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NIGERIA

A Summary of Human Rights Concerns

Introduction

This document has been prepared for the Commission of Human Rights for its consideration of Nigeria at its 52nd session. The recent unfair trials of Ken Saro-Wiwa and 14 other Ogoni detainees and the subsequent executions of nine of them, despite pleas from the the Organization of African Unity (OAU), African Commission on Human and Peoples' Rights, the UN and others for their lives to be spared, are a manifestation of more widespread and systematic violations of human rights in Nigeria. Over the past years and particularly since 1993, Amnesty International has documented continuing human rights violations in Nigeria, including: arbitrary detentions of human rights defenders and pro-democracy activists; unfair political trials before special tribunals, two of which have been followed by the execution of those found guilty; the torture and ill-treatment of detainees; the mass public executions of criminal convicts tried by special tribunals which do not meet international standards for fair trials; and the extrajudicial execution of unarmed civilians by soldiers.

Nigeria is Africa's most populous state. It is a country of great ethnic, religious and linguistic diversity. Without the restoration of respect for human rights in Nigeria, the prospects for increasing instability and human rights violations in the wider West African region remain. Decisive steps are urgently required by the international community to prevent the human rights situation in Nigeria from deteriorating further.

Arbitrary Detention

Since 1993 many hundreds of pro-democracy activists, human rights defenders, journalists, opposition politicians and members of the Ogoni ethnic group have been arrested and detained. Some have been administratively detained, held incommunicado and without charge or trial for months or sometimes years. Others have been detained more briefly, often repeatedly, before becoming the subject of politically-motivated charges and then being released on bail. Administrative detainees are apparently held under the terms of the draconian **State Security (Detention of Persons) Decree No 2 of 1984**, which provides for the indefinite incommunicado detention without charge or trial of any person deemed to threaten the economy or security of the state. In October 1994 the government promulgated an amendment to the 1984 decree specifically prohibiting the courts from issuing orders to the authorities to produce detainees before them, including by writ of *habeas corpus*.

The original decree and the amendment violate the prohibition against arbitrary arrest and detention and the right of everyone deprived of their liberty to take proceedings before a court to decide whether they are being held unlawfully and should be released. These rights are contained in Articles 9(1) and 9(4) of the ICCPR.

Amongst those who remain detained without charge or trial in March 1996 are leading members of human rights organizations arrested during 1995 such as Chima Ubani of the Democratic Alternative, Dr Tunji Abayomi of Human Rights Africa and Abdul Oroh of the Civil Liberties Organization. Also detained without charge or trial are Nosa Igiebor, editor in chief of the prominent weekly magazine, *Tell*, who was arrested in December 1995. Chief Gani Fawehinmi and Femi Falana, prominent lawyers and human rights activists, were arrested in January and February 1996 respectively.

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Members of the Ogoni ethnic group have also been targeted in the context of continued campaigning by Ogoni activists over environmental concerns in Rivers State. Hundreds were detained without charge following the murder of four community leaders in May 1994 and over 40 were detained in the same way in early 1995.

Chief Moshood Abiola, widely believed to have won the annulled presidential election of June 1993 and arrested in June 1994, remains in detention in the capital Abuja. He was charged with treason in July 1994 after declaring himself Head of State. He has not yet been brought to trial.

These serious human rights violations have taken place in the context of heavy government restrictions on the rights to freedom of expression, association and assembly in Nigeria which make clear its determination that even peaceful challenges to its legitimacy from within civil society will not be tolerated. Guarantees of the rights to freedom of expression, association and assembly in the Nigerian Constitution have been at points entirely overridden by the customary military device of issuing decrees. Independent political activity was completely banned by decree between November 1993 and June 1995. Independent journals and newspapers have also suffered from banning orders by decree. For example, in 1994 three newspaper groups, the **Guardian**, the **Punch** and **Concord**, were banned by decree, although these orders were lifted during 1995.

