

**Submission on Nigeria
to the Commonwealth Ministerial Action Group on the Harare Declaration**

Dear Minister,

In response to the request for further written submissions from interested parties, made by the Commonwealth Ministerial Action Group (CMAG) following its meeting in February 1997, Amnesty International is providing information about some of the human rights violations which have occurred in Nigeria since the organization's open letter to the Group in November 1996.

There have been no fundamental changes in the human rights situation. In November 1996, to mark the anniversary of the execution of Ken Saro-Wiwa and eight Ogoni colleagues, Amnesty International called on the Nigerian Government to commit itself to a comprehensive and far-reaching program of human rights reform. None of the recommendations in its 10-point program for human rights reform (attached) has been implemented, and measures which the government took in 1996 following a mission sent by the UN Secretary General failed both to address the mission's most serious concerns and to halt human rights violations. The government's measures:

- removed the military officer from the Civil Disturbances Special Tribunal but retained the power to appoint directly the Tribunal's members and to confirm its convictions and sentences;
- allowed a right of appeal from the Tribunal but only to another government-appointed special tribunal not to an independent higher court;
- revoked a provision denying courts the right to order releases but retained powers to remove the courts' jurisdiction over any government action and to ignore all court orders;
- appointed a National Human Rights Commission but without the independence or powers to take effective action against human rights violations.

The government of General Sani Abacha has faced more national and international criticism than previous military governments in Nigeria, primarily because of frustration over the abortive "transition to civilian rule" of 1987 to 1993, the increased level of human rights violations and the barely disguised threat of force against the new human rights and pro-democracy community which has developed in Nigeria in the last 10 years. The government has refused meaningful dialogue with opposition groups within Nigeria or the international community and has shown no sign of restoring the rule of law. A state of impunity has resulted,

in which senior military officials have openly displayed contempt for court orders which seek to restrain their abuse of human rights.

Amnesty International remains concerned about the following areas in which human rights are still violated in Nigeria:

- **the continued detention without charge or trial of prisoners of conscience**

There have been a number of releases of detainees held without charge or trial under the State Security (Detention of Persons) Decree, No. 2 of 1984, including three human rights activists detained throughout 1996, **Chief Gani Fawehinmi, Femi Falana** and **Femi Aborisade**, at the time of the CMAG visit to Nigeria in November 1996.

However, several prisoners of conscience including journalists and trade unionists remain in incommunicado detention. **Chief Olabiyi Durojaiye**, a 63-year-old lawyer and founding member of the National Democratic Coalition (NADECO), a leading pro-democracy organization, has been detained in military custody, incommunicado and without charge or trial, since December 1996. And the draconian powers of Decree 2 have not been revoked. The threat of arbitrary detention continues to hang over all human rights activists who speak out against the government or who criticize its manipulation of the current transition to civilian rule so as to exclude all genuine opposition groups.

In recent months, there has been a further disturbing development - the arbitrary detention of the families and friends of exiled pro-democracy activists, apparently in an attempt to silence Nigerian critics of the government abroad. Among those detained without charge or trial in recent weeks are **Sabina Solayide Iluyomade**, aged 54, a primary school proprietor and teacher, and her daughter, **Folake Folasade Iluyomade**, aged 31, both arrested on 19 February 1997. **Ladi Olorunyomi**, aged 35, a journalist and mother of two young children, was arrested in late March 1997 and detained incommunicado for over six weeks before being released without charge. The reason for their detention appears to have been solely that they were related to exiled Nigerians who are either pro-democracy activists or associates of pro-democracy activists.

- **the long-term detention without trial of prisoners of conscience and probable prisoners of conscience**

Moshood Abiola, the winner of the 1993 presidential elections who remains imprisoned incommunicado, ostensibly awaiting trial on treason charges, is the most well-known example of long-term detention without trial. There is no sign of his case coming to trial and the government defends its decision not to release him on the grounds that his case is before the courts. However, he has been denied all access to his lawyers, and his family have not been allowed to see him since 1995. His poor health is aggravated by his conditions of detention and his doctor has also been denied practically all access to him.

Nineteen Ogoni prisoners remain in incommunicado detention, awaiting trial on identical murder charges to those brought against Ken Saro-Wiwa and his eight Ogoni colleagues who were executed in November 1995. They are in poor health from harsh conditions, malnutrition and medical neglect, one of them, **Babina Vazor**, having reportedly lost his sight. Most have been detained since mid-1994 and the government has shown no sign of bringing them to trial. Their lawyers' several attempts in recent months to obtain judicial review of their continued detention

have met with no success, on one occasion their application being rejected by the High Court on the grounds that their allegations of torture and ill-treatment were hearsay evidence. Their families and lawyers continue to be denied access to them and their lawyers have themselves faced arrest and harassment. The 19 prisoners have been remanded in custody on a “holding charge” by a Magistrate’s Court, a provision which appears to allow the authorities to detain them indefinitely without trial; the Court does not have jurisdiction to try them or to release them on bail to await trial.

