

OPEN LETTER
to the participants of the mission to Nigeria, 19-20 November 1996,
of the Commonwealth Ministerial Action Group on the Harare Declaration

Dear Minister,

In view of the forthcoming visit by representatives of the Commonwealth Ministerial Action Group to Nigeria, Amnesty International would like to bring to the attention of Commonwealth governments its current concerns about continuing human rights violations in Nigeria and the Nigerian Government's failure to introduce fundamental human rights reforms.

On 6 November 1996 Amnesty International launched a campaign to end human rights violations in Nigeria. Its report, *Nigeria: Time to end contempt for human rights*, shows how the Nigerian Government has systematically violated human rights which it is obliged to uphold under international human rights treaties. The report details a *10-point program for human rights reform* to which the Nigerian Government and the international community should be committed as a prerequisite for a credible and stable transition to civilian rule. Amnesty International has provided the Commonwealth with these and the organization's other reports about human rights violations in Nigeria in recent years.

Amnesty International is urging the international community to take action to ensure that fundamental reforms are instituted in Nigeria. The organization is concerned to ensure that human rights remain firmly on the agenda of discussions between the Ministerial Action Group and the Nigerian authorities. Accordingly, it is calling on the governments on the Ministerial Action Group and on member states of the Commonwealth to demonstrate their commitment to human rights in Nigeria by publicly endorsing the *10-point program for human rights reform*.

Amnesty International welcomes the plans of the Commonwealth delegation to meet with non-governmental organizations and individuals while it is in Nigeria. It urges the delegation to make every effort to meet with representatives of human rights organizations.

Amnesty International also urges the Commonwealth to ensure that a report of the delegation's findings and recommendations to the Nigerian government are made public as soon as possible after the visit. In the event that the delegation is not able to undertake all that it wishes to do on this occasion, Amnesty International would appeal to Commonwealth governments to continue their efforts to send a fact-finding mission in the near future to Nigeria which may carry out a full and wide-ranging investigation of the human rights situation.

Below is further information about recent detentions of human rights defenders and the failure of measures taken by the Nigerian Government to address adequately international criticism of its human rights record.

Human rights defenders

Amnesty International is concerned that there can be no meaningful transition to civilian rule as long as the Nigerian Government continues to harass and imprison human rights defenders. The execution, feared extrajudicial execution and continued imprisonment of human rights defenders is documented in Amnesty International's recent report, *Nigeria: Human rights defenders under attack*.

Notable human rights defenders -- such as Chief Gani Fawehinmi, Dr Beko Ransome-Kuti and General Olusegun Obasanjo -- remain in prison. Most recently, human rights defenders have been harassed and detained to deter public and peaceful commemoration of the anniversary of the execution of Ken Saro-Wiwa and his eight Ogoni colleagues. On 10 November, the anniversary of the executions, the Nigerian authorities announced, with apparent satisfaction, that their law and order operations had successfully prevented public commemorations.

The security presence in Ogoniland and Port Harcourt has been heavy for several weeks, with at least 20 members of the Ogoni ethnic group reportedly arrested. Goi Aadum, Bariaara Kpalap, Duba Aazor and Kenwin Meneta are among those who are believed to remain in detention without charge or trial. Although some private vigils and church services did go ahead in Ogoniland and in other parts of the country, many planned activities and commemorations did not.

The government's threat on 4 November to "*deal ruthlessly*" with public demonstrations appears to have had the desired intimidatory effect. On 8 November three Amnesty International officials were stopped at a police checkpoint in Lagos on their way to a meeting with foreign diplomats, interrogated and released after 12 hours. A representative of the organization's Secretary General was threatened, told that there was a ban on visits by Amnesty International to Nigeria and deported.

Amnesty International believes that those arrested were detained solely for peacefully expressing their political views and fears that the Ogoni detainees may have been ill-treated while in detention.

Recent government reaction

Amnesty International is concerned that Nigerian Government measures announced following a critical UN report in May 1996 have not stopped human rights violations. Nor have they resulted in the revocation of the military decrees which allow human rights violations, such as the arbitrary detention of prisoners of conscience or the execution or imprisonment of prisoners of conscience after unfair and politically-motivated trials before special courts. They have provided no safeguards against torture or cruel, inhuman and degrading treatment.

i Special courts

Amnesty International is concerned that the Government's changes to the Civil Disturbances Special Tribunal, which conducted the Ogoni trials in 1995 and which is due to try the cases of at least 19 further Ogoni prisoners on identical charges to those brought in the earlier trials, fall far short of meeting international standards for fair trial to which Nigeria is committed under international law:

- the removal of the one military member from the Tribunal does not affect the Government's direct appointment of its judges and control over the Tribunal;

- the right of appeal granted in July 1996 for prisoners convicted by future Civil Disturbance Special Tribunals allows an appeal only to another hand-picked special tribunal, a Special Appeal Tribunal first established by military decree in 1986¹, not to an independent higher court in the normal judicial system.

