

VOLUME FOUR

INTRODUCTION

1. This volume is a case-by-case record of the Commission's public hearings at Abuja, Lagos, Port-Harcourt, Enugu and Kano.
2. Chapter One introduces the entire volume. It does so within the context of the Commission's terms of reference and the framework of the Tribunals of Inquiry Act. It also enumerates the daily procedure for the conduct of public hearing.
3. Chapter Two is a case-by-case record of the first set of petitions heard in Abuja. It is entitled Abuja I.
4. Chapter Three, entitled, Lagos Centre, is a case-by-case record of the petitions whose hearings started in Lagos from November 13 to December 16, 2000.
5. Chapter Four covers the petitions that were heard at Port-Harcourt.
6. Chapter Five covers all petitions whose hearings commenced at the Kano Centre from March 12, 2000 and ended March 22, 2000. Some of the petitions here were adjourned to the Abuja Centre for further hearing.
7. Chapter Six covers the public hearings at the Enugu centre. These were held from April 18, 2001 to May 7, 2001.

8. Chapter Seven, entitled Abuja II, covers the continuation of cases across the various zones which were not exhausted.

9. Chapter Eight, entitled, Abuja III, is the third session of the Commission at Abuja. It took place between September 3, 2001 and October 18, 2001. Though this session concluded hearing started at other centres, including Abuja, it nonetheless considered some fresh cases.

10. Chapter Nine is the conclusion. It takes a look at the entire hearings. It also makes general observations on the grievances that informed most of the petitions and the failure of institutions in safeguarding the rights of the people.

CHAPTER ONE

INTRODUCTION

1.1 One of the highlights of the maiden address of President Olusegun Obasanjo when taking over the reins of power on the 29th of May 1999, was a commitment to fight the twin evils of institutionalized corruption and human rights abuses which had characterized Nigeria's experience during the era of military rule. In apparent fulfillment of that pledge, the President, on the 4th of June 1999, inaugurated the Human Rights Violations Investigations Commission (HRVIC – hereafter, the Commission) with a membership of seven distinguished Nigerians.

1.2 In his speech during the inauguration, the President pointed out that setting up the Commission was a manifestation of the determination of the new democratic government,

To heal the wounds of the past and quickly put the ugly past behind us so as to continue to stretch our hands of fellowship and friendship to all Nigerians for complete reconciliation based on truth and knowledge of the truth in our land.

1.3 He went on to assert that the paramount intention was to pave the way for reconciliation and thus move the country forward in peace and harmony. In his words,

We want to reconcile all those who feel alienated by past political events, heal wounds inflicted on our people and restore harmony in our country. We want

the injured and the seemingly injured to be reconciled with their oppressors or seeming oppressors. That is the way to move forward.

1.4 From the above was derived the mandate of the commission which as articulated by its chairman during the zonal public hearings constituted the following:

- 1) To **Heal** the wounds of the past;
- 2) To achieve **Reconciliation** based on Truth and knowledge of the Truth; and
- 3) To restore **Harmony** in our country.

1.5 The Commission derived its powers from the Tribunals of Inquiry Act (Cap 447) Laws of the Federation of Nigeria 1990. Section 8 of the Act states that the Commission “shall have power to regulate its own proceedings”. In the exercise of this power as well as the desire to elicit information from primary sources, the Commission decided to organize public hearings in a bid to more effectively carry out its assignment. The public hearings were of two types. First, were the Zonal Hearings which were held in six designated centres in the country’s six geo-political zones and second, were the Special Hearings. The latter were hearings organized for civil society and human rights organizations and other specialized professional groups such as the security agencies.

1.6 The conduct of the public hearings was organized within legal framework of the Tribunal of Inquiry Act and particularly Sections 9 – 13 which state as follows:

9. *Subject to the provisions of the Tribunals of Inquiry Act, the Panel shall have and may exercise any of the following powers, that is to say –*

a) *To procure all such evidence, written or oral, and to examine all such persons as witnesses as the Panel may think it necessary or desirable to procure or examine;*

b) *To require such evidence to be given on oath as is required of a witness testifying before a court;*

c) *To summon any person in Nigeria to attend any meeting of the Panel to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession, subject to all just exceptions;*

d) *To issue a warrant to compel the attendance of any person who, after having been summoned to attend fails or refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the Panel;*

e) *To admit any evidence, whether written or oral, notwithstanding that such evidence might have been inadmissible in civil or criminal proceedings before a court, and power to act on such evidence;*

f) To enter upon any land or premises personally or by any agent or agents duly authorized in writing by the Chairman, for any purpose which, in his opinion is material to the inquiry, and in particular, for the purpose of obtaining evidence or information or of inspecting or taking copies of any documents required by or which may be of assistance to the Panel, and for safeguarding any such document or property which, in the opinion of the Panel ought to be safeguarded for any purpose of the inquiry.

- 10. The Chairman shall have power to issue, on behalf of the Panel, all such summonses, subpoenas and other processes and make such necessary appointments as may be required under this Instrument either before or during the inquiry until the submission of the Panel's final report.*
- 11. Evidence taken under this Act shall be inadmissible against any person in any civil or criminal proceedings whatever, except in the case of a person charged with giving false evidence before the Panel.*
- 12. Any person who –*
 - a) threatens, insults or injures any person for having given evidence or on account of the evidence given before the Panel; or*
 - b) hinders or attempts to hinder any person, or by threats deters or attempts to deter any person, from giving evidence before the Panel; or*

c) gives false evidence upon oath before the Panel shall be guilty of all offence and liable on summary conviction to imprisonment for a term not exceeding two (2) years.

13. *Any person who, after service on him of a summons to attend as a witness or to produce a book, document or any other thing and, notwithstanding any duty of secrecy however imposed, fails or refuses or neglects to do so or to answer any question put to him by or with the concurrence of the Panel shall be guilty of an offence, and liable on summary conviction to a fine of two hundred Naira or to imprisonment for terms of six months: provided that no person shall be bound to incriminate himself and every witness shall, in respect of any evidence written by him for or given by him for the Panel, be entitled to the same privilege to which he would have been entitled if giving evidence before a court of justice.*

1.7 The daily sittings of the Commission however followed the procedure outlined below:

Daily Procedure for Conduct of Public Hearings

1. Counsel, Commission staff (registrars, verbatim reporters) and members of the public are seated.
2. The counsel list is signed by counsel.
3. Members arrive and take their seats.
4. Chairman informs gathering of the procedure to be adopted by the Commission, i.e:
 - a) The Commission's counsel will lead all the witnesses (i.e. the petitioners, respondents and any other witnesses).

- b) The petitioner or his counsel, or the respondent/witness or his counsel may cross-examine any witness if need be.
5. The Registrar calls the petition to be heard.
 6. The petitioner is called to the witness box.
 7. The Commission's counsel announces appearance.
 8. Any other counsel interested in the matter announces appearance.
 9. The Commission's counsel commences examination in chief.
 10. Respondent/witness or his counsel is allowed to cross examine the petitioner.
 11. After the petitioner's testimony, respondent goes into the witness box, the procedure is repeated and he is also led in evidence by his own counsel.
 12. After respondent's evidence, petitioner or his counsel may cross-examine him.
 13. Commission's counsel may re-examine any witness if need be.

1.8 As mention earlier, one phase of the public hearings was conducted in designated centres in the six geo-political zones of the country. Because of time constraint, not all the petitions slated for hearing in some of the zones could all be heard or concluded in the designated centres. Such unheard or unconcluded petitions were thus adjourned or transferred as the case may be, to the Abuja Second and Third sessions. Below, is the summary of the petitions heard per zone/centre (excluding the Special Hearings). Details of petitions heard in each Centre are provided in Appendix I.

1.9

ZONAL PUBLIC HEARINGS

S/NO	CENTRE	DATE OF HEARING	PETITIONS HEARD	PETITIONS STRUCK OUT	PETITIONS WITHDRAWN
1.	ABUJA 9I)	24TH OCT - 31ST NOV. 2000	35	2	-
2.	LAGOS	13TH NOV - 16TH DEC. 2000	57	1	-
3.	PORT-HARCOURT	15TH JAN. - 2ND FEB, 2001	36	1	2
4.	KANO	12TH - 22ND MARCH, 2001	34	9	3
5.	ENUGU	18TH APRIL - 4TH MAY, 2001	39	6	-
6.	ABUJA (II)	25TH JUNE - 31ST JULY, 2001	77	20	5
7.	ABUJA (III)	3RD SEPT. - 9TH OCT. 2001	62	10	-
	TOTAL		340	49	10

1.10 The Special Hearings were all organized during the Third Abuja Sessions. Submissions were made by the following:

1. National Human Rights Commission
2. Civil Liberties Organization.
3. Constitutional Rights Projects.
4. Centre for the Defense of Human Rights.
5. Prisoners Rehabilitation and Welfare Action.
6. The Armed Forces.

7. The Police
8. State Security Service
9. National Intelligence Agency
10. The Nigeria Prisons.
11. The Prison Rehabilitation Ministry International.

1.11 Research Institutions and Individual Researchers earlier commissioned to undertake background researches for the Commission also made summary presentations. They included:

1. Centre for Democratic Development Research and Training
2. Development Policy Centre
3. BOABAB
4. The African Centre for Democratic Government
5. Centre for Advanced Social Science
6. Alhaji M. D. Yusuf
7. Professor S. G. Tyoden.