In March 1997 exiled writer **Wole Soyinka** and 15 others were charged with treason, a capital offence. These charges were apparently in connection with bomb attacks in Nigeria in 1995 and 1996. Twelve of the accused, who had already been in incommunicado detention for some time, some since 1995, were brought before a Magistrate’s Court and remanded in custody on a “holding charge”. They included leading members of Nigeria’s two main pro-democracy groups, **Dr Frederick Fasheun**, Acting Chairman of the Campaign for Democracy, and **Chief Olu Falae**, a leading NADECO member and a former Minister of Finance, as well as associates of exiled pro-democracy activists and three people acquitted of involvement in a 1995 bombing but retained in detention. Four of the accused were in exile and were charged in their absence, including Wole Soyinka, **Chief Anthony Enahoro**, aged 74, leader of NADECO Abroad, the exiled wing of the organization, and retired **Lieutenant-General Alani Akinrinade**, a former Chief of Defence Staff and government minister, and the most senior military supporter of NADECO.

- **the continued imprisonment of prisoners of conscience and probable prisoners of conscience after grossly unfair political trials**

More than 40 human rights activists, journalists, politicians, soldiers and others convicted of treason or of being “accessories after the fact to treason” in secret trials in 1995 are still imprisoned, many in harsh conditions. They were sentenced to long prison terms after grossly unfair trials by a Special Military Tribunal headed by a member of the military government. Among their number are human rights defenders such as **Dr Beko Ransome-Kuti** and **Shehu Sanni**, Chairman and Vice-Chairman of the Campaign for Democracy, imprisoned because they exposed the travesty of justice of earlier treason trials before the same Tribunal.

- **the torture and cruel, inhuman and degrading treatment of prisoners**

One of the detainees charged with treason in March 1997, **Dr Gbenga Adebuseyi**, an employee of General Akinrinade, was reported to have been hung by his feet and his head kicked while in detention at the Directorate of Military Intelligence in Apapa, Lagos. The armed forces officers who alleged that they were tortured in military custody prior to the 1995 treason trials have remained in incommunicado imprisonment before and after their convictions. No independent investigations have been made into their allegations of torture and ill-treatment, and no safeguards have been introduced to protect prisoners from violations of their physical or mental integrity.

Political and other prisoners are routinely held in life-threatening prison conditions which amount to cruel, inhuman and degrading treatment. **Chief Gani Fawehinmi**, aged 58, the human rights lawyer and leading defence counsel in the Ogoni trials who was released from nearly a year’s incommunicado detention in November 1996, required emergency hospital treatment on five occasions during his detention because of the cold and damp conditions in which he was held.

- **the continued use of the death penalty, especially after trials by special courts**

The number of executions decreased dramatically following the international outcry over the executions of Ken Saro-Wiwa and eight Ogoni colleagues, from 95 in 1995 to 14 in 1996. However, public executions of prisoners convicted by special tribunals continue. Most have been convicted by Robbery and Firearms Tribunals, special courts which allow no right of appeal to a higher or independent jurisdiction. In January 1997 a prisoner convicted of armed robbery by a Tribunal in Ondo State was publicly executed by firing squad; it took three rounds of fire to kill him. In April 1997 three prisoners were executed in front of a large crowd in a stadium in Ikom, Cross River State.

- **further allegations of extrajudicial executions**

A pattern has been developing since 1994 of killings, attacks and death threats against Nigerians associated with the pro-democracy and human rights movements, suggesting the involvement of government agents, whether acting with or without the knowledge of the central authorities. The most notable of these was the killing of Alhaja Kudirat Abiola in June 1996, the outspoken wife of Moshood Abiola. Police investigations into such killings have not resulted in any prosecutions. In December 1996 **Toyin Onagoruwa**, the son of a former Attorney-General and Minister of Justice, was shot dead by unidentified attackers in his home; his father, Dr Olu Onagoruwa, had been dismissed by the military government in September 1994 after he criticized repressive new military decrees. In January 1997 **Abraham Adesanya**, 74-year-old lawyer, former Senator, Vice-President of NADECO and prisoner of conscience for four months in 1996, escaped injury in an attack on his car by unidentified gunmen. In recent months NADECO and other pro-democracy leaders and human rights activists have been accused by senior government officials of plotting to destabilize the state and have reported death threats against them. They include human rights lawyer **Chief Gani Fawehinmi**, whose Chambers were attacked and two security guards seriously injured by gunmen in 1994.

The Rivers State Internal Security Task Force, a joint military and mobile police force which has controlled access to and movement within Ogoniland since 1994, is reported to have been responsible in recent months for continuing human rights violations, including a number of unexplained deaths in custody of members of the Ogoni community and supporters of the Movement for the Survival of the Ogoni People (MOSOP). No-one has been brought to justice for these or any other deaths reportedly committed by government forces or at government instigation in Rivers State since 1990. The authorities have still not brought to justice mobile police officers named as responsible by a judicial commission of inquiry for the massacre of as many as 80 people in Umuechem in November 1990. Nor have they established independent inquiries into reports that the military instigated inter-ethnic attacks on the Ogoni in 1993, or that the Internal Security Task Force was responsible for extrajudicial executions in Ogoniland in mid-1994, in January 1996 when at least two boys were shot dead during demonstrations and in more recent incidents. Investigators from inter-governmental and non-governmental organizations have continued to be denied free access to Nigeria, to Ogoniland and to political prisoners.

