

# NIGERIA

## Time for justice and accountability

### Introduction

Since an elected civilian government came to power in May 1999, Nigerians have enjoyed new freedoms of expression and association denied under recent military rule. The government of General Sani Abacha, in power from 1993 to 1998, had crushed the pro-democracy opposition. It came to power in 1993 after a long-awaited restoration of civilian rule had been aborted by the military. It went on to incur international opprobrium with a strategy of repression: the imprisonment of the winner of the presidential elections, Moshood Abiola, and hundreds of journalists, human rights defenders, lawyers and politicians as prisoners of conscience; the torture and ill-treatment of detainees; the use of lethal force against protestors in the oil-producing Niger Delta region; the execution of writer Ken Saro-Wiwa and eight other Ogoni activists; and the extrajudicial execution of its opponents and their associates.

The new civilian government is headed by President Olusegun Obasanjo, a former military head of state who was for three years up to 1998 a prisoner of conscience. Political parties, non-governmental organizations, human rights defenders and journalists are now able to criticize, publish and associate openly. No death sentences are known to have been passed or carried out since May 1999 and President Obasanjo, who was himself at risk of the death penalty during a secret treason trial in 1995, opposes capital punishment. The government has declared itself committed to human rights and has said it will work with local human rights organizations on reforming and strengthening the criminal justice system. In June 2000 it signed the Rome Statute establishing an International Criminal Court, and in September the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It declared an intention to sign further international human rights treaties.

The government has also stated its readiness to bring human rights violators to account and has taken initiatives to combat impunity for the perpetrators of abuses. Victims of political imprisonment, torture and other human rights violations, and relatives of the victims of suspected extrajudicial executions, are currently giving evidence before a Human Rights Violations Investigation Commission into abuses committed under previous governments. Trials have started of senior officers of the security services charged in connection with suspected extrajudicial executions, and the relatives of other victims are calling for investigations into more such cases. In one of the trials, evidence has been heard of a death squad operating against critics of General Abacha's government.

However, long-standing human rights concerns have still to be addressed, and serious human rights violations continue in many parts of the country. Years of military rule have left Nigeria with a severely neglected and under-funded civil police and judicial system; military

governments devoted more resources to military task forces and special courts under direct military control. Communities protesting against oil companies or those accused of criminal offences and their families, including people living near fuel pipelines ruptured by thieves, remain at risk of ill-treatment or unlawful killing at the hands of the security forces. Although past violations are now coming under official investigation by the Human Rights Violations Investigation Commission, incidents in which civilians have been killed and homes razed by military and paramilitary forces, particularly in the Niger Delta region of southeast Nigeria, have continued without investigation or accountability. Detainees and prisoners have continued to suffer routine torture or ill-treatment and to be held in harsh conditions in police cells and prisons. In addition, new civilian administrations in northern states have carried out harsh corporal punishments. Large numbers of deaths have resulted from inter-communal conflict over the new laws which provide for such punishments and also from the activities of community militias which have not only lynched suspected criminals but also attacked other ethnic groups. Local authorities with inadequate policing resources have sometimes welcomed the assistance of such militias in fighting violent crime, and in other areas the military have been returned to the streets in support of the police.

Amnesty International has taken action against human rights violations in Nigeria over many years and campaigned actively on behalf of the victims of violations under General Abacha's government, including in 1996 by launching a worldwide campaign. In July 2000 delegates of the organization, led by its Secretary General, Pierre Sané, visited Nigeria for meetings with officials including President Obasanjo, human rights defenders and local members of Amnesty International.

Nigeria has taken its first steps on the long road towards justice for the victims of human rights violations and towards accountability for the perpetrators of those violations. However, this progress must not be undermined by continued impunity for members of the security forces and others in authority responsible for human rights violations perpetrated since May 1999. The government's commitment is required to ensure that lessons will be learned from the past and that such abuses will not be tolerated. This report describes some of Amnesty International's concerns and makes recommendations for independent investigation of allegations of current as well as past human rights violations and for active intervention to prevent and address human rights violations as well as unconstitutional and internationally unlawful punishments. It also recommends action to ensure that the work of the Human Rights Violations Investigation Commission addresses the demands of human rights victims for justice and reparation.

## **Background**

Following the death in June 1998 of General Abacha, the military government led by his successor, General Abdulsalami Abubakar, released prisoners of conscience<sup>1</sup> and conducted elections which returned a civilian government to power in May 1999. President Obasanjo, previously a military head of state from 1976 to 1979, was elected as a candidate for the People's Democratic Party (PDP) to head the first democratic government in Nigeria since a military coup in 1983. The PDP won a majority of seats in the National Assembly.

Military decrees providing for political detention and trials were abrogated just before the handover to civilian government. Two decrees in May 1999 revoked 31 earlier decrees, including those which had suspended human rights provisions of the 1979 Constitution and removed the powers of the courts to challenge government actions. Others were amended to restore jurisdiction to the ordinary courts in criminal cases. Decrees revoked included the State Security (Detention of Persons) Decree, No. 2 of 1984, which provided for the arbitrary and indefinite detention without charge or trial of any person deemed by the government to be a threat to the security or the economy of the country. This decree was used to detain hundreds of prisoners of conscience. Also rescinded were decrees which provided for a range of special courts directly appointed by the military. Among them were the Treason and Other Offences (Special Military Tribunals) Decree, No. 1 of 1986, which provided for Special Military Tribunals headed by members of the military government. Between 1986 and 1998, such tribunals conducted grossly unfair treason trials which resulted in 79 executions of armed forces officers and the imprisonment of dozens of political prisoners, including prisoners of conscience. The Civil Disturbances (Special Tribunals) Decree, No. 2 of 1987, provided for special courts which, between 1987 and 1995, conducted several politically motivated and unfair trials. Two such trials in 1995 resulted in the execution of the "Ogoni nine".