1.12 It is on record that the Commission received over 10,000 petitions. However, as can be seen in the Table above only 40 petitions were the subject of public hearings. These petitions were those which the Commission deemed as dealing with *gross violations* of human rights in line with its terms of reference. However, neither the instrument setting up the Commission, nor its terms of reference, defined the concept, *gross violations*. The Commission therefore adopted and modified the definition used by the South African Truth and Reconciliation Commission. Violations of human rights seen as gross were thus designated as:

- a) the killing, abduction, torture or severe ill-treatment of any person.

- b) an attempt, conspiracy, incitement, instigation command or procurement to commit an act referred to in paragraph (a) --- and which was committed during the period 15th January 1966 to 29th May 1999.

1.13 After identifying those petitions the Commission believed came under the category of *gross violations*, the list, number of petition, name of petitioner and date of hearings were published in four daily newspapers with a national circulation. This was done a few days to the commencement of each zonal hearing. In addition, the Commission sent out bailiffs with written summonses which were served on petitioners and witnesses alike.

1.14 Another point worth noting was the nature of the Commission. It was only a fact-finding Commission whose major preoccupation was preliminary investigation into facts with a view to recommending further action as dictated by the available evidence. It was not empowered or mandated by its Terms of Reference or the Tribunals of Inquiry Act to pass final judgment. In other words, it was not a fault-finding or guilt-finding body in the sense that it could pass a verdict of Guilty or Not Guilty; Liable or not Liable as the case may be. This thus differentiated the Commission from a Court of Law although it adopted the same *modus operandi*, in the conduct of the public hearings.

1.15 In the course of the hearings, the Commission has had to strike out some petitions. This was done based on three reasons: First was when the Commission discovered that a petition was a subject matter before a Court of Law. Second was the voluntary withdrawal of a petition by the petitioner and the withdrawal is not objected to by

the individual(s) or institution(s) petitioned against. Third was when a petitioner fails, after due service of notice of hearing, to appear before the Commission on a date fixed for hearing. This third reason was usually the discretion of the Commission and was usually exercised with great caution, after the Commission had convinced itself that there was proof of service and that the petitioner was given adequate notice. Even so, the Commission usually struck out these categories of petitions with a *proviso* that the petitioner was at liberty to refile such petition.

1.16 As mentioned earlier, one of the major reasons for convening the public and special hearings was the need to collate as much data as possible from primary sources i.e the direct victims of the human rights abuses being investigated. The special hearings also provided the same type of information, although from interested and informed secondary sources with in-depth knowledge and/or information on such violations. A third reason for the conduct of the hearings was that it provided a public forum for the aggrieved to air his or her grievances and for the alleged perpetrator to state his or her own side of the story. The overall intention being the hope that the face-to-face encounter between accused and accuser would provide an opportunity for reflective soul-searching, remorse, forgiveness and reconciliation. Finally it was also intended that the public hearings would provide Nigerians and indeed the world at large an opportunity to know at first hand, who did what, to whom and with what consequences.

1.17 What follows is the summary of these hearings as recorded in the various centres.

CHAPTER TWO

ABUJA I

INTRODUCTION

2.1 The first phase of the public hearings of the Commission took place in Abuja between the 24th of October, 2000 and the 31st of November, 2000. Since Abuja later on witnessed other public hearing sessions, for convenience, this phase will be referred to as “THE FIRST ABUJA HEARINGS”. During this phase, a total number of 42 petitions were presented for hearing. Out of this number, 14 petitions were concluded; 4 were struck out, mostly because the petitioners failed to show up to prosecute or follow up their petitions or because they requested to withdraw it. Twenty-four petitions were adjourned to subsequent Abuja sittings or to other zones for continuation of hearing.

2.2 The first Abuja sittings started with the cases of the petitioners who were implicated in the 1995 *coup d’etat* which were popularly referred to by the petitioners, as a phantom *coup detat*.

2.3 Apart from the *coup d’etat* cases, other petitions dealt with in this zone included petitions which dealt with unlawful killings and unlawful detentions.

2.4 Without any exception, all the petitions relating to alleged involvement in the 1995 *coup d’etat* complained of torture, inhuman and degrading treatment as well as denial of the constitutional right of the petitioners to fair hearing, as a result of reliance on the Special Military Tribunal.

2.5 About four different categories of cases were heard during the first Abuja sittings. They included cases of torture, inhuman and degrading treatment, cases of unlawful killing, abduction, etc.

2.6 The first group of cases tagged, **the 1995 Coup cases**, was consolidated because of their similarity and close relationship. The cases are dealt with below on a case-by-case basis.

PETITION NO. 147 PETITIONER: CAPTAIN U.S.A SULEIMAN

This case was started during the first Abuja sitting but was concluded during the second Abuja sitting. The petitioner's petition, which was tendered in evidence as **Exhibit I**, disclosed that following his alleged complicity in the 1995 coup plot, he was detained without trial for eleven months. During this period, he was kept in solitary confinement in a dungeon at three different locations in Lagos. His detention was accompanied by severe torture, including being chained, hand and foot, for twenty-four hours each day. He demonstrated the various torture positions, which he was forced to adopt. In his own words,

“the dungeon at 78 Alexander Avenue, Ikoyi, where I had a stint must be given a special mention. It is a dreaded location by all detainees as it accommodates the worst cells I have ever come across in my life.

The cubicle – like dungeons, not ventilated and in perpetual darkness, twenty-four hours a day. The combined effect of Lagos humidity and the air-tight nature of the dungeons leave detainees gasping for breath and their body dripping of sweat all day.

The setting is akin to the German Gestapo camp of the Nazi era”.

Like the petitioners in his group, the petitioner blamed the following individuals:

- i. Major General Patrick Aziza - who was Chairman of the Special Military Tribunal (SMT).
- ii. Major General Felix Mujakpero - Head of the Special Investigation Panel.(S.I.P).
- iii. Col. J. K. Olu - Head of Security Group of Directorate of Military Intelligence
- iv. Col. Frank Omenka, and
- v. Zakari Biu - Assistant Commissioner of Police.

Only ACP Zakari Biu appeared during this session. He was represented by Counsel who cross-examined the petitioner (Commission Witness I), after his testimony, ACP Zakari Biu in his testimony denied torturing the petitioners.

PETITION NO 364: PETITIONER COL. MARTINS AZUKA IGWE

This petitioner’s case was the second heard by the Commission during the first Abuja sitting. Like Captain Suleiman, he was arrested, detained and severely tortured for alleged complicity in the 1995 coup plot to overthrow the government of Gen. Sani Abacha, a plot which he referred to in his testimony as “a non-existent coup plot”. However, his own ordeal went beyond torture. He was tried by the General Patrick Aziza Coup Tribunal and was sentenced to death by firing squad. The death sentence was later commuted to twenty years imprisonment and

his military career was destroyed following his retirement from the Army.

In his evidence, he described the torture inflicted on him as well as the torture position to include:

- i. The chaining of his hands and feet to the wall in the form a crucifix and being made to stand throughout the night in the dark, damp and unventilated cell.
- ii. Being suspended on a horizontal pole with his hands and feet tied behind him while being simultaneously questioned and beaten.

This witness was detained for a total of four years and seven days under inhuman condition.

The witness was cross-examined by Counsel to ACP Zakari Bui who was described by the petitioner during his testimony as his “Chief Torturer”, a tag that was denied by ACP Bui. The witness stood by his story during the cross-examination.

During the second Abuja session, the following petitions were consolidated and heard together with the case of Lt. Colonel Martins Azuka Igwe since the facts of the case were similar. They are:

- Petition No. 38 by Col. Roland N. Emokpae,
- Petition No. 147 by Captain U. S. A. Suleiman,
- Petition No., 101 by Navy Lt. Akin Olowookere and
- Petition No. 150 by Navy Commander L. M. O. Fabiyi

Another related case presented by Lt. Col. Richard Obiki was also concluded during the session. The common thread that ran through the testimonies of this group of petitioners was the contention that the 1995 coup plot which they unanimously tagged “a phantom coup” existed only in the imagination of their accusers. Lt. Col. Igwe in his testimony stated thus,

“the whole coup saga of 1995 was stage-managed basically by the late General Abacha and his agents to deal with General Olusegun Obasanjo and the late General Shehu Musa Yar’adua for not supporting (Abacha’s) infamous regime. We (the hounded military officers and civilians) were merely used to make up a concocted coup story for effect. I committed no offence whatsoever”.

The petitioners’ claims of arbitrary arrest, detention, trial and undeserved conviction were also uniform. Also, almost all the petitioners pointedly named the same individuals as the perpetrators of the abuses against them, namely: Major Generals Patrick Aziza and Mujakperuo, Colonel Frank Omenka, and ACP Zakari Biu. Col Omenka had however fled the country at the time of the sittings of this Commission and could therefore not be summoned to appear before it.

General Felix Mujakperuo in his response to the allegations made against him in the petitions stated that he was the Head of the Special Investigation Panel set up by the military under the government of the day in 1995 to investigate the suspects of the alleged coup plot. He also stated that the SIP was divided into three separate and distinct units namely: The Interrogation Section, The Investigation Section and the Legal Unit. He also informed the Commission that each of these units had its own convening orders and although he was the overall

head of the Panel, he was in fact in charge of only the Investigation Section. He denied ordering or partaking in torture or ill-treatment of any of the suspects.

