

SYNOPTIC OVERVIEW

OF

HRVIC REPORT:

CONCLUSIONS AND RECOMMENDATIONS

(INCLUDING CHAIRMAN'S FOREWORD)

PRESENTED TO PRESIDENT,
**COMMANDER-IN-CHIEF OF THE ARMED FORCES OF
THE FEDERAL REPUBLIC OF NIGERIA
CHIEF OLUSEGUN OBASANJO GCFR**

SUBMITTED BY

HUMAN RIGHTS VIOLATIONS INVESTIGATION COMMISSION

MAY, 2002

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

FOREWORD

By the CHAIRMAN

**HON. JUSTICE CHUKWUDIFU A. OPUTA CFR,
JUSTICE EMERITUS SUPREME COURT OF NIGERIA**

*“Ill fares the land, to hast’ning ill a prey,
where wealth accumulates, and men decay...”*

Oliver Goldsmith *[The Deserted Village]*

1.1 This was the lament of Oliver Goldsmith about “the deserted villages”. In a sense, this Report is also a lament. However, unlike Oliver Goldsmith’s **The Deserted Village**, this particular lament is a lament, not about the disappearance of village life but about the aftermath of military rule in Nigeria and the consequential disappearance and violations of the human rights and essential freedoms of Nigerians. Like Oliver Goldsmith, I can then say:

*Ill fares the land, to hast,ning ill aprey,
Where might tramples over right,
And essential freedoms Decay.*

1.2 For much the greater part of the period covered by this Report, Nigeria was under military rule. During this period, most of our rulers’ principal motivation and pre-occupation were not service to country but the accumulation of wealth and personal gratification.

1.3 This personal accumulation of wealth led to the decay of our society. Public and private morality reached its nadir; and the casualties included human dignity, human rights and our basic freedoms. We also experienced institutional and structural decay.

1.4 This Report has attempted to provide an over-view of the extent of our moral, physical and institutional decay under military rule. The proscription and circumscription of our human rights and freedoms under military rule were symptomatic of a much serious malaise, the departure from constitutional or limited government and with it the absence of accountability and transparency in public life. This was the ultimate decay involving the personalization of the governmental process around the military ruler.

1.5 The return to democratic civilian rule on 29 May 1999 provided the opportunity for us to rise above this decay, to break the silence of the past and to forge ahead, determined to lay to rest the ghost of this dark and painful period in our national history.

1.6 But we must be prepared to confront this history, if we are to forge ahead. We need to understand it, even if it means asking unpleasant questions and offering blunt answers. Where did we make the wrong turn? Who was responsible for what? What opportunities did we miss and why? What are the major lessons to be learnt? What do we now need to do to put the past behind us and to look to the future with renewed hope and patriotic zeal? What are the basic conditions for us to effect national catharsis?

1.7 This is what we have attempted to do in this Report. We have tried to be faithful to our terms of reference and to our mandate, both of which imposed on us the obligation “to review the past;” and to map out or indicate

pathways to enable us as a people “redress the injustices of the past; [and] to prevent and forestall future violations...”

1.8 But it was not an easy task. We had to overcome serious obstacles and constraints—some institutional, some organizational, some legal, some cultural, some political, some logistical and financial and some inevitably arising from the very nature of a truth commission like ours. Nonetheless, undaunted and unfazed, we were determined to succeed as we trudged on, albeit indefatigably, in the knowledge that ours was a historic mission.

1.9 We have to confront and resolve a basic paradox in looking at the past: to forget, we have to remember. But remembering the past is one thing and living in the past is another thing. To live in the past is to be a slave to revenge, to retributive recrimination. We must rise above and beyond the pettiness and the social and political paralysis that revenge breeds.

1.10 We have to remember in order to forget, to learn lessons and to forge ahead. In other words, we must know our *terminus a quo* in order to arrive at our *terminus ad quem*. We must build on our bitter and sad past.

1.11 This has been the *raison d’etre* as well as the *leitmotif* of our work at the Commission. If this Report contributes, even in the smallest way, to a national *risorgimento*, then our work will not have been in vain.

1.12 We, therefore, hope that the Report will offer a credible perspective on our past, while also serving as a road map for our future. We do not claim that we have said all there is to be said about our past and our future. Much, perhaps, remains to be said, and will be said by present and future chroniclers. This is as it should be, if only because history is forever unfolding itself, as new evidence arises, as new interpretations confront old

ones and as the ineluctable march of science brings forth new tools for unscrambling the past.

1.13 The following apt observation by the Most Revd. D.M. Tutu, Chairperson of the *Truth and Reconciliation Commission of South Africa* in the *Foreword* to his Commission's Report, at paragraphs 17-19 of Volume 1 of the Report, underscores this point so well that I quote it *in extenso*:

"The past...is another country. The way its stories are told and the way they are heard change as the years go by. The spotlight gyrates, exposing old lies and illuminating new truths. As a fuller picture emerges, a new piece of the jigsaw of our past settles into place.

Inevitably, evidence and information about our past will continue to emerge, as indeed they must. The Report of this Commission will now take its place in the historical landscape of which future generations will try to make sense-searching for clues that lead, endlessly, to a truth that will, in the very nature of things, never be fully revealed."

It has been the privilege of this Commission to explore a part of that landscape and to represent the truths that emerged in the process. And we have tried, in whatever way we could, to weave into this truth about our past some essential lessons for the people of this country. Because the future, too, is another country. And we can do no more than lay at its feet the small wisdoms we have been able to garner out of our present experience.

1.14 A word on our approach to our mandate is pertinent here. In searching for the truth about our past, we tried to adhere scrupulously to the requirements of due process and fair hearing and to the canons of historical and cultural scholarship.

1.15 We provided the platform, through our Public Hearings and Special Sessions, held across the various geo-political zones of the country, for alleged victims and alleged perpetrators of human rights abuses and violations to bare their minds in public. But we were careful not to take their accounts at their face value. We had to devise means of corroborating them.

1.16 We wish to underscore this point, if only to disabuse the minds of critics who accused the Commission of re-opening old wounds by providing this platform. We realize that this is partly a matter of methodology and perspective, regarding how we should unscramble and come to terms with the past.

1.17 We firmly reject the view that we should simply forget the past. As I have already observed in this Foreword, we need to talk about the past, no matter how painful, in order to move ahead and because of the cathartic or cleansing and purifying possibilities it offers, at the individual psycho-cultural level and at the wider community and national levels.

1.18 This is not to deny that public hearings are inherently problematic. For example, during our public hearings in Abuja, Lagos and Port Harcourt, alleged perpetrators of human rights abuses and violations blatantly denied the human rights abuses and violations alleged against them by their victims and families.

1.19 To this extent, it was not possible or easy to extract from some alleged perpetrators the measure of remorse and plea for forgiveness so vital for forgiveness and reconciliation to take place.

1.20 Yet, all is not lost. Public Hearings still have their redeeming aspects. Thus, there are denials, which make no difference to the facts. When so many witnesses from different ethnic and geographical backgrounds allege unlawful arrests, illegal detentions and torture against the same set of persons or security agencies, such witnesses cannot all be lying and the alleged perpetrators cannot all be witnesses of truth. In such situations, the Commission had to read between the lines.

1.21 And, as one witness pointed out, it takes more than human courage to admit one's wrong- doing. And so the Commission found out!

1.22 In trying to discover the truth, we commissioned research teams of lawyers, historians and social scientists to write background papers for the Commission on various aspects of our mandate and terms of reference. The research reports submitted to us have been useful in the preparation of this Report.

Let me now turn briefly to some of the important issues raised and discussed at length in the Report.

TRUTH: RECONCILIATION & JUSTICE

1.23 Public perceptions and expectations about the work and mandate of the Commission varied enormously. But a common denominator was the concern with Justice. In some cases, justice was equated with revenge.

1.24 This is understandable and is not unique to Nigeria. Indeed as is clear from our comparative analyses of the work of truth commissions in Argentina, Chile, Guatemala, South Africa and Uganda in Volume 2 and

Volume 5 of this Report, any society that has gone through the trauma of unbridled human rights violations and abuses is invariably confronted with a choice among two options: (a) Revenge and/or Nuremberg-type trials; and (b) Forgiveness and Reconciliation.

1.25 Which option is chosen will depend on what each truth commission is set up to accomplish. Indeed, of the five truth commissions referred to above and analyzed in Volume 2 and Volume 5 of this Report, it was only in the case of Argentina that there were criminal prosecutions of members of the military junta and their collaborators for gross human rights abuses. In the other four cases, Chile, Guatemala, South Africa and Uganda, the aim was for people to know what happened in their respective countries during the dark days of military rule.

1.26 Which option should Nigeria choose? The answer is clear from the Commission's mandate, its terms of reference and the President's Address at the inauguration of the Commission: *Forgiveness and Reconciliation. Reconciliation was the key word in the President's Address. Our quo warranto is the search for this reconciliation.*

1.27 To forgive and to reconcile is not necessarily to deny justice. We should not confuse or conflate justice with prosecution and with criminal or retributive justice. Viewed in the broader perspective of legal theory or jurisprudence as well as moral and political philosophy, reconciliation represents not the antithesis but the triumph of justice.

1.28 Nigeria now has a nascent and fledgling democracy, with all its imperfections and teething problems. Managing the transition from military to democratic civilian rule requires deft and dexterous navigational skill to avoid land mines and treacherous waters. To manage the transition successfully and to consolidate it may require that we sacrifice criminal

justice for the higher moral imperative of reconciliation and to avoid the trauma, anguish and pain criminal prosecution will give rise to.

1.29 In short, Recrimination and Revenge are, have always been and will forever be, poor chisels with which to hue out of stones of reconciliation, unity and peace.

1.30 If we try, we can achieve reconciliation and the onus is on all of us to try and do so. We are encouraged in this respect by our own experience on the field during the Public Hearings in reconciling warring communities. One or two examples will suffice.

1.31 During our sessions in Lagos, Lagos State, we reconciled the quarrelling communities of Maroko Village. We also recorded our first major break-through when the warring Ife and Modakeke communities in Osun State signed a Memorandum of Understanding and a Joint Declaration (see appendix to the report pledging to live in peace and harmony and to adopt only peaceful means in pursuing their respective rights and entitlements. It was unfortunate that the media did not give the Ife/Modakeke reconciliation the prominence it deserved.

1.32 During our session in Port Harcourt, Rivers State, the Commission succeeded in brokering a Peace Accord among the warring factions and groups in Ogoniland. In particular, we managed to unite and amalgamate the **Ogoni Four** and the **Ogoni Nine** into the **Ogoni Thirteen**. As the New Nigerian Editorial of Friday, 16th February 2001 observed,

“The Peace Accord signed by the warring factions in Ogoniland...will go down in the sociopolitical development of this country as one of the landmark achievements of the Human Rights Violations Investigation Commission.”

1.33 While I do not wish to over-dramatize or generalize from these examples, what needs emphasis is that unless we try, and try, we cannot even start the long journey to national reconciliation, and maintain its momentum. The flashpoints of communal unrests in our country constitute albatrosses around our necks. Let us with the crossbow of the Commission shoot down each albatross in the interest of the peace and unity of our country and for the sake of the survival of our nascent democracy. Let us all adhere to the message of our 1960 national anthem:

“...Though tribes and tongues may differ, in brotherhood we stand... Nigerians all”

1.34 The President’s Address at the inauguration of the Commission made repeated references to *Our Nation; Our Land; and Our Country*. These references presuppose a common citizenship and the existential reality of an historical as opposed to a geographical entity called Nigeria.

1.35 Yet Petition No. 1648 submitted to the Commission by Oha-na-eze Ndigbo and the responses to it by the Arewa Consultative Forum, the Joint Action Committee on the Middle Belt, the Afenifere, the South-South and the Government of Rivers State, Ogbakor-Ikwere Convention provide telling illustration of how divided we are as a country and of how suspicious and afraid we are of one another.

1.36 What is also clear from this is that the various ethno-communal groups in the country, including the major ones, complain of marginalization in the scheme of things.

1.37 I cannot address the issue of citizenship and marginalization in this Foreword other than to observe that they are central to the consideration of human rights as group, ethno-cultural, ethno-religious or collective rights as well as to the foundations of federalism in the country, going as far back

as the mid-1940s and the fears of domination expressed by minority ethnic groups in the penultimate years of the decolonization process in our country.

1.38 As one of our research teams pointed out, quite correctly, our national experience with federalism shows that the problem of marginalization is at the bottom of minority ethnic group fears of the curtailment or violation of substantive human rights—the right to self-determination, the right to the promotion of their cultural rights, and their citizenship rights, especially the right to equitable participation in the cultural, economic and political life of the country.

1.39 Under simple majoritarian, first-past-the-post competitive democratic electoral processes, and much more so under authoritarian regimes ethnic minorities all too easily find themselves excluded by the structure of power and the rules of the electoral process, making them less competitive and denying them access to the State and its enormous patronage.

1.40 A refreshing and confidence-building fall-out from the work of our Commission is the raising of the issue of minority rights as a core dimension of gross human rights violations and bringing it on the agenda of national debate. In this way, such public consciousness may engender well-thought out remedial public policies and constitutional guarantee of minority rights, thereby facilitating national reconciliation.

1.41 These interrelated citizenship aspects of our constitutional and political history—their origins and trajectories, and how best to confront them at the constitutional and policy levels are extensively covered in Chapters Two and Three of Volume One, and in Volumes Three and Seven.

1.42 I only wish to observe here that we need to distinguish between marginality, which is a self-imposed constraint to full citizenship participation, and marginalization, which is imposed from the outside by wielders of political and economic power and is therefore historically deep-rooted and structurally-determined.

1.43 While marginality can be redressed by affirmative-type action, consistent with the federal character clauses of the 1999 Constitution of the Federal Republic of Nigeria, the problem of marginalization is best solved by the political restructuring of our federal system of government, underlined by equitable and fair resource allocation and distribution.

PROFESSIONALISM, LOYALTY AND THE CULT OF THE HEAD OF STATE

1.44 The military is a great and ancient profession, which requires appropriate demeanor and exemplary standard of conduct, encapsulated in the expression professionalism. Yet professionalism in the military, as was clear in various testimonies before us, even by senior military officers, and as established in some of the Volumes of this Report, particularly Volumes Four and Five, has been a casualty of military rule in the country, further evidence of the institutional decay I referred to earlier in this Foreword to the Report.

1.45 One unfortunate dimension of this decay is what I refer to as the cult of the Head of State. If and when the Head of State is elevated to the State and made coterminous with the State, then the cult of the Head of State is created. The personal ambitions of the Head of State, his or her fears and apprehensions; his or her enemies, real or imagined, become matters of State interest and concern, deserving State intervention and state protection, and as borne out by the evidence before us necessitating State-sponsored assassinations, murders and “disappearances.”

1.46 Some examples in testimonies before us of this conflation of the State with the persona of the Head of State are pertinent.

1.47 In his evidence before the Commission, Major Al-Mustapha emphasized that he had subscribed to an oath “to protect the Head of State and his family as well as the Seat of Government, even if this calls for my making the supreme sacrifice.” General Sabo also said in his evidence that the Head of State is but an extension of the State.

1.48 These are troublingly menacing views, which if concretized and carried to their logical conclusion may create practical difficulties. There must be a difference between the State and the Head of State. The Head of State is but a functionary of the State, and not the State itself. This is made clear in the Presidential Oath in the Seventh Schedule and in the impeachment provisions of the 1999 Constitution of the Federal Republic of Nigeria.