The military government has consistently used criminal charges such as sedition and unlawful assembly to harass and briefly detain political opponents and critics. For example, in December 1995 four pro-democracy activists were arrested and charged with sedition and unlawful assembly after seeking to organize a rally in Abeokuta to highlight the imprisonment of government critics, including Chief Moshood Abiola, former Head of State Olusegun Obasanjo and Dr Beko Ransome-Kuti. In January 1996, at least 22 (and possibly as many as 50) people were arrested and detained in Ogoniland, Rivers State, after attempting to hold a rally to mark Ogoni Day on 4 January. Twenty-two people were reportedly eventually charged with unlawful assembly and released on bail.

Finally the Nigerian authorities have repeatedly operated outside the law. In December 1995 the Nigerian authorities on at least two occasions raided the printers of **Tell** magazine and confiscated thousands of copies of the magazine. A number of street vendors found to be selling **Tell** magazine were also arrested and briefly detained. **Tell** magazine was not subject to a banning order and the authorities claim that these raids and arrests were carried out because it is "unpatriotic", an offence which appears to have no basis in Nigerian law. Government agents were also suspected of responsibility for arson attacks on the offices of the independent newspapers the **Guardian** and the **News** in the same month.

Unfair trials

For those pro-democracy activists, human rights defenders, journalists, opposition politicians and other government critics who have eventually been charged and brought to trial since 1994, the judicial process has proven to be a charade. The Nigerian authorities have employed special tribunals established by decree to try political opponents and critics. Many of these tribunals have operated in a manner which constitutes a grave violation of international fair trial standards, including those in Article 9 and 14 of the ICCPR.

Amongst grave miscarriages of justice are the convictions in July and August 1995 of 43 civilian and
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military prisoners, including Olusejun Obasanjo and his former deputy, retired Major-General Shehu Musa Yar'Adua, of treason and related offences by a Special Military Tribunal following an alleged attempt to overthrow the government in March 1995. Sentenced to life imprisonment and death respectively, their sentences were later commuted to 15 and 25 years' imprisonment. Friends and relatives of the defendants, as well as journalists and human rights defenders, who exposed the injustice of these arrests and trials were themselves arrested and secretly convicted by this tribunal on charges of concealment of treason or being accessories to treason and sentenced to long prison terms. The Special Military Tribunal was established under the **Treason and Other Offences (Special Military Tribunal) Decree No 1 of 1986**. Appointed by the Head of State, a Special Military Tribunal is composed of armed forces officers. It has the power to try any person, whether military or civilian, on charges of treason or any other offence committed in connection with a rebellion against the government. It can award any penalty prescribed under criminal or military law but is not bound to follow the procedures of civilian or military courts. Its verdicts and sentences have to be confirmed by the military government and defendants before it have no right of appeal to any higher or independent court.

Defendants have been denied crucial rights of defence, including their right to be safeguarded from torture, ill-treatment or improper duress, to be informed of the substance of the charges against them, to be defended by a lawyer of their own choice and to be able to prepare their defence properly, to be tried in public by an independent and impartial court and to appeal against the court's decisions to an independent and higher court.

In November 1995, nine Ogoni prisoners, including Ken Saro-Wiwa, the internationally-renowned writer, were executed after being convicted of the murder of four Ogoni leaders in May 1994 by a federal Civil Disturbances Special Tribunal. Despite the worldwide condemnation which these executions attracted, 19 more Ogoni face trial by the same special tribunal on identical murder charges in 1996. The federal High Court ruled in December 1995 that their trial should be suspended until it had ruled as to the constitutionality of the special tribunal. As of 1 March the federal High Court has not yet ruled on the matter. The federal Civil Disturbances Special Tribunal which tried Ken Saro-Wiwa and others was established under the **Civil Disturbances (Special Tribunal) Decree No 2 of 1987**. It gives the Head of State the power to constitute a special tribunal, outside the normal judicial system, to try cases involving civil riots and disturbances. The tribunal must be chaired by a judge and must include a serving armed forces officer. Its convictions and sentences must be confirmed or disallowed by the military government, and there is no right of judicial appeal to a higher or independent jurisdiction.

