DPN have reportedly even offered to adopt him as their exclusive consensus candidate.²⁸ A number of government ministers are reportedly involved in running and financing the political parties. Notably, Minister for Special Duties Wada Nas supposedly has close links with the DPN, while Minister of State for Petroleum Resources Dr. Kabiru Chafe, and Ministers for Special Duties Laz Unaogu and Wole Oyelese are said to have ties with the GDM.²⁹

Since March 1997, when Abacha's chief press secretary David Attah told Radio Nigeria that Nigerians should pressure General Abacha to run for president, the activities of pro-Abacha groups have become increasingly visible.³⁰ Although there have been official statements that these groups are not backed by the government, they are led by individuals close to Abacha. The groups include the Movement for Abacha for President (launched by UNCP member Chief Orji Uzor Kalu), the National Mobilisation and Persuasion Campaign (NMPC) (headed by GDM member Dr. Godwin Daboh Adzuanah) and Youth Earnestly Ask for Abacha (YEAA).³¹ At the time of Human Rights Watch's mission, a painted placard saying "YEAA: We want him back in '98" stood outside the entrance to Abuja, the Nigerian capital, and many civil servants in the Federal Secretariat wore small badges with photographs of General Abacha or his

²⁵Human Rights Watch/Africa interview, Lagos, August 26, 1997.

²⁶Human Rights Watch/Africa interview, Kaduna, September 2, 1997.

²⁷NCPN staff said that they were in the process of revising their manifesto and constitution and advised Human Rights Watch to return in two weeks. DPN staff told Human Rights Watch to return the following week so that they could print their manifesto and constitution from the computer. GDM staff claimed that they had only one copy of their manifesto and constitution and that the person who could authorize photocopying was unavailable. CNC staff expressed regret that they were closing for the day and asked Human Rights Watch to come back the following week.

²⁸"Nigeria's Military Ruler May Run as Civilian," *The New York Times*, February 20, 1997; Demola Abimboye, "The Sit-Tight Plot: Scene II," *The News* (Lagos), April 14, 1997.

²⁹Nats Agbo, "The Remote Control," *Newswatch* (Lagos), February 24, 1997.

³⁰"Abacha for President gains strength," Reuters, April 13, 1997.

³¹"Movements Launched To Persuade Abacha To Run for President," text of report by Agence France Presse (AFP), March 30, 1997, as reported in FBIS-AFR-97-089, March 30, 1997; Demola Abimboye, "The Sit-Tight Plot: Scene II," *The News* (Lagos), April 14, 1997. These movements recall the Association for Better Nigeria (ABN), formed by businessman and politician Arthur Nzeribe to convince former Head of State General Babangida to contest the presidency. "Scramble for Abacha," *Newswatch* (Lagos), April 14, 1997.

wife. In a January 1997 interview with the *Washington Times*, General Abacha denied that he had given serious thought to running for president, but left the option open by claiming that his decision would depend on his “constituency.” He pointed out that such a move “is not new in Africa, neither is it new in the subregion, where military people have stepped into politics.”³²

³²“Abacha Lauds Record Ruling Nigeria,” *The Washington Times*, January 30, 1997.

Government officials have gone to great lengths to eliminate technical obstacles that might otherwise have prevented Abacha from running for president. As early as October 1996, Sam Ikoku, then deputy chairman of the Transitional Implementation Committee (now deceased), conceded that prevailing party rules would render Abacha ineligible to contest the election, but pointed out that party constitutions could be amended.³³ On February 20, 1997, Secretary to the Federal Government Alhaji Gidado Idris announced that the 1988 Civil Service Reform Rules had been amended to prevent civil servants from having to retire after thirty-five years. General Abacha would otherwise have been forced to step down this year.³⁴

One of the few individuals to have expressed presidential aspirations is former Minister of Petroleum Resources Don Etiebet, who was a principal funder and the chairman of the NCPN. On the afternoon of March 16, 1997, Etiebet was arrested by State Security Services (SSS) agents in Akwa Ibom State and taken to the headquarters of the SSS in Uyo. There, Etiebet was reportedly shown a letter from NCPN national chairman Mogaji Abdullahi, who accused Etiebet of “tilting the party to an opposition and sectional divide” and using it “as an instrument of confrontation, blackmail and intimidation.” Etiebet is also said to have been accused of seeking to generate foreign support for Abacha’s ouster. Following his release a few days later, Etiebet traveled to Abuja to meet with high-ranking government officials. On April 4, he addressed a press conference where he announced that he was leaving the NCPN to join the UNCP and renounced any presidential ambitions.³⁵ General Abacha is believed to have threatened to expose Etiebet’s participation in corrupt activities during his tenure as minister of petroleum resources if the latter refused to abandon his quest for the presidency.³⁶

LOCAL GOVERNMENT ELECTIONS

On March 15, 1997, local government elections were contested by the five political parties, several months behind schedule, although still theoretically in time for the winners to take office within the time set out in the original transition timetable. In March 1996, local government council elections had been held on a “zero party” basis; the winners of these “zero party” elections were supposed to hold office for one year, after which they were to be succeeded by the winners of party-based local government elections due to be held in the final quarter of 1996.³⁷

The 1997 local government council elections held on a party basis, which were intended to fill 774 council chairmanships and 8,184 ward council seats, were riddled with irregularities. The initial guidelines for these elections were embodied in guidelines promulgated by NECON, which did not have the force of law. These guidelines were superseded by Local Government (Basic Constitutional and Transitional Provisions) Decree No. 7 of 1997, which, although dated March 3, 1997 and applied retroactively to January 2, 1997, was not published until early April 1997.³⁸ The fact that Decree No. 7, which is much more detailed than the NECON guidelines, was published, with retroactive effect, after local government elections had been completed, means that candidates can be disqualified for breach of rules of which they were not aware.

³³“Will Abacha run?,” *Constitutional Rights Journal*, vol. 6, no. 21, October - December 1996 (published in Lagos by Constitutional Rights Project).

³⁴*Transition Review*, no. 4, April 1997 (published in Lagos by Civil Liberties Organisation).

³⁵Ima Niboro, “The crash of Etiebet,” *Tell* (Lagos), April 21, 1997. Similarly, Dr. Olusola Saraki of the CNC announced that he had abandoned his presidential ambitions after unknown gunmen attacked his home and shot his guard. Ibid.

³⁶Human Rights Watch/Africa interview, Lagos, August 26, 1997.

³⁷For a discussion of the irregularities surrounding the “zero party” elections, see Human Rights Watch/Africa, “Permanent Transition,” pp.12-13.

³⁸Human Rights Watch/Africa interview, Kaduna, September 2, 1997.

Registration of Voters

Massive chaos and corruption characterized the process of voter registration, which was scheduled to take place from February 10 to 19, 1997. In Modakeke town in Osun State, in the northern city of Kano, and in Akure, the capital of Ondo State, there were complaints about shortages of voter cards and insufficient numbers of voter registration centers.³⁹ In some rural southeastern areas and in Lagos, voter cards were reportedly on sale.⁴⁰ In many registration centers in Somolu local government area in Lagos, there were no personnel to carry out the registration exercise.⁴¹ In some areas of Osun, Akwa Ibom and Delta States, riots led to the disruption of registration.⁴² In southwestern Oyo State, electoral authorities reportedly called in local party leaders after receiving reports that some of them had attempted to prevent supporters of rival parties from registering.⁴³

In some cases, the recent establishment of new local government areas contributed to the problems surrounding the registration exercise. In Opobo/Nkoro local government area in Rivers State, Andoni youths obstructed the registration exercise by occupying a polling site and preventing registration officers from continuing their work. The protests are believed to have stemmed from a controversy surrounding the inclusion of Down-Below Community in the newly created Opobo/Nkoro local government area, which has been the subject of a High Court petition by the Andonis.⁴⁴ Residents of Modakeke in Osun State and of Ilaje local government area in Ondo State boycotted registration exercises (and the ensuing elections) in protest over the government's rejection of their requests to create new local government areas.⁴⁵

Confronted with the apathy of the population toward the upcoming elections, many government officials resorted to coercive measures in an effort to ensure that voters presented themselves for registration. In the northern state of Bauchi, for example, military administrator Colonel Theophilus Bamigboye is said to have warned civil servants that they would be required to produce a registration card in order to receive their salaries for the month of February. Ondo State military administrator Anthony Onyearugbulem warned that parents and guardians would be required to produce their registration cards in order for their children to be admitted to state schools. Similar restrictions were also in place in some areas of Lagos State and Delta State.⁴⁶ Although NECON claimed that more than fifty-five million voters were registered, the opposition claimed that this figure was vastly inflated.⁴⁷ A final voters' register was not published prior to the elections.

Screening of Candidates

³⁹"Coaxed into Entering the Voters' List," InterPress Service, February 19, 1997.

⁴⁰Antony Goldman, "Nigeria poll registration doubts grow," *The Financial Times* (London), February 20, 1997.

⁴¹Emmanuel Ugwu, "On the march again," *Newswatch* (Lagos), February 24, 1997.

⁴²Mikail Mumuni, "Register Now! Or Else!!" *Tell* (Lagos), February 24, 1997.

⁴³Antony Goldman, "Nigeria poll registration doubts grow," *The Financial Times* (London), February 20, 1997.

⁴⁴Friday Opusunju, "Opobo Community News: 1000 voters barred from registration exercise," *Human Rights Update*, February 11, 1997 (published in Port Harcourt by the Institute for Human Rights and Humanitarian Law).

⁴⁵Remi Oyo, "Old Guard Out, Newcomers Celebrate Victory," InterPress Service, March 17, 1997; serious violence later erupted in Osun State over relocation of the local government headquarters.

⁴⁶Anthony Goldman, "Nigeria poll registration doubts grow," *Financial Times* (London), February 20, 1997; Emmanuel Ugwu, "On the march again," *Newswatch* (Lagos), February 24, 1997; Human Rights Watch/Africa interview, Isoko North, Delta State, July 21, 1997.

⁴⁷*Nigeria Today* (an e-mail news service compiled in London from various sources), March 17, 1997.

In the weeks preceding the elections, the five registered parties were enmeshed in internal leadership struggles that, in many cases, have persisted up to the present. Prospective candidates nominated by the parties were screened by NECON, the National Drug Law Enforcement Agency, and the State Security Service, supposedly based on criteria specified in the NECON guidelines. In practice, the screening appeared designed to exclude anyone showing any indication of support for pro-democracy or opposition groups. Because the guidelines did not have the force of law, disqualifications could not be challenged in court prior to the elections.⁴⁸ Some candidates were disqualified as late as the night before the elections took place, in contravention of the NECON guidelines in effect at that time which required NECON to afford parties an opportunity to substitute rejected candidates with fresh candidates prior to the close of nominations.⁴⁹ On the day of local elections, the *Guardian*, a local Nigerian newspaper, reported that over 171 chairmanship candidates had been disqualified in Osun, Cross Rivers, Adamawa, Lagos, Kaduna and Sokoto states alone.⁵⁰

One aspiring candidate reported to Human Rights Watch that questions posed by security agents in the course of screening had focused on his views regarding the results of the annulled June 12, 1993 election. He responded that, as a former member of the Social Democratic Party, he had voted for Chief Abiola and that he believed that the country would have to "find a solution to the June 12 problem." On the day before the local government elections, the police arrested this candidate and forced him to sign an undertaking that there would be no breach of the peace on the day of the elections.⁵¹

⁴⁸Human Rights Watch/Africa interview, Kaduna, September 2, 1997. Most prospective candidates with connections to NADECO and other pro-democracy organizations were also reportedly screened out of the "zero party" elections in March 1996. Ima Niboro, "Another road to June 12 debacle," *Tell* (Lagos), April 1, 1996; Human Rights Watch/Africa, "Permanent Transition," pp. 12-13. As in March 1997, the guidelines that governed the zero party elections did not have the force of law, and decisions based on them could therefore not be challenged in court. Human Rights Watch/Africa interview, Kaduna, September 2, 1997.

⁴⁹"LG Polls: Abacha testing his programme," *Constitutional Rights Journal*, vol. 7, no. 22, January - March 1997 (published in Lagos by Constitutional Rights Project); NECON Guidelines for Local Government Council Election on Political Party Basis, section 7(3). Decree No. 7 of 1997, which superseded the NECON guidelines, similarly requires the Commission to afford political parties the opportunity to substitute new candidates for those rejected during the screening process, but renders this requirement "subject to the other provisions of the Decree." Given that Decree No. 7 gives the Commission up to twenty-one days after receiving lists from political parties to complete the screening exercise, a party that submits its list less than twenty-one days prior to an election would not appear to be entitled to an opportunity to substitute new candidates. In this and other respects which could cause confusion, Decree No. 7 differs from the NECON guidelines. Decree No. 7 of 1997, schedule 4, paragraph 2.

⁵⁰*Transition Review*, no. 4, April 1997 (published in Lagos by Civil Liberties Organisation).

⁵¹Human Rights Watch/Africa interview. For confidentiality reasons, the date and site of this interview are being withheld.

Other candidates were disqualified for their pro-opposition sympathies. Kingsley Ezihuo, a Port Harcourt lawyer and the Rivers State Secretary of the GDM, expressed interest in contesting the chairmanship elections. However, after members of other parties convinced the government that he had links to NADECO, he was reportedly arrested by agents of the State Security Service and detained for two months at Bori Prison.⁵² Similarly, Dr. Clement Adolph Bassey was disqualified from contesting the chairmanship elections in Ikono, Akwa Ibom State based on a report from the State Security Service that he was a NADECO member.⁵³ Some candidates were permitted to contest the elections, but later forced to resign their positions due to alleged pro-opposition sympathies. These include Chijoka Amadi, who was elected chairman of Ikwerre local government area in Rivers State.⁵⁴

Irregularities

In addition to the chaos that resulted from the lack of a final voters' register, election monitors reported pervasive bribery, with politicians seeking to compensate for their parties' lack of grassroots support by giving citizens money to vote for particular candidates—using “phantom” names in some cases.⁵⁵ In most cases, the balloting process was open, meaning that voters cast their ballots in the presence of other voters, electoral officers, party agents or the police.⁵⁶ Because the presence of security agents was minimal, politicians openly solicited votes at some polling sites.⁵⁷ Moreover, political party agents were generally prevented from attending the final collation of votes at local government headquarters, creating the possibility for massive tampering.⁵⁸

One election monitor told Human Rights Watch that voter turnout in Ikeja, Lagos had been minimal and that a considerable number of voters who presented themselves failed to find their names on the voters' register. Some of those voters' names later proved to be on registers in other polling stations. The election monitor also related that a number of the voters with whom he interacted had no idea of the candidates running for local government chairmanships, due presumably to the lack of any campaigning beforehand.⁵⁹

Polling centers opened behind schedule in many areas of Lagos, including Surulere and Ikoyi, due to the late arrival of electoral officials and voting materials. In the Akowonjo-Egbeda area, for instance, local government elections did not start until mid-afternoon, when election materials arrived, instead of at 10:00 a.m. as originally

⁵²Human Rights Watch/Africa interview, Port Harcourt, July 17, 1997.

⁵³Human Rights Watch/Africa interview, Benin City, July 22, 1997.

⁵⁴Human Rights Watch/Africa interview, Port Harcourt, July 11, 1997.

⁵⁵The term “election monitor” refers here to any journalist, non-governmental organization staff member or other individual who observed local government elections for the purpose of reporting on their fairness.