The threat of inter-communal conflict remains high in Nigeria. In recent years, disputes over land and oil rights have led to the death of hundreds of people in the Niger Delta region and other areas. Since May 1999 there have also been eruptions of violence between two of Nigeria's largest ethnic groups, the Yoruba who predominate in the southwest and the Hausa, traditionally from the north. More than 250 people, mostly northerners, are believed to have died in Lagos, Nigeria's economic capital in the southwest, in inter-ethnic killings in November 1999 and October 2000. Conflict over the stricter application of *Sharia* (Islamic law) in northern Nigeria resulted in the deaths in 2000 of hundreds of people (see below).

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<sup>1</sup>See *Nigeria: Releases of political prisoners - questions remain about past human rights violations*, 31 March 1999 (AI Index: AFR 44/01/99)

There has long been a lack of public confidence in the capacity of the police to address violent crime and to bring criminals to justice. The lynching of criminal suspects by vigilante groups or local militias has increased, sometimes provoking riots and inter-communal killings. The government has condemned the emergence of ethnically-based militias and, following serious unrest, has carried out widespread arrests of those allegedly involved. It has also taken steps to increase the size of the police force. In major incidents of unrest, troops have been deployed in support of the police. In the Niger Delta, the government has continued to deploy the armed forces as well as the paramilitary police in the protection of oil facilities. Thefts from fuel pipelines in the area have risen and hundreds of local people have died in explosions while scavenging for leaking fuel, sometimes after pipelines have been opened up by criminal gangs. Oil company personnel have continued to be taken hostage for ransom; for example 165 contract workers of the Anglo-Dutch Shell oil company in Bayelsa State were held captive for several days in August 2000. In Lagos, joint military and police anti-robbery patrols returned to the streets in October 2000.

### **Killings by the security forces**

In their actions against crime and against oil protestors, the security forces have also been responsible for violations of human rights. Local communities in the Niger Delta in southeast Nigeria have criticized use of the military or paramilitary police in reprisal raids which have resulted in excessive use of force and the deaths of civilians. There have also been reports that the security forces have used excessive force in response to protests against oil company activities and thefts from fuel pipelines, resulting in several reported fatalities.

In April 2000 police shot dead at least one person, 18-year-old Barinaadua Gbaraka, and burned down homes in the village of K-Dere in Rivers State. Local residents had been protesting against a road-building project by the Shell oil company, and six youths had been detained briefly in March. Shell subsequently withdrew its contractors from the area. According to the Rivers State authorities, police went to the village in the early hours of 11 April to quell unrest between the inhabitants and those of a neighbouring village, and were ambushed by youths who seized and seriously injured eight officers and burned police vehicles. Residents of K-Dere said that there had been no unrest, that the reason for the raid was to arrest those suspected of being behind the protests and that Barinaadua Gbaraka was shot when he fled. Several residents were detained and reportedly assaulted in custody. Ledum Mitee, lawyer and leader of the Movement for the Survival of the Ogoni People (MOSOP), the community organization formerly headed by Ken Saro-Wiwa, was among 11 people charged and released on bail to await trial. His family home was among those burned. Ledum Mitee and two others were charged with arson, for allegedly burning down houses in another village, and eight others faced charges including the attempted murder of police officers. The accused said the charges had been fabricated to justify the detentions. Their trials were repeatedly adjourned and had not proceeded by the end of 2000.

In June 2000 police in Abia State were reported to have said that a police task force guarding fuel pipelines had killed people in the area of Umuahia, the state capital -- an unspecified number in gunfights in April and seven in a gunfight in a later incident near Ekenobizi. All were alleged to have been caught in the act of stealing fuel from ruptured pipelines. According to unofficial information, on 13 June Ikechi Nwogu, an unarmed youth, was killed by members of the task force on suspicion of involvement in stealing fuel near the village of Mbutu-Umuka, Osisioma local government area, near the town of Aba. He was said to have been shot dead in circumstances suggesting that he posed no threat to the security forces and was a victim of unlawful killing. The task force is alleged to have killed others and to have raided villages in the Osisioma area in September and November 2000, driving out inhabitants and looting and burning property of relatives or associates of suspected fuel thieves.

In September 2000 members of a paramilitary police unit were reported to have fired indiscriminately on residents of several villages in Delta State. Representatives of the State House of Assembly reported that officers sent to protect fuel pipelines had fired on residents, burned and ransacked homes, and looted property in raids on villages.

On 17 October 2000 at least eight youths were reported killed when troops guarding an oil facility belonging to Agip, the Italian oil company, fired on protestors from the nearby town of Olugbobiri, Bayelsa State. About 50 youths had approached an Agip flow station in speedboats, reportedly with the intention of shutting down production following disagreement with the company over a community road-building project. This incident bears similarities to an earlier one on 19 April 1999, when troops guarding an Agip facility at Ikebiri, Bayelsa State, killed at least seven youths after they shot at two speedboats. Two traditional rulers travelling in the boats reported being detained by the military for more than a week and severely beaten.