General Patrick Aziza in his response stated that he was the President of the Special Military Tribunal, which tried the coup suspects. He denied presiding over a kangaroo court as claimed by the suspects, pointing out that the Special Military Tribunal, which tried, convicted and handed out death sentences or terms of imprisonment to the suspects, was in fact a creature of the Treason and other Offences (Special Military Tribunal) Act, Cap 444, Law of the Federation of Nigeria, 1990. He denied any link whatsoever with the arrest or alleged torture of any of the petitioners.

This witness stated that at the end of the prosecution's case, the then suspects were given the opportunity to enter into their own defences. The petitioners' claims of torture were rejected by him on the ground that there were no visible wounds.

This witness denied the claim of the petitioners that as a member of the Provisional Ruling Council, which ratified the sentences passed on the accused persons, he acted as both prosecutor and judge to the detriment of the petitioners. The witness corroborated the testimony of Captain U. S. A. Suleiman to the effect that although the latter was billed to appear before the SMT for trial, he was eventually not brought. Despite being cleared by the S.I.P, the petitioner's detention continued nonetheless. In the light of the claims of all the petitioners that no coup plot by whatever shape took place in 1995, they wanted the alleged 1995 coup plot to be declared a hoax. They were also united in their assertion that their trial for the alleged coup plot was

malicious, vindictive and unjust, and their conviction a travesty of justice. Indeed, they argued that it was in the light of the realization of these facts that the government of General Abdulsalami Abubakar granted them State Pardon. What they are now seeking from the Commission/Government is that their entire convictions be quashed, they be paid compensations and rehabilitated accordingly.

PETITION NO. 31 PETITIONER: LT. COLONEL OBIKI

This petitioner was also arrested, detained and tortured for alleged involvement in the 1995 coup plot. He was tried by the Special Military Tribunal. He was sentenced to life imprisonment but spent twenty-two months in detention. The petitioner adopted the testimony (including the prayers) of all the other victims of the alleged coup plot in 1995.

PETITION NO. 124: PETITIONER: COLONEL OLOSEGUN OLORUNTOBA

The petitioner was also arrested, detained and tortured in connection with the 1995 alleged coup plot. He was tried by the General Patrick Aziza Coup Tribunal and was sentenced to death by firing squad. In view of the consistency of his account of torture with those of the other coup victims, the Commission decided it had received enough evidence and there was no need to summon any more witnesses. His case was consolidated with all the other 1995 coup cases.

PETITION NO. 123 PETITIONER D. K. OLOWOMORAN

This petitioner was one of the officers who were arrested, detained and severely tortured in connection with the 1995 coup plot. Although the charges of coup plotting preferred against him were eventually dismissed by the Special Military Tribunal, his detention continued for

about eight months thereafter. His petition was consolidated with those of the other alleged coup plotters.

PETITION NO. 306 PETITIONER: COLONEL E. I. JANDO

The petitioner was arrested in December 1997 in connection with the second alleged coup plot against the government of General Sani Abacha. In his testimony, he stated that he was detained, severely tortured and eventually charged before the Special Military Tribunal headed by General Victor Malu with “concealment of information of treasonable value”. He denied any link with the 1997 alleged coup plot.

During his testimony, he stated that one Colonel Nathaniel Madza had falsely implicated him. Colonel Madza in his testimony agreed to report the petitioner to the military authorities but maintained he did it as part of his duties. However faced with his accuser and the facts before him he showed remorse. “He pleaded for forgiveness, telling the petitioner that they were both victims of the system”. The Commission achieved one of its earliest reconciliations when it reconciled Colonel Madza and the petitioner. The case was concluded during the first Abuja session.

PETITION NO. 495. PETITIONER: MURTALA S.YAR’ ADUA

The petitioner is the son of the late General Shehu Musa Yar’ adua, the former Chief of Staff, Supreme Headquarters, under the regime of General Olusegun Obasanjo between 1977 and 1979. He alleged that his father was unlawfully arrested, detained, tried, convicted and sentenced to death by the Special Military Tribunal headed by Major-General P.N. Aziza for alleged involvement in the alleged coup plot of 1995 under the late General Sani Abacha’s regime. His death

sentence was subsequently commuted to life imprisonment by the same regime. The petitioner lamented that his father died in Abakaliki prisons while serving the life sentence in circumstances that clearly suggest complicity on the part of the government of the day.

On the 30th of October 2000 when the petition was mentioned for hearing for the second time, the petitioner informed the Commission that he did not receive the notice of hearing on time and requested for an adjournment to enable him prepare for the matter.

The Commission acceded to this request. When the matter was subsequently called for hearing on the 26th and 29th of June, 2001 respectively, the petitioner was absent and was not represented by counsel.

The counsel representing the Commission informed the Commission that attempts to serve the petitioner necessary notices of hearing had failed. The Commission observed that the matter had been adjourned several times in order to enable the petitioner appear and present the petition. The petition was accordingly struck-out.

PETITION NO 233: PETITIONER: OLU BAMGBOSE

This petitioner wrote to complain about his arrest, detention and torture in connection with the 1995 alleged coup plot against the government of General Sani Abacha. He supplied an address in the United States of America through which he was served by DHL courier service. However, the indication from the courier company was that the addressee was unknown at the address he supplied. The case was therefore struck out owing to the absence of the petitioner.

PETITION NO. 275: PETITIONER: MAJOR MICHAEL O. EDEGHABA

The petitioner's case is that of unlawful arrest, detention and torture on alleged trumped-up charges of coup plotting in 1994. He spent over two years in detention and was tortured by being hand- and leg-chained while in custody. He attributed his travails to his opposition to continued military rule, which earned him the tag of a member of the National Democratic Coalition (NADECO), which was at the time a vocal opponent of military rule. The other two witnesses who were summoned by the Commission, Colonels Bassey Asuquo and K. J. Olu, were absent. The Commission ruled that their testimony would add nothing more to the case. The petitioner's case was accordingly closed.

PETITION NO. 497: PETITIONER: OLUGBENGA OBASANJO

This petition was submitted by Olugbena Obasanjo to complain about the alleged unlawful arrest, detention, trial and conviction of his father, Chief Olusegun Obasanjo for alleged complicity in the purported coup plot against the government of General Sani Abacha. The petitioner was absent from the proceedings but was represented by counsel. The present Head of State, Chief Olusegun Obasanjo who is the subject of the petition was summoned by the Commission as a witness, and he appeared and testified.

Counsel to Alhaji Ismaila Gwarzo, one of the witnesses in the case had challenged the non-appearance of the petitioner and urged that the case be struck out. The Commission however upheld the argument of the counsel to the petitioner and Chief Obasanjo that representation by counsel was sufficient under the Tribunals of Inquiry Act. This was the attitude which the Commission adopted, in subsequent cases

where an absent petitioner was represented by counsel. The petition was accordingly not struck out.

The then Chief of Defence Intelligence, Rear Admiral Joseph Ajayi, who was summoned as a witness brought certain items, which he tendered in evidence. These were:

- a. A copy of the video recording of the proceedings of the 1995 Special Military Tribunal, which tried the alleged coup plotters which was tendered in evidence and marked Exhibit 1.
- b. Record of proceedings of the Special Military Tribunal convened by Major General Abdulsalami A. Abubakar, which was marked Exhibit 2.
- c. Report of a Ministry of Defence Special Investigation Panel on the coup plot against the Federal Government, which was marked Exhibit 3.
- d. A letter captioned: "Cashiering of Retired NA Officers" General Olusegun Obasanjo (N46) dated 25th October, 1995 and signed by Brigadier-General Said, which was marked Exhibit 4.

A letter entitled, "Grant of Amnesty to Detainee:" signed by one Air Vice Marshall Idi Musa which was marked Exhibit 5.

In his testimony, Chief Olusegun Obasanjo stated that he promptly answered the summons of the Commission to show leadership by example and to show that nobody is above the law. The witness identified Exhibits 1 to 5, which were tendered when the case first came up for hearing. He also confirmed that the petition was indeed written by his son and confirmed the facts of his arrest, detention, trial, conviction and sentence as contained in the petition. The petition was received in evidence as Exhibit 6.

The witness was charged for concealment of treason and sentenced to twenty-five years imprisonment. He confirmed that the petitioner witnessed his arrest and underwent psychological trauma as a result of same.

This witness also disclosed during his testimony that while he was in prison, Colonel Bello-Fadile wrote a letter of apology to him. A copy of this letter was tendered in evidence and marked Exhibit 7. He was also cashiered from the army while he was in prison. He finally stated he had forgiven all those who implicated him in the alleged coup plot and that he desired no compensation as he had been vindicated. At the prompting of the Commission, the witness and Colonel Bello-Fadile demonstrated their reconciliation by publicly embracing each other.

Colonel Bello-Fadile who was alleged by Chief Obasanjo to have implicated him in the plot also testified. He confirmed that he indeed wrote the letter of apology to Chief Obasanjo and also stated that he was tortured into implicating Chief Obasanjo. He denied planning a coup but stated that he may have been used to implicate Chief Obasanjo in the alleged coup plot in order to lend credence to the coup plot story. The Commission decided that no further testimony was required and the case was accordingly closed.