⁵⁶“Slow start in municipal vote in Nigerian capital,” AFP, March 15, 1997; *Transition Review*, no. 4, April 1997 (published in Lagos by Civil Liberties Organisation). These procedures contravene a NECON rule that voting should be done secretly, inside a screened compartment. NECON Guidelines for Local Government Council Election on Political Party Basis, section 13(1)(g); Local Government (Basic Constitutional and Transitional Provisions) Decree No. 7 of 1997, section 61(2) and schedule 4, paragraphs 17(2)(c) and 23(g). General Comment No. 25 adopted by the Human Rights Committee, responsible for monitoring compliance with the International Covenant on Civil and Political Rights, to which Nigeria is a party, similarly provides that “States should take measures to guarantee the requirement of secrecy of the vote.”

⁵⁷On the day of an election, solicitation of votes is prohibited within two hundred meters of a polling station. Decree No. 7 of 1997, section 80(2).

⁵⁸Human Rights Watch/Africa interviews, Port Harcourt, July 10, 1997 and Abuja, September 4, 1997.

⁵⁹Human Rights Watch/Africa interview, Lagos, August 28, 1997.

planned. Many voters who came to polling sites in the morning grew tired of waiting and left. Political party representatives were reportedly seen handing out fifty naira notes to voters (approximately US 80¢).⁶⁰

⁶⁰“Slow start in municipal vote in Nigerian capital,” AFP, March 15, 1997; Human Rights Watch/Africa interview, Lagos, August 30, 1997.

A DPN member reported that no elections took place in Okrika local government area in Rivers State. Although NECON claimed to have been recruiting electoral officers in the weeks preceding the elections, a list of those selected was not posted until the morning of March 15. When all those listed proved to be known UNCP supporters, representatives of the four other parties refused to participate in the elections unless the list was changed to ensure impartiality. A number of non-UNCP party officials waited at the polling site until 4:00 p.m., when they finally agreed among themselves that the elections should be rescheduled. No voting took place. A few days later, however, the UNCP candidate was announced on the radio to have won the election.⁶¹ In Ogba-Egbema-Ndoni local government area in Rivers State, the DPN candidate was announced to have won the chairmanship election. Two days later, NECON disqualified the DPN candidate "on security grounds" and directed the installation of the UNCP candidate who had come in third.⁶² In many areas, party agents were not allowed to be present during the counting process at collation centers. In some cases, those responsible for counting the votes were known supporters of the UNCP.⁶³ In Akwa Ibom State, home area of former Minister for Petroleum Resources Don Etiebet, his party, the NCPN, was reported to have won in the great majority of the state's local government areas; results were later altered to favor the UNCP and DPN.⁶⁴

Violence reportedly disrupted the voting process in at least two instances. Students demanding the release of Chief M.K.O. Abiola stormed a polling station at Obafemi Awolowo University in Ile Ife, chasing away electoral officials and burning ballot boxes and other election materials. In Onitsha, Anambra State, police fired tear gas to disperse some two thousand protesters outside a NECON office, including supporters of four out of the five registered parties, who were accusing electoral officials and leaders of the other political party of electoral fraud.⁶⁵

Not surprisingly in these circumstances, the UNCP and the DPN, the two parties that have been most outspoken in their support for Abacha, were most successful in the local government elections. Preliminary results, excluding constituencies where the elections were immediately challenged in tribunals, indicated that the UNCP and DPN won 271 and 150 chairmanships in the local government elections. The remainder of the 531 chairmanships in which results were declared (out of a national total of 774) were split among the three other parties.⁶⁶

Executive Interference in Decisions by NECON

⁶¹Human Rights Watch/Africa interview, Port Harcourt, July 10, 1997.

⁶²Ibid.

⁶³Ibid.

⁶⁴"Etiebet's Metamorphosis: The Hidden Facts," *The Post Express* (Lagos), April 17, 1997.

⁶⁵Gilbert Da Costa, "Election profile," Associated Press, March 18, 1997; Remi Oyo, "Old Guard Out, Newcomers Celebrate Victory," InterPress Service, March 17, 1997; "LG Polls: Abacha Testing His Programme," *Constitutional Rights Journal*, vol. 7, no. 22, January - March 1997 (published in Lagos by Constitutional Rights Project).

⁶⁶*Nigeria Today*, March 20, 1997.

Under the National Electoral Commission of Nigeria Decree No. 3 of 1996, General Abacha is empowered to appoint the Chairman and the members of NECON. He can also remove any member at any time “for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehavior.”⁶⁷ In addition, NECON must comply with any directives issued by the head of state or the Provisional Ruling Council. The courts are specifically excluded from reviewing on constitutional or other grounds any decision reached by the head of state or the PRC under this decree.⁶⁸

The case of Abuja, the Federal Capital Territory, is instructive regarding the extent to which the executive can interfere with NECON’s decisions. Local Government (Basic Constitutional and Transitional Provisions) Decree No. 7 of 1997, which superseded the NECON guidelines published before the local government elections, provides that bye-elections are to be held in cases where election results are inconclusive.⁶⁹ In accordance with Decree No. 7, NECON announced that bye-elections would be held in three area councils of Abuja, namely Abuja Municipal Area Council, Bwari Area Council, and Gwagwalada Area Council, on April 3, 1997. Defying NECON’s announcement, Minister of the Federal Capital Territory Jeremiah Useni declared that there would be no bye-elections in either Abuja Municipal Area Council or Bwari, where UNCP candidates had won, and that the choice between the NCPN and DPN candidates in a contested ward in Gwagwalada would be made by the “tossing of coin,” as provided in NECON’s rule book.⁷⁰ Useni attempted to justify his position by explaining that, prior to announcing bye-elections, NECON had proclaimed definitive winners in the three contested area councils and that an electoral tribunal would therefore be the appropriate forum in which to challenge the results. He swore in the three candidates, uncertified by NECON, in late March.⁷¹ Meanwhile, NECON issued a statement suspending the three contested bye-elections pending an investigation.⁷² This sequence of events sets a dangerous precedent for future interference by government officials with NECON’s activities.

⁶⁷National Electoral Commission of Nigeria Decree No. 3 of 1996, sections 2 and 3(2). Decree No. 23 of 1987, which established the National Electoral Commission (NEC) under the Babangida regime, similarly accorded substantial influence to the military government, which could “give the Commission such directives as appear to it to be just and proper for the effective discharge of the functions of the Commission.” Odinkalu, “The Management of Transition to Civil Rule,” citing Decree No. 23 of 1987, section 5(1).

⁶⁸Decree No. 3 of 1996, section 6.

⁶⁹Decree No. 7 of 1997, schedule 4, paragraph 11. Where there are more than two candidates, a winning candidate must receive a majority of votes cast and not less than one-quarter of the votes cast in each of at least two-thirds of all wards in the local government area (or area council in the Federal Capital Territory). Ibid.

⁷⁰Mikail Mumuni, “Nzeribe’s money, and Useni’s muscle,” *Tell* (Lagos), April 14, 1997; Wale Akin Aina, “A Crippling Blow,” *Newswatch* (Lagos), April 14, 1997. Useni may have been referring to Decree No. 7 of 1997, schedule 4, paragraph 35, which provides: “When there is an equality of votes between candidates so that the addition of a vote would entitle any one of the candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot and proceed as if the candidate on whom the lot falls had received an additional vote, and shall declare that candidate to be elected.”

⁷¹Wale Akin Aina, “A Crippling Blow,” *Newswatch* (Lagos), April 14, 1997. In early July 1997, the Federal Capital Territory election tribunal reportedly voided the election of Abuja Municipal Area Council chairman Vivian Ndigwe-Anazodo, whom Useni had sworn in. Victor Onyeka-Ben, “Many tribunals, little succour to the aggrieved,” *The Guardian* (Lagos), September 1, 1997.

⁷²Wale Akin Aina, “A Crippling Blow,” *Newswatch* (Lagos), April 14, 1997.

NECON's lack of independence is emphasized by a provision of Decree No. 7 that empowers the "Head of State, Commander-in-Chief of the Armed Forces" to remove an elected local government chairman, vice-chairman or councilor "if he is satisfied that the affairs of a Local Government Council are not being managed in the best interest of the community or in any way to strengthen the unity of the people of Nigeria or for any good cause" or if any of these individuals "is found to be compromising his political standing, or [to] be using public funds or facilities to advance the cause of any political party." Alternatively, the head of state is empowered to dissolve the local government council and appoint an administrator to manage the affairs of the local government until new elections can be held.⁷³ These nebulous standards give Abacha far-reaching authority to interfere arbitrarily with the decisions of the electorate.⁷⁴

ELECTION TRIBUNALS

Decree No. 7 of 1997 provides for the establishment of local government election tribunals and election appeal tribunals to resolve disputes arising out of elections.⁷⁵ Each tribunal is to be comprised of a chairman and two other members. Election tribunal members are to be appointed by the chief judge of the state or of the Federal Capital Territory, while election appeal tribunal members are to be appointed by the chief justice of Nigeria. The chairman of an election tribunal must have held or be qualified to hold the office of a High Court judge. One of the members of the tribunal must have been qualified to practice law for a minimum of twelve years, and the other must be a non-member of the legal profession. All election appeal tribunal members must be retired justices of the Court of Appeal or Constitutional Court, retired judges of the Federal High Court or the High Court of a state or the Federal Capital Territory, or legal practitioners who have been qualified to practice for a minimum of twelve years.⁷⁶

Notwithstanding their credentials, there have been many credible reports that members of the election tribunals have engaged in corrupt practices. Allegations of bribery have become so common that Alhaji Hassan Yusuf, a member of the Transitional Implementation Committee, announced in late August 1997 that the TIC was documenting alleged improprieties by the tribunals for transmission to General Abacha. Following a Council of State meeting on August 22, 1997, the military administrator of Nassarawa State, Wing Commander Abdullahi Ibrahim, announced that the federal government had decided to review decisions of local government election appeal tribunals throughout the country. He explained that "certain members of the tribunals, including the chairmen and politicians, have participated in corruption malpractices in order to make sure that certain people are now pronounced as winners, and therefore, government has decided to review the situation and then to critically take certain actions that will restore credibility and credence to the transition program." He specified that a committee would be established to investigate complaints and remedy those decisions found wanting.⁷⁷ A representative sampling of cases that have been considered by election tribunals follows.

⁷³Decree No. 7 of 1997, section 106.

⁷⁴Similarly, the Local Government Elections (Basic Constitutional and Transitional) Provisions Decree No. 15 of 1989 empowered Babangida to remove an elected local government official or dissolve a local government council "if he [wa]s satisfied that the affairs of the Local Government [we]re not being managed in the best interest of the community or in a way to strengthen the unity of the people of Nigeria or for any other good cause." Odinkalu, "Management of Transition to Civil Rule."

⁷⁵Section 89 of Decree No. 7 of 1997 provides that an election petition may be brought on any of the following grounds:

(a) that the person whose election is questioned was at the time of the election not qualified or was disqualified from being elected as a member of a Local Government Council or an Area Council; or
(b) that the election was voided by corrupt practices, irregularities or offences under this Decree; or
(c) that the respondent was not duly elected by a majority of valid or lawful votes cast at the election; or
(d) that the petitioner was validly nominated but was unlawfully excluded from the election.

⁷⁶Decree No. 7 of 1997, sections 86 and 91.

⁷⁷Victor Onyeka-Ben, "Many tribunals, little succour to the aggrieved," *The Guardian* (Lagos), September 1, 1997;

Langtang North, Plateau State

After voting had been completed in Langtang North local government area in Plateau State, the returning officer, Gabriel Zi, in the presence of political party agents, began collating results at the local government headquarters. In the midst of the collation process, Zi received instructions to report to Jos, the capital of Plateau State.

Because Zi had not yet announced the election results, he was accompanied by the CNC and UNCP agents, the only two parties contesting the election. Upon reaching Jos, they were directed to Jos South local government headquarters, where Zi was permitted to finish tallying the votes, revealing a victory for Pomfa Banda of the CNC party. The results were signed by Zi and countersigned by the party agents. Zi also signed a declaration of the results, certifying that Banda had received 15,884 votes, while Joel Dadi of the UNCP had received 15,845. The party agents received copies of the declaration.

Although Zi intended to return to Langtang North to announce the results, as required by Decree No. 7 of 1997, he and the electoral officer, along with the party agents, were summoned to NECON headquarters in Jos, where the state administrative secretary of NECON announced that there had been “orders from above” to cancel the results of the Langtang North election. A radio broadcaster announced that the election had been cancelled “for security reasons” and that a bye-election would take place on April 3.

Banda, through counsel, applied for and obtained an injunction from the Federal High Court prohibiting the bye-election. Although NECON ignored the injunction and the bye-election went forward, it was boycotted by four of the five political parties. Joel Dadi, the UNCP candidate, prevailed by default.

Following the bye-election, Banda, through counsel, petitioned the newly created Plateau State local government election tribunal to rule that he had been duly and validly elected chairman of Langtang North local government council on March 15, that the subsequent annulment of this election was unconstitutional, and that the bye-election of April 3, 1997 was therefore illegal, null and void. The tribunal ruled against Banda, principally on the grounds that the results of the March 15 election were inconclusive because they had never been announced by the returning officer. Although the court noted some security problems that arose during the March 15 elections, these do not appear to have figured prominently in its decision.⁷⁸ Citing section 93(1) of Decree No. 7, which provides that no court shall have jurisdiction or competence to address electoral matters, the tribunal also found that the Federal High Court had no jurisdiction to issue an injunction prohibiting the bye-election of April 3. The tribunal seems to have overlooked the fact that, at the time that Banda applied for the injunction, Decree No. 7 had not yet been published. The tribunal noted further that Banda had no standing to initiate a petition seeking to cancel the results of a bye-election in which he had refused to participate.

Banda filed an appeal with the Plateau State election appeal tribunal. In the course of the proceeding, the chairman of the appeal tribunal inquired as to the meaning of “orders from above,” but received no response. The appeal tribunal ultimately reversed the decision of the lower tribunal on the grounds that the summaries of the March 15 election results provided conclusive evidence of a CNC victory and that the petitioner should not be deprived of his rights on technical grounds. The appeal tribunal also found that, since the bye-election of April 3 was a continuation of the March 15 election, Banda had standing to challenge the bye-election.

⁷⁸Upon concluding its discussion of security considerations, the tribunal states: “Whether the question security [*sic*] is germane or not to this election petition is not the issue here yet, that will be in the final part of this judgment.” There is no further mention of security issues in the tribunal’s judgment. *Banda v. Dadi, et al.*, Petition No. PS/LGET/J3/1997, Plateau State Local Government Election Petition Tribunal, Judgment, July 3, 1997.

After the appeal tribunal ordered that Banda should be sworn in as chairman of Langtang North local government, the respondents applied for and obtained an injunction from the Federal High Court prohibiting his installation. Although the granting of this injunction equally contravenes section 93(2) of Decree No. 7, which provides that no court shall have jurisdiction to review any order, decision or judgment of an election tribunal or an election appeal tribunal, Banda has not yet been installed.⁷⁹ While the election tribunal process appears on the surface to offer redress to candidates who feel they have been unjustly treated by the process, the decisions of the tribunals seem to be ignored in practice where results do not suit the authorities.