There has been no independent investigation into any of these reports of killings and armed raids by the security forces, or of previous such killings since May. An internal inquiry was apparently held when armed forces officers were reported to have carried out some reprisal killings in September 1999 in Yenagoa, Bayelsa State, but no results were made public. There was no independent investigation into reports of rapes and beatings by the security forces in Choba near Port Harcourt, the capital of Rivers State, in October 1999 after the community staged protests against Wilbros, a US company.

President Obasanjo has publicly expressed regret over the excessive force used by the military in Odi, Bayelsa State, in November 1999. However, in a meeting with an Amnesty International delegation in July 2000, he defended the deployment of troops in view of the murder of 12 police officers during earlier attempts to arrest armed youths in the town. Unofficial reports suggested that the number of people killed in the military action, which lasted several days and in which most of the town was razed, could be as many as 40 and possibly

many more. The President would not give a commitment to order independent investigations into allegations of extrajudicial killings or excessive use of force by the military. While the deployment of the armed forces or paramilitary police in the Niger Delta is justified by the authorities because of the threat to the police from armed criminals operating in the area, the armed forces are not trained or suitable for ordinary police work and the army authorities acknowledged as much after the outcry over the killings in Odi.

Amnesty International is concerned about the disregard for the fundamental human right to life as illustrated by the incidents of extrajudicial killings and use of excessive force. This disregard is compounded by the authorities' failure to conduct prompt and thorough investigations into such incidents, and to bring those responsible to justice. Extrajudicial killings, the use of excessive force by security forces and the failure to investigate such incidents are in violation of international treaties to which Nigeria is party<sup>2</sup>, as well as the Nigerian Constitution<sup>3</sup>.

### **Judicial corporal punishment**

At least one man has had his hand amputated and several floggings have been carried out under new laws introduced or announced in ten northern states during 2000. Nigeria is a federation of 36 states, each with its own government, laws and judiciary. The new laws provided for the imposition by *Sharia* (Islamic law) courts of harsh corporal punishments for offences including theft, sexual offences, consumption of alcohol and gambling. Amnesty International unconditionally opposes the judicial punishments of flogging and amputation. In line with international human rights law, the organization considers judicial amputation a form of torture. It also considers that flogging amounts to torture or cruel, inhuman or degrading punishment.

Previously, flogging for *Sharia* offences could only be imposed by the High Court under the 1959 Penal Code which applies throughout northern Nigeria and is the basis for northern states' own penal codes. Under this Code, the following offences are punishable by imprisonment or a fine and, for Muslims, a lashing: adultery, for "those subject to any native law or custom in which extra-marital sexual intercourse is recognised as a criminal offence" (Sections 387 and 388); and the consumption of alcohol, for Muslims (Section 403). Under new laws introduced in some states and which apply only in those states, *Sharia* courts -- lower courts in the hierarchy of Nigerian courts -- have been given powers to try such cases and sentence Muslims to corporal punishments, including flogging for the consumption of alcohol or pre-marital sexual intercourse ("fornication") and amputation for stealing. In other states, men

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<sup>2</sup> See the International Covenant on Civil and Political Rights, Articles 6 (right to life) and 2 (effective remedy for victims), and the African Charter on Human and Peoples' Rights, Article 4 (right to life).

<sup>3</sup> Section 33(1) (right to life)

and women have been imprisoned under new laws proscribing gambling and prostitution or requiring an expensive licence to sell alcohol in limited areas, and women's freedom of movement has been curbed by restrictions on travel by motorcycle taxi or in vehicles with men.

In November 2000 women in one town in Kebbi State, northwestern Nigeria, protested at a curfew imposed by the local authority, restricting women to their homes during the hours of darkness. There is frequently little information available about the new laws and how they will be enforced, and as a result some confusion about what is lawful in one state and not in another.

At least one amputation has been carried out. In Zamfara State, which introduced a new *Sharia* penal code in January 2000, Buba Bello Jangebe, a farmer, had his right hand amputated on 22 March 2000 after being convicted of the theft of a cow. He had failed to appeal against the sentence within the 30 days allowed. The amputation was carried out by medical professionals in hospital under anaesthetic. There were protests throughout Nigeria, including from lawyers and doctors' leaders. On 23 September a Zamfara State official reported that Musa Gummi, aged 45, from the village of Gummi, had been convicted of stealing three bicycles and sentenced to have his hand amputated. No further information was available on his case.