1.49 Unfortunately, our various military rulers, like all dictators, were unable to draw this distinction between themselves and the State. Their intelligence outfits danced to their tune and their agents also saw themselves as beyond and above the law. This led to the hounding of journalists and those who criticized their administrations and policies. Intellectuals and human rights activists, among other critics of military rule, were arrested and jailed, without recourse to due process, in the so-called interest of State security.

1.50 This attitude was also reflected in the protection given to oil companies, which supplied the much of the needed oil revenue to various military administrations. Their interests became “State interests,” which must be protected. This logically led to the systematic and generalized violations and abuses, which occurred in the Niger-Delta during the dark

period of military rule in the country, as detailed in Volumes One, Three and Five of this Report.

1.51 I find it instructive to say a further word about the cult of the Head of State, in the context of our experience with military rule and the institutional and moral decay I referred to at the beginning of this Foreword.

1.52 Military rule is absolute rule. It subverts and undermines the institutions of the State, imperceptibly initially but surely and gradually. It leads inevitably to moral and political corruption, alongside the decay of time-honoured loyalties and values as well as institutional decay. In due course and as a manifestation of this deepening decay, cruelty and murder become norms of governance. Good faith and truthfulness become childish scruples while force and craft become the keys to success. Selfishness, naked and unadorned, need only succeed to supply its own justification.

1.53 This sums up the character and odious dimension of military rule in the country, as elsewhere. The fall-out, in our case, was the gross violations of the human rights of Nigerians, which are enumerated and elaborated upon in this Report, particularly in Volumes Two, Four, Five and Six.

THE NON-APPEARANCE OF 3 FORMER HEADS OF STATE AND OTHER TOP GOVERNMENT FUNCTIONARIES

1.54 The non-appearance of three former Heads of State and a number of former top government functionaries, when summoned by the Commission, put to test the theory that in a democracy all men are equal before the law, that the rule of law and not the rule of man should prevail. In addition to not appearing, these former Heads of State filed civil actions challenging the Commission.

1.55 The former Heads of State are: Generals Muhammadu Buhari, Ibrahim B. Babangida, and Abdulsalami Abubakar. The former top functionaries are: Colonel Halilu Akilu and Lt-Colonel A.K. Togun.

1.56 Many in Nigeria and, indeed, in the international community, wondered why these highly placed Nigerians, who had held high public office, refused to appear and testify in person before the Commission.

1.57 Although the Commission had the power to issue warrants for their arrest, it refused to do so, in the over-all interest of national reconciliation.

1.58 The spirit of the Commission's mandate and terms of reference are implicitly both against impunity. For impunity makes social reintegration, rehabilitation and reconciliation difficult. It represents the triumph of might over right.

APPRECIATION

1.59 I must express my delight at the *esprit des corps* with which we worked together as members of the Commission. It shows that, when all is said and done, there are innumerable Nigerians who apply themselves to work conscientiously and with dedication.

1.60 We thank the President, Chief Olusegun Obasanjo (GCFR) for the opportunity given to us to serve this country and the confidence reposed in the members of the Commission.

1.61 Our gratitude also goes to the Honourable Ministers of Justice and Attorney-General of the Federation, first Hon. Mr. Kanu Agabi(SAN), then the late Hon. Bola Ige(SAN) and, then again Hon. Kanu Agabi, for the keen interest they showed in our work and, more specifically, for their

support. We regret and are saddened by the assassination of Chief Bola Ige(SAN) and wish his equally eminent wife and family the continued guidance and Grace of God.

1.62 We thank the Secretary to the Government of the Federation, Obong Uffot Ekaete for his understanding and support.

1.63 In the same vein, we thank all the government departments and their staff at federal, state and local government council levels for facilitating our work, whenever we needed their assistance.

1.64 No less important and encouraging has been the keen interest shown in our work by a number of foreign missions and international governmental organizations. We particularly thank the Ford Foundation for their immense financial support throughout the duration of the Commission's assignment. Our gratitude also goes to CDD, IDEA, British Council and German Embassy for their support.

1.65 We thank the various national and international non-governmental organizations that worked closely with us, providing useful insights into the nature of human rights abuses in the country.

1.66 Our work would have been much more difficult and tedious but for the cooperation we received from all those who submitted memoranda and petitions and all those who testified before us. We thank them all.

1.67 We owe special gratitude to the electronic and print media for highlighting our work and bringing our deliberations, especially the public hearings to the attention of millions of our people.

1.68 We were fortunate to have had a good team of researchers and resource persons, who worked with us. To them, we say a big thank you.

INTRODUCTION

REVISITING THE HISTORICAL CONTEXT OF THE COMMISSION'S MANDATE

1. The Commission has attempted in this Report, to capture the faltering if slippery threads of Nigeria's chequered history. Africa's most populous nation has faced challenges of enormous proportions. It has been battered and bruised. Its national history reflects an undulating landscape, made up of curves, hillocks, valleys and little mountains.

2. The questions persist: Where did Nigeria take the wrong turn? What is the root of its problems? Is it with its leadership or the followership? Have its resources been its undoing or is it the inability of the ruling elite to manage or distribute these resources in a prudent, accountable and transparent manner? What went wrong? Can we put Nigeria back on track again? Or, as a famous Nigerian playwright has asked, "*Are the gods to Blame?*" Or else why would a nation so richly endowed turn so suicidal?

3. These and several other questions go to the heart of the interlocking problems of democracy and development, and of peace and security in the country. The problem of the Nigerian State, and of good governance in the country is ultimately bound up with the oxymoronic formulation of the federal idea as unity in diversity.

4. The Nigerian State is a multinational State in conception; yet the possibility of a Nigerian nation, demanding overarching loyalty from its diverse ethno-national groups, seems perpetually constrained and contradicted by the primordial demands of its multinational diversity. This

has been, and continues to be the fundamental problem of nation-building, of democracy and development in the country.

5. How do we transform the Nigerian State into the Nigerian nation, thereby confounding the cynics who contend that, almost 87 years after amalgamation in 1914, Nigeria is no more than a *mere geographical expression*, or who refer to her as the *mistake of 1914*.

6. Despite the lingering multifaceted and complex crises it has been going through since independence in 1960, the country has remarkably held together, always pulling away from the precipice, except for the civil war years between 1967 and 1970. Indeed, many would argue that perhaps the country's resilience is both its strength and its weakness.

7. In short, as if in a stupor, the country has tottered on, all the fears, anxieties and frustrations of nation building, notwithstanding. Many have concluded that indeed, rather than being seen as evidence of weakness or fragility, the sense and sentiments of nationhood actually run deep in the veins of Nigerians. Nigerians love their country. They want to see it united and strong. The real problem is, at what cost and who bears the brunt?

8. The missing link appears to be the inability of the ruling elite and the political class to establish a nexus between the yearnings, desires, hopes and aspirations of its young and coming generation and the design and construction of a new future for Nigeria.

9. It is arguable that the continuing frustration about the character of the polity is not unconnected with the general feeling among the Youth in

the age brackets of 30-40 and below that earlier generations of the political class have squandered their hopes and future.

10. There is the feeling that the country's political leadership has been greedy, self-serving and lacking in serious political will, contributing in no small measure to the crises of democracy and development, which have delayed the country's march to nationhood.

11. When the military seized political power in January 1966, there was a general feeling in the country that they were motivated by altruistic intentions and objectives to save the country from descent into political chaos and instability.

12. As time passed, the country's military rulers and the military as an institution by and large lost their sense of direction. The greed of the military dragged the nation further and further away from the project of nationhood. The result is that by the end of almost thirty years of military rule, Nigeria is far more fragmented than it was in January 1966, when the military first seized power.

13. The democratic struggle against military rule in the country, whose high water mark was the return to democratic civilian rule on 29 May 1999, symbolizes and marks the return to *the project of the three Rs (Rehabilitation, Reconstruction and Reconciliation)*, which the military enunciated after the end of the civil war in January 1970.

14. After wandering in the wilderness, the country seemed ready and prepared to return to the path it had abandoned through the military option.

15. Looking back with the benefit of hindsight, we can see that, in a way, the noble and patriotic *project of the three Rs was a forerunner to the*

Human Rights Violations Investigation Commission. Yet, the setting up of this Commission could be considered an indictment of the Nigerian political military class.

LAYING THE BASIS FOR A REGENERATED NIGERIA

16. This is why we believe that there is need for this country, this nation-in-the-making to reflect more seriously on its future, so as to render the establishment of a similar Commission in the future unnecessary.

17. The preceding volumes of this Report have tried to show how the Commission grappled with the problems of providing a platform for Nigerians to confront their gory past, in order to gear themselves for the difficult but essential battles of laying the foundation for a just and democratic Nigeria.

18. Generally, it was evidently clear, from most of the petitions received by the Commission and from the verbal presentations and arguments canvassed during the Commission's Public Hearings, that there were genuine concerns among the petitioners and the generality of our people, the citizens, that Nigerians need a nation to belong to, a nation cemented by a social contract of mutuality and reciprocity in cultural, economic, political and social relations, a nation to be proud of, one that provides its citizens with an enabling umbrella of equality of opportunities, social and distributive justice, protection and security.

19. From the sentiments re-echoed in messages received and the keen interest demonstrated in the mandate and work of the Commission by innumerable Nigerians, within and outside our country, we are convinced that, with the right social, economic and political atmosphere, a united, powerful, purposeful, compassionate and egalitarian nation will emerge from

the frustrations expressed and captured by such expressions as *marginalization, stranger, indigene, discrimination* etc.

20. There is enough evidence on the ground to suggest that, were Nigerians to see a leadership that can synchronize public sentiments for the emergence of a Nigerian nation with genuine policy programmes of national reconciliation, reconstruction and national integration, in the next ten or so years, the country could achieve harmony.

21. In view of this, our aim in the present *Volume* is to highlight some of the major institutional and structural changes that the Federal Government of Nigeria needs to embark upon to ensure justice to its citizens and thus lay a durable and solid foundation for a democratic Nigerian nation.

22. After reviewing the tons of petitions submitted to it, the Commission has had to come face-to-face with the profoundly deep level of frustrations among the various communities in Nigeria.

23. But as we listened to the various petitions, we also detected the flaws in many of the assumptions. A very interesting picture emerges, when we put all the petitions together in perspective.

24. For example, it was interesting to find that there was hardly any consensus on what really constitutes *marginalization*. What is more, it was interesting to note that while the *Ohaneze* petition on behalf of the Igbos pointed accusing fingers at the Federal Government, their allegations were challenged by both the *Arewa Consultative Forum*, on the one hand, and the *Southern Minorities on the other*.

25. While the *Arewa Consultative Forum* claimed to represent the North, the *Joint Action Committee of the Middle Belt* also leveled accusations against

the North, which the *Arewa Constultative Forum* claimed it was speaking for.

26. Indeed, from the submissions received by the Commission, it is possible to conclude that as clusters of ethnic or regional blocs, we are all marginalized, but as Nigerians, the story is different. For example, although a rather unsteady picture has emerged, most of the Memoranda received by the Commission constituted a documentation of frustrations among ethnic blocs.

27. This ethnicised anger focused on the negative and did not give much thought to the substantial progress in many other areas that the country and the communities had made together in earlier periods of our national history.

28. We are of the view that a more consistent and objective reading of the country's history will lead to the inevitable conclusion that much progress had been made in the country's earlier post-independence history. For example, despite the excesses of military rule, we heard very commendable stories among various communities relating to what some patriotic and imaginative military administrators or governors had done when they governed States that were outside their own immediate States.

29. Evidence exist of the great works done by Muslim administrators in non- Muslim States and vice versa. We also recall periods when the

nation knew tolerance and accommodation across ethnic and religious divides.

30. We are therefore of the view that there is need for the country to trace where the cracks set in and seek the best means of closing these cracks, in order to re-establish trust among the various segments of Nigeria.

31. We hold that this is possible and also very much desirable. It is a much easier goal to pursue under a democracy than under military rule. This prospect opened up by the nascent democratic dispensation in the country posed a challenge to the Commission. How could the Commission contribute to charting a course for this noble objective, which is seemingly beyond its immediate Mandate?

32. The Commission was of the view that there was need to go beyond the Mandate, in search of pathways along which the project of nation building must proceed. This is more so, because the Commission is uniquely the best opportunity that Nigerians have had in several years to forge an informed understanding of their country's past and to put in place the necessary foundational building blocks on which a new Nigerian nation would rest.

33. After consultations with a broad spectrum of the stakeholders, it became clear to the Commission that the nature of Nigeria's chequered and fractured history demands that the Commission's work should serve as a mirror to reflect the trials and tribulations of our country. This was not easy.

THE GLOBALIZING CONTEXT OF HUMAN RIGHTS PROTECTION

34. The terrain the Commission traversed was long and excruciatingly tortuous. In spite of this, the Commission believes that it has laid a firm

basis for a proper understanding of its work and of the imperative need for reconciliation in the country. But the work of the Commission and the recommendations put forward in this Volume must be set in a wider globalized and globalizing perspective setting.

35. Contemporary Globalization has brought in its wake, as its predecessors had done before it, a wide range of challenges, problems and prospects. The Commission believes that every nation must work out its own *modus vivendi* in making choices that will enhance its national image and advance its national interests.

36. It is in the context of the challenges of globalization that, in making our recommendations, we have taken cognizance of the fact that the choices Nigeria makes to strengthen respect for human rights and consolidate the nascent democratic experiment in the country will have an impact on the rest of Africa. Nigeria must be a model for Africa in this respect.

ESTABLISHING THE CAUSES AND NATURE OF HUMAN RIGHTS VIOLATIONS

37. Among the first tasks of the Commission, when it began its work, was the identification of the causes and nature of all gross human rights violations in the country. This particular task required paying special attention to all cases of human rights violations committed in the country during the period (15 January 1966 to 29 May 1999) under the Commission's purview.

38. After reviewing the petitions, the Commission came to the conclusion that the issue was not a simple or straightforward one as such. It discovered from the evidence tendered by the representatives of various interest groups and communities that there have been accusations and

counter-accusations targeted at particular communities, institutions or groups.

39. But on the whole, it was indisputably clear, from the evidence tendered before the Commission that the citizens of Nigeria generally believe that they have suffered badly in the hands of successive governments in the country, since independence, although this was more pronounced under military rule. However, it is clear that, beyond the accusations and counter-accusations of various ethno-communal, religious and other interest groups, the roots of bad governance in the country, historically and primarily, lie deep in the colonially-inherited structure and character of the post-colonial Nigerian State, and in the manner of its continuing incorporation into the world system.

40. As we shall try to show in the recommendations, justice and the protection of human rights in Nigeria must be anchored on fundamentally redesigned and restructured institutional (constitutional-legal, cultural, political and social) and structural (economic and resource-distributive) frameworks, which will help to forge and create in every Nigerian, a civic sense of belonging to a nation where we can all live with relative peace and security, a nation in which there is enough space for Nigerian citizens to be what God wishes them to become.

41. One of the major facts to emerge from the work of the Commission was that neither the federal government of Nigeria nor the Commission itself as well as the generality of informed Nigerians had an idea of how the work of the Commission would turn out. We have tried, in this Report, to explain the many difficulties that the Commission encountered.