Mangu, Plateau State

After it was announced that Francis Kwarpo Damwesh of the CNC party had won the election in Mangu local government area in Plateau State, NECON officials and the candidates were summoned to NECON headquarters in Jos. They were informed that Damwesh had not submitted the proper nomination papers and was therefore disqualified. Esther Sen, the UNCP candidate, was declared to have won instead.

Damwesh, through counsel, applied for and obtained an injunction from the Federal High Court prohibiting Sen from being sworn in until the merits of the case could be presented to an election tribunal. In support of his application, he presented copies of correspondence from NECON, including a letter confirming that he had been approved to run for the chairmanship of Mangu local government area, and a copy of a receipt for the ten thousand naira he had paid NECON in exchange for the nomination form.⁸⁰ Notwithstanding the injunction, Sen was sworn in.

Damwesh encountered substantial difficulties in pursuing his case before the election tribunal. Most notably, the electoral officer responsible for receiving nomination forms, Timothy Dangle, attended the first day of the tribunal proceedings, but never returned. Following the first session, Dangle implicitly requested a bribe from Damwesh by informing him that the respondents had offered him ₦300,000 (US \$3,600). Damwesh did not respond. The returning officer, Joshua Waklek, testified that he had been in constant contact with Dangle in the days preceding the election and that Dangle had never suggested that Damwesh was not competent to contest the election. Although the election tribunal ruled against Damwesh, this decision has been reversed on appeal. To date, however, Sen remains in office.⁸¹

Kagarko, Kaduna State

⁷⁹Human Rights Watch/Africa interview, Kaduna, September 1, 1997; *Banda v. Dadi, et al.*, Petition No. PS/LGET/J3/1997, Plateau State Local Government Election Petition Tribunal, Judgment, July 3, 1997; Victor Onyeka-Ben, "Many tribunals, little succour to the aggrieved," *The Guardian* (Lagos), September 1, 1997.

⁸⁰Damwesh also submitted a copy of a declaration from the returning officer, Joshua Waklek, certifying that "Francis D. Kwarpo" of the CNC had received 25,568 votes, Jatau Kyontu of the DPN had received 3,142 votes and Esther Sen of the UNCP had received 22,921 votes in the Mangu local government council election. This document showed that the GDM and the NCPN had received 1,322 votes and 2,282 votes, respectively, although neither party had a candidate in Mangu local government area. If Damwesh had not submitted his nomination papers, there would presumably have been no candidate listed for the CNC party. Human Rights Watch/Africa interview, Kaduna, September 1, 1997.

⁸¹Human Rights Watch/Africa interview, Kaduna, September 1, 1997.

After NECON announced that UNCP member Eric Abubakar had won the election in Kagarko local government area in Kaduna State, one of his opponents, DPN member Daniel Madaki, challenged the results before an election tribunal. The evidence presented revealed that the collation process had gone smoothly in seventy-six out of seventy-seven polling stations, except that the electoral officer had granted an extra twenty-five votes to each political party "as a bonus." In the single "problematic" polling station, the electoral officer and the returning officer had reached different results. The election tribunal upheld NECON's decision and discounted the conflicting results of the problematic polling station. However, the appeal tribunal later reversed this decision and announced a victory for the DPN candidate. The appeal tribunal held that the results of all the polling stations should be taken into account, but did not specify which of the two sets of conflicting results should prevail or why. While the matter was still pending before the appeal tribunal, tribunal members reportedly asked the UNCP chairman and vice-chairman to pay a bribe of five hundred thousand naira (US \$6,025), which they refused to do.⁸²

Lafia, Nassarawa State

Results announced at the polling stations in Lafia, Nassarawa State reportedly indicated a victory for DPN candidate Chris Abashi. En route to the collation center, however, vehicles carrying results from two electoral wards were stopped at a checkpoint manned by a group of ten armed men, supposedly including the national auditor of the UNCP party. These results were seized, and NECON later announced that the UNCP candidate, Mohammed Halilu, had won the election.

After Abashi filed a petition with an election tribunal, a high-level government official reportedly tried to convince him to withdraw the case by promising him a government appointment. Abashi refused. The tribunal later dismissed the case on grounds that it lacked jurisdiction to hear the matter. The election appeal tribunal also dismissed the case.⁸³

SILENCING INDEPENDENT VOICES

The Abacha regime continues to employ repressive tactics in order to control its perceived opponents. On August 27, 1997, during the first week of Human Rights Watch's mission to Nigeria, agents of the State Security Service arrested Tunji Abayomi, chairman of Human Rights Africa (HRA), apparently in order to abort a reception his organization had planned in honor of Justice Elizabeth Kayissyan Pognon, the President of the Constitutional Court of neighboring Benin Republic. Justice Pognon, the recipient of HRA's Africa Service Award, was prevented from entering the country. Abayomi was detained for four days at Shangisha Prison; since then he has been detained again for several days.⁸⁴ Also on August 27, security agents disrupted a seminar for labor unions organized by the Bureau of African Labour, Human and Democratic Rights, and arrested John Odion, the group's executive secretary, at the Jabita Intercontinental Hotel, Ikeja, Lagos.⁸⁵ Three days later, armed security agents prevented the launching of a book entitled *Abiola, Democracy and Rule of Law* at the Nigerian Union of Journalists Club House in Somolu, Lagos. To make matters worse, some dignitaries and human rights activists were forced to pay bribes before they were permitted to leave the site.⁸⁶

⁸²Human Rights Watch/Africa interview, Kaduna, September 2, 1997.

⁸³Human Rights Watch/Africa interview. For confidentiality reasons, the date and the site of this interview are being withheld.

⁸⁴In an interview with Human Rights Watch/Africa following his release, Abayomi related that security agents had interrogated him during his detention about meetings with university students (regarding possible representation) and his frequent visits to Benin Republic (where Human Rights Africa has an office). Lagos, September 7, 1997.

⁸⁵"Security stops labour seminar," *The Guardian* (Lagos), August 28, 1997.

⁸⁶Human Rights Watch/Africa interview, Lagos, August 30, 1997.

While a comprehensive account of human rights abuses perpetrated by the Nigerian security forces is beyond the scope of this report, some key examples of the government's efforts to undermine the activities of Nigeria's vibrant civil society warrant mentioning.

Treason Trials

On March 12, 1997, three days before local government elections, the federal government charged sixteen pro-democracy activists with treason in the Chief Magistrate's Court, Ikeja, Lagos.⁸⁷ The accused were alleged to have been responsible for a series of bomb blasts in Lagos and other parts of Nigeria, which have appeared to target military personnel and institutions. Twelve of the accused, Chief Olu Falae, Dr. Frederick Fasehun, Adegbeniga Adebunsi, Moses Akeke Akinnola, Evangelist Bayo Johnson, Adeyemiwo Femi, Oluyinka Festus Adeboye, Layi Odumade, Olugbenga Odumade, Moshood Yahaya, Musa Okoiaafan, and Sukere Mohammed, appeared in court on March 12. All these individuals were in detention at the time the treason charges were filed. The other four accused, Nobel laureate Wole Soyinka, NADECO leader Chief Anthony Enahoro, former Chief of Army Staff Lt. Gen. Alani Akinrinade, and Dr. Amos Akingba, a businessman, who are living in exile, were charged in absentia.⁸⁸ If convicted, the accused could be sentenced to death.

Prior to the arraignment of the accused, the government tried, but failed, to produce evidence against a number of them. For example, Chief Olu Falae, a NADECO member who served as Minister of Finance under General Babangida, was arrested on December 16, 1996, and questioned about bomb blasts. The name "Falaye," which sounds like his, was supposedly found in the diary of one of the victims of a bomb blast in November 1996. He was released, but re-arrested on January 9, 1997, following a subsequent bomb blast. Dr. Frederick Fasehun, who was arrested by State Security Service operatives on December 18, 1996, was never interrogated about bomb blasts, but rather about his involvement in the activities of the Civil Liberties Organisation, the Campaign for Democracy, the Committee for the Defence of Human Rights and the National Democratic Coalition.⁸⁹ Moshood Yahaya, Musa Okoiaafan and Sukere Mohammed had been previously detained following an explosion at the Kwara State Stadium on May 31, 1995. They were released, but subsequently rearrested and detained, notwithstanding a legal opinion from M.A. Akoja, the acting director of public prosecutions, confirming that there was no evidence against them.⁹⁰

On application for bail on behalf of the accused, Chief Magistrate Mrs. E.A. Lufadeju held that bail was inapplicable in a case involving a capital offence and that, in any case, she lacked jurisdiction over such a "holding charge." She therefore denied the application for bail.⁹¹ Nevertheless, she adjourned the case until May 9 "for reports"

⁸⁷The accused were arraigned on a two count charge of "conspir[ing] to levy war against the Federal Military Government of Nigeria and thereby commit[ting] an offence punishable under section 37(2) of the Criminal Code" and "levy[ing] war against the Federal Military Government of Nigeria by causing explosions in various parts of Nigeria in order to intimidate and overawe the Head of State of Federal Republic of Nigeria and thereby commit[ting] an offence punishable under Section 37(1) of the Criminal Code." The crimes were alleged to have taken place between May 1995 and February 10, 1997, in Lagos.

⁸⁸"Lagos radio reports Soyinka, 15 others charged with treason," text of report by Nigerian radio, March 13, 1997, as reported in SWB AL/2867 A/6.

⁸⁹*Transition Review*, no. 4, April 1997 (published in Lagos by the Civil Liberties Organisation). Prior to charging him with treason, the government ignored two court orders for Dr. Fasehun's release. Ibid; Human Rights Watch/Africa interview, Lagos August 28, 1997.

⁹⁰Human Rights Watch/Africa interview, Lagos, August 28, 1997.

⁹¹The practice of filing "holding charges" in a magistrates' court, although the magistrates' court does not technically have jurisdiction to hear the case, is common and widely criticized in Nigeria (see following footnote). Chief Gani Fawehinmi submitted bail applications on behalf of all the defendants except Chief Olu Falae. Falae, who is represented by Bola Ige, did not submit a bail application. Copies of the court documents are on file with Human Rights Watch/Africa.

from the Director of Public Prosecutions (DPP) and remanded the accused in custody. To date, the DPP has not issued a report, and the case has been repeatedly adjourned. The most recent adjournment took place at a hearing on August 29, 1997, when defense lawyers Chief Gani Fawehinmi, Femi Falana and Abraham Adesanya appeared only to learn that the presiding magistrate had gone on leave and would not return until late September 1997.

Defense lawyer Olisa Agbakoba subsequently filed a petition with the Lagos Federal High Court requesting the release of defendant Evangelist Bayo Johnson. The main argument presented to the court was that the Chief Magistrate improperly remanded the accused in custody given that she had no jurisdiction over the case. Agbakoba contended further that Section 236(3) of the Lagos Criminal Procedure Code, which authorizes magistrates to remand persons arrested for indictable offences only before they have been charged, was inapplicable in this case. Finally, he pointed out that a "holding charge" is unconstitutional because it violates the constitutional right of the accused to liberty.⁹² The court denied the petition on the ground that, notwithstanding the issuance of a charge sheet, the proceeding before the chief magistrate did not constitute an arraignment. An appeal is currently pending in the Lagos Court of Appeal. Meanwhile, the bomb blasts continue.⁹³

Detention of Human Rights and Pro-Democracy Activists and Opposition Members

In an interview published in early January 1997, Nigerian Minister of Information Dr. Walter Ofonagoro denied the existence of any "organized opposition" in Nigeria. He explained further that "some characters calling themselves pro-democracy groups ... have been sponsored by the Western world to make noise here and cause trouble, but they are being ignored because they only have nuisance value. There is no opposition; every Nigerian is with us. This is the achievement of Abacha's administration."⁹⁴

Despite Dr. Ofonagoro's statement, internal opposition to the military regime has continued, although government efforts to silence criticism has intensified. A significant number of the most outspoken human rights and pro-democracy activists have been detained, often without charge or trial.⁹⁵

These include Chief Gani Fawehinmi, head of the National Conscience Party (detained from January 1996 to November 1996); Femi Aborisade, National Conscience Party secretary and Femi Falana, chairman of the Committee for the Defense of Human Rights (both detained from February 1996 to November 1996); Tunji Abayomi, chairman of Human Rights Africa and Abdul Oroh, executive director of Civil Liberties Organisation (CLO) (both detained from July 1995 to June 1996); Chima Ubani, a CLO employee and secretary-general of the opposition group Democratic Alternative (detained from July 1995 to October 1996); and National Democratic Coalition (NADECO) members Ayo

⁹²Among the authorities cited by defense counsel in support of this argument was *Ogor v. Kolawole* (1985) 6 Nigerian Weekly Law Reports (NWLR) 534, p.540:

[I]t would appear that the practice of preferring a holding charge against an accused person pending the completion of investigation by the police has no place under Section 32(4) of the Constitution: for the preferment of a charge against any person for a criminal offence within the provisions of Section 32 and 33 of the Constitution postulates that the Police or the law enforcement agent has obtained sufficient evidence that would support a prima facie case against the accused for the offence for which he stands charged.

⁹³The most recent bomb blast occurred on September 24, 1997, at the residence of the chair of NARECOM, Alex Akinyele, in Akure, Ondo State.

⁹⁴"What Abuja Thinks," *West Africa*, December 23, 1996 - January 5, 1997.

⁹⁵Most of these individuals were detained under the State Security (Detention of Persons) Decree No. 2 of 1984, as amended, which provides for the administrative detention of political opponents and critics of the military government for renewable periods of three months. Detention under the decree cannot be challenged in a court of law. According to the Constitution (Suspension and Modification) Decree No. 107 of 1993, an individual found to have been unlawfully arrested or detained has no right to compensation or other remedy.

Opadokun, (detained from October 1994 to October 1996), Otunba Solanke Onasanya (detained for two weeks in June 1996) and Abraham Adesanya, Chief Ayo Adebajo and Alhaji Ganiyu Dawodu (all detained from June to October 1996).

The following individuals remain in detention: Chief M.K.O. Abiola (arrested June 23, 1994, after he declared himself president and winner of the June 12, 1993 election); Chief Frank Kokori, secretary-general of the National Union of Petroleum and Natural Gas Workers (NUPENG) (arrested August 20, 1994); Chief Milton Dabibi, former secretary-general of the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) (arrested 1995); Chief Otunba Olabiyi Durojaiye, a NADECO leader (arrested December 3, 1996); and Halima Asuku, a former mistress of General Abacha who has reportedly been detained since she sent a message to the Head of State advising against the Provisional Ruling Council's ratification of the death sentence imposed on Ken Saro-Wiwa and eight other Ogoni activists (arrested November 1995). Polycarp Nwite, a former senator and NADECO supporter, was arrested on August 6, 1997 and has reportedly remained in detention since then.

In Ogoni, Rivers State, the home of executed minority rights activist Ken Saro-Wiwa where repression remains especially severe, a number of suspected supporters or leaders of Saro-Wiwa's Movement for the Survival of the Ogoni People (MOSOP) are also held. These include twenty people held since 1995 and charged but not yet brought to trial in connection with the same facts as those for which Ken Saro-Wiwa and his co-accused were executed. A number of individuals have been detained more recently, including Baridi Kpalap, campaigns director of the Niger Delta Human and Environmental Rescue Organization (ND-HERO), and Monday Goi Aadum, a suspected MOSOP activist (both held since October 1996). Many others have been detained for shorter periods. In northern Nigeria, supporters of Muslim groups that have opposed the government, including well-known Shiite leader Sheikh Ibrahim El Zak-zaky, have been arrested and detained. El Zak-zaky, with others, was charged in July 1997 with inciting public disaffection against the federal government, after being held without trial since September 1996.