Several men and at least one woman have been publicly flogged for offences which have included smoking marijuana, gambling and carrying women on the back of motorcycle taxis. Reports of these sentences originated mostly from official sources and there was no information about the medical effects of these floggings. In Zamfara State, the following sentences have been carried out, usually immediately after conviction and in front of large crowds:

- on 10 February 2000 Bahiru Sule received 80 lashes for drinking alcohol;
- on 16 February 2000 Sani Mamman, aged 18, was subjected to 100 lashes for having sexual relations outside marriage. A sentence of 100 lashes on a 16-year-old girl convicted with him was reportedly not carried out because she was suffering from ill-health;
- early August 2000, two commercial motorcycle operators in Zamfara State, Maniru Abdullahi and Jafaru Isa, were given 20 lashes each after being convicted under a new local government bye-law banning the carrying of women passengers on motorcycle taxis;
- in the town of Kaura-Namoda, two men each had 80 lashes inflicted on them for drinking alcohol: Hassan Umoru on 15 September 2000 and Lawali Jekada on 22 September -- Hassan Umoru was also sentenced to one year's imprisonment or a fine for insulting an elderly man;

- on 22 September 2000, also in Kaura-Namoda, Kabiru Salisu was given 50 strokes of the cane and sentenced to six months' imprisonment for stealing a shirt, reportedly having been arrested, convicted and punished all on the same day;
- on 26 September 2000 Garuba Bagobiri-Unguwaro and Mohammadu Danige received 20 lashes each in front of a large crowd near Maru after being convicted of gambling;
- in late September 2000, Aishat Dutsi and her husband Haruna were given 80 lashes each in public for making an allegedly false accusation against a village leader of having sexual relations with their daughter.

Under new legislation introduced in Katsina State on 1 August 2000, the following floggings were reported:

- on 3 August 2000 two men were given 20 strokes of the cane each for the attempted theft of an electric fan;
- on 8 August 2000 Abdullahi Saidu received 80 strokes of the cane in the town of Funtua for smoking marijuana;
- on or around 8 August, also in Funtua, Sule Sale, aged 26, had 80 lashes inflicted on him for drinking alcohol and six lashes for stealing three packets of cigarettes.

There is a risk that women and girls who have been raped may be subjected to harsh corporal punishments and deterred from reporting offences for fear of being punished themselves. In early September 2000 Bariya Ibrahim Magazu, aged 17, was sentenced to 180 strokes of the cane in Zamfara State. She had no legal representation and was unable to produce sufficient witnesses to substantiate her allegation that she had been coerced into having sex with three men, one of whom had made her pregnant. She was sentenced to 100 lashes for having sexual relations outside marriage and a further 80 lashes for her accusations against the three men, which were judged to be false. The sentence was not due to be carried out until at least 40 days after the delivery of her baby. The authorities are not known to have ordered paternity tests when the child is born. She was arrested in July by police and is currently in the custody of her parents. In early December 2000, just before the birth was due, the judge who convicted her was reported to have said that sentence would be carried out despite appeals from human rights groups.

Under Article 34 of Nigeria's 1999 Constitution, "no person shall be subject to torture or to inhuman or degrading treatment". Nigeria is also committed to observing international human rights treaties which prohibit torture and cruel, inhuman or degrading punishment, including the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, and the UN Convention on the Rights of the Child. It is a signatory to the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These treaties oblige states to take effective measures to prevent acts of torture in any territory under their jurisdiction, to investigate reports of torture, and to

ensure that victims obtain redress and compensation. Article 19 of the Convention on the Rights of the Child obliges states to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” Article 34 also obliges them “to protect the child from all forms of sexual exploitation and sexual abuse” and to take “measures to prevent...the inducement or coercion of a child to engage in any unlawful sexual activity.”

The current UN Special Rapporteur on torture has stated that “corporal punishment is inconsistent with the prohibition of torture and other cruel, inhuman and degrading treatment or punishment enshrined, *inter alia*, in...the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”.<sup>4</sup> The Human Rights Committee has stated that the prohibition of torture and cruel, inhuman or degrading treatment or punishment in Article 7 of the International Covenant on Civil and Political Rights “must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime”.<sup>5</sup> In April 1997, the UN Commission on Human Rights reminded governments that “corporal punishment can amount to cruel inhuman or degrading punishment or even to torture”.<sup>6</sup>

In response to criticism that it has not challenged the unconstitutionality of some of the new state laws, the Federal Government has advised citizens whose constitutional rights have been violated in state courts to seek legal redress in the higher courts, including the Supreme Court. However, sentences have often been carried out immediately after conviction and most defendants have no means to bring an appeal. It is unclear what action the Federal Government has taken to protect such individuals from harsh corporal punishment; it is not known to have sought injunctions in the courts, for example, to prevent punishments being carried out.

There is widespread popular support in Muslim communities in northern Nigeria for the imposition of a stricter interpretation of *Sharia* and harsher punishments. However, opposition from Christian communities in the north led to riots in February 2000 in the city of Kaduna, followed by reprisal killings of northerners in eastern Nigeria, in which more than 1,000 members of predominantly Christian Igbo (Ibo) and Muslim Hausa communities are reported to have died.

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<sup>4</sup> Report of the UN Special Rapporteur on torture, UN Doc. E/CN.4/1997/7, para. 6

<sup>5</sup> Human Rights Committee General Comment No. 20, (44), UN. Doc. GAOR supp. 40 (A/47/40), annex VI.A, para. 5

<sup>6</sup> Resolution 1997/38, Commission on Human Rights, Report on the Fifty-Third Session (part one), (E/CN.4/1997/150), at 125

In May renewed rioting in Kaduna led to more than 300 deaths. Further unrest over *Sharia* left 10 dead in Gombe State in September 2000 and at least nine in Niger State in November.

Human rights groups, women's organizations and some Muslim leaders are among those who have expressed concern about the new laws. In communities where large numbers of people, particularly women, have limited opportunities to work and support themselves, and where there is almost no government assistance for the majority who live in poverty, harsh and summary justice risks penalizing only the poor and powerless and in some cases discriminating against women.