42. However, the Commission felt strongly that there was no way it could answer *all* of the questions the country needed to address. Yet, the

Commission was of the considered view that its greatest strength might lie in its ability to provide Nigerians with the rare opportunity to tell their own stories, even beyond the period covered by the Commission's mandate and with the possibility of drawing out some of the unanticipated consequences of a broader interpretation of its mandate.

43. This is why, as we have already indicated in this Volume, members of the Commission believed that, in spite of its limitations, the Commission offered the country one of the best chances of resolving some of the thorniest and seemingly intractable issues in its political and social history.

THE ARGUMENT OF VOLUME ONE

44. In the Introductory Volume of this Report, we drew attention to the historical context for understanding not only the development of constitutional provisions for human rights but also the violations of those rights in the country. The Introductory Volume also provided a theoretical basis for understanding and appreciating the burden of our colonial legacy and its implications for, and impact on human rights violations in the country.

45. It is clear from the analysis in the Volume that our present predicament is a product of a particular historical conjuncture. It is evident that colonialism by itself constituted a gross violation of the highest order of the human rights of the peoples of Nigeria. But the colonial inheritance can no longer be presented as the only or major reason for that predicament. Independence provided the opportunity for dissociation from that inheritance and for a new beginning. Unfortunately, the country's political class trifled with and, therefore, lost that golden opportunity for a national renaissance.

46. A proper understanding of the nature and character of the Nigerian State, as it is presently constituted and structured, and of current political practice in the country, is, therefore, fundamental to resolving the

problematic issues of the future promotion and protection of human rights, the national question and democracy and development in the country.

47. In the same Volume, the Commission also gave the background to its establishment and highlighted some of its subsequent travails. Given the fact that this was a road that the country did not tread before the Commission was established, the challenges were enormous. What was even more frustrating was the fact that it became clear that the Federal Government had not made the necessary budgetary provisions for the work of the Commission. This led to a lot of unnecessary delays.

48. The Commission is of the considered view that a work of this nature clearly needs to be insulated from the vagaries and red tape of the bureaucracy. Given that the Government has always been perceived as the accused in human rights violations, it is important that the Commission be seen to be insulated from or independent of the government. If this is seen to be the case, the better are the chances of the Commission being seen to be objective. This is more so in a society where suspicion of governments and their agencies runs high.

SUMMARIZING VOLUME TWO

49. Volume Two of this Report considered the implications of the challenges posed by contemporary processes of globalization for the promotion and protection of human rights in Nigeria by looking at the ***International Dimensions and Contexts of Human Rights***. Globalization has made it impossible for any nation to try to be an island unto itself even it wished to be so.

50. The Volume examined at considerable length the implications of this internationalization or universalization of the core moral imperatives and values of the evolving international law and practice of human rights

for Nigeria's municipal law generally and more specifically for its human rights domestic law and practice.

51. It is clear that membership of such sub-regional, regional and universal organizations like the Economic Community of West African States, the African Union (the successor to the Organization of African Unity) and the United Nations, impose on their member-states the obligation not only to subscribe to the common values enunciated in the relevant human rights provisions of treaties, conventions and other international legal instruments to which they have duly acceded by virtue of their membership of such supranational organizations, but also to reflect them in their domestic laws and practice and to implement them as public policy accordingly.

52. In the Volume, we traced the historical and philosophical-(jurisprudential) legal origins of some of the major themes relevant for our work and we concluded that, in the main, the international community remains an important moderating force in guaranteeing the promotion and protection of human rights in the world generally and, particularly, in many developing nations.

53. In Africa in particular, the issues of human rights can no longer be left to the whims and caprices of its political leadership and the state. For example, it is of great significance that, even in the harsh and dark days of the military regime of the late General Sani Abacha, the regime sought international legitimacy by setting up a *National Human Rights Commission*, despite its atrocious and abysmal human rights record. This is obviously evidence of what international pressures can do to member-states.

54. Because the Commission believed that it did not possess all the wisdom and skill necessary to undertake its work, it commissioned researchers to help it unearth some very important aspects of human rights

violations during the period under review, which had either been inadequately covered or neglected by the various petitions received by the Commission.

THE RATIONALE FOR VOLUME THREE

55. *Volume Three* of this Report, **Research Reports**, attempts to capture this neglected aspect of the country's history and politics. The Volume summarized the findings of the commissioned researchers by compressing them [the findings] into one volume.

56. The Research Reports underscored the fact that there are aspects of Nigeria's public life and public service that we need to take more seriously.

57. For example, given the prejudices and partisanship of both government-owned and privately-owned mass media, what happens when the rights of citizens who do not have access to sympathetic media, are infringed? This was the point or justification of the Commission's *Public Hearings*—to provide such an access to aggrieved citizens and communities who have had no opportunity to present their cases to the Nigerian public.

58. The Commission realized in listening to evidence of witnesses, during the Public Hearings, from various communities, especially in the Niger-Delta and in other parts of Nigeria, that there were many other communities, which had experienced and are still experiencing gross human rights violations and immiseration similar to, or worse than those experienced by the Ogonis.

59. However, the cases of such aggrieved communities never really got national or even international attention, perhaps owing to either their lack of a celebrity or the status of a Ken Saro Wiwa, or their lack of resources as vital as Oil is to the national economy or to the peripheral or politically

inconsequential nature of their location in the geopolitical calculations of the ruling elite.

VOLUME FOUR: PROVIDING VOICE FOR THE WEAK

60. We hope that by introducing this dimension of the Commission's work, we have enabled those without a voice to be heard through this outlet provided by the Commission. In Volume 4, we have looked at the **Public Hearings**.

61. This is perhaps one of the most significant Volumes in the Report. Its significance lies in the fact that it is the Volume that almost everyone who followed the proceedings is sufficiently knowledgeable about.

62. Despite the initial logistical problems over whether the Commission should have Public Hearings, it became clear that, beyond drawing public attention to the work of the Commission, the Public Hearings were likely to create the most interactive phase of the work of the Commission.

63. For a population that is largely illiterate, the public hearings provided them the best opportunity to see things with their own eyes. The effect, by all accounts, was indeed electrifying. The victims unburdened themselves of the latent agonies they suffered and in some instances reconciled in the full glare of the public. It was therapeutic.

64. The objective of the Volume is primarily to capture those events, without imposing our own or some other interpretation on the material that had been assembled.

CONFRONTING THE PHILOSOPHICAL AND POLICY PROBLEM OF REPARATION: VOLUME FIVE

65. *Volume Five*, titled **Reparation, Restitution and Compensation**, examined the philosophical and legal basis for reparation, rehabilitation

and compensation. Each and everyone of these three concepts, by raising ethico-philosophical issues, is loaded with a largely subjective meaning. But for the record, it is important to make a fundamental observation, in order to place the issues and controversies generated by the practical application of the concepts in proper context.

66. It is important at this juncture to state that when the Federal Government set up the Commission, it was more concerned with finding the truth and working towards reconciliation than dealing with the consequences or the spill-over effects of the work of the Commission.

67. Reparation and Compensation are largely consequences of the establishment of guilt and responsibility. The Commission's Public Hearings were not Victim Hearings, as such. Thus, the issue of Reparation and Compensation became a bit problematic. For example, as we have indicated in the preceding paragraphs, there are ethico-philosophical questions, which we also need to pose.

68. What really constitutes compensation and how do you compute it? How much can compensation cure and is it such an important component in reconciliation? How much compensation is enough compensation? Who determines if compensation meets the standard? Who sets the standards? How do you compensate for Life, Injury (whether physical, psychological or structural)? How do you even quantify it?

69. These questions might on the surface sound escapist or abstract, but they are important if we are to take these concepts with the seriousness they deserve.

70. This Volume is important, even if it is to underscore the fact that in the final analysis, arbitration to determine, and the knowledge of the truth, attribution of guilt and admission of guilt are all part and parcel of

the compensation that many seek for in, and expect from a Commission of this nature.

71. During our Public Hearings, almost all petitioners claimed some form of compensation and/or reparation. What is more, we need to underscore the fact that no matter how we may try, there can be no adequate compensation for life, but there is consolation when those in power or the perpetrators at least acknowledge the truth of the loss and sufferings of victims and their families. In Chile for example, the President, Patrcio Azocar Aylwin apologized to Chilean people over the violation of his people's rights. **Also Pope John Paul apologized for the excesses of the Catholic Church during the Crusades. Following this, we recommend that all the Presidents between 1966 and 1999 should apologize for all the human rights violations that took place during their tenures. Failing this, the President should apologize on behalf of his fellow former Heads of State.**

72. In making our recommendations, we have not lost sight of these problems. What is more, we are also not unaware of the fact that bringing many of the contested issues regarding the loss of loved ones is one major step in another direction. Indeed, in the final analysis, this must be considered the beginning of a long road for many of the victims and the petitioners.

73. As we see from the discussion of Rehabilitation in the Volume, the Commission has attempted to draw public attention to this much neglected theme. It is impossible for society to visualize a period when it will rid itself of deviants and criminals.

74. The process of sin, repentance and forgiveness as an endless circle of human life is not just a philosophical issue. This is why rehabilitation and renewal must be integrated into our national agenda.

75. To this end, our attitudes towards penitents and penitentiaries must be radically overhauled. It is to be hoped that our society will realize that, as St. Francis of Assisi is quoted as having said, at the sight of every less fortunate person, we must always say, “There goes I but for the grace of God!” This is what is sometimes referred to as metaphysical guilt, following Karl Jasper’s articulation of the concept.

76. Such an attitude or “categorical imperative” will instill in us a sense of concern for one another’s welfare and security. This attitude will facilitate both the process of national reconciliation and ensure the guarantee and protection of individual and communal rights of citizens.

CONCLUSION

77. Finally, in making our Recommendations, we have had to fall back on the relevant sections of the Instrument that set up the Commission, as a basis for finding the way forward.

78. For us, we see the driving force for the setting up of the Commission is the search for the truth about our past as the basis for the establishment of a framework for a just, fair and equitable Nigerian society.

79. Drawing from this, we found the relevant sections to be:

- i. To find out the root causes of human rights violations in Nigeria with special emphasis on gross human rights violations committed during the period covered by our mandate.
- ii. To identify the persons, authorities, institutions or organizations which may be held accountable and to also determine their motives.
- iii. To determine whether the state embarked on these as a state policy or whether its agents were merely overzealous.

vi. To recommend measures to be taken either against the institutions or persons identified.

80. To be faithful to our Terms of Reference in making our recommendations, we are conscious of the fact that certain persons and institutions would have to be CLEARLY IDENTIFIED AS BEING DIRECTLY OR INDIRECTLY ACCOUNTABLE FOR CERTAIN ASPECTS OF HUMAN RIGHTS VIOLATIONS IN THE COUNTRY.

81. We are not unaware of the fact that not all the agents and agencies of State appeared before the Commission. But whether we rely on the testimony of petitioners, the result of our research or even our personal reflections as citizens on the Nigerian situation, there are certain conclusions that Nigerians are familiar with.

82. The Commission noted over and over again that it was not on a witch-hunting mission nor was any one directly or even indirectly on trial, as such.

83. However, in reviewing the material that was submitted to us both by our researchers and by the petitioners, we have come to the following conclusions, regarding the agents and institutions responsible for gross human rights violations in Nigeria.

84. We shall briefly identify them and try to show how certain State policies have enabled certain institutions and individuals to engage in human rights violations.

THE DIFFICULT TASK OF CRAFTING VOLUME SIX

85. Volume Six of the Report, entitled Findings and Recommendations, however, presented the big but exciting challenge of sifting through the tons of material before us and stating the Commission's interpretation of the data before it.

86. There were many questions that emerged, as the Commission embarked on the task of analyzing and interpreting the data and the evidence it had gathered in the course of its work.

87. In so doing, the Commission found it necessary to go back to its Terms of Reference which demanded that it should try to establish not only what happened but also the nature of the circumstances that made human rights violations possible in the country.

We thematically summarize the findings as follows:

THE SCOURGE OF MILITARY RULE

88 From the evidence before us, we hold that military rule has proved to be a cure that was worse than the disease. This much was admitted or conceded by military officers who appeared before the Commission.

89. It is plausible to argue that that in its heydays, military rule was indeed propelled by patriotism and the need to set Nigeria on a sound footing. Tragically, we all now know that things have worked differently. Military rule has left, in its wake, a sad legacy of human rights violations, stunted national growth, a corporatist and static state, increased corruption, destroying its own internal cohesion in the process of governing, and posing the greatest threat to democracy and national integration.

90. Clearly, *the military are to be held accountable for gross human rights violations in the country, during the period under review.* This is exemplified by cases of torture at the Intercentre, DMI headquarters in Lagos and Jos

Prison by the military. All the other prisons in Nigeria failed so far below the standards of the United Nations that they became torture centres.

OIL: BLESSING OR CURSE?

91. Oil, one of the greatest blessings God has showered on our nation, has turned out to be a curse. Instead of providing the basis for national economic, political, scientific/technological and social growth and development, cushioning its citizens from the scourge of abject poverty, squalor and want, oil became, in the hands of the ruling elite and the political class, an instrument sounding the death-knell of such key principles of good governance as democracy, federalism, transparency, accountability and national growth. Oil was the mainstay of the economy and the junta saw any inhibition to its flow as a breach of security. Consequently, legitimate complaints/agitations against oil pollution by host communities were violently suppressed. We therefore had to pay a heavy prize in lives and human rights violations.

CIVILIAN COLLABORATORS OF THE MILITARY:

THE BUSINESS/ POLITICAL CLASS

92. The long years of military rule in the country were due as much to the greed of the military elite for power as to the collusion of equally greedy members of the country's political class. From the testimonies of senior military officers, those allegedly involved in coup plotting and investigations, it was clear that rich and powerful civilians played critical supportive roles to the military in destabilizing the political process and preparing the way for the military coups that overthrew various civilian and military regimes.

93. Unable to accept defeat, some politicians often turned to their military contacts as a means to regain access to political power and the access to the state coffers flowing from it. Given that politics is essentially

about capturing power, the business class has often been unable to subordinate its interests to those of the nation. The result is that wealthy and influential Nigerians have used their resources to bankroll coup plotters. We therefore hold that they were accomplices and therefore should be held accountable for the resultant human rights violations. The politicians should imbibe democratic spirit. This is because the desperation to win at all costs propels them to use the army to resolve political problems through coups with resultant violation of human rights.

PRESCRIBING CONDITIONS FOR A VIABLE DEMOCRACY

94. If democracy is to take firm roots in Nigeria, then the various segments of the stakeholders in the polity must realize that, no matter the nature of their interests, such interests can only be attained within the boundaries of a democratic and stable nation.

95. This means that politicians must learn to accept the rules of the game. Those who win elections must realize that they have not won a prize for themselves and their party, but that they have won a national trust. Those who lose elections must realize that it is easier to go back to the drawing board and wait for the political calendar to turn around than to resort to the military solution, which has no timetable, as such.

WHAT ROLE FOR RELIGION?

96. One of the missing links in Nigerian politics has been in determining and reaching a consensus on the exact role and place of religion in the political process. The country has remained in the firm grip of so-called believers of the two Abrahamic religions: Islam and Christianity.

97. Sadly enough, both Islam and Christianity have never really been able to rise above the limitations of their intra- and inter- denominational and sectarian cleavages. The result is that the country is now caught up in

what has come to be known as the *problem of religion in Nigeria*. Religious intolerance has been the main cause of communal clashes with attendant loss of lives and gross human rights violations.