PETITION NO. 617: PETITIONER: MRS L. WILLIAMS

The petitioner was absent during the first Abuja sittings. Since she supplied a Port Harcourt address to the Commission, her case was remitted to Port Harcourt for hearing.

PETITION NO. 122: PETITIONER: MRS ADEBUKUNOLA OSHODI

This petitioner wrote to the Commission in respect of the crash of the Military Transport Plane (C-130) on the 26th of September, 1992 in which almost a whole course of military officers cutting across the Army, the Navy, and the Air force perished. She sought to know exactly what happened to her husband who was on board the plane, and the cause of the crash.

When she failed to appear during the first Abuja session, her case was remitted to the second Abuja session. At this time the Commission got an indication that she had left Abuja and that she was then resident in Lagos.

The Commission's bailiffs tracked her down in Lagos and effected service of a summons on her. She again failed to appear. Her case was accordingly struck out during the second Abuja sitting.

PETITION 787: PETITIONER: MR. JULIUS ANAKOR

This petitioner's complaint was in respect of the disappearance in police custody and presumed death of his younger brother, Mr. Samuel Anakor. The fact of the case is that Dr. Samuel Anakor was arrested and detained at the Wuse Police Station, while on a business trip from Aba, Abia State to Abuja. He was detained with his vehicle and cash of N450,000.00 (four hundred and fifty thousand naira).

When the petitioner and the family of the deceased grew apprehensive upon not seeing him, they traced him to the Wuse Police Station from where they were directed to the Federal Investigation and Intelligence Bureau (FIIB). They were informed that he was in the custody of one DSP Bello. All attempts to see the said Samuel Anakor proved

abortive. There was no evidence that the said Samuel Anakor had been charged with any offence or had been arraigned before any court of law.

The petitioner, in his testimony, expressed the view that his brother was murdered by the police because of the money he had on him. The Police failed to produce the two officers who were mentioned by the petitioner namely, DSP Bello, who had the victim, Samuel Anakor, in his custody and Mr. Patrick Oditia who had promised to facilitate investigations into the case.

In view of the absence of police witnesses to contradict the testimony of the petitioner, his case was closed. He sought compensation totaling N6.15 million for the presumed unlawful killing of his brother and prosecution of all those implicated in his killing.

PETITION NO. 244 PETITIONER: STEPHEN SARKI

This petitioner wrote in respect of the alleged murder of a member of staff of the Federal Road Safety Corps Abuja, one Mr. John Zephaniah Haruna in the Wuse Central Police Station by certain named perpetrators. When, however, the case was called for hearing, the petitioner was neither present nor was he represented by counsel and remained absent on the next date of adjournment. The case was accordingly struck out.

PETITION NO 254: PETITIONER: MR OGAGA OVRAWAH

This petition deals with the unlawful killing of one Innocent Oghenero Zundu Ovwah on the evening of the 3rd of March, 1998 along Gado Nasko Road, Kubwa, Abuja by three men. The petitioner named two of the perpetrators in his testimony as Mr. Adejoh Abdul and Mr Noah

Omakonji both of Kubwa, Abuja. The two alleged perpetrators were said to be in the employment of the National Intelligence Agency, Abuja.

The petitioner disclosed in his testimony that his late brother had been beaten to death by the three perpetrators following an attempt by the deceased to settle an argument between the perpetrators and a commercial motor cyclist who was carrying him (the deceased) and who had been involved in a minor accident with a car driven by one of the alleged perpetrators.

The petitioner also disclosed that the perpetrators were arrested by the police but were later granted bail by the Chief Magistrate Court in Wuse, Abuja. According to the petitioner up to the time of the hearing, no steps had been taken to initiate criminal proceedings against the perpetrators. The record of proceedings during which the alleged perpetrators were granted bail was tendered in evidence and marked Exhibit 3.

The petitioner's prayer was that the case should be re-opened and re-investigated.

The investigating police officer who investigated the case informed the Commission that following the death of the deceased, his employers, the Federal Road Safety Corps had embalmed the corpse without informing the police.

According to him, the pathologist consequently refused to carry out an autopsy on the corpse. Since there was no autopsy report, the Director of Public Prosecutions terminated the case. The case file in

respect of the case titled “Commissioner of Police Vs Adejoh Abdul and Noah Omakonji” was admitted in evidence and marked Exhibit 3. The Commission ordered that the case be re-opened and re-investigated by the police.

PETITION NO 23: PETITIONER: ALHAJI MAHMOUD A. SAMBA

This petitioner’s complaint relates to the bomb explosion in Ilorin Stadium on the 31st of May, 1995. The explosion according to the petitioner was an act of sabotage designed to eliminate certain people. When the case was called for hearing, the petitioner was absent and the case was accordingly struck out.

PETITION NO. 792: PETITIONER: MR JOHN JOKOTOYE

This petition relates to the unlawful killing of one David Jokotoye and two other individuals, Francis Omokore and Usman Kofor Mata who were allegedly shot dead by men of the Nigeria Police Force on the 22nd of May, 1998.

The petitioner in his testimony stated that the late Jokotoye and the other two were returning to Suleja from Kano where they had gone to buy a car when policemen along the Kano/Zaria expressway accosted them. While the driver of the vehicle, Kofor Mata was shot dead on the spot, the other two were wounded but were later also shot dead by the police.

The police witness, Superintendent of Police, Thomas Bangajija, stated in his testimony that the deceased had been shot while attempting to run away from the police, a claim which was contradicted by Exhibit 2, a medical certificate of death which was tendered by the petitioner

and which indicated that the late Jokotoye had been shot in the forehead, not shot while trying to escape from the Police.

The testimony adduced during the hearing of this petition revealed there was no dispute about the fact that the late Jokotoye and the other two were shot and killed by the Police, having been mistaken for armed robbers.

The petitioner sought compensation to the tune of not less than ten million naira.

PETITION NO 900: PETITIONER: MR. T.U. AKHIDIME

This was a case of unlawful killing. The case was struck out during the first Abuja sitting owing to the non-appearance of the petitioner but was subsequently heard during the second Abuja session, when the petitioner put up appearance. Details of the case can be obtained in the records of the second Abuja session.

PETITION NO. 60: PETITIONER: ALHAJI SANI OTTO

This was a case of alleged unlawful killing of one Alhaji Ibrahim Otto, about the 25th of April, 1998. The petitioner in his testimony disclosed that the deceased was killed because of his political leaning, having supported one Barrister A.D. Sodangi against his opponent, one Alhaji Isa Aliyu Ndako on election day.

The petitioner also stated in his testimony that despite a formal report to the police in Nasarawa State and a petition to the Inspector-General of Police, the Police made no arrests, neither was any investigation conducted in respect of the matter. The petitioner's prayer was that the Police should investigate his brother's death, a request which the

Commission had no difficulty in acceding to. The case was thus remitted to the police for full investigation.

PETITION NO. 230: PETITIONER: LISA OLU AKERELE

This was a case of unlawful arrest, detention and torture of the petitioner by the officers of the Nigeria Police Force. The petitioner stated in his testimony that during the period prior to his arrest, he was Personal Assistant to Chief M.K.O. Abiola.

On the 25th of October, 1994, armed policemen from the Aso Rock Police detachment arrested him.

The petitioner stated that he was taken before one CSP Abba who was then the officer in charge of the Aso Rock Mobile Police Unit and subsequently to Major Hamza Al-Mustapha, Chief Security Officer to the then Head of State, General Sani Abacha. The petitioner stated that on the orders of the Chief Security Officer, he was stripped naked and severely beaten by the members of the Strike Force. The beating was repeated in the office of the Commissioner of Police of the Federal Capital Territory. He stated that he was informed that his offence was being found in "a-no-go-area". He was also accused of planning to smuggle Chief M.K.O. Abiola who was then in custody out of the country.

He prayed the Commission to order the return of important documents seized from him by the security operatives, payment of adequate compensation to him as well as an apology to him. He also sought compensation for one Miss Nike Kajubo, Mr. Tope Ibiro, as well as Messrs Luka Makama and John Ayodele, his two drivers, who were also unlawfully detained at various times.

Assistant Commissioner of Police, Suleiman Abba, also testified. He stated that the petitioner was arrested alongside his driver on the 26th of October, 2000, while they were trailing the convoy of the then Head of State General Sani Abacha, at about 5.00 a.m. within the premises of the presidential villa. He also stated that the petitioner had been passing information and documents secretly to Chief M.K.O. Abiola who was then in custody. He confirmed that he participated in questioning the petitioner. He also confirmed that the petitioner was beaten though, he did not take part in the beating. On the contrary, he rescued the petitioner from being beaten on one occasion. After the testimony of ACP Abba, one Mr. Darma, a member of staff of the State Security Service testified. He also confirmed that he was a member of the Committee that interrogated the petitioner.

He equally admitted that the petitioner was detained for a while at the headquarters of the State Security Service. The witness confirmed the testimonies of the first two witnesses that the petitioner was beaten.

The Commission noted that the testimonies of the second and third witnesses corroborated the petitioner's story of arrest, detention and torture. The Commission also noted and commented on the forthrightness of the witnesses. A total of three witnesses testified and four exhibits were tendered in evidence.