### **Political imprisonment**

Leading members and supporters of opposition groups or parties have been arrested and charged with offences, sometimes following incidents of unrest, in circumstances suggesting that their detention may have been politically motivated and that they may have been prisoners of conscience. Some have been opponents of the ruling party in their state. Others have been associated with groups critical of the Constitution promulgated in May 1999 by the outgoing military government and which seek increased autonomy for their regions as well as significant changes to Nigeria's federal structure. A naval officer imprisoned since 1991 for allegedly plotting a coup sought his release from prison.

In March 2000 police briefly detained Ralph Uwazurike, leader of the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB), an organization which advocates an independent state in southeast Nigeria. More than a million Nigerians, mainly from the Igbo ethnic group, died in a civil war in the 1960s in which the self-declared state of Biafra was defeated by federal forces, and other Igbo community leaders have disassociated themselves from MASSOB's demands. On 23 May 2000 two youths were reportedly killed in clashes when police attempted to seize a Biafran flag raised by MASSOB supporters in the town of Aba in Abia State in southeast Nigeria. Brought before an Aba Magistrate's Court, 54 MASSOB supporters were charged with treasonable felony and unlawful assembly for allegedly conspiring to overthrow the government. In August 2000 a Magistrate's Court in Umuahia struck out the charge of treasonable felony on the grounds that the court lacked jurisdiction to try a federal offence and granted them bail on the charges of unlawful assembly. Police in neighbouring Imo State denied reports that at least two people had been killed and others injured when truckloads of armed soldiers and police raided the town of Okigwe on 1 December 2000. They were said to have ransacked Ralph Uwazurike's family home, fired indiscriminately at crowds and detained MASSOB supporters.

In early September 2000 Alhaji Sule Zurmi, an opposition party leader in Zamfara State, northern Nigeria, was arrested with 17 supporters and detained for more than two weeks. Though they were charged with responsibility for an attack on the State Governor's convoy in

which a number of people were injured, their arrest and prosecution was criticized by Federal Government officials as arbitrary and politically motivated. Alhaji Sule Zurmi is a leading member of the People's Democratic Party (PDP), which is in opposition in Zamfara State to the ruling All Peoples Party (APP). On 19 September the accused were released to await trial.

On 19 October 2000 Dr Frederick Fasehun, a medical doctor and leading member of the O'odua People's Congress (OPC), an organization which defends the interests of the Yoruba ethnic group, was arrested. He was charged in connection with inter-communal killings in the town of Ilorin in southwest Nigeria and in Lagos, in which more than 100 people died, most of them from the Hausa community. He was charged with scores of others arrested during the unrest with murder, arson and illegal possession of arms. His arrest took place shortly after President Obasanjo condemned the emergence of ethnic militias and said that the OPC and other such groups were banned. On 13 November Dr Fasehun was released on bail by the Lagos High Court and immediately re-arrested. In affidavits in support of a legal action to obtain his release, he and his wife alleged that he had been re-arrested by about 80 armed police and that officers had hit him with gunbutts, knocked his wife to the ground and fired into the air. On 15 November he appeared before a Magistrate's Court in Ilorin, Kwara State, where further charges were brought against him of criminal conspiracy and public disturbance and he was released to await trial. On 17 November the Lagos High Court dismissed the charges brought against him in Lagos for lack of evidence. Dr Fasehun, a former prisoner of conscience from December 1996 to June 1998, has been briefly detained on a number of occasions following unrest involving OPC supporters. An OPC faction opposed to his leadership broke away in 1999 and has been blamed for inter-communal killings in Lagos.

On 27 November 2000 Chief Etubom Bassey Ekpo Bassey, an opposition politician in Cross River State, southeast Nigeria, was arrested at his home by armed police. On 30 November he was brought before the Chief Magistrate's Court in Calabar, the state capital, and charged with two others, Esessien Essien Edet and Asuquo Okon Asuquo, with unlawful assembly and with conspiring with 500 others to injure a police officer in Calabar on 29 September 2000. He was granted bail on 12 December and released to await trial but was immediately re-arrested outside the court. It has been alleged that the motive for his arrest is political, based on his opposition to the ruling party in the state. He is a former National Vice-Chairman of the Alliance for Democracy (AD) party, which is in opposition in Cross River State to the ruling People's Democratic Party (PDP).

In another case in Cross River State, Chief Emmanuel Etene, Chairman of Bakassi Local Government Council, was arrested on 7 December 2000. He was alleged to have been involved in the kidnapping of two employees of an oil services company by local youths in neighbouring Akwa Ibom State, an accusation he strongly denied. He alleged that the motive for his arrest was political. He is a member of the All Peoples Party (APP), an opposition party in the state. On 14 December the Federal High Court in Calabar granted his release on bail.

A prisoner still held after conviction by a military court sought to be released from prison. On 11 September 2000 Sulaiman Omowasanjo Hussein, a former naval Lieutenant, initiated legal action in the Lagos High Court to obtain his release and to seek damages for wrongful imprisonment. He alleged that he had been convicted in 1991 of plotting a coup in 1991 and sentenced to life imprisonment by a special military tribunal which allowed no right of appeal to a higher or independent court and which did not meet international standards for fair trial. The outcome of the legal action was not known.