98. The role of religion in politics is, therefore, largely seen in negative terms. Although we did not receive particular petitions from either Christians or Muslims as religious groups, there were submissions from various sections of the society that alleged religious discrimination, while also complaining of being under the stranglehold of religiously-inclined hegemonic groups. This much was clear in the submission by the Hausa Christian community in Northern Nigeria.

99. However, the religious bodies ought to have done much more than they did in the struggle against human rights violations, especially during the dark days of the late Abacha regime. On the whole, the politicization of religion has undermined religion.

100. A new responsibility has now devolved on both the leadership of Christianity and Islam to respond appropriately to the challenges of nation building and to help in laying a solid foundation for a Nigeria that promotes and respects human rights under the rule of law.

SECURITY AGENCIES AND HUMAN RIGHTS VIOLATIONS

101. It is evident that under military rule, the security and survival of the Head of State and of his regime at all cost became an obsession. Regime security was equated to national security. Power became so personalized that the state became synonymous with the government of the day and its leader. Regime security became an excuse for the excesses of state security agencies, leading to various gross human rights violations.

102. As we found out during the public sittings, security agencies tended to resort to extra-judicial methods of extracting information from suspects.

Most of these agents and operatives were guilty of the torture, and sometimes even the murder of innocent suspects.

103. We received petitions of the alleged deaths of many suspects in police custody. By and large, these deaths were sometimes the result of excessive torture by overzealous individual security agents. Nonetheless, it is clear that these tendencies are inevitable in a military environment, where violence is largely glorified and or, celebrated, and where due process is thrown overboard.

104. As was noted in Volume Five, our findings have led us to the conclusion that security agencies will require a fundamental restructuring, so as to re-orient them to respect due process and the human rights of Nigerians, including those of suspected individuals under interrogation or investigation.

RESIDUAL EFFECTS OF MILITARY RULE: ALIENATION, ANOMIE, ATOMIZATION AND POLITICAL VIOLENCE

105. One of the very obvious fallouts of military rule has been its impact on individual, family, communal and national identities. Dictatorships function through a strategy of divide-and-rule.

106. Thus, the emergence of ethno-religious cleavages and the subsequent hardening of these identities led to the persistence of violence, well beyond the life of the dictatorship. This climate is often ripe for treachery within many opposition groups, as government tends to co-opt willing members of these groups into its service.

MILITARY RULE AND THE JUDICIARY

107. The courts form the citizen's lastline of defence in his unequal combat with power and its abuse. The military, by suspending the fundamental rights provision of the Constitution and by its various decrees containing ouster clauses emasculate the courts and turn them into toothless bulldogs. During military dictatorship, the court found it difficult to perform

their necessary function of upholding the fundamental human rights of the citizen.

108. Executive lawlessness and disregard for the rule of law became the order of the day. Although in theory, Nigerians are said to be equal before the law, in reality, this was not so. There were two laws: one for the ordinary Nigerian and the other for those in power. Those in power were perceived to be above the law. Impunity and abuse of power created conducive climate for human rights violations, as security officers operated well outside the boundaries of their powers.

MINISTRY OF JUSTICE AND HUMAN RIGHTS ABUSES

109 We observed during our public hearings that some State Counsel in the Ministries of Justice, when asked by the Police for legal advice, turned themselves into judge and jury and “decided” cases submitted for advice. This attitude may be as a result of ignorance. But we regret to say that in most cases, it looked like a deliberate attempt to protect perpetrators. We refer to the cases of Dr. Eneweri from Bayelsa State, and some cases from Kaduna, Kano and Plateau States.

110 We recommend that the Federal Ministry of Justice should try to educate Nigerians on the nature of the country’s international obligations, as we have noted in Volume Two of this Report.

111 The knowledge of these obligations will assist government functionaries and the generality of our people in knowing what our international and domestic obligations are with respect to human rights issues that have been settled internationally. In this respect, the African Charter of Human and People’s Rights should be popularized in the country through seminars, workshops and publications.

ATTORNEY-GENERAL CUM MINISTER OF JUSTICE

112 In Nigeria, the Office of the Attorney-General of the Federation is usually fused with that of Minister/commissioners for justice. In England and America, the two offices are separated for very good reasons. We will recommend that what obtains in those developed countries be made to apply to Nigeria. We therefore recommend a separation of the two offices, so that the Attorney-General becomes, as his name implies, the Chief Law Officer of the Federation or the State bound by the Unwritten laws of the Legal Profession. The Office of Minister/Commissioners for Justice should be a political office. When the two offices are separated, it will make far easier and more impartial discharge of the duties of the two offices.

CORRUPTION IN PUBLIC LIFE

113. Nigerians agree that corruption in public life, which was pronounced under military rule, has reached alarmingly pandemic proportions, and should now be a matter of very serious and pressing public policy concern.

114. From the evidence, which the Commission received, it is clear that the quest for political power personal enrichment was largely the driving force for military interventions in politics. The military tended to treat the state as a conquered territory and proceeded to treat the proceeds of state as spoils of war to be shared among the members of the military, the conquering forces of occupation.

CHAPTER 2

STATE POLICIES AND HUMAN RIGHTS VIOLATIONS

1. It is our contention and conclusion that the state in Nigeria has failed its citizens. This much was clear from both the petitioners and their petitions. It is clear to us that the colonial nature of our historical experience is to a large extent responsible for the incapacity of the state to live up to its duties to its citizens.

2. It is easy to argue that colonialism was not peculiar to Nigeria and that indeed, many other nations, which had their own colonial experiences, have since moved on. However, Nigeria's peculiar regional, religious and cultural history sets it apart from other nations. But this is not an excuse.

3. It is clear now that the decision of the colonial administration to merge both the Northern and Southern Protectorates in 1914 was informed by reasons of British economic interests and not those of Nigeria. The legacy of dual administration and separateness, bequeathed by amalgamation, has become an albatross, casting a pall of mutual distrust, recrimination and antagonisms over the country's experiment in nation-building.

4. For example, the regional arrangements, which were introduced gradually through constitutional changes between 1945 and 1954 created more problems than they were designed to solve. They deepened the centrifugal tendencies, which amalgamation had set in motion and which were encouraged by colonial administrators.

5. What is more, the long period of preparation, during which regions became gradually self-governing, did not facilitate the process of integration after independence, especially in relation to national economic development and minority ethnic groups' demand for self-government.

6. The impression had been created that all three regions would function independently, each protecting its turf and with little emphasis on inter-governmental cooperation among the regions and between them and the federal government, in what has been described as a classic case of dual and coordinate federalism.

7. Thus, at independence, it was evident that the three regions had progressed differently, in such major areas as education, health, social infrastructures and economic development, generally.

8. The result has been that post independence politics threw up challenges that ought to have been thrashed out much earlier. This largely explains why political parties were formed along ethno-regional and, sometimes, religious lines.

9. Our constitutional and political history is replete with many inherent contradictions, which show very clearly that there were discrepancies between what the colonial government sought and what Nigerians themselves wanted. Having inherited this skewed arrangement, our political class is responsible for not quickly addressing these visible discrepancies.

10. The result is that we have continued to tinker with the inherited system. Unfortunately, our national history has followed the logic of post-colonial states in many respects. The inheritance elites in many post-colonial states have tended to see their roles as being merely inheritors of the apparatus of power from the departing colonial masters. This is why we ended up with a situation whereby local elites took up residences in what is

still referred to even today as *European Quarters*, *Government Reservation Areas* etc. These were some of the privileges that set them apart from the rest of their societies.

11. The project of broadening the political space was delayed mainly because the new local elites were preoccupied with defending their local spheres of power and influence.

12. Let us take the character and nature of the Nigerian state in three areas, to illustrate the argument advanced here.

THE CHARACTER OF THE STATE: PARTY POLITICS

13. We noted, while examining the texture of Nigerian history, that not much effort was made in the first years of independence to form broad based political parties. The fact that parties were largely formed along regional and ethnic lines bears witness to this observation.

14. There were four main parties that dominated the landscape in immediate pre- and post- independent Nigeria. These were the *Northern Peoples' Congress* (NPC), with a base mainly in the North, the *Action Group* (AG), with its base in the South West, while the East was dominated by the *National Council of Nigeria and the Cameroons*, later re-named the *National Council of Nigerian Citizens* (NCNC).

15. The NCNC was by and large the most broadly based party that had substantial presence beyond its catchment political base in the east.

16. There was also the *Northern Elements Progressive Union* (NEPU), which was based on a radical populist ideology, drawing the core of its membership and electoral support from the radical, anti feudal elements in the North, and with hardly any presence outside the Northern region.

17. What is evident is that these political parties combined and manipulated regionalism, ethnicity and religion as a resource in competitive electoral politics.

18. But what is also evident from the structure of electoral politics in the immediate post-independence years is the emergence of the state as the prized terrain over which the major ethnic groups staked out their hegemonic claims for political power. Control of the state by an ethnic group or combination of ethnic groups, under a zero-sum approach to electoral politics, was to the exclusion of other ethnic groups. In this way, electoral politics became a matter of life-and-death affair with its resultant effect on human rights.

THE CHARACTER OF THE STATE: EXPANDING THE POLITICAL SPACE

19. The Minorities' Commission Report was testimony to the reluctance of the leadership of the majority ethnic groups in the three regions to accede to state-creation demands from minority ethnic groups in their respective regions. We have elaborated at some length on the politics of state creation in the penultimate years of colonial rule in *Chapter 3 of Volume 1* of this Report.

20. Even when concessions were grudgingly made in some of the regions to demands of minority ethnic groups for representation in institutions of governance, it was with a view to ridding certain ethnic blocks of members of other ethnic groups.

21. With independence in 1960, it did not take a long time for the system to begin to overheat, as the agitations for home rule in their own sub-regional heartlands by the various minority ethnic groups in each of the three regions, persisted.

22. Since the expansion of the political space was a project that the political class among the three major ethnic groups was largely averse to, it was left to the military to start and accelerate the project of state and local government creation. But, as events since the military took the initiative in this respect have shown, state creation has been beset with serious problems.

23. We are saddened that the successive fractions of the country's minority ethnic group-based political class have tended to use less noble objectives as a basis for championing the creation of new states and local government councils in the country, under military rule.

24. While state creation was designed initially to go into the heart of the country's ethnic minority problems, it appears that, much later, it became an instrument for pacifying or compensating political brokers or clients, through the creation of ethnic fiefdoms. The result, as we can see, is that state and local government council creation has tended to generate tension and crisis in its wake. What is evident is that these faulty starts, rather than hasten national integration, have only increased the pressures and resentments among the various minority ethnic and sub-ethnic groups whose demands for self-determination and self-rule were not satisfied, leading to acrimony and accusations against the state and its functionaries.

25. The Commission discovered that the roots of many of the ethnic or communal crises are to be located in this crisis of confidence and the sense of exclusion on the part of minority ethnic and sub-ethnic groups, generated by the partisan and unfair manner in which state creation exercises were perceived to have been carried out.

26. In many cases, the state seemed to have had very good intentions in responding to the problems of inter-communal relations, but these were

often diluted by the voices of men and women of influence, political entrepreneurs who deliberately misled government, regarding the composition of the various communities in the country. The result is that every time the state tried to *liberate* certain communities from their so-called enemies, it tended to create more problems for the project of nation-building in the country.

27. Given the interminable and seemingly intractable crises generated by geopolitical rearrangements of the states and local government councils, it is evident that the problems will persist because government is essentially trying to cure the symptoms, and not the disease.

28. *The real disease is the general perception of injustice of the state, its lack of concern for the welfare of its citizens and the high handedness of government agents, which all give the impression that the state is partial to some ethnic groups, and is indeed an active protagonist in inter-ethnic or intra-ethnic conflict on the side of some ethnic groups.*

29. *The result is that many citizens have come to rely on this process of tinkering with the state as a means of creating a feeling of belonging. To the extent that this process has created so much pain, suffering and death, as we have seen in some states in Nigeria, the state is solely responsible for the sad and ugly developments that have often led to death during state creation exercises and the inter-communal violence that followed them.*

30. For example, the government of General Sani Abacha must assume full responsibility for the tragedies that attended the creation of new local government councils in places like Osun and Delta States.

31. There is need for us to turn our attention to the specific nature and character of the state in Nigeria that has generally turned state creation exercises into opportunities for some to engage in gross violations of the human rights of their fellow citizens.

THE MILITARY AND HUMAN RIGHTS VIOLATIONS

32. The data and evidence, which the Commission gathered, very indisputably show that the military is primarily responsible for the persistence of human rights violations in the country. Military rule marked the rapid descent of the country into anarchy and destruction. It created conducive environment for gross violations of human rights, in three respects.

33. First, military rule violated the human rights of Nigerians to live under constitutional or limited government. Secondly, military rule militarized the country, creating in the process a climate of militarized fear. In fear, citizens were forced to retreat behind the security provided by ethno-communal and religious barriers. This militarized fear has taken its toll on the psyche of ordinary citizens in another respect: the language of the military has permeated our institutions and cultural life, through expressions that imitate military command.

34. Thirdly, the military turned their instruments of coercion on ordinary citizens. This was done by means of military personnel acting as enforcers for men and women of influence and power, who wish to settle personal matters and disputes arising from civil pursuits like land, rent and debts.

35. Ordinary citizens also fell back on their connections with military personnel to assert their authority and power over their fellow citizens.

36. Indeed, as military men took over law enforcement, they occasionally spun out of control in the application of their tools of violence. The evidence that was tabled before the Commission by various communities especially in such areas as the Niger-Delta lent weight to this position. There were many instances in which military men went out on a frolic of

their own. There were also many instances in which military personnel alone or in groups used their arms to intimidate citizens. Sometimes there were reports of pillage, rape and destruction of property. More often than not, these knee-jerk reactions by the military could be sparked off by such incidents as a motor accident around a military establishment or a quarrel.

37. In short, military rule disrupted almost every facet of our national life in a vicious cycle of violence, which expressed itself in various dimensions: in domestic violence, in armed robberies, in the rise in the spiral of ethno-communal and religious riots and in brigandage, impunity and lawlessness. Indeed, since 1966, the country has known no reprieve from the various spates of violence, which were precipitated by the contradictions of military rule.

38. In another sense, military rule was a fundamental violation of the Nigerian Constitution, which, by suspending relevant sections of the Constitution, replaced constitutional rule with rule by decree.

39. Military decrees, like the infamous Decree No. 2, were sometimes characterized by ouster clauses, which limited the courts' ability to entertain certain cases. In this way, the *rule of law*, the underlying basis for justice and democratic rule was replaced by the *rule of force*.

40. The pernicious impact of decrees on the promotion and protection of human rights cannot be over-emphasized and has been discussed at length in the preceding volumes, especially Volume 2, of this report. We only need to underscore here the fact that human rights were invariably the first casualty of military rule. Not only does military rule, by definition, truncate the human rights of Nigerians to constitutional government under liberal democracy, as enshrined in the constitution, it also disempowers

citizens, in cases where ouster clauses are involved, by denying them of access to courts to enforce their rights.

41. It is clear from the evidence before us that the State usually refuses to obey judgment of competent courts to the detriment of the citizens' rights as a creditor in breach of Section 287 of the 1999 Constitution.

42. The Commission has identified the implementation of certain public policies, like the Structural Adjustment Programme (SAP), by military regimes as being contributory to the violations of human rights. The reactions of Nigerians to SAP led to what came to be known in Nigeria as the *SAP riots*. These demonstrations took place within and outside university campuses and some students and workers lost their lives in the process.