Those convicted by a special military tribunal of involvement in an alleged coup plot in March 1995 remain in prison.⁹⁶ In addition to the journalists listed below, they include Dr. Beko Ransome-Kuti, chairman of Campaign for Democracy (arrested July 27, 1995); Shehu Sani, vice-chairman of Campaign for Democracy (arrested October 18, 1994); Gen. Olusegun Obasanjo, a former Head of State (arrested March 19, 1995); Maj. Gen. Shehu Musa Yar'Adua, General Obasanjo's former deputy (arrested March 19, 1995); Maj. Akinloye Akinyemi (arrested January 26, 1995); Col. Lawan Gwadabe (arrested March 1, 1995); Col. Bello Fadile (arrested March 1, 1995); Officer O. Oloruntoba (arrested March 1, 1995); and Col. Ndubueze (arrested March 1, 1995).⁹⁷

In some cases where security forces have been unable to locate perceived opposition figures, they have targeted family members of these individuals. In December 1996, for example, security agents detained relatives and staff of retired general Alani Akinrinade, who is currently living in exile. (Several of these then became co-accused in the treason trial against General Akinrinade, Wole Soyinka and others.) In March 1997, Ladi Olorunyomi, wife of exiled journalist Dapo Olorunyomi, was arrested and detained for forty-six days at the Directorate of Military Intelligence.⁹⁸

⁹⁶See Human Rights Watch/Africa, "Permanent Transition," pp.20-21.

⁹⁷The so-called coup plot is widely viewed to have been fabricated by the government as an excuse to detain opposition members. See Human Rights Watch/Africa "Permanent Transition," pp.20-21, and Amnesty International, "A Travesty of Justice: Secret Treason Trials and Other Concerns," AI Index AFR 44/23/95, October 26, 1995. Eleven soldiers convicted of involvement in an alleged 1990 coup plot also remain in prison, despite court orders for their release, including, most recently, a July 1997 order obtained on their behalf by the Constitutional Rights Project. See Amnesty International, "No Significant Change: Human Rights Violations Continue," AI Index AFR 44/20/97, September 22, 1997.

⁹⁸Constitutional Rights Project, *Human Rights Practices in Nigeria: July 1996-June 1997* (Lagos, 1997), pp. 26, 30. Dapo Olorunyomi fled Nigeria after his colleague, Kunle Ajibade, was tried and jailed in connection with the so-called coup plot. Ibid.

Sabina Solayide Iluyomade and Folake Folasade Iluyomade, the wife and daughter of exiled NADECO supporter Lt.-Col. Raphael Iluyomade, were detained from February to June 1997.

Meetings arranged by human rights and pro-democracy groups to discuss the situation in Nigeria or even for nonpolitical purposes are frequently halted by the security forces. During September 1997, for example, a farewell party arranged by human rights groups in Lagos for outgoing U.S. Ambassador Walter Carrington was broken up by troops and riot police; opposition supporters were prevented from holding a birthday party for detained pro-democracy activist Frederick Fasehun; a seminar to be held in Lagos by the Movement for Social and Economic Justice was disrupted; and human rights lawyer Tunji Abayomi and seventy others were arrested at a conference on democracy organized in Jos by Human Rights Africa. Abayomi and four others were detained for ten days and charged with unlawful gathering and possession of seditious materials.

Constraints on Press Freedom

Restrictions on media freedom are among the most serious impediments to a genuine transition to democracy. Print and broadcast journalists, editors and publishers have a key role to play in disseminating information regarding political parties, candidates, platforms, registration and voting procedures. The presentation of various political viewpoints fosters a free exchange of ideas about the transition process. Impartial monitoring and reporting regarding the conduct of elections serves to promote accountability on the part of government and electoral officials. Unfortunately, the Abacha regime seems more interested in narrowing the spectrum of public debate by maintaining an elaborate framework of media decrees from the Babangida days.

A number of media decrees relate specifically to the transition program. For example, the Offensive Publications (Proscription) Decree No. 35 of 1993 provides for the proscription, seizure and confiscation of any publication likely to “disrupt the process of democracy and peaceful transition to civil rule, having regard to its contents; or hinder or prevent the progress and process of the grassroot [*sic*] democracy as established by the transition to civil rule programme; or disturb the peace and public order of Nigeria.” Decree No. 35 also circumscribes the jurisdiction of courts to prevent them from addressing alleged violations of fundamental rights as a result of banning orders. The government imposes onerous registration requirements on newspapers and broadcasting establishments under the Newspapers Decree No. 43 of 1993 and the Nigerian Press Council Decree No. 85 of 1992.⁹⁹ Additionally, a government-appointed National Broadcasting Commission, with authority to advise the government on the issuance of radio and television licenses, was established under Decree No. 38 of 1992. Where an applicant fails to persuade the Commission that it seeks “to promote national interest, unity and cohesion,” the Commission may deny or revoke its license. The vagueness of this standard creates the potential for arbitrary revocations on political grounds.¹⁰⁰

⁹⁹In a case brought by the Constitutional Rights Project on behalf of Richard Akinola, a journalist, the Lagos High Court held that Decree No. 43 of 1993 was unconstitutional. In July 1995, however, pursuant to its authority under the Constitution (Suspension and Modification) Decree No. 107 of 1993, the government later issued a public notice reimposing the same registration requirements. The Lagos State Council of the Nigerian Union of Journalists (NUJ) immediately filed a petition challenging the decree in the Federal High Court. The case was dismissed on grounds that the court lacked jurisdiction and that the NUJ lacked standing. An appeal is currently pending. Kolawole Olaniyan, “Press freedom and the evolving constitution,” *Constitutional Rights Journal*, January-March 1997 (published in Lagos by Constitutional Rights Project).

¹⁰⁰For a more comprehensive discussion of the laws restricting press freedom in Nigeria and harassment of the media under the Abacha regime, see Article 19, *Abacha's Media Crackdown* (London, April 1997) and Article 19 and Media Rights Agenda, *Unshackling the Nigerian Media: An Agenda for Reform* (London and Lagos, July 1997). See also Constitutional Rights Project, *Suppression of Press Freedom in Nigeria* (Lagos, 1997).

The draft constitution of 1995 would impose further restraints on media freedom. Most notably, section 46 of Part 1 of the third schedule would establish a National Mass Media Commission intended, among other things, to “regulate the existence of newspapers, magazines and publications generally, as well as radio and television stations in the country;” “to protect individuals against media harassment and intimidation;” and “to protect Nigerians against intrusions and unwarranted enquiries into the private life of any person without his consent.” Another threat to media freedom is the proposed establishment of a special “press court” to try journalists accused of “false reporting.”¹⁰¹ The government has also made repeated efforts to interfere in elections of national and local executives of the Nigerian Union of Journalists.¹⁰²

The Abacha regime has relied on these and other laws to justify harassment, arbitrary detention and prolonged detention of journalists, editors and publishers who are perceived as opponents of the government. Chris Anyanwu, editor-in-chief and publisher of *TSM* (The Sunday Magazine); Kunle Ajibade, editor, *The News*; Mr. George Mbah, assistant editor, *Tell*; and Mr. Ben Charles-Obi, editor, *Classique*, were arrested, secretly tried and convicted by a special military tribunal for being “accessories after the fact to treason” after they published articles questioning the authenticity of the alleged coup plot of March 1995. They have been detained since mid-1995 and are currently serving fifteen-year sentences; all are in very poor health, and Anyanwu is reportedly in danger of losing her eyesight. Moshood Fayemiwo, publisher of *Razor* magazine, was allegedly abducted by Nigerian agents in Cotonou, Benin Republic in February 1997, and has since been held in Apapa military camp in Lagos.¹⁰³ Godwin Agboroko, editor-in-chief of *The Week* magazine, was arrested on December 18, 1996 after he published an article entitled “Conspiracy: Aso Rock on the Boil—Axe Dangles Over Army Chief.” He was detained at the Directorate of Military Intelligence for over five months.¹⁰⁴

Numerous other journalists have been detained, beaten and otherwise harassed after writing stories deemed overly critical of the government. During September 1997 alone the following cases were reported: two journalists were detained for five days in Rivers State for publication of a story on confiscation of materials relating to Ken Saro-Wiwa and the Movement for the Survival of the Ogoni People (MOSOP);¹⁰⁵ the head of the Imo State chapter of the Nigerian Union of Journalists was beaten when she visited the state government house on official business; the administrative officer of the publishers of *The News* magazine was arrested following a cover story titled “Panic over Abacha’s illness”; and the librarian of *Fame* magazine was arrested by security operatives looking for the editor and detained for five days. He later died from an illness apparently contracted during his detention. Since September 8, 1997, when *Tell* magazine published an article alleging that General Abacha suffers from cirrhosis of the liver, security agents have pursued Nosa Igiebor, the editor-in-chief of *Tell*, searching his house and briefly detaining his wife, Arit Igiebor.¹⁰⁶

The Kaduna Labor Crisis

¹⁰¹Constitutional Rights Project, *Human Rights Practices in Nigeria*, pp. 36-38.

¹⁰²See Human Rights Watch/Africa “Permanent Transition,” p.25; Media Monitor (published in Lagos by the Independent Journalism Centre), August 15, 1997.

¹⁰³Action Alerts and Updates from the Independent Journalism Centre (Lagos), June 1997.

¹⁰⁴Constitutional Rights Project, *Human Rights Practices in Nigeria*, pp. 43-44

¹⁰⁵Media Monitor, September 8, 1997; AFP, September 11, 1997.

¹⁰⁶Action Alerts and Updates from the Independent Journalism Centre (Lagos), September and October 1997; letter from Nosa Igiebor, September 15, 1997.

The state administration's handling of a labor dispute with civil servants in Kaduna provides just one example of the way in which the military government has attempted to silence protest, even that not directly related to calls for democratization. In June 1997, civil servants in Kaduna were dismissed en masse after they went on strike to protest military administrator Lt. Col. Hameed Ibrahim Ali's refusal to provide workers with the full amount of rent and transport entitlements.¹⁰⁷ Ten union leaders were charged with criminal intimidation and other offenses.

Following an announcement by General Abacha in February 1994 that rent and transport entitlements for civil servants throughout the country were to be increased by 100 percent, the Kaduna State Public Service Negotiating Councils entered an agreement with the Kaduna State government, which at that time was headed by Col. Ja'afaru Isa. The agreement provided that workers would receive a fifty percent increase in their entitlements until the government's revenue base improved, at which time they would be reimbursed for the balance of their entitlements. In August 1996, the Public Service Negotiating Councils wrote to Lieutenant-Colonel Ali pointing out that state government revenues had increased since the earlier agreement and reminding him about the balance of payments owed to the workers.¹⁰⁸ The Public Service Negotiating Councils sent four subsequent letters inviting the military administrator to initiate discussions with civil servants regarding their grievances. Although negotiations were attempted, they ultimately broke down because neither side consented to the other side's choice of negotiators, and because the Kaduna state government representatives adamantly insisted that the payment of additional entitlements would lead to retrenchment.¹⁰⁹ On May 19, 1997, the Public Service Negotiating Councils gave Lieutenant-Colonel Ali a twenty-one day period within which to meet their demands.¹¹⁰ When the military administrator failed to respond, some 26,000 civil servants in Kaduna State went on strike. As a result, all state hospitals, ministries, schools, courts, local government services and parastatals were closed.¹¹¹

¹⁰⁷Prior to becoming military administrator of Kaduna State, Lieutenant Colonel Ali served as a member of the special tribunal that convicted and sentenced to death Ken Saro-Wiwa and eight other members of the Movement for the Survival of the Ogoni People.

¹⁰⁸Letter from Idakwo B. Elaigwu, State Secretary, Kaduna State Public Service Negotiation Councils, to the military administrator of Kaduna State, August 1, 1996.

¹⁰⁹Human Rights Watch/Africa interview, Kaduna, September 2, 1997.

¹¹⁰Letter from Joint Negotiation Councils to the military administrator of Kaduna State, May 19, 1997.

¹¹¹"Our Stand on the Kaduna State Public Service Workers Strike," text of the press conference addressed by Aliyu Umaru, Chairman, Nigerian Bar Association, Kaduna branch, NUJ Press Centre, Kaduna, July 7, 1997.

In response to the strike, military administrator Lieutenant Colonel Ali arrested and detained ten labor union leaders and issued a directive threatening that civil servants would be dismissed if they failed to return to work by June 30, 1997; this deadline was later extended for ten days. When only seven thousand workers ultimately complied with his directive, Lieutenant-Colonel Ali summarily dismissed the remaining workers, under Decree No. 17 of 1984, which also ousts the jurisdiction of the regular courts and suspends the fundamental rights provisions of the Constitution.¹¹² Despite three major demonstrations—one by wives of workers protesting the non-payment of their husbands' salaries and two by secondary school students protesting the non-payment of their teachers' salaries—and a temporary suspension of the strike from July 11 to July 21, 1997, the Kaduna State government has not addressed the workers' grievances.¹¹³ Rather, the police have used tear gas to disperse the demonstrators. Following the most recent student demonstration on August 25, the Kaduna police commissioner announced that any further demonstrations would prompt arrests of students and their parents.¹¹⁴ As of this writing, the workers had not yet been reinstated.¹¹⁵

A delegation of the Kaduna branch of the Nigerian Bar Association (NBA) is in the process of challenging the dismissals. The crux of the NBA's argument is that the Kaduna State government cannot opt out of the agreement signed in February 1995 by its predecessors. The NBA contends further that, notwithstanding Decree No. 17, summarily dismissing public workers en masse constitutes a violation of Articles 7 and 15 of the African Charter on Human and People's Rights, which guarantee, respectively, the right to have one's cause heard and the right to work under equitable and satisfactory conditions.¹¹⁶

On July 4, 1997, apparently in response to mounting pressure from the NBA, the Kaduna State government finally arraigned the ten labor union leaders who had been detained without charge since June 16, 1997. They are: Abdulkarim Ibrahim, chairman of the Public Service Negotiating Council; Jimmy Adamu Alhassan, secretary of the

¹¹²Shittu Obassa, "Ali now sacks striking workers," *New Nigerian* (Kaduna), July 10, 1997; Tawey Zakka, "Why talks broke down," *New Nigerian* (Kaduna), July 28, 1997. Section 1 of Decree No. 17 of 1984 provides for summary dismissal if the appropriate authority is "satisfied that —

(a) it is necessary to do so in order to facilitate improvements in the organisation of the department or service to which a public service officer belongs; or

(b) by reason of age or ill health or due to any other cause a public officer has been inefficient in the performance of his duties; or

(c) the public officer has been engaged in corrupt practices or has in any way corruptly enriched himself or any other person; or

(d) the general conduct of a public officer in relation to the performance of his duties has been such that his further or continued employment in the relevant service would not be in the public interest"

Layoffs of government employees in other parts of Nigeria, which have generally been attributed to "restructuring," have also occurred during Abacha's tenure. In 1996, 25,208 federal civil service employees reportedly lost their jobs. At the state level, Kogi State administrator Colonel Paul Omerua is said to have dismissed some 8,800 workers (about forty percent of the state work force) in August 1996, while Edo State administrator Group Captain Baba Adamu Iyam reportedly sacked some 8,000 workers. Meanwhile, Akure local government in Ondo State supposedly sacked 1,645 non-indigenous local council employees. Constitutional Rights Project, *Human Rights Practices in Nigeria*, pp. 77-81.