Amnesty International is concerned that the Nigerian authorities may be using the criminal justice system as a means of intimidating and silencing legitimate political activities. Under both international law and its own Constitution, the Nigerian government is obligated to ensure freedom of expression and association and to refrain from arbitrary arrests<sup>7</sup>.

## **Death penalty**

Amnesty International has welcomed that no death sentences are known to have been passed or carried out since the return to civilian rule May 1999. President Obasanjo has stated his opposition to the death penalty and in January 2000 granted an amnesty to prisoners under sentence of death: those who had been awaiting execution for 20 years were to be pardoned and released; those under sentence of death for between 10 and 20 years were to have their sentences commuted to life imprisonment.

This cessation of death sentences and executions is an important development after many years in which Nigeria had one of the highest execution rates in the world. More than 2,600 death sentences were carried out under military governments between 1970 and 1999, most of which were passed by Robbery and Firearms Tribunals, now effectively abolished. Among the military decrees amended in May 1999 to restore jurisdiction to the ordinary courts was the Robbery and Firearms (Special Provisions) Decree, No. 5 of 1944. This had provided for the establishment of special tribunals, outside the normal judicial system, which could hand down death penalties in armed robbery cases without right of appeal to the higher courts. Jurisdiction in such cases has been restored to the state-level High Courts, with a right of appeal to the Court of Appeal and Supreme Court.

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<sup>7</sup> International Covenant on Civil and Political Rights, Articles 19 (freedom of expression), 22 (freedom of association), 9 (freedom from arbitrary arrest); African Charter on Human and Peoples' Rights, Articles 9 (freedom of expression), 10 (freedom of association), 6 (freedom from arbitrary arrest); Nigeria's Constitution, Sections 39 (freedom of expression), 35, especially 35(c) (allowing detention only on the basis of "reasonable suspicion" or reasonable necessity), 40 (right to peaceful assembly and association)

However, local human rights activists have expressed concern at persistent reports that police officers have carried out extrajudicial killings of suspected armed robbers while prosecutions for armed robbery appear to have declined. There is widespread popular support for the death penalty and the government is reported to be considering demands for its re-introduction for the sabotage of fuel and power supply networks.

Amnesty International opposes the death penalty in all cases as it violates the right to life and is the ultimate cruel, inhuman and degrading punishment; the organization advocates its total abolition.

### **Trials for past human rights abuses**

In an important break with the past, the impunity previously enjoyed by those responsible for human rights abuses has been challenged by moves to bring to trial those suspected of involvement in the activities of a death squad under the government of General Abacha. There has been some criticism of the slow progress of the trials and the lack of police investigation into other alleged extrajudicial executions.

The trial of five former security officials, which opened in December 1999, had not been completed by the end of 2000. The defendants included General Ishaya Bamaiyi, former Chief of Army Staff, and Major Hamza Al-Mustapha, former Chief Security Officer to General Abacha. They were charged with the attempted murder of Alex Ibru, newspaper publisher and former Minister of Internal Affairs in the government of General Abacha, who was shot and seriously wounded in February 1996 while driving in his car in Lagos. The state's main prosecution witness, a former army sergeant, told the High Court in Lagos that he and a senior police officer had fired at Alex Ibru. He said he had been part of a hit squad acting on the orders of superior officers.

No evidence has yet been heard in two other trials in which charges have been brought in connection with alleged extrajudicial executions. In October 1999 Mohammed Abacha, one of General Abacha's sons, was charged with Hamza Al-Mustapha and three others with responsibility for the death of Kudirat Abiola, wife of the imprisoned winner of the 1993 presidential elections, Moshood Abiola. She was shot dead in her car in Lagos in June 1996.

In October 1999 Hamza Al-Mustapha was also charged, with Dr Ibrahim A. Yakassai, a physician and former Lieutenant-Colonel in the army, with the murder of retired General Shehu Musa Yar'Adua, a former deputy head of state from 1976 to 1979, who died while a prisoner of conscience in unexplained circumstances in December 1997. There was no autopsy or investigation into the cause of his death.

## **The Human Rights Violations Investigation Commission**

In a significant achievement for human rights after the return to civilian rule, one of President Obasanjo's first acts on coming to power was to set up, in June 1999, a seven-member Human Rights Violations Investigation Commission headed by a retired Supreme Court judge, Justice Chukwudifu Oputa. Its brief was to establish the causes, nature and extent of human rights violations or abuses, in particular "mysterious deaths and assassinations"; to identify the individuals, authorities or organisations responsible, their motives and their victims; to determine the circumstances of the victims, and the effect on them and society; to determine whether the violations were the product of deliberate state policy; and to recommend judicial, legislative or other measures to redress past injustices and prevent their recurrence. The Commission was initially asked to investigate the period from 1984 to May 1999, covering four military governments, but this period was later extended back to 1966, the year of Nigeria's first military coup following independence.

The Commission invited petitioners to send in complaints within a period of a few weeks in July and August 1999, and received more than 11,000, many in relation to human rights violations in Ogoniland in the mid-1990s. However, little further progress was reported and there were concerns expressed both within and outside the Commission that its work had been severely hampered through lack of resources, particularly to carry out independent investigations. In October 2000 it announced that it had selected 150 of the most serious cases for public hearings to be held in five sessions in Abuja, the capital, Lagos, Port Harcourt, Kano and Enugu between October 2000 and March 2001.