The Nigerian Government has also revived executions of prisoners convicted of armed robbery by special Robbery and Firearms Tribunals. At least 200 people have been executed since November 1993 following trial by these tribunals, although the numbers may have been higher. Robbery and Firearms Tribunals allow no right of appeal in contravention of international standards for fair trial. They are established under the **Robbery and Firearms (Special Provisions) Decree No 5 of 1984**.

The African Commission on Human and Peoples' Rights found in two complaints¹, that the Robbery and Firearms Tribunal and the Civil Disturbances Special Tribunal violate Article 7 (1) of the African Charter on Human and Peoples' Rights.

¹Constitutional Rights Project v Nigeria (in respect of Wahab Akamu, G. Adegba and others), Complaint 60/91, and the Constitutional Rights Project v Nigeria (in respect of Zamani Lekwot and 6 others), Complaint 87/93. AI Index: AFR 44/03/96 Amnesty International March 1996

The Human Rights Committee in its General Comment 13(21)d, on Article 14 of the ICCPR, stated: “While the Covenant does not prohibit such categories of courts [military or special courts], nevertheless the conditions which it lays down clearly indicate that the trying of civilians by such courts should be very exceptional and take place under conditions which genuinely afford the full guarantees stipulated in Article 14. In some countries such military and special courts do not afford the strict guarantees of the proper administration of justice in accordance with the requirements of Article 14 which are essential for the effective protection of human rights.”

Finally, arbitrary rule by decree has been further consolidated by the passing of another decree in September 1994, the **Federal Military Government (Supremacy and Enforcement of Powers) Decree No 12 of 1994**, which removed the jurisdiction of the courts to challenge government authority and actions, in contravention of Article 2(3) of the ICCPR and the principles established in the UN Basic Principles on the Independence of the Judiciary.

Torture

The torture and ill-treatment of political detainees by law enforcement officials has been widespread under the present military government. This is in contravention of Nigeria’s own Constitution and of Nigeria’s international treaty obligations under the African Charter on Human and Peoples’ Rights, the International Covenant on Civil and Political Rights, both of which Nigeria has ratified.² In reality, political prisoners in Nigeria have no safeguards against torture or ill-treatment or any other form of duress, since they may be detained indefinitely and incommunicado under the **State Security (Detention of Persons) Decree No 2 of 1984** without any opportunity to challenge the legality of their detention. There is no provision under the decree for medical examination of detainees by an independent doctor or access to any other independent person, or for regular review of the detention by any judicial or other independent body.

Some political prisoners detained since 1994 are reported to have been beaten. In June 1994 at least 60 Ogoni boys and youths were being held in two small, bare cells with no toilet facilities in Bori military camp. Clement Tusima, a member of the Ogoni community held without charge since May 1994 died in August 1995 after months of illness and medical neglect in detention. Finally, Baribor Bera, a co-defendant of Ken Saro-Wiwa, showed the special tribunal scars from beatings he had experienced in detention. He said that he was stripped naked, tied to a pillar, flogged with a horsewhip and forced to swallow teeth knocked out by beatings. All political prisoners are held incommunicado in harsh conditions, with inadequate food, overcrowded and insanitary cells and inadequate washing facilities, and without exercise or time spent in fresh air. Some military defendants accused of involvement in the alleged coup plot in 1995 have reportedly suffered from medical neglect amounting to ill-treatment. For example, in the weeks following his arrest in May 1995, George Mbah, who requires regular treatment for a neurological complaint, is reported to have lost consciousness for a period as a result of ill-treatment. Kunle Ajibade reportedly collapsed from a kidney problem which he was having treated before he was detained. There remain fears for the health of Colonel RSB Bello-Fadile, who requires regular medication

²Nigeria has signed but not ratified the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment in 1988, obliging it to refrain from any act which would defeat the object and purpose of the treaty.