¹¹³Human Rights Watch/Africa interview, Kaduna, September 3, 1997; Kaduna State Public Service Negotiating Council Bulletin, July 17, 1997.

¹¹⁴Human Rights Watch/Africa interview, Kaduna, September 3, 1997.

¹¹⁵Human Rights Watch/Africa telephone interview, Kaduna, October 6, 1997.

¹¹⁶Human Rights Watch/Africa interview, Kaduna, September 2, 1997. In December 1996, the Lagos Court of Appeal held in the case of *Fawehinmi v. Abacha* that no decree could preclude courts from hearing cases of violations of rights guaranteed by the African Charter. Edetaen Ojo, "African charter superior to decrees, Appeal Court rules," *The Guardian* (Lagos), December 13, 1996.

Public Service Negotiating Council; Ubale Ahmadu, chairman of the Kaduna State branch of the Nigeria Labour Congress; Ankim Abah Dawah, Patricia Umaru, Bridget Maigari, Danjuma Yohanna, Isah Abdullahi, Umaru Kajuru and Andrew Kantiyok. These leaders, who were reportedly charged with criminal intimidation, criminal conspiracy, theft, unlawful lockout, wrongful restraint, unlawful picketing, mischief and inciting public disturbances in violation of the Trade Dispute Acts of 1980 and 1990, were released on bail by a Kaduna Chief Magistrate's Court.¹¹⁷ Meanwhile, the police have sent the case files to the Kaduna State Ministry of Justice "for advice." The NBA has agreed to provide free legal assistance to the union leaders for as long as necessary.¹¹⁸ It was reported that they had been rearrested on October 9, 1997.

MILITARY DYNAMICS

General Abacha's efforts to silence perceived opponents have also extended to the ranks of the military. Following the example set by General Babangida, but on a much greater scale, Abacha has repeatedly resorted to detention, dismissals and transfers on questionable grounds; or to forced retirements and filing trumped up charges against those members of the armed forces whom he perceives as a threat. The series of bomb blasts at military sites, which allegedly prompted the filing of treason charges against sixteen pro-democracy activists in March 1997, may also be driving Abacha's fears of dissension among the armed forces.

¹¹⁷Shittu Obassa and Tajudeen Ajibade, "Union leaders in court, granted bail," *New Nigerian* (Kaduna), July 5, 1997.

¹¹⁸Human Rights Watch/Africa interview, Kaduna, September 2, 1997; "Our stand on the Kaduna State Public Service Workers Strike," text of the press conference addressed by Aliyu Umaru, Chairman, Nigerian Bar Association, Kaduna branch, NUJ Press Centre, Kaduna, July 7, 1997.

Some 200 senior officers were reportedly sacked for various reasons between 1995 and 1996. Abacha sacked Maj. Gen. Chris Ali, the chief of army staff, and Rear Admiral Alison Madueke, the chief of naval staff, in early 1995, after they urged him to release political prisoners from detention.¹¹⁹ As discussed above, several retired and serving armed forces officers were convicted in 1995 of involvement in an alleged coup plot that was generally viewed as an excuse to solidify the Abacha regime's hold on power. In mid-1996, 120 officers were summarily retired from the Nigerian army. In an apparent attempt to explain this development, Maj. Gen. Abdul-Salaam Abubakar proffered that the army "is not a place for permanent employment."¹²⁰ In August 1996, the military administrators in all thirty-six states were redeployed or summarily retired.

This pattern of dismissals has continued through the present. In mid-August 1997, sixty-four air force officers were sacked. Forty-seven of them were involuntarily discharged, twelve were voluntarily discharged, and five were dismissed for alleged offenses. There is speculation that both the navy and the army are currently in the process of preparing lists of officers to be sacked.¹²¹

Human Rights Watch received credible reports that senior military police officers regularly delegate investigations of alleged offenses to low-ranking, non-commissioned officers, with minimal or no oversight. Reports of these investigations, which tend to be carelessly conducted, often become the basis for court-martial proceedings. Despite inconclusive evidence, the officers presiding over court-martial proceedings feel pressured to convict and sentence accused officers as a matter of course, for fear of receiving a "letter of displeasure" which could prompt their own retirement or dismissal.¹²²

¹¹⁹"Understanding three years of Abacha's Nigeria," *Nigeria Now*, vol. 5, no. 8, (London: New Nigeria Forum, November/December 1996).

¹²⁰Kayode Fayemi, "Nigeria's Military Politricks: Maniacal tyrant repositions himself," *Nigeria Now*, vol. 6, nos. 3 & 4, (London: New Nigeria Forum, April/May 1996).

¹²¹John Okafor, "Panic grips the military," *Tell* (Lagos), September 8, 1997.

¹²²Human Rights Watch/Africa interview. For confidentiality reasons, the date and site of this interview are being withheld.

The arbitrariness of convictions in court-martial proceedings is exemplified by a classified report issued in March 1997 by Maj. Gen. A.S. Mukhtar, the Provost Marshall (in charge of discipline), from Nigerian army headquarters in Kaduna.¹²³ In three of the eleven cases considered, Major-General Mukhtar did not confirm the findings and sentences imposed by courts martial. In the case of Major U.G.K. Duwo, sentenced to two years' imprisonment for stealing service property and for conduct prejudicial to service discipline, the report states that "the case was not thoroughly investigated while the prosecution failed to call material witnesses." In the case of Maj. Jo Iyela, sentenced to two years' imprisonment for illegal possession of ammunition, the finding and sentence were not confirmed "on the grounds that the court lacked jurisdiction to sit and hear the sum up by the Judge Advocate, having been reduced below the legal minimum." In the case of Yakubu Gwagwada, sentenced to eighteen months' imprisonment for improper carriage of persons and goods, the finding and sentence were "quashed for lack of proof beyond reasonable doubt."¹²⁴

In some cases, soldiers and officers are detained without trial under oppressive conditions despite investigation reports confirming their innocence. Lt. Corporal Afolayan Michael, for example, was dismissed from the Nigerian army on October 9, 1995 for alleged concealment of information regarding the theft of rifles, an offense punishable under the Robbery and Firearms Decree. This charge appeared to have stemmed from Lieutenant Corporal Michael's knowledge of a plan to illegally purchase a weapon from a military store, which he had reported to the detachment sergeant major. The detachment sergeant major took no action and, until he was arrested, denied that Lieutenant Corporal Michael had ever brought the information to his attention. Once he confessed, the superior officer was released and never charged.

On July 3, 1995, Lieutenant Corporal Michael was summoned before a Board of Inquiry, which exonerated him; he resumed duty the following day. On October 9, 1995, however, he was again charged with the same offence before Lieutenant Colonel Olorugun, commanding officer, Military Recruitment Centre Nigerian Army Depot Zaria, who dismissed him without conducting a hearing. The case was then turned over to the police, who issued a report in February 1996 declaring Lieutenant Corporal Michael blameless and recommending his reinstatement. Prior to issuing their report, the Police sought the advice of the Kaduna Ministry of Justice, which had similarly found that the allegations lacked foundation. Rather than reinstating Lieutenant Corporal Michael, the commanding officer called for a new investigation by the Kaduna Special Investigations and Intelligence Bureau. This investigation resulted in a third report finding the accused not guilty. Upon receipt of the third report, the Commanding Officer ordered that Lieutenant Corporal Michael be reinstated. To date, however, this order has not been implemented.¹²⁵

Compounding the armed forces' general sense of insecurity, General Abacha has only infrequently convened the Provisional Ruling Council, the country's top ruling body comprised of military service chiefs and division commanders.¹²⁶ Given that some members of this body are reportedly opposed to the prospect of Abacha succeeding himself, this may be an attempt at self-preservation.¹²⁷

¹²³Article 14 of the International Covenant on Civil and Political Rights, to which Nigeria is a party, sets out standards for the conduct of trials and court proceedings. General Comment 13(21) of the U.N. Human Rights Committee, which monitors compliance with the ICCPR, states that "the provisions of article 14 apply to all courts and tribunals within the scope of that article whether ordinary or specialized" and goes on to provide guidelines for military tribunals.

¹²⁴"Confirmation of general court martial findings and sentences: Maj. U.G.K. Duwo (N/6962) and ten others," 1DIV/LS/635/A, March 27, 1997.

¹²⁵Human Rights Watch/Africa interview. For confidentiality reasons, the date and site of this interview are being withheld.

¹²⁶Human Rights Watch/Africa interview, Lagos, August 26, 1997.

¹²⁷Human Rights Watch/Africa interview, Lagos, August 28, 1997. Human Rights Watch received unofficial reports that General Diya, Abacha's Chief of General Staff, will request early retirement if Abacha opts for self-succession. Ibid.

THE HUMAN RIGHTS COMMISSION

At the same time that the institutions responsible for overseeing the transition program were established, the government created a national Human Rights Commission, by Decree No. 22 of 1995. 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”; “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 “assist victims of human rights violation and seek appropriate redress and remedies on their behalf.”¹²⁸ The sixteen members of the Governing Council of the Commission, responsible for the discharge of its functions, include officials of the Ministries of Justice, Internal Affairs, and Foreign Affairs, journalists and lawyers. The Commission is chaired by Justice P.K. Nwokedi, a retired justice of the Supreme Court of Nigeria. Although the Commission is not formally part of the transition program, its ability to carry out its mandate bears directly on the potential for restoring the rule of law in Nigeria.

The Commission is not fully independent. Commission members are appointed by the head of state, on the recommendation of the attorney-general of the Federation, and can be removed from office by the head of state “if he is satisfied that it is not in the interest of the public that the member should remain in office.”¹²⁹ This amorphous standard could give rise to arbitrary removals of Commission members whom the government perceives to be overly critical.¹³⁰ The Commission has made clear that it does not regard questions relating to transition program and the right of Nigerians to choose their own government as within its jurisdiction, although it has held meetings with military administrators of most states in Nigeria to discuss its work.¹³¹ At seminars held by the Commission or to which it has been invited, Nwokedi and others have issued statements critical of human rights abuses, including the practice of taking family members “hostage” to force suspects to report to the police and the fact that suspects can spend years in prison awaiting trial.¹³² In other fora, however, Nwokedi has defended the Nigerian government, stating that “western nations criticize Nigeria’s human rights record because they are fed false information by the country’s detractors.”¹³³

¹²⁸National Human Rights Commission Decree No. 22 of 1995, section 5(a), (b) and (c).

¹²⁹Decree No. 22, sections 2(3)(b), 4(2).

¹³⁰To the Commission’s credit, however, its members reportedly rejected an effort by the government to second staff, insisting that any staff who circumvented an independent recruitment process would be fired.

¹³¹Human Rights Watch/Africa interview, Lagos, July 25, 1997.

¹³²“Nigerian rights commission accuses security forces,” Reuters, September 17, 1997.

¹³³“Nigerian Human Rights Commission head defends government record,” text of Radio Nigeria Kaduna broadcast, January 21, 1997, as reported in SWB AL/2824 A/7, January 23, 1997.

Since the Commission was inaugurated on June 17, 1996, at least one hundred petitions have been submitted. Due to the government's delay in providing funds, the Commission was unable to begin work until November 1996. Furthermore, again due partly to a shortage of personnel and equipment, the Commission's progress in processing complaints has been slow.¹³⁴ In cases where the Commission's complaints committee, which meets on a monthly basis in different areas of the country, decides that the Commission has jurisdiction, the petition is forwarded to the Governing Council. If the Council decides to accept the case, a written request for information is sent to the alleged perpetrator(s) of human rights violations. If the Commission does not receive a response to its request within a month, a "reminder" notice is sent. If necessary, a second reminder notice may be sent the following month. Once a response is received, the Commission may request clarification before beginning to formulate recommendations. The Commission claims to have requested information regarding the conviction of Campaign for Democracy Chairman Beko Ransome-Kuti by a special military tribunal and the detention of Alhaji Ibrahim Dasuki, the former sultan of Sokoto, among other cases.¹³⁵ Some matters pending before the Commission have been resolved in the course of this process, although it is not clear that all such "successes" can be attributed to the Commission's intervention.

To date, the Commission has been reluctant to accept jurisdiction over cases that are under consideration by the courts, although Decree No. 22 does not bar the Commission from intervening in such matters. The Commission has also declined jurisdiction over the cases of individuals detained for "security reasons" under the notorious State Security (Detention of Persons) Decree No. 2 of 1984. A complaint filed in June 1997 by the Constitutional Rights Project regarding the prolonged detention without trial of Chief M.K.O. Abiola and fifty-nine others, including human rights and pro-democracy activists, union leaders and journalists, will offer the Commission an opportunity to reconsider these policies. In addition, the promulgation of rules of procedure, which are still in the process of being drafted, should enable the Commission to address such procedural issues more systematically. Although records of Commission proceedings are not made public, an annual report of the Commission's work is supposed to be issued by the Commission's Secretariat by late 1997.¹³⁶

VISION 2010

Although not directly related to the transition program, the work of Vision 2010, a 250-member committee of private sector representatives, government ministers, academics, journalists, traditional rulers, trade union leaders and foreign businessmen, among others, inaugurated by General Abacha on November 27, 1996, is similarly intended to move the country forward. The committee is chaired by Chief Ernest Shonekan, who headed a short-lived interim national government in 1993 before Abacha seized power.¹³⁷

¹³⁴The countless stacks of completed application forms in the Commission's Abuja headquarters at the time of Human Rights Watch's visit suggest that the Commission is in the process of recruiting additional personnel.

¹³⁵Human Rights Watch/Africa interview, Commission member, Lagos, August 26, 1997. Ransome-Kuti has been held in solitary confinement in Katsina prison since late 1995, when a special military tribunal convicted him of treason and sentenced him to life imprisonment; his sentence has since been reduced to fifteen years. Only his daughter Nike, who filed the petition to the Commission, is permitted to visit him. Alhaji Dasuki has been detained since April 1996 when he was deposed as sultan of Sokoto, and is reportedly held under house arrest in Zing, Taraba State. He was charged with financial irregularities before the Failed Banks Tribunal, but appears to be held for political reasons. His son, Col. Sambo Dasuki, currently in exile, was allegedly involved in the coup plot of March 1995. Human Rights Watch/Africa interviews, Lagos, August 26 and 29, 1997; Osa Director, "Dasuki's Case," *Tell* (Lagos), May 19, 1997.

¹³⁶Human Rights Watch/Africa interview, Lagos, August 26, 1997.

¹³⁷"General Abacha approves composition of Vision 2010 project," text of November 25, 1996 report by Nigerian TV, as reported in SWB AL/2780 A/10; James Jukwey, "Nigerian ruler wins some accolades for reforms," Reuters, November 28, 1996; letter from Professor Bart O. Nnaji, Honorary Member, Vision 2010, to Vision 2010 workshop participants, Washington DC, June 27, 1997; James Jukwey, "Committee gives Abacha plan on Nigeria development," Reuters, September 30, 1997.