At the hearings which have taken place to date, some of the witnesses have given evidence of ill-treatment and torture committed under the government of General Sani Abacha. Several witnesses testified about their imprisonment in connection with an alleged coup plot in 1995 when 41 armed forces officers, journalists and human rights defenders were sentenced to long prison terms after grossly unfair and secret military trials.<sup>8</sup> Former Captain U.S.A. Suleiman, a suspect who was detained without charge or trial, described being held in an unventilated and unlit cell, chained hand and foot to a wall every night and forced to stand for long periods. President Obasanjo appeared before the Commission and publicly forgave an army officer who, under duress, had implicated him in the alleged plot. Journalist Chris Anyanwu told the Commission how an assault by an armed forces officer and medical neglect in prison had left her with seriously damaged eyesight. Former Colonel Gabriel Ajayi described being tied up, hung from the ceiling and beaten. He and former Colonel Michael Ajayi both reported requiring medical treatment for injuries suffered as a result of torture.

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<sup>8</sup>See *Nigeria: A travesty of justice - secret treason trials and other concerns*, 26 October 1995 (AI Index AFR 44/23/95)

The Commission also heard pleas by relatives of people believed to have been extrajudicially executed by state agents because of their non-violent political activities or relationship to critics of the government. The family of Alfred Rewane, a 79-year-old supporter of the democratic opposition who was shot dead in his home in October 1995, called for the police investigation to be reopened. They said that senior security officials had told a military investigation in 1998 of a government conspiracy to murder him. They also reported that five out of eight people detained by police, allegedly as suspects in the murder, had since died in custody in unexplained circumstances. Alfred Rewane's widow told the Commission they wanted justice, not reconciliation.

The widow of retired Rear Admiral Olu Victor Omotehinwa told the Commission that the police had never investigated the murder of her husband in May 1996 or interviewed her son who saw three men shoot him at their home. Rear Admiral Omotehinwa was believed to have been killed because of his association with the most senior former military officer in the exiled leadership of a pro-democracy organization.

A former Commissioner of Police in Lagos State testified that officers of the State Security Service (SSS), the security police, had planted explosives in the office of an airport manager killed in a car bomb explosion at Lagos international airport in November 1996. This and other bomb blasts, some of which were directed at military targets, were subsequently used as a pretext to imprison leading members of the pro-democracy opposition on treason charges. They were widely believed to have been the work of the security services.

Olu Onagoruwa, a former Attorney-General and Minister of Justice dismissed for criticizing the government in 1994, called for senior security officials to be brought to account for the shooting dead of his son Toyin in December 1996. He described how the young lawyer had been shot dead at the family's home by two men. He told the Commission he wanted justice, not compensation.

Some security officers named by witnesses as responsible for detention or torture or the murder of their relatives denied the accusations before the Commission. Hamza Al-Mustapha, already on trial in connection with alleged extrajudicial executions, admitted ordering the beating in 1990 of Turner Ogboru, a coup plot suspect, but has denied other accusations made against him. Other senior officials have declined to appear before the Commission. On 8 December 2000 General Ibrahim Babangida, head of state from 1985 to 1993, and former heads of Military Intelligence and the SSS, obtained a High Court injunction restraining the Commission from compelling them to appear before it in Lagos on the grounds that their personal security would be at risk. They had been invited to give evidence about the alleged extrajudicial execution in 1986 of Dele Giwa, editor of *Newswatch* magazine. The military government had blocked investigation by the courts of his murder by parcel bomb which was widely believed to have been the work of the security services.

Some complainants have told the Commission that they want the perpetrators brought to justice. Others have asked for their jobs back or for financial compensation in order to obtain medical treatment for injuries resulting from torture or ill-treatment or as compensation for the loss of property seized by the security forces. Some victims and their lawyers have expressed lack of faith in the work of the Commission. These include some who may lack the means to bring their complaints to the Commission and others who see no likelihood of obtaining justice in the absence of admissions of liability by the perpetrators or of independent investigation into their complaints.

International human rights standards require that governments investigate allegations of human rights violations and bring suspected perpetrators to justice. However, successive governments in Nigeria have failed to investigate the human rights violations committed under their own and previous administrations. The result has been to encourage a climate of impunity in which those who committed abuses could be confident that they would not be held to account.

Amnesty International believes that accountability is best served when human rights violations, their victims and those suspected of being responsible for them have been identified by thorough and impartial investigations. In all cases, Amnesty International calls on governments to bring suspected perpetrators to justice in trials which meet international standards of fairness and which do not impose the death penalty or corporal punishment. In order to make a clean break with past practice and to end a climate of impunity, it is important that both victims and the perpetrators of human rights violations are publicly recognized as such. It is also essential that justice is both done and seen to be done, by prosecution of perpetrators, by compensation, rehabilitation, restitution and guarantees of non-repetition for the victims, as well as by other forms of national reconciliation.

The adequate investigation of human rights violations is essential if the full truth is to emerge. Victims, their relatives and society at large all have an interest in knowing the truth about past abuses and in the clarification of unresolved human rights crimes. Similarly, bringing the perpetrators to justice would send a clear message that such violations will not be tolerated in the future and that those who commit such acts will be held fully accountable. While the bringing to trial of those responsible for human rights violations will never cancel the wrong done, it is indispensable for healing the moral wounds of the victims and their relatives. Widespread impunity for perpetrators encourages abuses and institutionalises them.