PETITION NO. 324: PETITIONER: EX-MAJOR MOHAMMED MAGAJI

This petitioner's complaint related to unlawful arrest, detention and torture of the petitioner and two of his children by Colonel Frank Omenka and on other army officers. The petitioner stated in his testimony that his ordeal started when he was falsely accused by

Colonel Omenka of having homosexual relations with two boys. According to the petitioner, he drew the ire of Colonel Frank Omenka when he was appointed as prosecutor in a case involving a top military officer, one Brigadier-General Ayanpele and in which Colonel Omenka had interest.

The petitioner stated in his testimony that he was detained and tortured on the orders of Col. Omenka. His children were also detained and beaten. The petitioner further alleged that he was denied food and medicine.

The petitioner disclosed that after a flawed investigation, he was tried by a court martial presided over by Major-General Patrick Aziza. He alleged that there were many procedural irregularities in the trial in breach of the Armed Forces Decree 105. The petitioner was eventually convicted and jailed for five years and was dismissed from the Nigerian Army. He claimed that his conviction was based on contradictory and inadmissible evidence and was borne out of malice. He blamed Generals Patrick Aziza, Ishaya Bamaiyi and Col. Frank Omenka for the violation of his rights. The petitioner sought many reliefs from the Commission, including a recommendation that his trial and conviction be re-visited. He also sought an apology from the Nigerian Army as well as compensation for himself and his children for their torture and brutalization. He further urged the Commission to pay visits to the DMI cells as well as the Inter-Centre detention outfit in order to appreciate the ordeal of those detained there. No other witness was called and the case was closed at this juncture.

PETITION NO. 466: PETITIONER: MUSA ADEDE

This was a case of unlawful arrest, detention and torture of the petitioner in relation to the alleged coup plot of 1995 during the regime of General Sani Abacha.

The petitioner was charged alongside some others with being an accessory after the fact of coup plotting and was tried by the Special Military Tribunal. He was severely tortured and was chained hand and foot as well as being made to endure solitary confinement during certain periods of his detention.

After he was discharged and acquitted by the General Victor Malu Special Military Tribunal in April 1998, his detention and torture continued on the orders of Sergeant Barnabas Mshelia (Rogers). Apparently, the petitioner was not tried along with other individuals accused of coup plotting in 1995, because he was out of the country at the time of that alleged coup plot. The petitioner blamed the late General Sani Abacha, Col. N.N. Madza and Sergeant Barnabas, Mshelia (Rogers) amongst others, for his ordeal.

The petitioner prayed the Commission to order the refund to him of the sum of over six million naira, which Colonel Frank Omenka had illegally forced him to pay to one NAPEX Nigeria Limited over a failed contract. The petitioner is also asking for refund of the cost of repairs and maintenance of his private aircraft which was detained for over one year. He denied knowledge of the alleged coup plot of 1995 for which he was tried in 1998, over two years after the alleged plot.

The two alleged perpetrators who were present, Colonel Nathaniel N. Madza and Brigadier-General Momoh Lawani Yesufu both cross-

examined the petitioner. During the cross-examination, the petitioner reiterated the fact that the two witnesses were members of the Special Investigation Panel which investigated the allegations against him, and which provided the report with which he was tried.

The witnesses did not dispute these. They however denied any role in the torture of the petitioner. The Chairman of the Commission blamed the system that permitted situations such as the one endured by the petitioner. He therefore urged the petitioner to forgive any grudges he bore the witnesses in the spirit of reconciliation. The petitioner and the other two witnesses practically demonstrated their reconciliation by shaking hands. The case was concluded on this note.

PETITION NO. 430: PETITIONER: LT. I.S. UMAR

The petitioner's petition border on unlawful arrest, detention without trial for one hundred days, and torture in connection with the alleged coup plot of 1997. The petitioner also complained of unjust retirement from the Nigerian Army for the same reason. The petitioner in his testimony blamed the former Chief Security Officer(CSO) to General Sani Abacha for his ordeal. He stated that there was no coup plot in December 1997 and that the alleged coup plot was an arrangement by General Abacha and his cohorts to eliminate all those who were opposed to his self-succession bid.

The petitioner, a former member of, and one time Acting Commander of, the Strike Force, a Special Security Unit, which was answerable to Major Al-Mustapha also stated that he incurred the wrath of Al-Mustapha because he was alleged by the latter to be too inquisitive and wanting to know about special assignments, which Major Al-

Mustapha used Sergeant Mshelia (Rogers) and some other soldiers in the strike force for.

After his testimony, Brigadier-General Ibrahim Sabo testified. He denied responsibility for the petitioner's ordeal, having been accused earlier by the petitioner of being one of those who precipitated the 1997 coup plot. He also offered some clarifications to the answers provided by the petitioner in relation to obedience of superior order in the military.

The hearing of the petition was thereafter moved to the Lagos sitting to enable the Commission take the testimony of Major Hamza Al-Mustapha. The case continued during the Lagos sitting. General Ishaya Rizi Bamaiyi and Major Hamza Al-Mustapha who were both mentioned in the petition were present and were also represented by counsel.

The petitioner was cross-examined by Major-Al Mustapha's lawyer and also by General Bamaiyi's lawyer. During cross-examination by Major Al-Mustapha's lawyer, a letter written by the petitioner to Al-Mustapha in which the former expressed gratitude to Al-Mustapha for certain favours done to him was tendered in evidence and marked Exhibit 3.

After the cross-examination of the petitioner, Major Hamza Al-Mustapha testified. He confirmed that the petitioner worked under him and also disclosed that a surveillance report linked the petitioner with one of the coup suspects, one Major Isyaku. He denied ordering the arrest of the petitioner and stated that the arrest was ordered by the Special Investigation Panel. He also denied being responsible for

the re-arrest of the petitioner after his release stating that he was in Libya at the time.

After Major Al-Mustapha's testimony, General Ishaya Bamaiyi, former Chief of Army Staff, also gave evidence. He stated that he did not know the petitioner prior to the Commission's sitting. He also stated that he was neither a member of the Special Investigation Panel, which investigated the alleged coup plot of 1997, nor was he a member of the Special Military Tribunal, which tried them. He therefore denied any complicity in the arrest, detention or torture of the petitioner.

PETITION NO. 26 PETITIONER: EX MAJOR J.A. ACHIMUGU

The petitioner's complaint relates to his imprisonment for five years, unlawful detention for fourteen days and torture. The facts as narrated by him in his evidence before the Commission were that he was the officer in charge of the Nigerian Army Ammunition Store in Zaria in 1999. Sometime in 1999, one Col. Umar Malami Mohammed who was the Commandant of the Nigerian Army Armament Depot in Zaria removed six sub-machine guns from the store after drugging him (the petitioner). The petitioner did not however disclose how he was drugged by Colonel Mohammed. He also disclosed that the Colonel refused to sign a form indicating that he had collected the said arms in view of his (Colonel Mohammed's) relationship with General Abacha. The petitioner was subsequently tried, convicted and jailed for five years for the loss of the firearms. He claimed that his trial and conviction were master-minded by Colonel Mohammed, who also hand-picked the officers that tried him.

In addition to the jail term, the petitioner was also dismissed from the Army. His complaint about his trial and eventual dismissal earned him another round of detention for fourteen days as well as torture. This second detention according to him was at the instance of Colonel Frank Omenka. The petitioner prayed the Commission to look into his plight with a view to prevailing on the Chief of Army Staff to convert his dismissal to retirement.

PETITION NO. 482: PETITIONER CHIEF FRANK O. KOKORI

This petitioner was a trade unionist and full-time Secretary-General of the National Union of Petroleum and Natural Gas Workers (NUPENG) at the time of writing his petition. He wrote in respect of his arrest, detention and mental torture in prison by the government of General Sani Abacha.

The facts of his ordeal as narrated by the petitioner in his testimony are that following the strike action organized by the Labour Union in July 1994 in response to the numerous political social and economic problems visited on the Nigerian State by the government of the day, operatives of the State Security Service (SSS) began to hunt for him. He had to go underground to evade arrest. However, he was brutally abducted along the road in Yaba, Lagos, at about 12.30 a.m. on the 19th of August, 1994 when he attempted to answer a distress call on his mobile telephone from a supposed comrade of the Labour Union. As it turned out, he had apparently walked into a well laid plan by security operatives. He was forcefully abducted by the ten-man team of security operatives, who came for him in two cars.

From Lagos, he was moved to Abuja on the 21st of July, 1994 and locked up for five weeks, twenty four hours a day in solitary confinement.

From Abuja, the petitioner stated that he was moved to Bama Prisons near Maiduguri in Borno State until his release by the government of General Abdulsalami Abubakar in June 1998. The petitioner claimed that he spent a total of forty-six months in solitary confinement in Bama Prisons.

The petitioner further disclosed that during this long period of incarceration, he was not charged with any offence and that his immediate family was subjected to various forms of ill-treatment, including the incessant searching of his home and constant surveillance of his family. The petitioner further informed the Commission that he was denied adequate medical attention by the prison authorities for his chronic medical conditions on the ground that the authorities in Abuja would be averse to his being given adequate medical attention. The petitioner pointed out to the Commission that apart from Chief M.K.O. Abiola, his stay in prison was the longest by any other political prisoner during the regime of General Abacha.