Vision 2010's terms of reference are extremely amorphous, including "To define our country, its correct bearing and sense of economic, political, social and cultural direction;" "To set appropriate goals and targets and time frames for achieving our economic, political, social and cultural objectives and to propose the strategies and the institutional arrangements required to attain the set goals and targets;" "To forge a plan which will ensure that Nigeria is en route by year 2010, to becoming a developed nation in terms of economic prosperity, political stability and social harmony;" and "Propose a comprehensive plan for the country that will enable it to optimize its economic prospects and prepare it as a major economic power in the African region and the emerging market."¹³⁸ In order to achieve these objectives, the committee initially identified thirteen "critical success factors" that fall into four categories: human capital (health, education, population); shared values (norms and standards, anti-corruption, openness, cooperation and managing diversity); governing systems (law and order, good and stable governance); global competitiveness (external environment; science, engineering and technology, competition, sustainable economic growth). Thirteen groups were formed to address each of the critical success factors, with final reports to be submitted by April 1997. Seventeen subcommittees were subsequently formed to address a variety of economic issues relating to macroeconomic structure, development, the "real sector" (encompassing agriculture, industry, trade, solid minerals, downstream and upstream petroleum) and funding/capital mobilization. Finally, thirteen subcommittees were organized to address "third wave issues," including public and private sector roles, mass communication, organizing and building support, legal reforms, privatization, pensions savings and social security, women, labor management and industrial relations, information systems and youth development. Meanwhile, Vision 2010 members and "stakeholder groups" encompassing different sectors of the population participated in workshops convened to discuss broader issues, compare Nigeria's progress to that of other countries, set goals, formulate action plans and develop the final "vision."¹³⁹ Vision 2010 also sponsored a joint workshop for politicians from the five registered political parties, none of whom is a member of the committee.¹⁴⁰

At a Vision 2010 workshop in Washington D.C. in late June 1997, a member of Vision 2010's Technical Committee announced that the future roles of different stakeholders in the process of achieving the vision were becoming progressively clearer. He emphasized that the government's role included strengthening democratic institutions to facilitate popular participation in government. In particular, he cited the need for regular national elections that are free and fair and are seen to be so, a free press and an independent judiciary. He also emphasized the importance of the private sector, including both the business community and non-governmental organizations, in creating an enabling environment for "entrepreneurship."¹⁴¹

In an interview with Human Rights Watch, one Vision 2010 member clarified that the four central prongs of Vision 2010's mandate were democratization, liberalization, globalization and technology. He highlighted the fallacy of Abacha's assertions that economic reforms must precede political reforms and noted that he, like many other Vision 2010 members, had emphasized that political reform must be paramount. He stressed that Vision 2010's final recommendations would include restoration of the rule of law and good governance, as well as the release of all political detainees. He also confided that, while the Abacha regime has not sought to influence the content of Vision 2010's recommendations, the members of the committee are not convinced that their recommendations will ever be implemented.¹⁴²

¹³⁸Vision 2010 Terms of Reference, distributed at a workshop on Vision 2010 held in Washington, D.C., June 27, 1997.

¹³⁹W. Udochuku Uwakaneme, Member, Technical Committee of Vision 2010, "An Opportunity for a New Beginning: A Vision 2010 Progress Report," Vision 2010 Workshop, Washington, D.C., June 27, 1997.

¹⁴⁰Human Rights Watch/Africa interview, Lagos, September 29, 1997.

¹⁴¹W. Udochuku Uwakaneme, Member, Technical Committee of Vision 2010, "An Opportunity for a New Beginning: A Vision 2010 Progress Report," Vision 2010 Workshop, Washington, D.C., June 27, 1997.

¹⁴²Human Rights Watch/Africa interview, Lagos, August 29, 1997.

Vision 2010 submitted its final report to General Abacha on September 30, 1997. The committee reportedly recommended “large-scale deregulation of the Nigerian economy,” the release of political detainees and rigorous compliance with the transition program.¹⁴³ In his October 1, 1997 National Day address, Abacha promised to “introduce the measures immediately required to begin the program’s implementation in the firm belief that succeeding administrations will carry it to a successful conclusion with the support of all our people and friends of the nation.”¹⁴⁴ General Abacha pronounced, “We are convinced that in order to ensure a stable and lasting civil rule for our people, a solid economic base is a major prerequisite.” He then proceeded to congratulate himself on the success of economic reform initiatives already undertaken during his tenure, including “measures to curb inflation, strengthen the value of the naira, encourage savings and productivity, stimulate investment, and create employment.”¹⁴⁵

The fears of Vision 2010 members that their recommendations will not be implemented appear justified. The committee has been meeting against the background of economic stagnation brought on by wilful government neglect and mismanagement. Funds for capital projects budgeted for the first half of 1997 were only released in September, bringing investment in infrastructure and the economy in general to a virtual halt. The government’s elimination of fertilizer subsidies in early 1997 is likely to produce a shortage of staple grains by 1998.¹⁴⁶ Massive layoffs of federal and state employees throughout the country have caused significant hardship. Pervasive corruption has not been checked by the government’s establishment of “failed bank” and “failed contract” tribunals, which seem designed rather to target potential opposition supporters than to crack down on illegal deals. Recurrent fuel shortages, in one of the world’s largest oil producing countries, bring commercial activities to a standstill. The government has proffered diverse explanations for these fuel crises, including smuggling of petroleum products across neighboring international borders, hoarding by citizens, diversion and sabotage of oil production facilities.¹⁴⁷ Notably absent from these justifications is any willingness on the part of the government to assume responsibility for its failure to maintain Nigeria’s refineries or general its mismanagement of the country’s abundant oil resources.

NIGERIA’S INTERVENTION IN SIERRA LEONE

While the Nigerian military has been suppressing opposition and ensuring that elections are won by its supporters at home, Nigeria’s armed forces have been sent to Sierra Leone in support of an elected civilian government ousted in a military coup. The irony of this action has apparently been unnoticed by some members of the international community, and Nigeria’s intervention has been welcomed by many of the same voices that have opposed sanctions against the military government in Nigeria on the grounds that to take such measures would be interference in Nigeria’s internal affairs.

¹⁴³James Jukwey, “Committee gives Abacha plan on Nigeria development,” Reuters, September 30, 1997.

¹⁴⁴“Nigeria’s Abacha Gives National Day Address,” text of October 1, 1997 report by Lagos NTA Television Network, as reported by FBIS-AFR-95-249, October 2, 1997.

¹⁴⁵Ibid.

¹⁴⁶“The Fertiliser Question,” *New Nigerian* (Kaduna), July 11, 1997. Ironically, in a nationwide address on October 1, 1995, General Abacha cited the revival of the agricultural sector as one of the strategies his government had adopted to diversify the economy. “Abacha commutes plotters’ sentences, sets out political timetable,” text of recorded speech, broadcast by Nigerian TV on October 1, 1995, as reported in SWB AL/2423 A/1.

¹⁴⁷“Nigeria’s Abacha Gives National Day Address,” text of October 1, 1997 report by Lagos NTA Television Network, as reported by FBIS-AFR-95-249, October 2, 1997.

On May 25, 1997, the elected civilian government in Sierra Leone, headed by Ahmed Tejan Kabbah and in office for just one year, was overthrown in a military coup led by Major Johnny Paul Koroma, following his escape from prison, where he had been held following an earlier attempted coup in September 1996. Supposedly acting under a defense pact with the Kabbah government and in response to a plea from Kabbah, who had fled to Conakry in neighboring Guinea, hundreds of Nigerian troops based in Liberia as part of the Economic Community of West African States (ECOWAS) Ceasefire Monitoring Group (ECOMOG) moved to the Sierra Leonean capital, Freetown, reinforcing ECOMOG colleagues already based at the Freetown airport to defend it from attacks by the Rebel United Front (RUF), which had been waging a six-year war of great brutality against successive central governments.¹⁴⁸

Although no public statement was made, diplomatic sources indicated that the Nigerian government had delivered an ultimatum to the coup leaders, who had formed themselves into an Armed Forces Revolutionary Council (AFRC) in alliance with the RUF, to leave power and restore the elected president.¹⁴⁹ Nigerian government radio stated that the Nigerian troops would adopt a policy of "containment,"¹⁵⁰ but on June 2, following a breakdown of negotiations for the peaceful restoration of the Kabbah government led by the Nigerian and British high commissioners, Nigerian naval vessels stationed off Freetown began shelling the capital. Guinean troops already based in Freetown, with the Nigerian ECOWAS contingent at the airport, supported the initiative; but Ghanaians in the same force pulled back, stating they preferred a negotiated solution. Wire services reported that at least fifty people, mainly civilians, were killed in the bombardment, in addition to several hundred killed in initial fighting. Despite their superior firepower, the Nigerian forces were eventually forced to withdraw. The AFRC claimed that 300 Nigerian troops had been taken hostage and later released.¹⁵¹

¹⁴⁸"ECOWAS intervenes to restore democracy," *Africa Today* (London), July/August 1997. On March 2, the Nigerian government had detained Foday Sankoh, the head of the Sierra Leonean Rebel United Front, as he entered the country, supposedly on the grounds of firearms offenses. Commentators in both Sierra Leone and Nigeria assumed that the detention was on behalf of the Sierra Leonean government, and as a result of Sankoh's prevarication in peace negotiations to end the civil war. Initially held in a suite of a five-star hotel in Abuja, Sankoh was transferred to prison following the coup in his home country. On June 1, Major Koroma named Sankoh deputy head of state in the new Sierra Leonean government. However, Sankoh was still held in Nigeria at the time of going to press.

¹⁴⁹James Bone, "Nigeria in army coup ultimatum," *The Times* (London), May 28, 1997.

¹⁵⁰"Nigeria to Adopt Containment Policy in Sierra Leone," text of broadcast by Voice of Nigeria, as reported in FBIS-AFR-97-149.

¹⁵¹Howard W. French, "Combat in Sierra Leone," *The New York Times*, June 23, 1997; "Koroma's Coup," *Africa Confidential* vol.38, no.12, June 6, 1997.

Following this humiliation, Nigerian foreign minister Tom Ikimi engaged in a tour of West African states to consult on action in Sierra Leone. He encountered some resentment of Nigeria's decision to intervene without any official mandate from regional heads of state.¹⁵² Already, several West African leaders and commentators had spoken out against the Nigerian operation. Abass Bundu, a former executive secretary of ECOWAS, for example, described the June 2 bombardment of Freetown as "totally unwarranted and unjustified."¹⁵³ Meanwhile, president of Burkina Faso Blaise Compaore stated in an interview with Radio France International, "The agreements between the states of West Africa do not authorize military intervention to restore a regime or organize a counter-coup. This type of operation could cause further tragedies for the Sierra Leone people."¹⁵⁴

On June 26, ministers of foreign affairs from ECOWAS states met in Conakry, together with the secretary-general of the Organisation of African Unity (OAU), Salim Ahmed Salim, and issued a statement endorsing the aim of "early reinstatement of the legitimate government of President Ahmed Tejan Kabbah, the return of peace and security and the resolution of the issues of refugees and displaced persons." The ministers failed to give an unconditional endorsement of further military intervention, agreeing instead "to work towards the reinstatement of the legitimate government by a combination of three measures, namely, dialogue, imposition of sanctions and enforcement of an embargo and the use of force." In a coded criticism of Nigeria's hasty unilateral intervention, moreover, the communiqué stated that: "In order to increase the effectiveness of the above measures, the Ministers for Foreign Affairs recommended prior consultations among member States at the highest level."¹⁵⁵ A committee made up of representatives of Nigeria, Ghana, Guinea and Côte d'Ivoire, with representatives of the OAU and ECOWAS secretariats, was formed to ensure the implementation of these decisions. Negotiations were opened with the new rulers in Sierra Leone; however, on July 31, the AFRC unveiled a four year transition program for the restoration of civilian rule after fresh elections. Following this announcement, which represented a breakdown in negotiations, an almost total embargo was put in place, enforced by the Nigerian navy, leading to severe hardship in Freetown and elsewhere. Despite a ceasefire agreement, intermittent clashes continued between ECOMOG forces and troops loyal to the AFRC (a mixture of Sierra Leonean army and members of the RUF, together renamed the People's Army).

The Authority of Heads of State and Government, the governing body of ECOWAS, met in Abuja at the end of August. A number of other governments joined Ghana and Côte d'Ivoire in opposing the use of force against the military leaders in Sierra Leone, and the Authority endorsed the position taken at the June 26 meeting of foreign ministers, mandating ECOMOG only to "monitor the ceasefire, enforce sanctions and embargo and secure the peace in Sierra Leone."¹⁵⁶ Liberia was added to the committee responsible for monitoring the situation in Sierra Leone, which was raised in status to the level of heads of state and government. Since the August meeting, a stalemate between the AFRC and ECOMOG forces has continued. The enforcement of the embargo on Sierra Leone—including allegations that ECOMOG forces had shelled boats carrying cargoes of rice and killed tens of civilians at a dockside market in the

¹⁵²The ECOWAS Protocol on Mutual Assistance in Defence, adopted in 1981 and entered into force in 1986, established a legal regime for military intervention by invitation in case of attack on an ECOWAS member state or "armed conflict within a member state which has been engineered and supported actively from outside." In 1991, a Declaration of Principles adopted at Abuja enjoined ECOWAS countries to "unwavering commitment to the establishment and smooth functioning of democratic institutions in each member state." However, the provisions of the 1981 protocol have never been implemented, nor, even had that been the case, was there any decision by the ECOWAS Authority of Heads of State and Government to intervene in Sierra Leone, as required by its terms. Abass Bundu, "The case against intervention," *West Africa* (London), June 30 - July 6, 1997.

¹⁵³Antony Goldman, "Humiliated Nigerian army retires hurt," *The Financial Times* (London), June 4, 1997.

¹⁵⁴"Nigeria reinforces in Sierra Leone, backing mixed," Reuters, June 4, 1997.

¹⁵⁵Text of final communiqué, issued as U.N. Document S/1997/499, June 27, 1997.

¹⁵⁶"Text of West African Communiqué on Sierra Leone," Reuters, August 30, 1997.

process—led to expressions of concern from the International Committee of the Red Cross and others at the blanket nature of the blockade and at a potential humanitarian crisis among the civilian population.¹⁵⁷

¹⁵⁷“Update No.5 on ICRC Activities in Sierra Leone,” ICRC, Geneva, August 25, 1997; U.N. Integrated Regional Information Network (IRIN) West Africa, Daily Media Updates, August and September, 1997.