## **Recommendations**

Amnesty International welcomes the ending of the many human rights violations against political opponents and critics of military governments which have taken place in recent years. However, in view both of past violations and of continuing and new ones, the present Nigerian government needs to take urgent action to ensure that the progress made so far is not lost.

With the aim of assisting this process, Amnesty International makes the recommendations below.

**Killings by the security forces:**

- The government should investigate all allegations of extrajudicial executions, or killings as a result of the use of excessive force, by the security forces. Such investigations should determine the identities of the victims, the circumstances of their deaths and where responsibility lies for any human rights violations;
- Those responsible for extrajudicial executions or for killings as a result of the excessive use of force should be brought to justice, in accordance with international standards for fair trials;
- All necessary steps should be taken to end extrajudicial executions and excessive use of force, including by government statements that both military and police forces will be held accountable for involvement in such killings;
- The provisions of international mechanisms such as the UN **Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions**<sup>9</sup> should be implemented. Such violations should be subjected to thorough, prompt and impartial investigations and those found to have participated in such abuses should be brought to justice.

**Judicial corporal punishment:**

- The government should ratify the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, adopted by the UN General Assembly in 1984 and signed by Nigeria in 1988, and make declarations under Articles 21 and 22 of that convention, allowing inter-state and individual complaints to be made to the UN Committee against Torture;
- Nigeria's laws should be brought into conformity with the human rights provisions of its 1999 Constitution and its commitments under international human rights treaties to prohibit torture and cruel, inhuman or degrading treatment or punishment;
- All forms of corporal punishment should be abolished in law. Pending abolition, there should be a national moratorium on the carrying out of any such sentences;
- International standards for fair trials should be guaranteed throughout Nigeria and the constitutional rights of all Nigerian citizens protected, including by ensuring that those facing harsh punishment have the assistance of state-funded legal counsel and are guaranteed the exercise of their full rights of defence and appeal, and by taking any necessary legal action, such as injunctions in the courts, to prevent the sentence being carried out before all judicial appeals have been exhausted;

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<sup>9</sup> adopted by the UN General Assembly resolution 44/162 of 15 December 1989

- Victims of corporal punishment should have the necessary means to obtain redress and compensation.

**Political imprisonment:**

- The government should end all forms of detention, imprisonment and harassment of people for exercising their rights to freedom of expression, association, peaceful assembly and participation in public life;
- An independent judicial body should review all convictions and sentences by special tribunals which, under military governments, have tried political prisoners or which have imposed the death penalty, to ensure that any prisoners of conscience still held following conviction by such tribunals are released.

**Death penalty:**

- The government should abolish the death penalty;
- State Governors should commute all existing death sentences;
- Until the death penalty is abolished, the government should ensure that no further executions are carried out, that no offence should carry a mandatory death sentence, and that no one should be tried for a capital offence without legal representation.

**The Human Rights Violations Investigation Commission:**

- In view of the internationally-recognized right of victims of such serious violations as torture or extrajudicial executions to have their complaints fully investigated and to obtain redress and compensation, the government should provide the Commission with sufficient powers and resources to conduct thorough and independent investigations and to produce a report of findings and recommendations. The Commission should have its own budget, the power to second government staff and the resources to appoint staff with experience and skills in the fields of human rights research, police investigation, criminal and international human rights law. To make recommendations regarding compensation or reparation to victims will require the assistance of legal and medical professionals, and investigators and professionals will in many instances need to travel to seek out those potential petitioners most in need of assistance from the Commission;
- The provisions of international mechanisms such as the **UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions** and the **UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, should be implemented by thorough and impartial investigation into cases of extrajudicial executions, torture and ill-treatment; the prosecution of those suspected of being responsible; compensation for the victims; protection for complainants, witnesses, investigators and their families, and the removal from positions of power over them of those implicated in such violations;

- The Commission should have the resources to provide legal assistance to victims or relatives of victims who have difficulties in making a submission to the panel or have no-one to bring a complaint on their behalf -- whether because of lack of resources, expertise or distance. All petitioners should have the opportunity to be heard and to be represented by legal counsel;
- The Commission's findings, conclusions and recommendations should be published. The government's response to the Commission's report should also be made public. All petitioners -- those whose cases were not selected for public hearing as well as those who gave testimony at public hearings -- should be informed of the recommendations made by the Commission in each case;
- The government should declare that criminal and disciplinary procedures will be initiated in every case where it is recommended by the Commission. It should also take the necessary steps to ensure adequate reparation to victims identified by the Commission, including financial compensation and rehabilitation, as well as medical care and assistance to help the victim and their relatives overcome the consequences of physical or psychological injury;
- The Commission should not limit itself to general policy recommendations, but should recommend criminal and disciplinary procedures wherever a reasonable suspicion has been established against specific individuals, as well as recommend reparation for individuals wherever victims of human rights violations have been identified;
- The Commission should identify not only the direct perpetrators of torture and extrajudicial executions but also those who planned or ordered them, establishing chain-of-command responsibility. It should have access to statements, documentary evidence or other information related to military intelligence or the security forces if relevant to the case or situation which it is investigating. Existing forensic medical records and court files should also be made available. Civilian and military officials, whether on active service or retired, should be obliged to collaborate with the Commission.

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