The petitioner prayed the Commission to recommend that all those found to have been engaged in the massive violation of the human rights of Nigerian citizens be made to pay for their sins, while all the victims of such human rights abuses be adequately compensated. The petitioner was cross-examined by the counsel to the State Security Service who canvassed the argument that the petitioner's

detention was lawful, an argument with which the petitioner vehemently disagreed.

The detention order, State Security Detention of Persons Decree 2 of 1984, which was the authority for the detention of the petitioner was admitted in evidence as Exhibit 2; the petition itself having earlier been admitted as Exhibit 1. No further witnesses were called and the case was concluded on this note.

PETITION NO. 481: PETITIONER: AMBASSADOR MOHAMMED L. RAFINDADI

This petitioner was a former Head of the Nigeria Security Organization (NSO), the forerunner of the State Security Service. His complaint relates to his incarceration for forty months between August 1985 and December 1998 following the transition from the government of General Muhammadu Buhari to that of General Ibrahim Babangida. He complained that he was kept in solitary confinement during this period. The petitioner, during his testimony urged the Commission to obtain the report of the Umaru Shinkafi Panel, which was set up by the government in 1985. He stated that the report would bear out his claim that his incarceration was as a result of conspiracy between certain individuals and the Directorate of Military Intelligence.

The Commission thus adjourned the case to the second Abuja session.

During the second Abuja sitting of the Commission, the petitioner's case was adjourned repeatedly because the petitioner was absent on grounds of ill-health. The case was subsequently struck out with leave for him to re-list it if he showed up. The petitioner subsequently neither showed up to conclude his case nor gave any indication that

he wanted it re-listed for conclusion. The petition was therefore one of those which the Commission could not conclude.

PETITION NO. 620: PETITIONER: MR AUDU OGBE

This petition entitled “Assassination Attempt On Me on December 7, 1998 in Makurdi in the Wake of the Local Government Elections”, was adjourned from the first Abuja session as a result of difficulty experienced by the Commission’s bailiffs in effecting service of a witness summons on the petitioner. During the second Abuja session, he wrote a letter to the Commission withdrawing his petition. The petition was accordingly struck out.

PETITION NO. 1482: PETITIONER: MR IDRIS ABDULKADIR

This petitioner’s complaint was in respect of unlawful detention for seven months by the Security Group of the Directorate of Military Intelligence, then headed by Colonel Frank Omenka. The incident complained of took place during the government of General Sani Abacha.

During the first Abuja sitting, the petitioner was absent and was not represented by counsel. The case was therefore adjourned to the second Abuja session. During this session, the petitioner remained absent and was not represented by counsel. Convinced that the petitioner was no longer interested in pursuing his petition, the Commission was left with no choice than to strike it out for lack of appearance. The petition was accordingly struck out with leave to re-list, if the petitioner subsequently showed up.

PETITION NO 623 AND 629: PETITIONERS: ALAMVEABEE IDYOROUGH AND BEM AKOSU

These petitions deal with alleged unlawful killing of three youths namely: Isaiah Igbatim Ikyereve, Andrew Akosu and Manasseh Mana by men of the Plateau State Police Command on the 14th of July 1995. The two cases were briefly mentioned during the first Abuja session and were consolidated for hearing since they dealt with the same subject matter – the death of the three youths at the hands of certain named Police officers. The consolidated petitions were remitted to the Kano session for hearing. (For details of this case, see the records of the Kano Zone of the public hearings).

PETITIONS NOS:

279	PETITIONER:	MKE IYOCHIR O. JUKWE
269	“	HONOURABLE ATE AHUR
422	“	YINA KOGI
423	“	DURBY T. MOTI
424	“	PETER ICHULL
448	“	ATSEND A ISHWA AND
634	“	BOBBY ADAMS AND SIMON ABUA YAJIR

The seven petitioners are all indigenes of Benue State and their complaints revolve around the same issues namely: their unlawful arrest, detention and torture for a period of over one year. The petitions were consolidated since they were based on the same facts and against the same persons. The facts of their petition are that sometime in June 1995, the then Managing Director and Chief Executive of Benue Cement Company (BCC), one Mr. Solomon Nyagba, had written a letter of complaint to the then State Commissioner of Police, Mr. Rueben Ekundayo as well as the State Directorate of the

State Security Service alleging threats to his life, the lives of some members of his family as well as threats of sabotage and disruption of the operations of the Benue Cement Company.

Annexed to the letter of complaint to the Police and SSS was a list of nine names of individuals whom the Managing Director of BCC accused of masterminding the alleged threats to his life and disruption of the company's operations.

Consequent upon the letter of complaint, the petitioners were arrested by a team of police officers from the Benue State Police Command led by one Superintendent of Police, Musa Omika. According to the petitioners, spurious charges of armed robbery and other fabricated charges including abduction and homicide were levelled against them by the Police in a bid to give legal backing to their continued detention. The petitioners were also unanimous in their claim that the police, at the instance of Mr. Nyagba, tortured them. Eventually, bail was granted to the entire petitioners in respect of all the charges against them by the then Chief Judge of Benue State. In a bid to circumvent the release order of the Chief Judge, the Police stopped the release of the petitioners by now claiming that their detention was effected pursuant to the provisions of the State Security Detention of Persons, Decree 2 of 1984.

The petitioners were then driven to Calabar Prisons in chains, where they were detained for over one year. The petitioners were later released in August 1996.

During the second Abuja session, Superintendent Musa Omika who was alleged by the petitioners to have headed the team, which had

arrested, detained and tortured them, was invited to state his own side of the story. Mr. Omika confirmed that the arrest of the petitioners was indeed done pursuant to the receipt of the said letter of complaint written by Engineer Solomon Nyagba, Managing Director of the Benue State Cement Company (BCC).

The witness further stated that even though he supervised the team that investigated the allegations against the petitioners, neither he nor any members of the team tortured any of the petitioners. He also denied the allegation of the petitioners that written confessions were extracted from them under torture. The witness also stated that the detention of the petitioners was lawful as it was done in compliance with the instructions of the Inspector-General of Police pursuant to his powers under Decree 2 of 1984. He also disclosed that following police investigation, the petitioners were detained and arraigned in court for alleged criminal conspiracy, criminal intimidation and publication of false news with intent to cause disturbance of public peace. He admitted that a no case submission made on behalf of the petitioners by their counsel in respect of the criminal charge had been upheld by the trial Magistrate but stated that the prosecution had appealed to the High Court. The appeal was yet to be disposed of as at the time of the hearing of the petition. He dismissed the allegations of torture by the petitioners as an after-thought since none of them had ever levied allegations of torture against him or any member of his team throughout their sojourn in the law courts.

During the cross-examination of Superintendent Musa Omika by the counsel to the petitioners, it was alleged by the counsel to the petitioners that Omika had been bribed with a Peugeot 504 Saloon car for his role in the arrest, detention and alleged malicious prosecution

of the petitioners. The counsel further claimed that the said car was still in the custody of Mr. Omika and was being used by him.

In order to get to the root of the matter, the Commission dispatched one of its lawyers, Mr. Ibrahim James Pam to Benue State to verify the veracity or otherwise of the claim. He visited Makurdi, Gboko and Yandev between the 27th and the 29th of June, 2001, and reported his findings to the Commission under oath as witness number 8 in the case.

In his testimony, the witness stated that from his investigations, the car had always belonged to the Benue Cement Company and was, in fact, in the custody of the company at the time of the investigation. All the registration documents showed that Benue Cement Company was the registered owner of the said vehicle.

Inspector Omika concluded his evidence maintaining that in arresting and detaining the petitioners, he was only carrying out his lawful duties as a police officer, a claim which was contested by the petitioners. A total of eight witnesses testified in this case and seventeen exhibits were tendered in evidence.

PETITION NO. 393: PETITIONER: ALHAJI (DR.) UMARU DIKKO

The petitioner was a former Minister of Transport in the government of Alhaji Shehu Shagari during the Second Republic between 1979 and 1983. The event complained of by the petitioner took place after the *coup d'etat* of December 1983, which toppled the government of Alhaji Shehu Shagari and brought the Buhari regime to power.

The petitioner started his testimony in the first Abuja sitting and finished during the third Abuja sitting. In his testimony, the petitioner stated that after the Buhari coup d' etat information reached him indicating that his life was in danger. He therefore escaped to London through Benin Republic. The petitioner disclosed that after his escape to London, members of his family, including his wives, children and ninety-four year old father were relentlessly hounded by the Buhari government as part of his persecution and in order to force them to disclose his whereabouts.

The petitioner further stated that the campaign against him arose from the strained relationship between himself and General Buhari before the latter became Head of State. According to him, because of this strained relationship, he became a target of the Buhari government, which declared him a wanted man. He stated that he was also portrayed to the world as a man who had looted the Nigerian treasury, and who as the Chairman of the Presidential Task on Rice was a corrupt government officer.