At the OAU heads of state and government meeting taking place in Harare, Zimbabwe, at the time of the June 2 bombardment, Nigerian Foreign Minister Tom Ikimi stated "This is not interference. We at ECOWAS have always been interested in explosive situations that take place in our region which we see as endangering civilian lives and disturbing peace. Together with the international community we must not allow such a situation to continue. Nigeria is going to ensure that peace, stability and a legitimate government are restored in Sierra Leone."¹⁵⁸ He insisted also that "we, as Nigeria, are not in Sierra Leone as Nigeria. We are there because we have always been there as ECOMOG."¹⁵⁹

Although Nigeria's military intervention was not expressly endorsed, the OAU summit implicitly accepted it—in stark contrast to its usual stance on "interference" in internal affairs, including those of Nigeria. OAU Secretary-General Salim Ahmed Salim stated "We universally condemn the usurpers of power in Sierra Leone. It is in the interests of both Sierra Leone and Africa as a whole that everything must be done to restore constitutional legality in that country."¹⁶⁰ The countries of the region were urged to act through ECOMOG; at the same time a spokesperson for the OAU secretariat insisted, despite evidence that ECOWAS countries were not happy with the intervention, that "Nigeria didn't take the action, it was ECOMOG."¹⁶¹ Robert Mugabe, chair of the OAU meeting in Harare, promised a tough line from the OAU on future military coups: "The OAU merely used to admit coups had occurred, but now we want to address them. There is now a definite attitude to coups and illegitimate governments."¹⁶²

U.N. Secretary-General Kofi Annan, present at the OAU meeting, told a press conference that the international community should do "all in our power" to restore democracy, and that, while he hoped force could be avoided, if it became a "last resort," then "the member states would be prepared to go the distance."¹⁶³ A U.N. Security Council Meeting on July 11 condemned atrocities committed by Koroma's government against civilians and demanded the "immediate and unconditional restoration of constitutional order," expressing "full support for the objectives" of the ECOMOG efforts in Sierra Leone, but stopping short of endorsing all the proposed means. On August 6, the Security Council promised "appropriate measures" to restore civilian government, but again stopped short of whole-hearted endorsement of the ECOMOG action.¹⁶⁴ A special representative for Sierra Leone has been appointed by the U.N. secretary general. On October 8, 1997, the Security Council adopted a resolution imposing mandatory sanctions on Sierra Leone, including an embargo on arms and oil imports and travel by members of the AFRC.

¹⁵⁸"Nigerian foreign minister denies 'interference' in Sierra Leone," South African Press Association (SAPA), June 3, 1997.

¹⁵⁹"Nigerian foreign minister clarifies country's role in Sierra Leone," text of Voice of Nigeria broadcast, June 3, 1997, as reported by SWB AL/2937 A/1, June 5, 1997.

¹⁶⁰Andrew Meldrum, "Annan endorses Nigerian intervention," *The Guardian* (London), June 3, 1997.

¹⁶¹Spokesperson for the OAU secretariat, Ibrahim Dagash, quoted in "OAU gives 'green light' for use of force in Sierra Leone," SAPA, June 3, 1997.

¹⁶²"OAU summit ends with promise to get 'tougher' on coups," South African Press Association, Johannesburg, June 4, 1997.

¹⁶³SAPA, June 3, 1997; Andrew Meldrum, "Annan endorses Nigerian intervention," *The Guardian* (London), June 3, 1997.

¹⁶⁴Anthony Goodman, "U.N. Council calls for reversal of Sierra Leone Coup," *Reuters*, July 11, 1997.

Commonwealth Secretary-General Emeka Anyaoku, himself a Nigerian, implicitly backed the Nigerian government action, stating that intervention by foreign countries to restore democracy would be “welcome.”¹⁶⁵ The Commonwealth Ministerial Action Group, meeting on July 10-11, condemned the military coup and announced Sierra Leone’s suspension from the Commonwealth pending the restoration of the legitimate government. Meeting again in September, CMAG welcomed the ECOWAS decision to impose sanctions and adopted a set of recommendations (not made public) that would be presented to the Commonwealth Heads of Government Meeting (CHOGM) in Edinburgh at the end of October.

Nigeria’s intervention in Sierra Leone has come at a time when its seven-year presence as head of the ECOMOG force in Liberia, for which the peacekeeping force was created, is coming to an end—following elections in July 1997 and the installation of faction leader Charles Taylor as the new president of the country.¹⁶⁶ Although the ECOMOG mandate in Liberia has been extended by ECOWAS for “an extra period to be mutually agreed,” this period has been stated to be six months.¹⁶⁷

Despite the disquiet among members of ECOWAS, Nigeria’s intervention in Sierra Leone appears calculated to provide it with a measure of international support and a bargaining tool in international fora. Throughout its presence in Liberia, which Nigeria claims has cost it US\$3 billion,¹⁶⁸ Nigeria has repeatedly reminded the international community of its commitment to peacekeeping in its neighborhood in the face of the reluctance of the U.N. to make the same investment, using this commitment as an argument to deflect criticism both of its domestic performance and of the performance of its troops in the field.¹⁶⁹ At the inauguration of Charles Taylor as president, Nigeria was heaped with praise; in September 1997, the new Zimbabwean high commissioner to Nigeria, presenting his credentials, paid tribute to Nigeria’s leadership in ECOWAS and reportedly described the end of the Liberian war as “a classic in the history of peacekeeping in the world.”¹⁷⁰ Nigeria has already used the same arguments in Sierra Leone, with appreciable success in gaining international credibility and support for its actions, despite the fact that its decision to use force was essentially unilateral, only reluctantly endorsed by members of ECOWAS.

Yet Nigeria’s record as the dominant force among the ECOMOG troops in Liberia has been, at best, mixed. Nigerian ECOMOG soldiers have been involved in serious human rights violations from the time of first intervention in 1990 up till today; both commanders and ordinary soldiers have enriched themselves at the expense of local populations.¹⁷¹ The very short period between ceasefire and elections in Liberia, endorsed or driven by Nigeria, with

¹⁶⁵Claudia McElroy and Peter Beaumont, “Invasion ultimatum to Freetown mutineers,” *The Observer* (London), June 1, 1997.

¹⁶⁶See Human Rights Watch/Africa “Emerging from the Destruction: Human Rights Challenges Facing the New Liberian Government,” *A Human Rights Watch Short Report*, October 1997.

¹⁶⁷Paul Ejime, “ECOWAS lifts embargo on Liberia,” Pan African News Agency (PANA), August 30, 1997.

¹⁶⁸“Nigerian government spends \$3 billion on peace in Liberia,” text of Radio Nigeria broadcast, August 3, 1997, as reported in FBIS-AFR-97-215, August 5, 1997.

¹⁶⁹In July 1996, President Mandela, speaking about the possibility of sanctions against Nigeria ahead of the OAU summit in Yaounde, Cameroon, acknowledged 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.” “Appeals from UN, West Africa Softened Mandela Stance on Nigeria,” AFP, July 2, 1996.

¹⁷⁰“Abacha receives new Zimbabwean, Saudi Envoys,” text of Nigerian TV broadcast, September 12, 1997, as reported in FBIS-AFR-97-256.

¹⁷¹See Africa Watch (now Human Rights Watch/Africa) “Waging War to Keep the Peace: The ECOMOG Intervention and Human Rights,” *A Human Rights Watch Short Report* vol.5, no.3, June 1993; Janet Fleischman, “Human Rights and the Civil War

little effort at serious demobilization of forces, holds little hope for a lasting peace built on respect for the rule of law. The pattern to date of Nigeria's intervention in Sierra Leone does not encourage hope that ECOMOG's performance will improve or that Nigeria has suddenly developed a genuine commitment to democratic government. Certainly, Nigeria's intervention in Sierra Leone should not be allowed to deflect criticism from its domestic failures to respect human rights.

THE ROLE OF THE INTERNATIONAL COMMUNITY

"What further proof is demanded by the world? Why have African leaders—heads of states and revolutionary veterans—failed until now to halt Abacha's repetitious game or to challenge his transparent ploy of purchasing time? Take the regime's elaborate charade called 'transition to civilian rule.' Even as it becomes clearer by the day that Abacha, ever the ludicrous imitator of his predecessor Ibrahim Babangida, is seeking to perpetuate himself as a civilian president, foreign governments continue to say let's wait a little longer."

Sanctions imposed on Nigeria by western governments following the annulment of the 1993 elections and the military coup which followed, and strengthened after the November 10, 1995 executions of Ken Saro-Wiwa and eight other Ogoni activists, have remained in place over the last two years. Nevertheless, international attention on Nigeria has lessened, as Nigeria's major trading partners have returned to protecting their short-term economic interests and have taken no further concrete measures to speed the return of civilian rule. Meanwhile, the Nigerian government has increased its contacts with states such as China, North Korea, Libya and Iran.

The Commonwealth

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 1991 Harare Commonwealth Declaration, which commits Commonwealth members to democratic governance, failing which it would face expulsion.¹⁷³ 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), which was appointed to deal with persistent violations, 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.¹⁷⁴ Both Nigeria's suspension from the Commonwealth and the mandate of CMAG must be considered by CHOGM in Edinburgh in October 1997.

On April 23, 1996, following its second meeting, CMAG recommended that Commonwealth members implement various measures against Nigeria, including visa restrictions on and denial of educational facilities to members of the Nigerian regime and their families, withdrawal of military attachés from Nigeria 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 the Commonwealth consider, in consultation with the E.U., U.S. and other members of the international community, 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. At a further meeting on June 24-25, 1996, however, the imposition of the sanctions agreed upon 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.

¹⁷²"If the world won't help, we must fight alone," *The Guardian* (London), March 15, 1997.

¹⁷³On 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."

¹⁷⁴The eight members of CMAG are Zimbabwe (chair), New Zealand, United Kingdom, Canada, Ghana, Malaysia, Jamaica, and South Africa.

A mission from CMAG finally visited Nigeria for two days in November 1996, although the Nigerian government insisted that the visit was not a “fact-finding” mission, which had already been undertaken by the U.N., but a continuation of dialogue and discussion.¹⁷⁵ The government refused to allow members of the mission to visit political prisoners or members of the pro-democracy and human rights movement, ensuring that all meetings were with government supporters. The Canadian delegation did not join the mission, after the Nigerian government refused to grant visas to two security officers, in apparent retaliation at Canada’s hard line against Nigeria within CMAG.¹⁷⁶ Three political detainees (Gani Fawehinmi, Femi Falana and Femi Aborisade) were, however, released at the time of the visit.

CMAG met several times during 1997. In July, CMAG held public hearings on the situation in Nigeria—a first for the Commonwealth—to which Nigerian human rights and opposition groups, as well as international groups including Human Rights Watch, were invited to make submissions. In September, CMAG met again to finalize its recommendations to CHOGM. Although no official statement was issued, comments by foreign ministers attending the meeting indicated that the group would recommend to CHOGM that Nigeria’s suspension from the Commonwealth be continued. It was unclear whether additional sanctions would also be recommended.

In February 1997, African heads of government from Commonwealth countries—except for Nigeria—met in Gaborone, Botswana at a “Roundtable on Democracy and Good Governance in Africa.” The concluding statement stated that: “Heads of Government reaffirmed their commitment to the principles contained in the Harare Commonwealth Declaration, which included the protection and promotion of democracy, democratic processes and institutions which reflect national circumstances. They stressed in particular the universally accepted ingredients of democracy which included the right of a people to elect freely their government; the primacy of the rule of law and the independence of the judiciary; the rights of freedom of expression and association; and the transparency and accountability of government.” The heads of government also noted that “with only one exception, all African member countries had now moved away from military or one-party rule” (the meeting took place before the coup in Sierra Leone).

The United Nations

In April 1996, the U.N. Commission on Human Rights adopted a resolution 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 General Assembly in 1996.¹⁷⁷ Extended negotiations with the Nigerian government for the special rapporteurs to undertake a mission to Nigeria finally collapsed shortly before the 1997 session, due to the Nigerian government’s failure to agree to their standard terms of reference.

¹⁷⁵Nigeria says Commonwealth Action Group visit not a “fact-finding mission,” text of report by Nigerian TV, August 22, 1996, as reported in SWB AL/2699 A/13, August 24, 1996.

¹⁷⁶David Ljunggren, “Canada left behind as Commonwealth visits Nigeria,” Reuters, November 19, 1996.

¹⁷⁷For background on U.N. interventions in respect of Nigeria, see Human Rights Watch/Africa, “Permanent Transition,” Human Rights Watch/Africa 50October 1997, Vol. 9, No. 6 (A)

Despite the Nigerian government's lack of cooperation, the special rapporteurs eventually published a report on the basis of information supplied by other organisations. The hard-hitting report concluded, among other things, that "the rule of law is on the verge of collapse, if it has not already collapsed" and that Nigeria was in violation of a number of its international obligations.¹⁷⁸ The report made a series of recommendations, in particular urging the Commission to appoint of a country specific rapporteur on Nigeria.

On April 7, 1997, the Commission adopted a resolution (number 53 of 1997) expressing its deep concern at continuing human rights violations in Nigeria and inviting the chair of the commission to appoint a special rapporteur on Nigeria. Professor Tiyanjana Maluwa, a Malawian based at the University of Cape Town, was initially appointed but later stated he was unable to undertake the workload. Delays in appointing a replacement have reportedly been due to energetic lobbying of the Czech chair of the Commission by the Nigerian delegation in Geneva, which objected to alternative suggestions put forward by the Western European and Other group at the United Nations.

The European Union and its Member States

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 nongovernmental organizations and local civilian authorities. These sanctions, renewable every six months, remain in place and will be reconsidered and extended or modified in early December 1997.

The ACP-E.U. Joint Assembly (at which representatives of the European Parliament and of the African, Caribbean and Pacific (ACP) Countries meet twice a year) has repeatedly adopted resolutions condemning human rights violations in Nigeria and calling on E.U. member states to put pressure on the Nigerian government. In March 1997, after hearing representatives of exiled Nigerian opposition groups, including Nobel laureate Wole Soyinka and NADECO leader Chief Anthony Enahoro, the Assembly called upon the European Council to introduce an embargo on Nigerian oil. The European Parliament also adopted (in November 1996) a resolution supporting an international oil embargo.

¹⁷⁸"Situation of human rights in Nigeria: Report of the Special Rapporteur on extrajudicial, summary and arbitrary executions, Mr. Bacre W. N'diaye, and the Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, submitted in accordance with Commission on Human Rights Resolution 1996/79," U.N. Document E/CN.4/1997/62/Add.1, paragraph 70.

The historical relationship between Britain and Nigeria makes the British government stance of particular importance, both bilaterally and in international fora. Following May 1 elections in Britain, and in line with a statement that human rights would be “at the heart” of its foreign policy, the new Labour government immediately began to take a much stronger line on Nigeria than the Conservatives had done, leading the Nigerian government to criticize “hostile and definitely unhelpful” statements by Foreign Secretary Robin Cook.¹⁷⁹ In July 1997, Tony Lloyd, the minister responsible for Africa, commented on the transition program, stating that “the process of establishment of political parties has been so one-sided as to guarantee that there will be one serious candidate ... [resulting in] the transition of General Abacha to President Abacha. We cannot accept that.”¹⁸⁰ Britain has strongly supported Nigeria’s continued suspension from the Commonwealth, and has also indicated that it has argued within CMAG for the additional sanctions suggested in April 1996 to be imposed, though it did not call for expulsion.¹⁸¹

In contrast, a new socialist government elected in France in May 1997 continued to take a conciliatory line towards Nigeria, including ruling out the possibility of excluding Nigeria from playing in the 1998 World Cup soccer tournament due to be held in France (despite E.U. measures banning sporting links). General Abacha attended the December 1996 Francophone summit in Burkina Faso and in January 1997 announced that French would become a second “official language” of Nigeria. The French government has on several occasions granted visas “on humanitarian grounds” to members of the Nigerian government theoretically covered by the ban on visas: it has been reported that the French are planning to oppose renewal of visa restrictions, and possibly other sanctions, when the E.U. Council is reviews measures in place in early December 1997. As a result of the softer French line, Nigeria has moved the European office of the Nigerian National Petroleum Corporation to Paris from London.