43. Under the government of General Muhammad Buhari for example, we hold both himself and the Director-General of the National Security Organization (NSO) accountable for the various violations of the rights of several Nigerians notably Alhaji Rafindadi, Alhaji Shehu Shagari, Chief Solomon Lar, Isa'ac Shaahu and us, who were detained without trial in the various detain Centre. In addition, there is an evidence from Alhaji Dikko that he was "crated" by this regime for onward transmission to Nigeria.

44. We also hold both General Muhammed Buhari and the members of the Supreme Military Ruling Council, along with the Attorney General responsible for the death of Mr. Kenneth Owoh and three others over allegations of drug involvement. This is so because the Commission found out that their trial offended both the rule of law and the African Charter of Peoples' Rights.

45. The case of Dele Giwa has been dealt with exhaustively in Volume Four and we restate that the case be re-opened for thorough investigation and possible prosecution.

46. We strongly recommend that the Federal Government reopen the case of the death of General Shehu Yar' adua, a prominent Nigerian and one time Chief of Staff, Supreme Headquarters, died in prison custody in mysterious circumstance. The Commission received a petition about his death.

47. With respect to the death of Chief Moshood Abiola, we hold that, on the basis of the testimony of General Abdusalami's Chief Security Officer, there are still more questions than answers. It is, therefore, important for the state to reopen this case along with that of the late General Sani Abacha, in order to lay some misconceptions to rest.

48. We cannot wish these cases away. Nor can we sweep them under the carpet. What is more, there is need to create a conducive atmosphere to enable anyone who might have some relevant information regarding these ugly events to come forward with such information. It will be important for the government to guarantee such citizens enough protection.

49. Unless the cloud over these mysterious deaths of important public figures is cleared, the truth will elude us, making the process of national reconciliation the more difficult and tortuous.

THE POLICE AND HUMAN RIGHTS VIOLATIONS

50. From the data and evidence gathered by our field researchers and from submissions we received from the public, Nigerians see the Police not as a friend but as offenders and agents of human rights violations in the country.

51. As the section in the volume of the report dealing with the security agencies has illustrated, there is little doubt that the police has suffered the most in negative public perception of its role in society.

52. Since the first contact that citizens generally have with the agencies of government regarding security is with the police, it is evident that the hostility of citizens towards the Nigeria Police has been based on the unwholesome experiences of ordinary citizens with the Police Force. There are many allegations that are popular among Nigerians against the police.

53. The import of this negative perception is the fundamental belief among Nigerians that members of the Nigeria Police constitute the most corrupt stratum of the security agencies. Although the scale of their corruption pales into insignificance when compared to their military counterparts, it is evident that since their victims are largely the ordinary citizens, the proverbial common man/woman, who constitute the majority of the Nigerian population, their negative impact is therefore considerable and profoundly felt. The implications of their corruption and the strategies for managing that corruption are myriad.

54. They are the ones that Nigerians seeking justice through the courts have to go through. Here, they are considered the principal means of obstructing justice. They do this through bribe taking, intimidation, harassment and outright violence. In a majority of the petitions that came before us involving assassinations, murders, disappearances, etc, the police were presented as accomplices and seen as part of the conspiracy against justice and the protection of human rights.

55. Like their military counterparts and even more so, the Nigeria Police has been used to further the excesses of the rich and powerful. They have

been willing agents in the hands of those who have power, from the rich and sometimes dubious businessmen, drug barons, and the top strata of the power elite.

56. It is clear from the petitions, which we received, that the police have often been a vital link in the chain of conspiracy against justice in many parts of the country. From the evidence we received, police complicity is manifested in the following ways:

57. First, there were cases of victims of human rights violations in the hands of the police often ending up as the accused. Secondly, there were reports of the policemen and policewomen sometimes destroying evidence, losing it outright, or distorting it against the petitioner. The objective in such cases is to instill fear and deny the victims the chance to follow up their case against the police. Thirdly, we had cases of people who died in doubtful circumstances in police custody, or physically abused and injured, or victims of intimidation, unable to get justice because the police was clever in protecting some of its officers involved in such gross human rights violations. Fourthly, we discovered that the Nigeria Police was good in making police officers who were alleged to be perpetrators disappear from the area by way of very quick transfers. Thus, if a police man/woman infringed the rights of a citizen in Port Harcourt and was being sought out, such an officer would be transferred to a place as remote as Potiskum, Jalingo, or Katsina or some little corner of the country. Fifthly, we also discovered that in many instances, when the Governor of a State, a person of influence, a retired senior security personnel has *interest in a case*, it was not difficult for the police to hatch out a plan with the Office of the Attorney-General or the Director of Public Prosecutions to frustrate the case of the victim. We found some concrete examples with the Nigeria Police in Bayelsa State, Kaduna State, and Kano State, among others.

58. There are as many stories as there are victims of human rights violations. We are aware of the fact that the inability of the police force to play its role is connected with the overbearing attitude of the military. With the capacity of the police to bear arms less visible and less threatening, soldiers never trusted the police with the ability to contain civil unrest.

59. It is evident though that the corruption within the Nigeria Police is a product of the misapplication of funds and the attendant corruption, which has dogged Nigeria. The Nigeria Police is starved of funds. Living under unbearable social conditions, policemen and policewomen have had to fall back on innocent victims for “*family support*,” as a means of making up for their economic shortfall. This is why Nigerian policemen and women rationalize their bribe taking as necessary for their “*family support!*”

60. So, like the military, the Nigeria Police stands accused as a perpetrator of human rights violations. Although we are aware of the fact that there are many innocent and hard working policemen and policewomen in its fold, the Nigeria Police knows that it suffers a very serious image problem in the country.

61. Finally, we are of the view that the following factors have created a favourable climate for human rights violations by the police to occur:

- Poor service conditions:
- Lack of working tools
- Poor training
- Low morale under the military
- Lack of trust by the citizens.
- Lack of internal discipline.
- Lack of control and monitoring of weapons among the policemen and women.

62. The government would do well to look closely on the recommendations we have made about the Police in this Report.

THE SECURITY AGENCIES AND HUMAN RIGHTS VIOLATIONS

63. The evidence before the Commission makes it clear that security agencies were identified as major agents of human rights violations. One of the strategies that the Commission employed to elicit information in this regard was the call for memoranda from civil society groups and the security agencies, among others.

63. In their various submissions, civil society groups, especially the Civil Liberties Organisation (CLO), Prison Rehabilitation And Welfare Agency (PRAWA) and the Constitutional Rights Project (CRP) all presented detailed account of the experiences of both their members and many other members of the Nigerian society in the hands of security agencies. We received so many petitions from many victims complaining of arbitrary arrest, detention, passport seizure against the Directorates of State Security Services. For example, Chief Frank Kokori, Femi Falana and Mr. Fidelis Aidelomon and many others.

65. From the evidence we gathered during public hearings and in various documentations submitted to us, there were allegations of torture during detention. Inhuman and unsanitary conditions of living and starvation or very poor feeding during detention were identified as some of the strategies employed by state security operatives. This much was graphically underscored by the testimonies of Olisa Agbakoba (SAN), Abdul Oroh, Professor Jide Osuntokun, Professor Femi Odekunle, Chris Anyanwu, Shehu Sani and Gani Fawehinmi, among others.

66. In the case of the Directorate for State Security Services (SSS), the nature of the organisation itself made it difficult for victims to name names.

More often than not, victims only came in contact with those who arrest or detain them and not with those who ordered the arrests or detention. As such, the common expression we found among members of the Agencies whom we summoned to appear was simply that they were *obeying orders from above*.

67. We also discovered, from the evidence gathered through research and petitions, that the Directorate of Military Intelligence (DMI) was mentioned as a gross violator of human rights.

68. We visited the DMI detention cell at Apapa where civilian suspects who had nothing to do directly with the military were detained and tortured.

69. We also had evidence to the effect that told by petitioners that the Directorate had indeed become a place where both military and other men and women of influence outside the military tended to send those with whom they had a grouse to be detained at will. This was largely borne out of the favourable climate, which the military had created that enabled men of influence to use their connection with senior military personnel to settle scores.

70. The case of Chuma Nzeribe exemplifies this situation most eloquently. The petitioner had come to the Commission to state the case of his alleged detention in a military facility, the DMI. The case ended up dragging on for some two weeks and became a celebrated case that exposed the underbelly of both the military as an institution and the Directorate as a tool in the hands of men of influence. Mr. Nzeribe's detention came at the time when the military was faced with a spate of bomb blasts across the country.

71. We also found that many civilians had been detained for very long periods of time as a result of these bomb blasts, which occurred mainly between 1996-7.

72. The Government of the late General Sani Abacha is singularly accountable for the human rights violations during this period.

73. One of the instances in which violations of the rights of many citizens occurred was during allegations of coups. Nigerians know already the hundreds of lives that the country has lost as a result of allegations of the involvement of military personnel and civilians in these alleged coup plots.

74. The coup plots of 1995 and 1997 were cited by petitioners as those periods in which their rights were grossly violated during the periods of detentions and trials. From the testimonies we received, the following were named as perpetrators of gross violations of the rights of citizens, under military rule: Col Frank Omenka, General Patrick Aziza, General Mujakpero, Col John Olu, ACP Zakari Biu, Major Hamza Al-Mustafa, Brigadier-General Ibrahim Sabo. Many of these officers have already retired or have been retired from the armed forces. Others like Colonel Frank Omenka, who was copiously mentioned in many petitions, had already fled the country. The Commission recommends that those of them not yet retired or relieved of their jobs should be so retired forthwith.

75. From the evidence before us, the Commission is of the opinion that there is an urgent need to seriously overhaul most of the security agencies and also re-orientate their staff towards imbibing and respecting the human rights of Nigerians the values of democracy.

76. The issue of the processes employed during military court martial raised many doubts in our minds, regarding due process. The proceedings of court martial fell far short of the Rule of Law and the African Charter, which is now part of our domestic law (see Sani Abacha vs Fawehinmi (2000) 6 NWR Part 660 at page 228. The process used in the court-martial fell far short of the requirements of the Rule of Law and the African Charter which is now part of our domestic law.

PUBLIC BUREAUCRACY AND HUMAN RIGHTS VIOLATIONS

77. We received over 600 memoranda from civil servants alleging that the federal government and state governments had violated their right to work. From the private sector, we also received memoranda from employees, alleging violations of human rights through what the petitioners described as “wrongful dismissals” and termination of employment, without due process.

78. Upon investigation, we discovered that the issue of the dismissals and termination of employment in the federal public service was in response to a circular, which the Secretary to the Government of the Federation had issued to all heads of ministries and parastatals, requiring them, among other things, to reduce their staff strength, across the board, by a stipulated percentage.

79. When we took the matter up with the federal government, we were informed that the Government had set up a committee to examine the cases. On the basis of this information, all the mentioned cases were passed on to the Office of the Head of Service of the Federation for further action.

80. We found from the content and tone of the petitions that concern was expressed about religious, ethnic, gender and regional biases in government appointments, promotions and retrenchment.

81. For example, there were allegations to the effect that certain senior officials tend to effect changes in their ministries along ethnic or religious lines.

82. While some of the allegations are frivolous, others are heavy and deserve to be taken seriously. On the whole, we hold that these allegations are disturbing and it is hoped that the setting up of the *Federal Character Commission* will deal with this issue.

83. Allegations of corruption, inefficiency and ineptitude against the public services of the federation and the states persist. In fact, there are many who believe that the public services in the country constitute the greatest obstacle to efficiency and proficiency in the execution of government policies at the state and federal levels.

84. We recommend that the federal and state governments effect some very fundamental changes to enable the civil service become responsive to the challenges of democratization.

CHAPTER THREE

RECOMMENDATIONS

1. The first task of the Commission was to clarify the petition it received. We identify those that amounted to gross human rights violations. The Commission thereafter decided to conduct public hearings only in respect of the cases alleging gross human rights violation.

2. The adoption of the public hearings method was meant to serve two purposes. First, for the victims, the need to **get the story out** was very important. For many people, this was the beginning of the healing process. There was also the secondary advantage to the petitioners, many of whom were sufficiently delighted that the rest of world had heard their stories.

3. Secondly, there was the need for the society itself to know what had gone wrong, beyond the public purview. Therefore, for many citizens, the public hearings meant a chance to heave a sigh of relief and to say: **now we know!**

4. The military had operated under a cloud of secrecy in many respects. What is more, except for some celebrated individuals who were prominent in society, the majority of victims who were not so well known languished in jails and detention centers without any mention by the media. They lived under very harsh and inhuman conditions. The public hearings gave them and the society a chance to hear their stories.

5. The Commission helped Nigerians through public hearings to get an idea of how their country had been run. The Commission was able to bring many of the perpetrators and victims to confront one another. This

was a development that was very emotional for individuals, their communities and the nation at large.

6. We recall the developments among the Ogoni people in Port Harcourt, Rivers State where the Ogoni Four and Ogoni Nine were reconciled and reintegrated into the Ogoni Thirteen and comparative peace was brought into into Ogoni land. It is against this background that the Commission wishes to call on Nigerians to remain steadfast and firm on the road to national integration.

7. The aim of the Commission was not to reconcile all Nigerians within the period of its sittings or its life. No one can be under any illusion that this project will be realized in the immediate future. The life of a nation is not the same as the life of an individual. We therefore call on Nigerians to be patient, whatever the difficulties and the challenges. The end of military rule, hopefully, should be the end of impunity. Under democratic rule, things may be chaotic and messy, but the system will correct itself, because we shall, in the long run, learn from our mistakes and improve on our efforts.

8. We have under our mandate to make recommendations “*to redress injuries of the past and prevent or forestall future violations of human rights*” i.e. to say what happened in the past should never happen again. To ensure that this does not happen again is the responsibility of every Nigerian. Our recommendations below constitute some of then strategies to ensure that what happened in the past will not happen again.

9. The Commission is not unaware that this project is merely the beginning of a very long process. This is because there is no way that any society can claim to lay down a foolproof system to ensure that these violations do not happen again. A society can only try to devise protection

mechanisms and also hope that its citizens take the protection of their rights as part of their lives.

10. Many Nigerians were already complaining while the public sittings were going on that the Commission had failed to reconcile Nigerians. We are of the view that the primary aim of the Commission has been very much fulfilled.

11. We are aware that our *Recommendations* cannot be conclusive or even exhaustive. We believe that they will merely offer a take off point. We therefore call on the Federal Government to address some of these *Recommendations* with dispatch.

12. In many respects, the Commission more than anything else in the country, has offered Nigerians an opportunity to open up their minds over a range of issues that went beyond politics. It is therefore with this sense of responsibility that we are making the following *Recommendations*:

THE FUTURE OF THE NIGERIAN STATE:

THE NEED FOR AN ALTERNATIVE PLATFORM

13. Nigerians have said it loud and clear that they are not happy with the state of the federation. Their fears, anxieties and frustrations are legitimate. The political class must not panic every time citizens question the basis of the federation. We do not believe that the cries of marginalization are evidence that Nigerians want their country to be broken into ethnic or regional kingdoms.

14. Indeed, from the inter- and intra-ethnic crises across the nation, we know that no single ethnic, regional or religious unit can lay claim to any form of homogeneity. We are aware of the fact that in the last twenty or

so years, the country was subjected to gross injustice, misrule and brigandage by its rulers.