Amnesty International's recommendations

The government continues its harsh repression of civil rights and democracy activists through military decrees and court procedures which violate international human rights standards, by failing to bring to justice those responsible for extrajudicial executions and torture. Amnesty International urges the Commonwealth Ministerial Action Group to continue to press the Nigerian government for a fact-finding mission in order that it may carry out a thorough and wide-ranging investigation of the human rights situation in Nigeria, including meetings with key political prisoners.

The Group's two-day mission to Nigeria in November 1996 was unable to meet a wide representation of civil society in Nigeria or political prisoners. It should seek to ensure that it receives information from representatives of non-governmental organizations and from human rights defenders in Nigeria, either in writing or in person, that it makes full use of information from such sources which is already available, and that their views are clearly represented in its report to the Commonwealth Heads of Government Meeting in Edinburgh in October 1997. Amnesty International recommends that the Group should make public its report to the Meeting about the human rights situation in Nigeria, the recommendations made by the Group to the Nigerian Government, and the progress or lack of it in the implementation of these recommendations.

Amnesty International believes that the Commonwealth should make a full assessment of the current situation and should set specific goals which Nigeria should achieve in providing safeguards to protect human rights in conformity with international standards. Simply releasing detainees is not enough. The Commonwealth should take effective action to ensure that the Nigerian Government meets these goals.

Yours sincerely,

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Deputy Secretary General

amnesty international

NIGERIA

A 10-point program for human rights reform

6 November 1996

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(Appendix to AFR 44/08/97)

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The present military government in Nigeria has a record of open contempt for human rights. A year ago it executed Ken Saro-Wiwa and eight other supporters of the Movement for the Survival of the Ogoni People after grossly unfair trials, prompting widespread international condemnation. Without the urgent establishment of respect for human rights, the transition to civilian rule by October 1998 announced by the Nigerian government should be viewed with deep scepticism by the international community. Piece-meal reforms in response to international pressure are not enough. A comprehensive and far-reaching program of human rights reform is urgently required. The international community, including transnational companies with significant investments in Nigeria, has a responsibility to do all it can to ensure full respect for human rights in Nigeria.

Amnesty International calls upon the present Nigerian government to implement the following 10-point program for human rights reform. It should:

- 1 *Commit itself to establishing respect for human rights in Nigeria and to cooperating with the international community in this endeavour*
- 2 *Release immediately all prisoners of conscience - people imprisoned for their political or religious beliefs, sex or ethnic origin - who have neither used nor advocated violence, including those detained without charge or trial and those convicted and imprisoned after unfair political trials*
- 3 *End arbitrary detention. Revoke all military decrees which allow for the indefinite or incommunicado detention without trial of political*

prisoners, including the State Security (Detention of Persons) Decree, No. 2 of 1984

- 4 Guarantee the fair and prompt trial of all political prisoners with full rights of defence, including the right of appeal to a higher and independent judicial body. Release all political prisoners detained indefinitely without charge or held in prolonged pre-trial detention unless they are to be brought to trial promptly and fairly.
- 5 Order a review by a higher and independent judicial body of all convictions and sentences by special tribunals which have tried political prisoners or which have imposed the death penalty, with a view to releasing or retrying prisoners if their trials did not conform to international fair trial standards and reforming such special tribunals to bring them into line with those standards - or abolishing them if this is impossible
- 6 End torture and ill-treatment, including medical neglect of prisoners and life-threatening prison conditions. Introduce adequate safeguards to prevent them in future, including full and immediate access for all prisoners to lawyers, families and medical services
- 7 Take action to prevent extrajudicial executions
- 8 Order independent and impartial investigations in accordance with international standards into all reported human rights violations, bring to justice all those responsible for such violations and compensate victims
- 9 Halt all executions and abolish the death penalty
- 10 Revoke the Federal Military Government (Supremacy and Enforcement of Powers) Decree, No. 12 of 1994, which effectively places the government above the law by prohibiting legal challenges to any of its military decrees or to any action which violates the human rights provisions of the Constitution

Amnesty International calls upon the international community, including transnational companies with significant investments in Nigeria, to:

- * Seek to ensure that human rights issues are addressed by the present Nigerian government as a matter of priority
- * Agree common and specific measures which the present Nigerian government must implement to establish respect for human rights
- * Ensure that military, security and police transfers of equipment, technology, training and personnel do not contribute to human rights violations in Nigeria

* *Support those working to defend human rights in Nigeria*

*For a fuller version of the 10-point program, see *Nigeria: Time to end contempt for human rights* (AI Index: AFR 44/14/96). For copies of this document, write to the organization's International Secretariat at 1 Easton Street, London WC1X 8DJ, UK.*