The petitioner further disclosed in his testimony that after all attempts by the Buhari government to repatriate him to face trial in Nigeria had failed; the government resorted to illegality and organized his abduction from London. The petitioner disclosed that he had been rescued unconscious from a crate in the cargo hold of a Nigeria Airways aircraft which was set to fly to Lagos. The petitioner also revealed that an Israeli mercenary doctor who had been injecting stupefying substances to keep him unconscious during the flight to Nigeria had been found with him. He also stated that doctors in London had said that he would not have survived the flight to Nigeria in view of the amount of substances injected into his system.

The petitioner went further to state that the failed kidnap attempt seriously dented the image of Nigeria within the international community and that his would-be kidnappers were arrested, prosecuted and jailed in London.

Apart from General Buhari, the petitioner blamed a number of other individuals as being responsible for his plight. These include: General Theophilus Yakubu Danjuma (rtd), Air Commodore Bernard Banfa, General Haladu Hannaniya (rtd) and Alhaji Mohammed Lawal Rafindadi, amongst others.

The petitioner urged the Commission to note the full and circumstantial involvement of the federal government of the day under General Buhari which had till date not sent him an apology for the kidnap attempt. He urged the Commission to hold that the kidnap attempt amounted to an infringement of his rights under the Nigerian constitution and also amounted to inhuman and degrading treatment. He concluded by urging the Commission to recommend compensation for him and members of his family in any way it deemed fit.

At the end of the petitioner's testimony, he was cross-examined by counsel to General T.Y. Danjuma. The petitioner stated under cross-examination that he may have stepped on the toes of certain military officers because when he was a minister, he had advised Alhaji Shehu Shagari to retire some of them. He reiterated his request to the Commission that General Buhari and the others mentioned in his petition be invited to testify.

Witness summonses had earlier been served on Generals Buhari and T.Y. Danjuma. At some point during the second Abuja hearings, counsel appeared for the former Heads of State and sought to participate in the proceedings, including cross-examining other witnesses without in turn producing their clients for cross-examination. Rigorous arguments were canvassed for and against this position. General Buhari was one of the former Heads of State whose counsel sought to participate in the proceedings. General Buhari had in the meantime instituted a civil action against the Commission at the Federal High Court, Abuja where he challenged the competence of the Commission to compel his appearance before it amongst other relief.

In a composite ruling delivered on the 3rd day of October, 2001, the Commission ruled that counsel to the former Heads of State could not participate in the public hearings of the Commission, while keeping their clients away from the same proceedings.

General T.Y. Danjuma, Honourable Minister of Defence, appeared at the hearing of the Commission and testified. In his testimony, he stated that the event complained of took place long after he had ceased to participate in government following his retirement as Chief of Army Staff and member of the Supreme Military Council in 1979. General Danjuma vehemently denied any role in the attempted abduction of the petitioner from London. He reiterated that at the time of the attempted abduction of the petitioner in 1984, he was engaged in private business. The witness also pointed out that following the diplomatic row between Britain and Nigeria over the kidnap incident, the government of General Buhari had denied involvement in the abduction attempt.

General Danjuma was cross-examined by counsel to the petitioner and counsel to the Commission. The petitioner and General Danjuma practically demonstrated their reconciliation by shaking hands before the Commission. The case was closed at this juncture.

PETITION NO. 345: PETITIONERS: DENNIS OCHEJE OCHEGE AND JOHN OGORI ABOH

The petitioners, Messrs, Dennis Ocheje Ochege and John Ogori Aboh wrote in their capacities as the President and Vice-President of the Agila Youths Development Association.

They stated in their petition that they were representatives of the Osiroko and Efofu Royal families of Agila District in Ado Local Government Council of Benue State.

The subject matter of the petitioners' complaint was the communal clash of April 1997, which pitched the royal class against the non-ruling class. The petitioners claimed in their testimony that the violence was precipitated by the non-ruling class, who sought to forcefully change the traditional set-up in Agila in which the members of the royal class monopolized administrative leadership to the exclusion of the other inhabitants of the town or the so-called non-ruling class. According to the petitioners, during the mayhem, at least one person was killed, one hundred and seventy-two houses, valued at over one hundred million naira, were burnt and property valued at over one hundred million naira was destroyed. According to the petitioners, many people were also maimed in the attack.

The petitioners asked the Commission to recommend the arrest and prosecution of a number of people who were the ring leaders of those who started the crisis. These include: Peter Ochonu Ochege, Godwin Otokpa Unogwu, Isaiah Oja, Samuel Ede Otokpa and officials of the Akpoge-Ogbilolo Association.

The petitioners also asked that the Akpoge-Ogbilolo Association be banned and that the police post in Agila be upgraded to a full-fledged police station. The petitioners further sought compensation for all those who had incurred losses as a result of the crisis and asked that all those who had been made refugees be re-settled.

During their testimony, the petitioners disclosed to the Commission that following the crisis, the Benue State Government set up a panel of inquiry, headed by Justice Terna Puusu. They also stated that till date, the government white paper on the Puusu report was yet to be released. They sought the release of the white paper in order to avert future crises.

The Chairman of the Commission conveyed the sympathy of the Commission to all the victims of the crisis and stated that the Commission had taken some steps towards the resolution of the problem. The Commission further informed the petitioners that it had been in touch with the Benue State government which had assured it that the white paper on the Puusu report would be released.

After advising the petitioners on the need to always seek peaceful solutions to all problems, the case was closed.

PETITION NO. 654: PETITIONER: CHIEF YOMI TOKOYA

The petitioner's complaint borders on alleged unlawful arrest, detention and torture on account of suspected involvement in the December 1997 coup plot.

The petitioner was absent during the first Abuja sitting necessitating the transfer of his case to the second Abuja sitting. For details of this petition, see the report of the second Abuja session.

CHAPTER THREE

LAGOS CENTRE

INTRODUCTION

3.1 This chapter covers all petitions whose hearing commenced at the Lagos centre from November 13, and ended 16th December 2000. The Chairman in his opening remarks emphasized the need for those who are to give evidence to take an oath to speak the truth, the whole truth and nothing but the truth. He said if this is done those who were victims will feel a bit relieved. He pointed out that if people go on prevaricating, “it does not help us, it does not help the cause for peace, and it does not help the cause of forgiveness”. He urged all those who are going to give evidence to feel free, as the Commission was not out to witch-hunt. He reiterated that the Commission just wants to find the means of reaching an accommodation with our past in order to reshape our future. He reassured every one that what they say at the Commission cannot be used as evidence in any court of law.

3.2 The Commission heard 62 petitions out of which 42 cases were concluded in Lagos, 1 in Port Harcourt, 2 in Enugu and the rest were concluded at the Abuja centre. At the Lagos centre, the Commission took time off to receive a delegation from a Swedish international non-governmental organization (IDEA) on Thursday, November 23, 2000. It also paid a visit to the “torture chambers” as well as paid a courtesy call on the Governor of Lagos State, Chief Bola Tinubu.

3.3 At the end of the hearing session in Lagos, the Chairman pointed out that the main object of the Commission was to effect

national reconciliation on the basis of truth. He said the objective was to evolve a better future for the nation from its bitter past. He pointed out that those who came before the Commission on charges of violations of human rights were supposed to show sufficient remorse for their guilt so as to bring about the desired reconciliation. He noted that unfortunately, many witnesses who were accused of violations of human rights were both insincere and not remorseful. He opined that such an attitude was probably informed by the natural law of self-preservation whereby the guilty would not admit his guilt without an assurance of forgiveness. He then expressed the hope that government would implement the recommendations of the Commission at the end of its work.

3.4 The Chairman thanked the lawyers who appeared before the Commission for their cooperation. The Chairman also thanked members of the public who came in large numbers to watch the Commission throughout its sittings in Lagos. The following is a summary of the Commission's hearings at the Lagos centre. It deals with all the petitions whose hearing started at the centre but concluded in other centres.

A. PETITIONS STARTED AND CONCLUDED IN LAGOS.

PETITION NO. 20: DR. OLU ONAGORUWA

This petition is in respect of the denial of the right to life of the late son of the petitioner, Toyin Onagoruwa. People suspected to be agents of the state murdered him.

The petitioner prayed the Commission to:

- i) Help find the killers of his son and ensure that they are punished; and

- ii) Use its discretion to award any sort of damages within its mandate.

Fifteen exhibits were tendered and admitted in evidence. Four witnesses testified in the case. The first witness, Dr. Olu Onagoruwa, was led in evidence by the Commission's lead counsel. He affirmed that people suspected to be state agents murdered his son. By the use of identity kits, the petitioner claimed that he could identify two suspects among those that committed the murder. These he named as, Sergeant 'Rogers' and Colonel Frank Omenka. He alleged that access to his son was facilitated by his son's childhood friend, Mr. Victor Ude, who kept making persistent telephone calls at different intervals during the period that the son was murdered. He further alleged that a white Mercedes Benz car was used and its number-plates were traced to a Honda car, which belongs to Colonel Larinde Laoye. He also alleged that the two cars: the Mercedes Benz and the Honda were parked at the Presidential Villa. The witness believes that, Coomasie, former Inspector-General of Police (IGP), has a hand in all the machinations surrounding his son's death. He pleaded with the Commission to invite the IGP to explain these mysterious murders.

The second witness, Inspector Ehigbaye, who was led in evidence by the lead Counsel to the Commission, testified that the Police arrested and interrogated four suspects by name Adebayo Akinola, Victor Ude, Prince Olu Haastrup, and Brigadier Laoye.