15. There is need for Nigerians to talk through the problems thrown up by their recent experience. Unlike the South Africans who had four years of negotiation before their transition ended, Nigerians had a rushed transition. We cannot undo the past, but we can at least correct the present, so that we can build a secure future for generations yet unborn.

16. We believe that there is need for Nigerians to have platforms from which to articulate their fears and grievances, beyond the present political party arrangements. These platforms need not be primarily national.

17. The discussions can start from the wards and local government councils to the states and then finally to the national level. There is need for a shopping list of issues, which Nigerians should be free to discuss. Their discussion could be summarized and finally tabled before the state assemblies, before they are forwarded to the National Assembly.

18. Since the idea of a Sovereign National Conference has become so chaotic and lacking in clarity, we believe that our alternative suggestion of a bottom-up, broad-based series of national seminars or *palavers* on our country's future political and constitutional structure, would not disrupt the current one.

19. Items to be discussed at the proposed palavers might include the following: *Human Rights issues, Basis for Representation; Resource Generation; Infrastructure; Taxation; Participatory democracy; Identity (religion, ethnic, communal); Constitutional Rights; Policing; Crime Prevention etc).*

HUMAN RIGHTS AND CIVIC/MORAL EDUCATION IN SCHOOLS

20. We recommend a teasing out of the results of the Commission's work, including some of the discussions suggested above and making them part and parcel of the curricula in schools. We also recommend an urgent return to civic/moral education from Nursery to Primary, Secondary School and Tertiary levels anchored on the principle of oneness and indivisibility of Nigeria.

21. Beyond the recitation of the National Pledge and the National Anthem, there is an urgent need for Nigerians to come to grip with the dynamics of their history, emphasising

22. It was clear to us that respect for Human Rights is very much a new concept in recent African political and social discourse. We have noted that many of the hierarchy of the security agencies did not see any thing wrong in the application of torture and kindred inhuman tactics to extract information during interrogation. We also noted that even for many victims, the idea of what constituted human rights violations was not very clear. ***We therefore recommend that human rights education become fully integrated into the curricula of the military, police and other security personnel in the country.*** The Law Faculties in our Universities should set up Departments for the inter-disciplinary study of Human Rights Law as a matter of urgency. It is our view that as more and more of our citizens become aware of their rights, the issue of violations will be minimized greatly. The fatherhood of God necessarily implies the brotherhood of all Nigerians. We as a sovereign nation under God, are resolved, "to live in unity and harmony as one, indivisible and indissoluble sovereign nation under God."

ON EXPANDING THE POLITICAL SPACE

23. We recommend that the federal government and the state governments place a moratorium on the further creation of more states

and more local governments . It has become clear that states creation is far from being the answer to claims of marginalization. In fact, such exercises create more problems than they are designed to solve.

24. Many of the newly created states so far rely on Federal Government subvention and so progress development has not really been made, which the creation of states was intended to achieve has been frustrated.

25. We also recommend that state governments become more careful in creating more chiefdoms and districts as an alternative to concrete development programmes. It is important that the government realize that the fragmentation of identities could easily undermine the project of national integration.

ON RESOURCE GENERATION AND ALLOCATION

26. The memoranda from the various communities in the Niger-Delta dwelt substantially on what has come to be known as *resource control*. While we commend the Federal Government for the progress that has been made by the creation of the Niger-Delta Development Commission (NDDC), we believe more can be done. For now, the Commission should be closely monitored in terms of project conception and execution, with the local communities playing a central role in the execution and evaluation of the projects.

SOVEREIGNTY AND CONSTITUTIONAL RULE

27. Although the implicit and explicit prohibition of unconstitutional take-over of government in various Nigerian constitutions has never been respected, we recommend that from May 29, 1999, anyone who stages a coup in the country must be brought to trial, no matter for how long they had ruled and regardless of any decrees they had passed to shield themselves from future prosecution. We further recommend that thenceforth, the

country must be governed by the constitution and in accordance with its provisions. No one who overthrows a government should expect to get away with it, no matter for how long they govern unconstitutionally.

THE MILITARY AND THE FUTURE OF NIGERIA

28. We recommend a programme of civic and human rights education in the military formations across the country.

29. We also recommend that the military review its methods of internal discipline, especially in relation to detentions in the guardrooms, court-martial and other methods of justice that violate human rights. Proceedings in guardrooms and court-martial should conform with the African Charter, especially relating to torture.

30. We recommend an overhaul of the Directorate of Military Intelligence (DMI), with its powers and functions limited strictly to military intelligence gathering.

31. We recommend an urgent return to professionalism while encouraging the authorities to act decisively to sanction the display of any form of religious, ethnic or sectarian sympathies in the exercise of official duties in the armed forces. Every member of the armed forces must, at least, undergo some form of training and re-ra-training. Training and re-training as an on-going process should be more vigorously be pursued.

32. The attention of the Chaplaincies of the military and those of the Directorate of Military Intelligence must be drawn to the creeping fragmentation of the Barracks, along religious lines by the intrusion of fanatics.

THE ACADEMIC COMMUNITY

33. We recommend the immediate restoration of a climate that guarantees academic freedom in our universities. There is for proper fundings of the universities to enable them pursue Research and Development.

THE NIGERIA POLICE

34. We recommend that urgent steps be taken immediately to restore the Nigeria Police to its lost, dignified place in our society.

35. As a matter of urgency, we recommend an immediate restoration and boosting of morale in the Nigeria Police. This should be done through proper funding and a programme of rehabilitation of their collapsed infrastructure.

36. We therefore recommend the following as a matter of urgency:

- * Acquisition of the kits and tools required for modern day policing.
- * Salaries and allowances should be paid as and when due.
- * An improved barracks accommodation for serving police men and women.
- * The need for change of uniforms at least every two years.
- * Training and retraining to enhance professionalism.
- * A comprehensive programme of education on the basic tenets of the law, civic education and human rights.
- * Minimum entry qualification of secondary school education
- * A review of the disciplinary measures, such as orderly room procedure to ensure that the trials conform to human rights norms.

THE JUDICIARY

37. On the Judiciary, we recommend the immediate release of the findings and implementation of the Report of the 1997 Kayode Eso Panel of Enquiry on the Judiciary.

MINISTRY OF JUSTICE

38. We recommend that the Federal Ministry of Justice and the National Human Rights Commission (NHRC) take very seriously the publication of readable summaries of citizenship rights and obligations in the country. The idea is to provide Nigerians with a guidebook on their citizenship rights and obligations.

39. We commend the Federal Government and a number of State Governments for setting up a Ministry for Women Affairs. It is the view of the Commission that this Ministry should be properly equipped to take on the major difficulties, which women encounter in Nigeria only. There is need for concrete legal codes to shelter women from the daily harassment and discrimination that they constantly suffer in Nigeria.

40. With regards to the allegations of murders, assassinations and disappearances, we recommend that the Office of the Inspector- General of Police be made to act on the cases that the Commission forwarded to it for further investigation.

41. However, in the cases of Chief Moshood Abiola, Chief Alfred Rewane, Bagauda Kaltho, Dele Giwa, such as Baguda Kaltho and the others and others, we recommend as follows:

- i. With respect to the cases of **Chief Rewane, Kudirat Abiola** and other cases the Commission passed the relevant files to the Honourable Attorney-General of the Federation for further action. The Attorney-General of the Federation then forwarded the files to the High Court in Lagos, where the cases are being prosecuted.
- ii. As for the case of **Dele Giwa**, we are of the view that beyond the legal technicalities that some of the key witnesses hung on to, the

federal government should be encouraged to re-open up this case for proper investigation.

iii. In the case of **Bagauda Kaltho**, there is enough *prima facie* to lead us to the conclusion that there was complicity by agents of government in the case. We therefore recommend that the case be re-opened for proper re-investigation and possible prosecution of the perpetrators.

iv. In the case of **Chief Moshood Abiola**, we are of the view that the government of the day knows much more than it has admitted. We believe that the denial of Chief Moshood Abiola's mandate was a violation of the rights of Nigerians to freely choose their leaders. We regard this as serious infringement.

42. While we affirm that matters pending before our courts should take their normal course, we also wish to advise that in the spirit of forgiveness, reconciliation, unity and peaceful co-existence across the country, which this Commission has belaboured in this report, the President may wish to consider a political solution as an alternative to the on-going protracted judicial process.

43. We also believe that Chief Moshood Abiola's death was the result of his incarceration and the denial of access to adequate medical attention. The testimony of the Chief Security Officer to the then Head of State, General Abdulsalami Abubakar, was full of contradictions. From the evidence before us, Chief Abiola died in suspicious circumstances. The Commission therefore recommends a thorough investigation to throw light to and inform the Nigerian people on what killed Chief Moshood Abiola.

PRISON REFORM

44. Nigerian prisons have become notorious for their inhuman conditions. We recommend an entire overhaul of the prison system in the country.

45. We recommend the rebuilding, refurbishing or renovation of all prison facilities across the country to conform with United Nations standards.

46. We also recommend the establishment of the Office of Ombudsman for Prison Welfare. This body should serve as a half-way house between the inmates, the prison authorities, government and the families of the inmates. The Ombudsman should monitor prison conditions to ensure that they meet international standards.

POPULARISING THE REPORT/CONSTITUTION

47. The Commission is of the view that no Commission or any constitution, for that matter, can put an end to human rights violations. Security agencies and law enforcement agencies will continue to breach the law. What is more, there will always be individuals within the system who will go beyond the call of duty.

48. We recommend the production and publication of what the Commission refers to as a **Popular Version** of both the relevant Human Rights provisions in our Constitution and the relevant sections of this Report. The idea is to put into the hands of the mass of our people, a document that can be the human rights version of the human rights Highway Code or of a Catechism, with a **Question** and **Answer** format. This should be a document that should be within the reach of every ordinary, literate citizen. It should be produced at very subsidized rate, in collaboration with the National Human Rights Commission.

49. In view of the importance that the international community has now placed on Human Rights, we are of the view that the Office of Minister for Human Rights should be created. There should be no conflict with the Office of the Attorney-General. In fact, the person chosen or appointed to the office need not have a legal background. This office is essentially to serve as a whistle blower, while also seeking to coordinate and harmonize the work of the Human Rights Commission, Public Complaints Commission, Code of Conduct Bureau and the Federal Character Commission. It should offer citizens another outlet to turn to for redress. To insulate it from the public bureaucracy, the Office should be independently funded with assistance from international agencies, corporate bodies and the United Nations.

REHABILITATION/PRESIDENTIAL FUND

50. We propose the immediate setting up of a Human Rights Violations Rehabilitation Fund. This Fund is imperative as a foundational building block for national reconciliation. We are also of the view that this fund need not be solely a federal government venture. After all, during the heydays of apartheid, when Nigeria was in the forefront of the battle against the evil of apartheid, the government encouraged citizens of Nigeria to contribute to the South African Relief Fund. The response was very encouraging. We are of the view that the victims of human rights violations be treated the same way victims of other man-made disasters are treated, whether they are wars or of natural disasters like earthquakes.

51. On compensation, we believe that it is necessary for the Government to carefully reflect on Volume 5 which has set out to lay a foundation for addressing the issues of restitution and compensation. We had earlier suggested the setting up of a Presidential Fund to address the issues of token assistance towards ameliorating the pains and sufferings of some of the petitioners. We are also of the view that if this Fund is set up,

it will also serve as a means for Nigerians to begin to make their own contributions towards this process. We recommend some of the following measures:

53 That the President should direct the Special Adviser on Economic Matters and the National Planning Commission to liaise with the European Union, so as to follow up the \$10m donation which that body made to the Commission in 1998.

54 That the Federal Government should levy all States, Local Government Councils, the Ministry of Defence, the Police, Corporate Bodies and individuals through a massive campaign to raise funds for this objective. We believe that the levy should be at the discretion of the Presidency. This will help create an atmosphere of family solidarity in the country and a feeling of being one another's keepers.

55 We recommend a *National Human Rights Day* to draw public attention to the issues of human rights violations. We suggest June 14, the date of the inauguration of the Commission as that date. If this recommendation is accepted, then the relevant agencies will work towards ensuring that a series of events are prepared around this date.

COMMUNAL CLASHES

HAUSA COMMUNITY IN KAFANCHAN

56 This petition was very hurriedly written from all indications. However, read along with the petition of the non-Hausa Community in Kafanchan, it is clear that the events have been over taken. It is to be noted that the non-Muslim community in Kafanchan against whom this petition had been directed had failed to follow up their petition because their prayer had been answered by the creation of a Chieftdom by the Kaduna State

Government. We are also satisfied that the Kaduna State Government has taken the appropriate steps, which in the long term, will bring lasting peace to the community. We call on the Kaduna State government to make public the findings of the Committee it set up, even if not to the public, at least to the Communities concerned, to allay their anxieties.

57 In creating Ussa Local Government, it would seem that the government ended up digging a hole to fill a hole. The Kutebs are of the view that Takum belongs to them while the Jukun/Chamba lay similar claim. Whatever may be the case it seems that two main issues are responsible for the problem. The first is the 1975 Government Gazette which revoked the existing one of 1963 which had apparently placed the control of Takum in the hands of the Kuteb. The second is the creation of Ussa Local Government Council ostensibly to deal with the Kuteb problem. It would seem from the two that there was interference with due process from above in the case of the creation and constitution of the newly created Ussa Local Government Council as can be seen from the two letters dated March 12th and April 28th.

58 We are of the view that the harm may have already been done and it is not possible to repeal the edict setting up the Local Government Council. We recommend a massive development programme of Ussa Local Government Council. The federal government should assist the state government in rehabilitating those who were displaced by the series of communal riots spanning over the last ten years or so. We also recommend the elevation of the status of the traditional institution of the Kutebs to be at par with that of the Jukun/Chamba of Wukari so as to allay their fears and anxieties and enable them to have a sense of cultural freedom.

59. The case of the Sayawa Community in Bauchi state is one of the long-standing cases of serious communal clashes in the Northern states.

Sadly, the Community has been victims of the lack of commitment of government to taking policies that may seem to be against the interest of the traditional ruling classes. When Bauchi state went through a spasm of violence in 1991, the Federal Government set up the *Babalakin Commission of Enquiry*. One of the most important recommendations of that Panel was the creation of a Chieftdom for the Sayawa people. Unfortunately, none of the successive governments has been courageous enough to implement this recommendation. Government has not told the people the reasons why it is unable to implement this very crucial recommendation. We very strongly recommend that the Federal Government requests the Bauchi State Government to comply with this recommendation and implement it to the fullest.

60. Secondly, we also recommend that the Bauchi State Government finds means to creating a more conducive atmosphere to guarantee harmony in the state. We are of the view that the State Government takes the necessary legal measures to ensure that the fears and anxieties of the non-Muslim communities are allayed and that adequate judicial arrangements be made to accommodate the cultural peculiarities of the State. In view of the fact that the media plays such an important role in the lives of citizens, we recommend that the state media tries to accommodate all shades of cultural and religious expressions that are not inimical to moral development and social harmony. We appeal to the Sayawa Community to cooperate with the State Government, taking cognizance that democracy now offers us all the best opportunity for resolving our conflicts through dialogue and collaboration.

61 We appeal to the Bauchi State Government to carefully go over the relevant sections of the various Panels of Enquiry and find ways of alleviating the sufferings of all those across the board who may have suffered in one crisis or the other.