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and tests for a serious heart problem and high blood pressure.

Mass public executions of criminal figures

Mass public executions dramatically increased after the November 1993 coup and the replacement of elected civilian State Governors in Nigeria's 30 states by military administrators. At least 200 criminal prisoners have been executed following trials by special Robbery and Firearms Tribunals since that date. For example, in July 1995 43 prisoners were executed by a firing squad before a crowd of 1,000 spectators in Lagos. One, Moshood Lawal, was reportedly shot 10 times before he died. There were further public executions in Adamawa State, Delta State and Akwa Ibom State during 1995.

Extrajudicial executions and unlawful killings

The extrajudicial execution of unarmed civilians by soldiers has also increased since the present Nigerian government took power. At least 50 Ogoni are believed to have been killed and many wounded by the security forces in late May and June 1994 when soldiers reportedly attacked towns and villages in Ogoniland. Troops apparently fired at random killing several, and also reportedly killed others deliberately. They are also reported to have assaulted and raped civilians and destroyed homes. For example, the twin villages of Uegwere and Bo-ue were reportedly attacked at night several times between 4 and 8 June 1994. Ten people, including a 10-year old boy, were reportedly killed. Dozens of people were also reportedly killed by police during pro-democracy demonstrations in 1994. Some were reported to have been unlawfully killed - they were not involved in violent activities or posing a threat to the police.

Action by International Governmental Organizations

The UN Commission on Human Rights in 1995 failed to adopt a draft resolution (rejected by five votes) which could have been instrumental in addressing the deteriorating human rights situation in Nigeria. The UN High Commissioner for Human Rights made repeated appeals to the Nigerian Government in the case of Ken Saro-Wiwa and other Ogoni detainees, and special rapporteurs of the Commission made several joint appeals to the Nigerian Government concerning those cases. The Human Rights Committee on 29 November 1995, requested the Government of Nigeria to submit its initial report without delay for discussion by the Committee at its fifty-sixth session in March/April 1996.

The African Commission met in an extraordinary session on 18 and 19 December 1995 in Kampala to examine the human rights situation in Nigeria. The African Commission asked the Secretary General of the OAU to express to the Nigerian authorities that "no irreparable prejudice is caused to the 19 Ogoni detainees whose trial is pending". A delegation composed of the Chairman, Vice-Chairman and the Special Rapporteur on summary and arbitrary executions

of the African Commission were requested to undertake a mission to Nigeria in February 1996. The African Commission will submit a statement to the UN Commission on Human Rights at its 52nd session on the evolution of the situation of human rights in Nigeria in the light of the result of its extraordinary session and the proposed mission. Finally the African Commission invited the Government of Nigeria to submit its periodic report in conformity with Article 62 of the African Charter.

The UN General Assembly in its draft resolution A/C.3/50/L.45/Rev 1 (adopted after a recorded vote of 106 in favour, 18 against and 31 abstentions, on 21 December 1995) noted the recent arbitrary executions of Ken Saro-Wiwa and his eight co-defendants and expressed deep concern about the human rights situation in Nigeria. The resolution called upon the government to restore *habeas corpus*, release all political prisoners, guarantee freedom of the press and ensure full respect for the rights of all individuals. It also called on the government to abide by its obligations under the ICCPR and other instruments on human rights. The resolution also “invites the Commission on Human Rights at its fifty-second session to give urgent attention to the situation of human rights in Nigeria, and recommends, in this regard, that its relevant mechanisms, in particular the Special Rapporteur on extrajudicial, summary or arbitrary executions, report to the Commission prior to its next session”.