The Dutch government has also faced criticism for allowing a Nigerian delegation entry in March 1997, when the Netherlands, holding the presidency in the E.U., invited Nigeria to attend a meeting in Maastricht of government leaders from the fifteen-member E.U. bloc and its seventy ACP partners. The European Parliament objected to the invitation, but the Dutch foreign ministry said that the visa restrictions only applied to “Nigerian authorities traveling to Europe for private reasons.” A Dutch spokesman went on to say that the boycott was not intended to hinder important political discussions on the future relations between the ACP and the E.U. The Dutch were of the opinions that “Nigeria is a very prominent member of the ACP group: without Nigeria, the talks between the ACP and the E.U. would be less significant.”¹⁸²

The United States

¹⁷⁹“Nigeria says concerned at ‘hostile’ Britain,” Reuters, July 4, 1997.

¹⁸⁰Michael Holman, “U.K. warns Nigeria over ‘flaws’ in election system.” *The Financial Times* (London), July 10, 1997.

¹⁸¹From May through September Nigerian Airways were banned from landing in the U.K., due to safety concerns; the Nigerian authorities banned British Airways from Nigeria in retaliation. Although the British government lifted the ban on Nigerian Airways in late September, British Airways remained excluded from landing in Nigeria.

¹⁸²Gillian Handyside, “Dutch run into row over Nigerian invitation,” Reuters, March 20, 1997.

In November 1995, the United States broadened 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 broadened 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 that it would begin consultations immediately within the Security Council on appropriate U.N. measures.¹⁸³ In 1997, Nigeria was once again denied counter-narcotics certification under Section 481 of the Foreign Assistance Act,¹⁸⁴ requiring the U.S. to vote against loans to Nigeria in six multilateral development banks, including the International Bank for Reconstruction and Development and the African Development Bank, and to cease all Foreign Assistance Act and Arms Control Export Act assistance to Nigeria. The government has also cut the U.S. Agency for International Development (USAID) budget, while reprogramming all USAID assistance exclusively through the nongovernmental sector. Direct flights to Nigeria are banned due to safety concerns about conditions at Nigerian airports.

The U.S. government, both in Washington D.C. and in Nigeria, has repeatedly condemned human rights violations by the Nigerian government, calling in particular for the release of political prisoners. No further concrete measures to put pressure on the Nigerian government have, however, been adopted or proposed by the administration. At various points during the past year, the Clinton administration has indicated that it is reviewing its Nigeria policy. Thomas Pickering, under-secretary of state for political affairs and a former ambassador to Nigeria, has been charged with this review.¹⁸⁵ No conclusion has been announced yet. It has been stated that the government's commitment to human rights and democracy in Nigeria remained firm; nevertheless, there have been some worrisome indications that the U.S. government might be prepared to make concessions in matters related to human rights in return for access to the Nigerian government to discuss "technical" issues relating to drug trafficking and civil aviation.

Relations between the U.S. and Nigeria hit a low point in September 1997, when armed soldiers and riot police broke up a farewell party being given by Nigerian human rights and pro-democracy groups for outgoing U.S. ambassador Walter Carrington. Carrington had won the admiration of the human rights community for his outspoken stand against the Nigerian government's abuses, and in return the Nigerian government had alleged that he was involved in the series of bombings for which a treason trial against Soyinka and others was instituted in March 1997. These allegations have been angrily denied by the U.S. government, which also protested vehemently at the disruption of the farewell party. Nigerian special duties minister, Wada Nas, chose to blame Carrington for poor relations between the U.S. and Nigeria, commenting that "as we celebrate the end of Mr. Carrington's four wasted years, we should hope that his unceremonious departure signals the beginning of the task of restoring the good relationship and friendship he has wilfully and recklessly destroyed."¹⁸⁶

¹⁸³"Statement by the Press Secretary," Office of the Press Secretary, The White House, November 10, 1995.

¹⁸⁴Section 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.

¹⁸⁵See, for example, Thomas Lippman, "Administration to Review Policy Toward Nigeria, a Recalcitrant Regional Power," *The Washington Post* June 16, 1997.

¹⁸⁶"Minister celebrates the departure of U.S. envoy and his 'four wasted years'," text of broadcast by Nigerian TV, as reported in SWB AL/3032 A/8; see also, Howard French, "U.S. Envoy to Nigeria Is Given a Stormy Farewell," *The New York Times*, September 26, 1997.

A draft “Nigeria Democracy Act” first introduced in November 1995 was re-introduced in Congress in June 1997 by Representative Donald Payne, proposing sanctions beyond those already in place, including a ban on air links and on new investment in the energy sector and a freeze on assets of members of the Nigerian government held in the United States.¹⁸⁷ In September 1997, the House Committee on International Relations held hearings on U.S. policy toward Nigeria.

¹⁸⁷The Nigerian Democracy Act, HR 1786, sponsored by representative Donald Payne (D-NJ) and co-sponsored by representatives Ackerman (D-NY), Brown, Sherrod (D-OH), Chabot (R-OH), Clay (D-MO), Delauro (D-CT), Faleomavaega (D-AS), Filner (D-CA), Houghton (R-NY), Johnson, Eddie (D-TX), Lantos (D-CA), Manton (D-NY), McKinney (D-GA), Norton (D-DC), Olver (D-MA), Pelosi (D-CA), Porter (R-IL), Shays (R-CT), Smith, Christopher (R-NJ), and Waters (D-CA).

A number of U.S. cities have adopted resolutions that bar local governments from buying from suppliers with businesses in Nigeria (affecting in particular the U.S. oil companies Mobil and Chevron),¹⁸⁸ and in June a conference of mayors meeting in San Francisco adopted a resolution welcoming such measures in support of democracy in Nigeria.¹⁸⁹ Independent missions to Nigeria by ex-president Jimmy Carter and especially by the American Baptist Convention were heavily criticized by Nigerian human rights groups for taking at face value the government's stated intentions to restore Nigeria to democratic government. A thirty-eight member monitoring team observing the March 1997 local government elections led by the inaptly named Americans for Democracy in Africa failed to denounce any of the multiple defects of the transition process.

The Nigerian government has continued its efforts to launder its image in the U.S. with a high profile lobbying campaign. These efforts have included sponsorship of tours by the leaders of the five political parties contesting the transition and by the widows of the four murdered men for whose killings Ken Saro-Wiwa and the eight others were executed.

The Organisation of African Unity (OAU) and its Member States

African countries remained generally reluctant to condemn Nigeria's human rights record in strong terms during 1997. In October 1996, an OAU spokesperson stated in response to proposals by U.S. Secretary of State Warren Christopher during an African tour that "we have to be very careful about isolating Nigeria," preferring "diplomatic pressures" to sanctions; also in October, an assessment team from the OAU came to evaluate Nigeria's peacekeeping capability.¹⁹⁰ During the OAU summit in Harare in June 1997, Nigeria's internal problems were not mentioned either by OAU Secretary-General Salim Ahmed Salim or by newly elected OAU chair Robert Mugabe of Zimbabwe. This reticence may have been influenced by the fact that Nigeria is one of the largest financial contributors to the OAU, while Salim was seeking re-election.

Some African countries maintained close relations with Nigeria: Nigeria and Ethiopia signed cooperation agreements in October 1996, for example; while a high level delegation of Nigerian military officers traveled to Namibia in March 1997 for a one week "familiarization visit."¹⁹¹ Colonel Mu'ammar al-Qaddafi of Libya visited Nigeria in May 1997, and was made a Grand Commander of the Federal Republic, Nigeria's highest honor (much to the annoyance of the U.S. government). The outgoing Tunisian ambassador to Nigeria, at a farewell dinner given for him by the Nigerian government, advised the Nigerian government to ignore "the rantings of the West."¹⁹² West African countries, despite their unwillingness to endorse Nigeria's intervention in Sierra Leone, were not prepared to speak out against Nigeria in other areas.

Nevertheless, the intransigent position of Nigeria toward the U.N. special rapporteurs did lead to sufficient irritation among the African group at the 1997 session of the U.N. Commission on Human Rights to bring support (even if tacit) for the appointment of a country rapporteur on Nigeria, without which the resolution would have been unlikely to pass. Of the African members of the commission, South Africa and

¹⁸⁸Resolutions supporting democracy in Nigeria (not all of them imposing sanctions) have been adopted by New York, Oakland, New Orleans, St Louis, Amhurst, Cambridge and Berkeley.

¹⁸⁹The resolution, adopted by the U.S. Conference of Mayors on June 26, 1997, "welcomes the actions by U.S. cities in support of democracy in Nigeria, and calls for the release of political prisoners and the swift restoration of human rights and democracy."

¹⁹⁰"OAU team arrives to assess Nigeria's peacekeeping capabilities," text of Nigerian TV broadcast, October 22, 1997, as reported in SWB AL/2751 A/7, October 24, 1997; "OAU, Mali, reject U.S. sanctions proposal on Nigeria," Xinhua, October 12, 1997.

¹⁹¹*SouthScan* vol.12, no.13, April 4, 1997.

¹⁹²"Outgoing Tunisian Envoy Commends Nigeria's Role in Liberia," Nigerian TV broadcast June 29, 1997, as reported in FBIS-AFR-97-211.

Uganda voted for the resolution and the others abstained. African countries also supported the ACP-E.U. Joint Assembly resolution calling for an oil embargo on Nigeria.

At the CHOGM meeting in New Zealand in November 1995, South Africa led the call for strong action against Nigeria; but South Africa's policy toward Nigeria since then, while including expressions of concern at violations of human rights, has generally been conciliatory. South Africa supported the appointment of a U.N. special rapporteur on Nigeria and made some other comments supportive of human rights during 1997. In July, Nigerian Minister of Information Walter Ofonagoro responded by referring to South Africa as "a white country with a black head," accusing unnamed western countries of "driving a wedge" between South Africa and Nigeria in order to weaken the continent.¹⁹³ Yet, though President Mandela called the statement "unfortunate and ill-informed," he appeared to wish to make as little of it as possible, and emphasized instead the "brotherly cooperation" with Nigeria over regional mediation efforts in the former Zaire, stating that he believed that the information minister "may not be aware of the close contact and cordial exchanges that have recently been taking place between him [Mandela] and General Sani Abacha."¹⁹⁴ Ofonagoro later claimed to have been misquoted by the press. In September 1997, Nigerian Foreign Minister Tom Ikimi met with Mandela and delivered a private letter from Gen. Abacha; South African Deputy President Thabo Mbeki is scheduled to visit Nigeria in turn. The negotiations are rumored to be in connection with the possible release of some political prisoners in Nigeria in advance of CHOGM.

The African Commission on Human and Peoples' Rights (the human rights organ of the OAU) finally sent a fact finding mission to Nigeria in March 1997, having originally resolved to do so in December 1995. The mission took place while the U.N. special rapporteurs were negotiating their own entry to Nigeria (ultimately unsuccessfully); but, in contrast to the U.S. special rapporteurs, the Commission did not itself insist on any terms of reference. It did not, for example, visit any of the political detainees held by the Nigerian government other than the "Ogoni 20," and it did not individually interview these detainees in private. The mission agenda was organized by the Nigerian government, and its members were much criticized by Nigerian human rights organizations for failing to allocate sufficient time to meet with human rights and pro-democracy groups to obtain information about human rights abuses. The mission did not submit a written report to the next session of the Commission in April, although one was expected at the following session, in November 1997.

Other Countries

¹⁹³"S.Africa a white country with a black head: Nigerian minister," AFP, July 14, 1997.

¹⁹⁴"Mandela and Nigeria's Abacha will personally resolve diplomatic row," SAPA, July 28, 1997.
Human Rights Watch/Africa

Nigeria has compensated for its diplomatic isolation from the west by increasing its links with other "pariah" countries. In May 1997, Minister of Information Walter Ofonagoro stated: "The sooner the West reverses the current trend the better for them because we are moving to China and other nations for support," adding that "we believe everything is planned racial prejudice against Nigeria."¹⁹⁵ Delegations from China have visited Nigeria several times over the last year and signed cooperation agreements in several areas, including the oil industry, following other trade agreements signed in 1995 and 1996; China is reportedly engaged in rehabilitating of Nigeria's railway system. The North Korean vice-premier stated in March that his country was impressed with the "steady implementation of the transition program," and pledged continued support.¹⁹⁶ Chief of Defense Staff Maj. Gen. Abdulsalam Abubakar visited China and North Korea in August 1997, exploring possibilities of military cooperation and arms deals.¹⁹⁷

In June, Nigeria was one of eight Islamic countries meeting in Turkey to form the "D8," or group of eight developing countries, signing the "Istanbul Declaration," which defines a broad area of economic cooperation.¹⁹⁸ Turkey's Islamist prime minister, Necmettin Erbakan, had visited Nigeria in October 1996. In May 1997, the Iranian chargé d'affaires in Nigeria urged the Nigerian government "not to yield to the pressure and blackmail of western imperialism."¹⁹⁹

A number of significant contracts have recently been awarded to Israeli companies, and the Israeli ambassador to Nigeria announced in March that "Israel is convinced that the transition program is very much on course and that sanctions are unnecessary. . . . Washington cannot enthrone democracy in Nigeria because their action is not in consonance with the desire of the Nigerian people."²⁰⁰

ACKNOWLEDGMENTS

This report was written on the basis of interviews conducted and documents collected in Nigeria during July and August 1997 by a consultant to Human Rights Watch/Africa. It was edited by Bronwen Manby, counsel to Human Rights Watch/Africa, who also wrote the sections on Nigeria's intervention in Sierra Leone and the role of the international community; by Peter Takirambudde, executive director of Human Rights Watch/Africa; by Wilder Tayler, general counsel of Human Rights Watch; and by Joanne Mariner, associate counsel of Human Rights Watch.

Human Rights Watch/Africa

Human Rights Watch is dedicated to protecting the human rights of people around the world.

¹⁹⁵Reuters, May 6, 1997; see also "Nigeria Woos China," *Business in Africa*, June-July 1997.

¹⁹⁶"Chief of staff receives North Korean vice premier," text of Radio Nigeria Lagos broadcast March 19, 1997, as reported in SWB AL/2873 A/10, March 21, 1997.

¹⁹⁷Ed Blanche, "Nigerians will 'turn to China' for arms needs," Reuters, August 20, 1997.

¹⁹⁸The members of D8 are Turkey, Indonesia, Bangladesh, Iran, Egypt, Malaysia, Pakistan and Nigeria. "Turkey together with seven developing countries creates the D8," Agence Europe, June 17, 1997.

¹⁹⁹"Minister Says Need for Greater Iran, Nigeria Cooperation," text of Nigerian TV broadcast, April 25, 1997, as reported in FBIS-AFR-97-116, April 30, 1997.

²⁰⁰Nigeria Today, March 4, 1997.

We stand with victims and activists to bring offenders to justice, to prevent discrimination, to uphold political freedom and to protect people from inhumane conduct in wartime.

We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those holding power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

The staff includes Kenneth Roth, executive director; Susan Osnos, associate director; Michele Alexander, development director; Cynthia Brown, program director; Barbara Guglielmo, finance and administration director; Patrick Minges, publications director; Jeri Laber, special advisor; Lotte Leicht, Brussels office director; Susan Osnos, communications director; Jemera Rone, counsel; Wilder Tayler, general 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; Ariana Pearlroth and Juliet Wilson are associates; Alison DesForges is a consultant; and Peter Bouckaert is the Orville Schell Fellow. William Carmichael is the chair of the advisory committee.

Web Site Address: <http://www.hrw.org>

Listserv address: To subscribe to the list, send an e-mail message to majordomo@igc.apc.org with "subscribe hrw-news" in the body of the message (leave the subject line blank).