The government's direct control of the Tribunal remains intact, including the appointment of its members and confirmation of its convictions and sentences. The government appears unprepared genuinely to reform the Ogoni Civil Disturbances Special Tribunal, and Amnesty International urges the Commonwealth to press for the Tribunal's abolition before at least 19 more Ogoni prisoners suffer the same fate as Ken Saro-Wiwa and his eight colleagues.

The government has announced no reforms with regard to other special courts which do not meet international standards for fair trial but which try political cases or hand down the death penalty. More than 100 people have been executed since 1976 after secret and grossly unfair political trials by Special Military Tribunal. The government has not released or made any announcement about the fate of the more than 40 people, including leading human rights defenders, who were sentenced to death (later commuted) and long prison terms after secret treason trials by Special Military Tribunal in 1995. Nor has it made any announcement about its intentions with regard to the use of the death penalty in criminal cases, especially after trials which do not meet international standards. Over 1,200 prisoners have been executed since 1984 after trials by Robbery and Firearms Tribunals which allow no right of appeal to a higher, independent court.

ii Arbitrary detention

Amnesty International is concerned that, although a few detainees have been released, there have been no fundamental changes which will stop arbitrary detention, including of prisoners of conscience:

- although the government has revoked a 1994 amendment to the draconian State Security (Detention of Persons) Decree, No. 2 of 1984, which specifically abolished the right of *habeas corpus*, it has continued to flout court orders to release detainees or bring them before the court by continuing to invoke Decree 2 itself, which remains in force, and other military decrees which provide for arbitrary imprisonment or which remove the courts' jurisdiction. Decree 2 provides for the indefinite incommunicado detention without charge or trial of any person deemed to be a threat to the security or the economy of the state, and excludes the jurisdiction of the courts in such cases. The Federal Military Government (Supremacy and Enforcement of Powers) Decree, No. 12 of 1994, prohibits any legal action which challenges any military decree or which attempts to uphold human rights provisions of the Nigerian Constitution;
- the promised reviews of political detentions have not been undertaken by an independent, judicial body but in secret by senior security and government officials. The latest review panel announced in October 1996 is headed by the senior security officials who order detentions and its recommendations have to be approved by the head of state. Chief Gani Fawehinmi's detention was reportedly extended after such a secret review, which

¹ The Recovery of Public Property (Special Military Tribunals) Decree, No. 3 of 1984, was amended by Decree No. 21 of 1986 to allow for appeal to a Special Appeal Tribunal. It was further amended by Decree No. 20 of 1996, dated 3 July 1996, to provide for a right of appeal to this Special Appeal Tribunal by a person convicted by a Civil Disturbances Special Tribunal.

confers no rights on the detainee and does nothing to prevent arbitrary and indefinite detention.

iii National Human Rights Commission

In June 1996 the government formally inaugurated a 16-member National Human Rights Commission. Amnesty International believes that, while such a human rights commission could be an effective step towards strengthening human rights protection, it can never replace the safeguards inherent in comprehensive and effective legal structures enforced by an independent, impartial, adequately resourced and accessible judiciary:

- its 16 members were directly appointed by the government, including the retired Supreme Court judge who chairs the commission, representatives from the Interior, Justice and Foreign Affairs ministries, and representatives of the legal profession and the news media. Although the government announced that the commission included a representative of the Civil Liberties Organisation (CLO), a respected Nigerian human rights group, the CLO has denied that the person appointed was a representative of the organization;
- the Commission has been asked by the government to conduct a review of political detentions. However, it is not clear whether it will be able to investigate other human rights violations, such as reports of extrajudicial executions in Ogoniland in 1994 or the long prison sentences imposed in secret on prisoners of conscience by the Special Military Tribunal in 1995;
- its powers are limited to making recommendations to the head of state.

The Commission did not meet until October, apparently because of financial constraints. It has yet to be seen whether its appointment will result in either the release of prisoners of conscience or in fundamental legislative reforms.

The creation of such a human rights commission should go hand-in-hand with a thorough review of existing legal and other institutions in order to make these effective instruments of human rights protection. These initiatives should be accompanied by a determined government policy aimed at holding the perpetrators of human rights violations fully accountable, thus ensuring that those who violate human rights cannot do so with impunity.

Amnesty International urges the Commonwealth to press the Nigerian Government to apply the UN's 1992 Principles relating to the status of national institutions, endorsed by the UN Commission on Human Rights in March 1992. Among other things, these require that any such Commission should be clearly independent, impartial and transparent in its activities, and should have sufficient powers and resources to be able to conduct investigations thoroughly.

Amnesty International believes that now is the time to redouble efforts to end contempt for human rights in Nigeria and to press the Nigerian Government to commit itself to a genuine and far-reaching program of human rights reform. The organization calls on the Commonwealth to take immediate and effective measures to end the Nigerian Government's attacks on organizations engaged in the peaceful advocacy of human and other rights in Nigeria.

Yours sincerely,

Derek Evans

Deputy Secretary General