The Special Rapporteur on extrajudicial, summary or arbitrary executions in his report to the Commission in 1995 described the persistent reports of the denial of the right to life of the members of the Ogoni ethnic group as most worrying. He was particularly concerned about the establishment of a special court to curb unrest and insecurity in the area, and the extension of the scope of the death penalty. In addition, he noted that special jurisdictions, especially when set up to deal with situations of unrest, very often entail serious restrictions of the safeguards and guarantees for defendants, particularly when they face the death penalty. The Special Rapporteur called on the Government of Nigeria to ensure that proceedings before the special tribunal conform to the standards for fair trial procedures as contained in international instruments. The Special Rapporteur also urged the authorities to take the necessary steps to ensure that security forces, in operations aimed at restoring peace and order, fully abide by norms and regulations governing the use of force by law enforcement officials, and that those employing excessive use of force be brought to justice in conformity with international law.

Recommendations

Amnesty International calls on the Commission to pass a resolution on Nigeria appointing a Special Rapporteur on Nigeria and instructing the Special Rapporteur to work closely with the thematic mechanisms of the Commission. Amnesty International also calls on the Commission to urge the government of Nigeria to undertake the following steps:

- all prisoners imprisoned for the non-violent expression of their political views should be released immediately and unconditionally;
- the Special Military Tribunals should be immediately reformed to bring them into line with international standards on fair trial, otherwise the Special Military Tribunals and the decree which established them should be abolished;
- the tribunal established to try the Ogoni 19 should be immediately reformed to bring it into line with international standards on fair trial, otherwise the tribunal should be permanently abolished;
- all other political detainees who are being held without charge or trial should be released unless they are to be charged and tried promptly and fairly with full rights of defence and without imposition of the death penalty;
- those political prisoners convicted by special tribunals should have their convictions and sentences reviewed by a higher and independent judicial body;
- an independent and impartial judicial inquiry, consistent with international standards should be established to investigate the circumstances of Clement Tusima's death in detention, the results of which should be made public, with a view to determining the cause of his death and bringing to justice any person found to be responsible for his alleged medical neglect while in detention;
- safeguards to protect detainees from all forms of ill-treatment, including medical neglect should be introduced;
- all detainees should be allowed full and immediate access to their families, lawyers, doctors and necessary medical care, as required by international standards, and they should be held in conditions which conform with the Standard Minimum Rules for the Treatment of Prisoners;
- all executions should be halted and the use of the death penalty ended;
- full transcripts of the secret treason trials before the Special Military Tribunal in connection with the alleged coup plot of March 1995 should be published;
- the 1984 State Security (Detention of Persons) Decree, No. 2 of 1984 and subsequent amendments, which allow arbitrary detention and remove the power of the courts to safeguard detainees from torture or other ill-treatment should be revoked;
- an independent, judicial inquiry should be set up to investigate the reports of extrajudicial executions by government forces and inter-ethnic killings in Ogoniland in 1993 and 1994, and the illegal and incommunicado detention, torture, ill-treatment and medical neglect of Ogoni detainees, with a view to bringing perpetrators to justice;
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the government signed in 1988 should be ratified.

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APPENDIX I: Major Amnesty International reports on Nigeria

The Ogoni trials and detentions
(AFR 44/20/95, September 1995)

A travesty of justice: secret treason trials and other concerns
(AFR 44/23/95, October 1995)

Military Government Clampdown on Opposition
(AFR 44/13/94, November 1994)

APPENDIX II: Ratification by Nigeria of major international human rights treaties

The following lists reflect information available to Amnesty International as of December 1995

Nigeria	Signature X = Date Unknown	Date of: Ratification Accession Succession Declaration	Status
International Covenant on Civil and Political Rights	X	29.07.93	acceded
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	28.07.88		
International Covenant on Economic, Social and Cultural Rights	X	29.07.93	acceded
Convention on the Rights of the Child	26.01.90	19.04.91	ratified
Convention on the Elimination of All Forms of Discrimination against Women	23.04.84	13.06.85	ratified
African Charter on Human and Peoples' Rights (1981)	31.08.83	22.07.86	ratified