GENERAL LEKWOT AND SIX OTHERS

62 The petition submitted by Major-General Zamani Lekwot and Six Others was titled, ***Violations of the Fundamental Rights of the Petitioners on the Trial of the Complainants by Justice Benedict Okadigbo Tribunal.***

63 The substance of the petition is the outburst of violence that occurred in Kataf land in 1992. The violence occurred as a result of persistent misunderstanding between the local people, the Katafs and their Hausa settlers who are predominantly Muslim. It was alleged that sometime in 1992, a letter was addressed to the Emir of Zaria making references to a *jihad*, or a Muslim holy war. The situation deteriorated, leading to violence which left many people dead and property destroyed. The retired General and his kinsmen were arrested amidst allegations of complicity in the violence and the deaths that followed. They were arraigned before the Justice Benedict Okadigbo tribunal and subsequently tried, convicted and sentenced to death. They alleged that the trial was a travesty of justice because, among other things, that even after the Attorney-General had filed a *nolle prosequi*, they were recharged, their lawyer filed a stay and applied for the right to enforce their fundamental rights. Although the order was granted, the learned judge declined to halt proceedings. Their lawyer filed an appeal at the Court of Appeal in Kaduna but the judge continued and even ended his trial before the Appeal could be heard. They appealed to the Supreme Court but the appeal was struck out on the grounds that the record of proceedings was not supplied. The petitioners alleged that the trial violated their right to life, fair hearing and the Africa Charter. We have no right to review the sentence of a tribunal. But from the evidence before us the trial did not conform with the African Charter. Accordingly, we recommend a state pardon.

64 The Commission believes that it does not have the powers to order that a case in which the Supreme Court has ruled be open. During the

hearings the petitioners tendered a document from the African Court for Human and Peoples' Rights in which it ruled that the Federal Government of Nigeria had erred in the handling of this case.

NINZAM DEVELOPMENT ASSOCIATION

65. This petition, titled, ***An Appeal for Government Intervention and Restoration of Ninzam Chiefdom***, was signed by Messrs James Ambi (President) and Aku A. Amboson (Secretary), presented the problems of the Ninzam community who live in the Southern part of Kaduna State. It was dated July 20, 1999.

66 However, the creation of Districts in Kaduna State by the new government of Governor Muhammad Makarfi has put paid to the request as the Ninzam people have been duly granted a Chiefdom.

BELETIEMA/IGBABELEU COMMUNITY

67. The above community presented a petition titled, ***Human Rights Violation by the Liama and Egwema on the total annihilation of the Beletiemma/Egbabeleu Community of Brass Local Government Area of Bayelsa State on 18th July, 1997 and April 9th 1999 respectively***. The petition was signed on behalf of the Community by Chiefs M. E Dakolo Apiri, Lyton Owoidoi, Itari Collar Ikpikpi, Temple Ombu, Isaiah Bou and Alexander O. Diye.

68 The petition alleged that in the two occasions listed, they were set upon and attacked by their neighbours, the Liama community.

69 The Military Administrator of the time, Navy Captain Caleb Omoniyi Olubolade set up an Administrative Panel of Enquiry. The Community's demands for resettlement, compensation, provision of social services and so on must have been contained in their submissions to the Panel of Enquiry.

As such, the much that the Commission can do is to request the present administration in Bayelsa to dust up the findings of the Lt Col. C. O. Omoregie Panel and implement its findings.

MAROKO EVICTEES COMMITTEE

70 The Petition, signed by Messrs S. A. Aiyeyemi (Leader) and 11 others is titled, simply Maroko Evictees Committee and simply dated, July 1999.

71 The petition chronicled the trials of this community in the outskirts of modern day, highbrow areas of Ikoyi and Victoria Island. The petitioners alleged that they had been the target of high handedness, executive recklessness and oppression, all because those in power wanted to take over their land. Obviously, they had been having series of running battles with almost all the Governors of Lagos state, going back to Brigadier Mobolaji Johnson in 1972. Whereas most of the battles against subsequent governments in Lagos had largely been legal, the climax came in July 1990 when the Government of Col Raji Rasaki ordered heavily armed soldiers into Maroko. Specifically on the 14th of July, the soldiers moved in and in less than one week, razed the houses of the 300,000 residents of Maroko to the ground. By the time the soldiers were through with their job, Maroko and its residents lay in ruins. This dastardly incident remains one of the greatest tragic legacies of military excesses. The Maroko residents had since then roamed the courts of Lagos State in search for justice.

72 After reviewing the evidence submitted by the petitioners, the Commission is of the view that the Lagos State government should, on behalf of its predecessors, *apologise to the residents of Maroko and publicly condemn the high-handedness of Col. Rasaki's government* especially given that these innocent citizens went through this harrowing experience so as to satisfy the greed of a few elites whose residences have now sprung up in

Maroko. We therefore propose that the Lagos State government should properly resettle the evictees of Maroko in the decent houses .

KAFANCHAN INDIGENOUS PEOPLE'S FORUM

73 This petition, titled, ***Kafanchan Crisis and Human Rights Abuses*** sought to draw attention to the needs of those who call themselves the Indigenous People of Kafanchan. Essentially, they, like the Ninzam community were also demanding a chieftom of their own. Again, like the Ninzam, this request has been granted by the Government of Kaduna state. In fact, the Community did not show up when their petition was called in Kano and they later informed the Commission that they felt that their petition had been overtaken by developments in Kaduna State.

NWANIBA VILLAGE IN AKWA IBOM STATE

74. This community submitted a petition titled, Human Rights Abuses meted out on the Nwaniba people by Ifiayong Usuk People with the support of Akwa Ibom State Police Command.

75. The body of the petition is made up of allegations of problems that border on boundary adjustment. We are of the view that the Akwa Ibom State Government should be able to deal with this problem as it is a boundary adjustment issue. The state government might need to refresh its memory by making reference to the Gazette referred to in the petitioner's submission.

UMUODE COMMUNITY

76 After reviewing the petition from the Umuode Community, we have come to the conclusion that the issues of human rights violations are indeed not the prerogative of governments and their agencies. Individuals, communities and organizations are sometimes worse culprits. The Umuode Community case clearly demonstrates the cruel cultural practices that are

capable of bringing government efforts at securing human rights for its citizens to naught. Clearly, the predicament of this community is based on the false belief by the neighbouring community that the people of Umuode fall within a category of subhuman beings known as **Uhu**. Elsewhere in Igboland, this invidious cultural practice classifies the same groups as **Osu**. We condemn this philosophy in its entirety and call on the Federal Government to ban this assault on human dignity.

77 After reviewing the submissions by the various parties, we have come to the conclusion that although the problems are internal to the community, some influential agents within government have not helped matters. We note that this community has produced very important personalities such as a world renowned scientist. It is preposterous to think that he is such a figure is considered a non person where he hails from. We therefore call on the Enugu State Government to act immediately to resettle the people of Umuode and address the issue of creating a climate for peaceful coexistence within both communities. Over the issue of resettlement, there is the question of land. The bone of contention seems to be two pieces of land; namely, Abarri and Aguefi.

78 The Commission undertook a visit to the *locus in quo* and we were shown both pieces of land. Abarri land was said to be inaccessible and hence the reason why Umuode found it unacceptable. Aguefi on the other hand had been a very much litigated land. The Commission believes whichever piece of land the state Government settles on with the communities, this matter can be resolved in an amicable way. Even if the Abarri land were to be accepted, we believe that the State government can be assisted by the Federal Government to create infrastructures, provide road and water. The Enugu State Government indicated that it was ready to consider this possibility. We are of the view that if the State government

were to provide roads, light and water, there is really no reason why Umuode community should not accept this option.

79 Secondly, the Commission noticed that even at its public sittings, there were altercations between both chiefs in the communities. We are of the view that the Enugu state government should restore the autonomous community status that was given during the military era. If this is done, the traditional rulers of both communities can be encouraged to go back to the *status quo ante* whereby the Traditional stool was rotational.

80 In view of the role of the Catholic Church has played in arbitrating this case, given the fact that they have already got a priest on the ground and they were responsible for feeding the refugees, we are of the view that the State Government should continue to let them play the role of arbitration. We also noted that the Church is well respected and trusted by both Communities.

HAUSA-FULANI COMMUNITY, KAFANCHAN

81 This memorandum simply sought to draw public attention to the allegations of threats to the rights of the Hausa- Fulani to live under their Emirate system. This Memo was largely a response to the crises that surrounded the attempt by the Kaduna State government to install the new Emir of Kafanchan. It will be recalled that a petition had already been submitted by a group that called itself the ***Kafanchan Indigenes*** alleging subjugation to Hausa-Fulani rule in Kafanchan. That group admitted that subsequent developments in Kaduna state, leading to the creation of new chiefdoms had overtaken the petition. In this same way, the Emir of Jama'a has long been installed. We can only recommend further that since the prayers of the various communities have been duly answered, that the community leaders will ensure that their communities remain law abiding.

They are to be encouraged to preserve, nurture and protect that which has been given to them.

UMUECHEN COMMUNITY

82. This community was apparently one of the very first to suffer hardship in the hands of some rather overzealous security agencies in the quest to protect oil installations belonging to Shell Petroleum Development Company. According to its petition, the community was attacked and their houses razed to the ground after a night is raid at the instance of the Divisional Manager of SPDC who had alerted the Police of a planned peaceful demonstration by the community.

83. The Commission recalls that the hearing on this petition was stalled by the community lawyer who vanished in the cause of the hearings of the case. However, the Commission notes that already, the Rivers State Government had set up a Judicial Commission of Enquiry headed by Justice Opubo Inko-Tariah and a White Paper already issued. Again, we have noted that just like a lot of other Commissions on Enquiry, the community feels that the government has not implemented the findings. We therefore call on the Rivers State Government to heed the cry of the community and look more closely at the various compensatory measures recommended and duly accepted by its own White Paper and execute what remains.

OHANEZE NDI IGBO

84. This petition was very comprehensive in its textual form and its representation. It traversed the historical landscape, extrapolating extensive evidence of what it alleges to be the planned marginalisation of the Igbo people from the scheme of things. According to the petitioners, the civil war was the climax of the excesses of the Federal government of Nigeria against the Ndi Igbo. Despite the atrocities of the civil war, the petitioners still believe that the successive governments of the federation have constantly

sought through policy articulation, to exclude the Ndi Igbo from benefiting in the economic and political life of Nigeria. The petitioners drew attention to the tragic issue of Abandoned Property enunciated in the **Abandoned Property Act No 90 of 1979**. Also, Ndi Igbo argues in the petition that the absence of industrialization programmes in the entire area coterminous with the areas of abode indicate this policy of marginalisation. The petitioners argue that this marginalisation has persisted in appointments and promotions in the bureaucracy and the military, and even political offices. There were also the problems of the Aro Ikwerre Refugees and the Oji River and the murder of Gideon Akaluka, an Igbo man in the city of Kano.

85. This petition sparked off a response from across the country and we believe that Ohaneze is to be thanked for making it possible for the Commission to use this petition to elicit reactions from a cross section of the various communities in the country. After reviewing the mountain of evidence, the Commission makes the following recommendations in response to the prayers by *Ohaneze Ndi Igbo*:

* We are of the view that the problems of the massive claims of marginalisation cut across the entire nation and we adduced enough evidence from the swelter of petitions. From all this, we can conclude that at least, every ethnic group in Nigeria claims marginalisation. However, none of this takes away the substance of this petition. On the request for an apology from the Federal Government, we do not believe that this should be done by only one party. We are of the view that for this to happen, the Federal government along with those who led the civil war find a way of presenting a common front in working out the modalities for public apology for the civil war as an unnecessary evil.

* We are of the view that the Abandoned Property issue remains very delicate, yet, it can and needs to be dealt with. Time does not heal an injustice, only truth can. We therefore recommend that the Rivers State

government find a way of carefully going through the outstanding cases of the claims with a view to making amends where necessary.

* On the issue of refugees, we are of the view that no matter the weaknesses of the Federal Government's policy of **Reconciliation**, **Rehabilitation** and **Reconstruction** may have been, it provided a platform for the successive governments to address the issues of refugees. We are of the view that the persistence of the Oji River Refugee problem is an indictment to various governments in the area.

* On the issue of the Aro Ikwerre people, the Commission visited the *locus in quo* visit and we saw the terrible situation. However, we are of the view that the resettlement of the community cannot be the responsibility of the Government as proposed by Ndi Igbo. We however believe that the security of that community is the responsibility of the Rivers State government. We note that most of those living in the church premises were born in the area. We therefore suggest a systematic programme of their integration into the community rather than the creation of a Bantustan between Isiokpo and Elele as proposed by Ndi Igbo. Again, dialogue at the Local Government level can heal this wound.

* In the case of Gideon Akaluka, we are of the view that this matter is a great tragedy. It is very unfortunate that the Government of the day did not handle this matter with the seriousness that was required. We therefore hold the prison authorities and the police responsible for the tragic circumstances that led to Mr. Akaluka's brutal murder. It is doubtful that much can be done in terms of compensation by the Government of Kano State. The Commission is of the view that this ugly matter be laid to rest.

* The Commission is of the view that the petitioners have a good case in their claim of marginalisation in the area of industries. However, if, as it is being said, the Federal Government is embarking on a policy of dredging the Niger, we encourage this project. We hope that it will open up opportunities for the nation to tap the vast resources available in this part of the country.

* We further recommend that the Government looks very closely at the issues of boundary adjustments and mineral development in some states in the area under consideration. Those that qualify to be included in the Niger-Delta Development Commission should be included immediately.

OGONI COMMUNITY

86. The case of the Ogoni, their experience with the Shell Petroleum Development Company and the agents of the Federal Government under the late General Sani Abacha attracted world-wide attention. The brutal murder of the writer, Ken Saro Wiwa, was the climax of the federal government's brutality in the community. However, the Commission was glad to note the amount of harmony that was finally created by the time the Commission finalised its sittings in Port Harcourt. Essentially, the lingering problems of the so called Ogoni 4 and Ogoni 9 were resolved. There were many outstanding issues. It became clear that the Ogoni problem had four dimensions: the Ogoni 4 vs Ogoni 9, Ogoni vs Federal Government of Nigeria, Ogoni vs Rivers State Government, and Ogoni vs Shell.

87. The Commission decided to set up a platform made up of the representatives of the Ogoni, the Movement for the Survival of Ogoni (MOSOP), the Rivers State Government and representatives of SPDC. In attendance were representatives of the Christian Association of Nigeria, CAN and the Commission.

88. Since the end of the sittings, the Commission has had extensive meetings with all the parties. We are of the view that these meetings will be able to resolve many of the outstanding issues on the short term. On the long term, only State and Federal Government policies on the one hand and Shell's behaviour can restore confidence, peace and harmony in Ogoniland. We believe that the Commission has set all parties on the path of dialogue.

NON APPEARANCE OF THE THREE GENERALS

89. It became clear to us that the issue of the appearance or otherwise of the former Heads of State was a matter of national significance. For the sake of the records, it is important to refresh the minds of all Nigerians on the initiatives which the Commission took which culminated in the decision to issue a *Composite Ruling* on October 3, 2001. The Commission went to great lengths to explain to our former leaders that they had a legal, moral and even political duty to honour the call of Nigerians and that the issues were not merely between them and the Commission. We explained that the summons was in reality the voice of Nigerians who were simply interested in knowing as much about the events in their country as possible.

90 The legal dimension of the cases was addressed by the three learned gentlemen who represented the former Heads of State and other interested respected lawyers. The key issue here was that of the appearances of the former Heads of State who had defied the Commission but still wished to first appear through their lawyers, and then secondly have their lawyers cross examine the witnesses. The Commission decided to listen to various opinions before arriving at its decision. Those who addressed this very lively session of the Commission on the legal issues were:

Chief G.O. K Ajayi, SAN

Chief Clement Akpambgo, SAN

Chief Shola Rhodes, SAN

Chief Olajide Ayodele, SAN

Mr. Emmanuel Toro, SAN

Chief Gani Fawehinmi, SAN

91 There were three issues for determination. They were:

- i) Whether the Commission, relying on Section 5 of the Tribunals of Inquiry Act, Cap 447 had the *vires* or the Constitutional competence

to issue and serve witness summonses or the former Heads of State.

- ii) Whether the former Heads of State can appear by proxy, i.e. through their lawyers, assuming that (i) above is not *ultra vires*?
- iii) Whether, having disobeyed the summonses of the Commission to appear in person to testify, they can be allowed to cross examine other witnesses for the Commission?

92 The Commission reviewed the evidence submitted before it and concluded that there was really only one central question which was: *Do proceedings before a Commission of Inquiry constitute a suit at law or a judicial proceeding?* In its wisdom, the Commission came to the conclusion that: *In a Commission of Inquiry under the Act, there does not exist an adversary situation. There is no litigation, and as such, there are no parties properly so called. No judgment is entered or can be even entered for or against the parties that do not in law exist. Everyone who appears before the Commission appears as a witness whose evidence will enable the Commission gather all the facts and make recommendations to the Proper Authority contemplated in Section 14 of the Act.... From our Terms of Reference, every President or ex-President, every top government functionary from January 15th, 1966 to May 28th 1999 is a relevant and necessary witness, whether or not he is specifically mentioned or implicated in any petition before the Commission. It is therefore no defence for failure to attend to say that any particular official was not mentioned in any particular petition. It is also erroneous to suggest that questions ought to be limited to the averments in a particular petition... That being so, every Head of State during those dark military years will be held accountable. He has to give account to the people of Nigeria, give account of his stewardship in respect of all gross human rights violations committed during his period of office. He is also accountable to history.*

93 The Commission, in its ruling went to great lengths to acquaint the former Heads of State with the fact that it was wrong for them to even speculate that they were being singled out for persecution since even the serving President had been issued with a summons. What is more, the Commission pointed out that it was not just a question of serving as Head of state that warranted their being summoned. Two former Heads of State, Alhaji Shehu Shagari and Chief Ernest Shonekan, were not summoned because no petitions were pending against them, nor were they in any way mentioned in any pending petition.

94 On whether it could exercise its powers of section, the Commission again, in its Composite ruling argued that although Section 10 of the Act empowers the Commission to issue a warrant of arrest to any person failing to attend on summons, it believed that: *... discretion is usually the better part of valour. The Commission, it ruled, is on a reconciliation process and one does not reconcile under duress.... The failure or refusal of our former Heads of State to attend has rudely shaken the faith and confidence of Nigerians in the reconciliation process Military rule thrives on the culture of impunity, which means that the leaders are both above the law and beyond punishment. Impunity, which is what the refusal to attend portrays, destroys the confidence of the people in the authority and role of the State.*

95 Since they did not avail themselves of the opportunity to come and tell their own side of the story, as the President and some former and serving senior governments functionaries did, we leave a blank space on our records against each and everyone of the three former Heads of State as evidence that we are leaving them and their side of the story in the court of human history.

96 We recommend to the Federal Government that all the former Heads of state be considered to have surrendered their right to govern Nigeria

and Nigerians at any other time in the future. It is left for Nigerians to judge.

97 The Commission also wishes to state as follows:

[REDACTED]

i. On General Muhammad Buhari, the Commission is of the view that the General has a case to answer in regard to the killing of the three young men referred to in the petition brought by the Kenneth Owoh family. There was overwhelming evidence to show that the execution of the three young men fell well outside the time frame allowed by the Decree under which they were tried. We therefore recommend that the General tender an unreserved apology to the families of the deceased. We equally hold accountable the Supreme Military Council of General Muhammadu Buhari that confirmed the brutal execution of the three young men. We therefore hold the then Supreme Military Council accountable.

[REDACTED]

98. On General Ibrahim Babangida, we are of the view that there is evidence to suggest that he and the two security chiefs, Brigadier General Halilu Akilu and Col. A. K. Togun are accountable for the death of Dele Giwa by letter bomb. We recommend that this case be re-open for further investigation in the public interest.

[REDACTED]

99. On the government of General Abdusalami Abubakar, the case against him had already been well argued by one of the witnesses, Col Idenhere, who testified in the case. Although he was not directly mentioned in the death of Chief Abiola, the inconsistency in the testimony of his Chief Security Officer, Lt Col Aliyu show that the Government of the day knows

much more about the circumstances leading to the death of the chief. We therefore recommend that that government is accountable.

100. By refusing to appear before the Commission, they denied themselves the wonderful opportunity of explaining to Nigerians what happened in each case, like General T. Y. Danjuma and Dr. Walter Ofonagoro did.

BREAKDOWN OF MORALITY IN THE SOCIETY

101. We note the near total breakdown of the moral fabric of our society with much pain, sadness and regret. The impact of this breakdown can be felt right across the entire spectrum of the Nigerian society. Children in schools have no qualms in cheating in their examinations, school leavers have taken on to armed robbery in frustration, family life has become precarious, politics, business and the social life of the nation are weakened by the weight of intense corruption. The Commission is of the view that all strata of the Nigerian society, from kindergarten right through to the entire polity must be renewed by way of a comprehensive programme of moral education and re-armament. With hindsight, it is tragic that the various *Wars Against Indiscipline* waged by the successive regimes failed so woefully under the weight of their own contradictions since the leaders were preaching one thing and doing another. We are of the view that this programme can still succeed. Without a moral code of conduct that becomes natural to us all, our future remains in jeopardy.

INFERIOR STATUS OF CITIZENS

102. We note with sadness the persistence of many ugly layers of injustice that persist in our society. Many communities came claiming violations of their rights by agents of government. Yet, we discovered that there are many of these societies that continue to harbour practices that are worse than what they claim against the government. We call on the

Federal Government, the National Assembly and the various Houses of Assembly to enact legislation that protects the rights of citizens and criminalizes such wicked and inhuman practices that condemn citizens to inhuman and degrading stations in society under the claims that they are, **Osu, Ogbanje** or **Uhu**. We also call for similar legislation to deal with widowhood practices as they pertain to the inhuman treatment meted out to widows during the deaths of their husbands. Effective legislation should protect women's rights to own property with a view to ensuring the welfare of both the widow and her children.

VIOLATIONS OF WORKERS RIGHTS TO FAIR PAY

103. As the scriptures say, *Every labourer is worthy of his hire*. We received hundreds of petitions from civil servants alleging a range of violations of their rights to work and pay. Although these petitions have been forwarded to the Office of the Head of Service as requested by the Federal Government, we are of the view that the Federal Government of Nigeria needs to take the welfare of civil servants more seriously. A situation where workers have no feeling of job security and their welfare not guaranteed, leads to despondency and corruption. Across the country, non-payment of salaries, pensions, retirement benefits are the order of the day. The worst-hit are teachers, that source almost invaluable of our nation's hope for greatness. We call on the federal government to devise a strategy to lay a foundation for a sound civil service, that engine room of national growth.

SUMMARY OF RECOMMENDATIONS

1. A bottom-up, broad-based series of national seminars to discuss our country's political and constitutional structure should be held as a matter of urgency.
2. Human Rights Education should be integrated into the curricula of our schools, with an urgent return to civic and moral education from nursery through secondary schools.
3. There should be harmonization of all education initiatives in the country, especially the Universal Basic Education Programme, to achieve higher national standards anchored on sound moral values.
4. There should be a moratorium on state and local government creation in the country, while caution should be exercised with respect to the creation of more chiefdoms – these exercises rather than weld the people together tend to emphasise division and to create enmity among our peoples and communities.
5. The Niger Delta Development Commission (NDDC) should be closely monitored, regarding project conception and execution, with local communities playing a central role in the process.
6. The National Assembly should, as a matter of topmost urgency, harmonise, in collaboration with the state legislatures, the findings of the various constitution review initiatives, so as to bring into existence an acceptable constitution.
7. While we are of the view that Sharia is an integral part of our religion and customary law, the Constitution should be the supreme law of

the land on criminal matters. The federal government should take action to make Sharia conform with all the international legal obligations Nigeria has subscribed to, as pointed out in Volumes Two and Five of this Report.

8. With effect from May 29, 1999, anyone who stages a *coup d'etat* must be brought to trial, no matter for how long and regardless of any decrees or laws they may have passed to shield themselves from future prosecution.

9. The Armed Forces should be pruned down to a manageable size, while they should also review their method of internal discipline.

10. The Directorate of Military Intelligence (DMI) should be overhauled and professionalized, with its powers and functions limited strictly to military intelligence gathering.

11. There should be an immediate restoration of a climate that guarantees academic freedom in our universities, and to fund them adequately.

12. As a matter of great urgency, steps should be taken to restore its lost dignity to the Nigeria Police, through proper funding, training and the rehabilitation of its collapsed infrastructures.

13. The Report of the 1997 Kayode Eso Panel of Enquiry on the Judiciary should be released immediately.

14. The Federal Ministry of Justice, in collaboration with the National Human Rights Commission, should publish readable summaries of citizenship rights and obligations in the country.

15. The Ministry of Women Affairs should be properly funded and equipped to take up major issues, which still confront women in Nigeria.

16. The Office of the Inspector-General of Police should be made to act expeditiously on the cases of murder that the Commission forwarded to it for further investigation (see appendix).

17. The Commission forwarded the cases of Chief Alfred Rewane and Alhaja Kudirat Abiola, to the Hon. Attorney-General of the Federation and Minister of Justice, who, in turn forwarded the files to the High Court of Lagos, where the cases are being prosecuted.

18. Arising from these cases are the arraignment of General Ishaya Bamaiyi and others before various High Courts in Lagos. The petitions from alleged victims about the alleged violations of their human rights by the aforementioned persons (General Bamaiyi and others) were dealt with in Volumes Four and Six of this Report. However, while we affirm that matters pending before our courts should take their normal course, we advise that, in the spirit of forgiveness, reconciliation, unity and peaceful co-existence, which the Commission has belaboured in this Report, the President may wish to consider a political solution as an alternative to the on-going protracted judicial process or else accelerate the hearing of these cases.

19. The federal government should open up the case of Dele Giwa for proper investigation.

20. The federal government should open the case of Chief Moshood Abiola again for proper investigation in the public interest.

21. There should be an overhaul of the country's prison system, with priority given to the rebuilding and refurbishing of prison facilities.

22. The Office of Ombudsman for Prisons Welfare should be created.

23. The Office of the Minister for Human Rights should be created.

24. A Human Rights Violations Rehabilitation/Presidential Fund should be established.

25. A National Human Rights Day should be proclaimed and celebrated annually on June 14. This coincides with the day the Commission was inaugurated.

26. A Popular Version of the Report of the Commission should be published.

27. It is recommended that security outfits such as the Strike Force, Body Guards and National Guard, which reared their ugly heads and were used to abuse the rights of Nigerians with impunity be scrapped. The outfits such as the SSS and NIA should be re-oriented to uphold the rights of Nigerians.

Military Trials:

28. All cases tried under the DMI and SIP were in breach of the African Charter and the Rule of Law. As a result of the above, we recommend blanket pardon for such cases.

29. That a Presidential Fund be established for payment of compensation to victims. That the government, corporate organizations,

multi-nationals, Non-Governmental Organisations and International Organisations be invited to contribute to such a fund. We further recommend that the funds are to be managed by the National Human Rights Commission or any other body to be appointed by the government.

Right To Life

30 That in concert with Chapter Two of the 1999 Constitution (Fundamental Objectives and Directive of Principle of State Policy), government should give all Nigerians the chance to participate meaningfully in the socio-economic activities of the nation. This way, Nigerians shall have access to decent shelter, food, clothing and social amenities. This is essential because the imperatives of government is to secure and guarantee the welfare of the people. The right to life presupposes the existence of the means to sustain that life closely interwoven with the means to sustain that right.

Employment

31 That the government should consciously and assiduously create jobs. This will reduce crime and poverty as there is a correlation between unemployment with crime and poverty. The government can accomplish this by:

- setting up cottage industries;
- reviving our infrastructures;
- reviving our manufacturing sector;
- giving out grants to small scale businesses for graduates.
- reviving our agriculture.

MINISTRY OF JUSTICE

32. We recommend that the Honourable Attorney-General of the Federation and Attorneys-General of the State should ensure that State Counsel are properly instructed as to the limit of their functions in rendering

legal advice to the Police and appropriate steps be taken to discipline erring State Counsel who, rather than give legal advice, turn themselves into courts and “decide” cases submitted merely for advice. In the Bayelsa case involving Dr. Eneweri, the Counsel was forced to recommend that those on board the outboard engine where Dr. Eneweri were supposed to have been drowned, be charged with the offence of murder. And that the State Counsel that proffered the advice be joined as an accessory after the fact. The Commission is sorry to say that in other jurisdictions we found the same practice still going on. We, however, did find in one or two jurisdictions such as the Rivers State when Mr. Adokie Amasiemeka was DPP, a correct advice being given and the Commission commended him for that.

i. As Chief Law Officers, Attorneys-General should appreciate the responsibility imposed on them by their high offices while rendering advice to the government especially on issues bordering on life and death. If such advice is rejected, he/she should have the courage to resign. We make this recommendation because the atrocities and human rights violations which occurred during the period under review would not have happened if the Attorneys-General lived up to expectation.

EPILOGUE

When President Clinton visited Nigeria in 1999 he talked of “a Nigeria worthy of its peoples’ dreams, a new Nigeria which is to be the world’s next great opportunity to advance the cause of peace, justice and prosperity.”

Again in his Inaugural Address to the nation on the 29th day of May, 1999, President Olusegun Obasanjo charged all Nigerians as follows:

“Let us rise as one to face the task ahead and turn
this daunting scene into a new dawn.”

The Nigerian scene from 1966 to 1999 has been very daunting indeed with many things falling apart including national unity, national loyalty, allegiance and patriotism. Of course, there has to exist a *patrios*; - fatherland; before one can talk about patriotism. The President wants Nigerians to see themselves as Nigerians and to put the interest of Nigeria over and above those of tribes or tongues. All the negative forces of *Fear of Domination, Tribalism, Ethnicity, Son of the Soil versus Stranger Element Syndrome* - all these should give way to “a new dawn of a People United; under one Flag, and bound together by common aspirations of liberty, freedom, justice and peace.” “A New Age of One Nation, One People, One Destiny” with the Culture of Unity in Diversity and of Brotherhood based on one Common Nigerian Citizenship and respect for the human rights of every Nigerian. It is in such a New Nigeria that any Recommendation of this Commission can achieve its purpose of healing and reconciliation, otherwise it will simply be pouring new wine into old bottles.

Hon. Justice Chukwudifu A. OPUTA, CFR

Dr. Mudiaga ODJE, SAN, OFR

Rev. Fr. Matthew Hassan KUKAH

Barr. Bala NGILARI

Mrs. Elizabeth PAM, MFR

Mrs. Modupe AREOLA

Alhaji Adamu Lawal BAMALLI

Nu'uman DAMBATA, mni