The third witness, Brig.-General Larinde Laoye, testified that he got to know that Dr. Olu Onagoruwa wrote a petition against him for the murder of his son in the media. He testified that when the petitioner's son was murdered, he did not have a Mercedes Benz car. He said he

bought the car on January 3, 1997. He confirmed that he has a Honda car with registration No. BB 844 SMK. The Chairman and members of the Commission took time and inspected both the Mercedes Benz and Honda cars in question and ordered that both the engine and chassis numbers of the vehicles be taken down.

The fourth witness, Major Hamza Al-Mustapha, said that he was Chief Security Officer to the late Head of State and explained that his duty was to provide protection against physical attack on the Head of State. He said he did not form the Strike Force (SF) but was in charge of it. He said the Strike Force was formed based on the recommendation of the National Security Agencies to check against a re-occurrence of the Major Gideon Orkar coup in 1990. He said structurally he was at the head of the Strike Force and that there were six units and seventeen sub-units all with their heads. He admitted that Sgt. Rogers was a member of the Strike Force but that the artist impression of the killer of Toyin Onagoruwa, admitted by the Commission as Exhibit 4b, is not "Sgt. Rogers". The witness averred that the Strike Force could not go on an assignment without his approval. He said Sgt. Rogers would be telling lies if he said he had sent him to go and kill anybody. Al-Mustapha said he knew Brigadier-General Laoye on professional basis for they served together at the Security Group in the eighties. He argued that the car that was used for the murder could not have been parked at the Presidential Villa in Abuja without detection from the numerous security agents in the Villa. He said he knew nothing about the cars of Brigadier-General Olaoye. He disclosed that the Strike Force was never sent on killing missions, although it was battle-ready to resist any attack on the presidency.

PETITION NO. 116: COLONEL G. A. AJAYI.

The petition is about the petitioner's unlawful arrest and detention, torture and inhuman treatment, unfair, unjust and unlawful death sentence. The petitioner alleges that he was tortured, brutalized, and dehumanized to the extent that he has a permanent disability for which he is still on medication.

He said he was arrested concerning the alleged coup in 1995. The petitioner affirmed that Colonels John Olu and Santuraki were behind his torture. The petitioner is seeking the following relief through the Commission:

- i) To quash the judgement of the coup tribunals;
- ii) To regard the period of his unjust and illegal incarceration (February 1995 – March 1999) as a period of captivity in a hostile nation's Prisoners of War camp;
- iii) His re-absorption into the Nigerian Army at the appropriate rank with effect from the date he was unjustly cashiered from the army without loss of seniority, status, honour and integrity;
- iv) Payment of all accumulated salaries and emoluments with effect from the date of stoppage from 1995 till date;
- v) Payments for medical examination and treatment for any lingering and debilitating ailment received as a result of the cruel torture and harsh prison conditions endured;
- vi) Restoration of all personal effects including passports, certificates, course works, etc.; and,
- vii) Payment of adequate financial compensation to assuage personal injuries.

Four witnesses and six exhibits were admitted in evidence. The case was concluded and closed awaiting the recommendations of the

Commission. The first witness, Colonel G. A. Ajayi, testified that he was arrested and detained for no just cause. He said he was tortured at No. 67, Alexander Avenue Ikoyi, by one Captain Bature, on the orders of Brigadier-General Mujakperuo. He said that though Zakari Biu was the Chief torturer, he had forgiven him because he (Biu) confirmed his innocence on the allegations made against him. The petitioner revealed that General Ishaya Bamaiyi ordered that even those of them not found guilty should also be earmarked for execution. He said he was found guilty of 'constructive conspiracy' and sentenced to death by firing squad because of his close relationship with Alhaji Ibrahim Dasuki, the then Sultan of Sokoto.

The second witness, Nosa Igiebor averred that he met the petitioner in Minna in a very bad condition, as he was always very ill because of poor feeding and ill-treatment while in detention.

The third witness, Anthony Ayodele Awoniyi, a junior security officer then, testified that he first met the petitioner at the Inter-Center in 1995 where he was a victim of torture.

The fourth witness, Major-General Mujakperuo, testified that he was not involved in the arrest and detention of suspects. He reiterated that throughout his tenure as head of the investigative unit, no one was tortured, humiliated, brutalized or dehumanized.

The case was concluded and closed.

PETITION NO. 146: MODAKEKE PROGRESSIVE UNION

The petition is about the violation of the human rights of the people of Modakeke. The petitioners alleged that the right to self-determination

for the people of Modakeke legally recognized by the Federal Government of Nigeria, by the creation of Ife East Local Government with Headquarters at Modakeke, was illegally disregarded and violated by the then Osun State Military Administrator, Lt. Colonel A. Obi (Rtd.). This led to the series of crises between Ife and Modakeke.

The petitioners alleged that their neighbours in Ile-Ife, with the active connivance of the then Chief of General Staff, Lt. General Oladipo Diya (Ex.) and the National Electoral Commission (NECON), illegally manipulated the headquarters of the Ife North Local Government to read Enuwa which is in Ilode ward of Ife Central Local Government Area instead of Modakeke as contained in the Decrees creating the Local Government..

They claim that the recent events and experiences have shown that it is not in the interest of peace, progress and political stability to put Ife and Modakeke in the same Local Government.

The petitioners' prayers to the Commission are as follows:

- i) Redress of the injustice arising from failure to implement the provisions of Decree No. 36 of 1996, Decree No. 7 of 1997 and Decree No. 36 of 1998 which created Ife East Local Government out of the Ife North Local Government with headquarters at Modakeke.
- ii) The removal of the seven wards illegally brought from Ife Central Local Government to the present Ife East Local Government which is expected to have been carved out of the former Ife North Local Government.
- iii) The prosecution of those responsible for the illegal manipulation of the electoral wards of Ife East Local Government, thus

depriving the people of Modakeke of their right to self-determination.

Following the directives of the Commission, counsel to the two communities, as well as counsels to the Commission, met and came up with a memorandum for peaceful coexistence between the two communities. The Commission endorsed this.

PETITION NO. 160: COLONEL M. A. AJAYI.

The petition bordered on unlawful arrest and detention, wrongful and undeserved death sentence, torture and in-human treatment, chronic ill-health and emotional trauma because of torture and in-human treatment.

He was detained at the instance of the Special Investigation Panel (SIP) concerning the alleged coup in 1995, from February 1995 to March 1999. He affirmed that he was chained on the hands and legs from February 1995 to October 1995 as a result of which he now has a deformed knee.

The petitioner is seeking through the Commission, the following reliefs:

- i) To be re-integrated into society;
- ii) Justice to be done to him;
- iii) Adequate medical treatment;
- iv) Employment; and ,
- v) Compensation for all losses incurred.

Three exhibits were admitted in evidence. The counsel to the Commission argued that the case was straightforward and should be closed. The case was then closed.

PETITION NO.164: COLONEL C. P. IZUORGU

The petition has to do with an alleged violation of the petitioners fundamental human rights, mental agony, truncation of a military career, dismissal from the Nigerian Army, stoppage of his salary during detention, brutalization and inhuman treatment while in custody, loss of all privileges attached to his rank and the stigma of dismissal and inability to get another job because of same.

The petitioner is seeking the following reliefs through the Commission:

- i) Re-instatement to military service for all deserving victims of the 1995 phantom coup and promotion to the same rank and seniority as their course mates, including Major Okoro and Captain Emelike;
- ii) Reversal of the dismissals of the above category of officers;
- iii) The officers desiring to retire should be paid salaries and other emoluments enjoyed by their mates. They should also be paid their retirement benefits in their new ranks and assisted with alternative employment commensurate with their professional qualifications;
- iv) All civilians and retired officers who were in business before their arrest, should be compensated by paying them their estimated annual income for the total period of their incarceration; and,
- v) Any future investigation panels should include representatives of international and local human rights groups, to ensure that only guilty suspects are convicted.

Two witnesses and two exhibits were admitted in evidence. The first witness disclosed that he was sentenced for an alleged coup which Ex-Major Akinyemi was planning. In the end, he was eventually charged for being in possession of a service pistol he was entitled to. He said he suffered severe mental and physical torture and ill treatment, which aggravated his blood pressure. In addition he was cashiered from the army on October 23, 1995.

The second witness, Captain A. N. Emelike, along with Major Okoro, who were implicated victims of the petitioner, said they have forgiven him but his attitude was not good enough. They embraced the petitioner. Captain A. N. Emelike however prayed that the Commission should recommend his pardon; restoration of rank; and payment of salary.

The Commission assured the witnesses that their pleas were duly noted for consideration. The case was then closed.

PETITION NO. 204: PROFESSOR J. ADEBAYO MOKUOLU

The petition is about unlawful arrest, detention and violation of the fundamental human rights of the petitioner and the unlawful arrest and torture of his son, relations, and staff members. He claimed that he was arrested on June 4, 1994 by two armed mobile policemen, at gunpoint, while returning from the Obasanjo Farm. They refused to disclose to him why he was being arrested. At Zone 2 police station, Onikan, Lagos Island, he was subjected to all forms of inhuman treatment with no room to sleep, no bed and no official feeding. He spent nine agonizing days before he was released.

The petitioner claimed that his greatest ordeal came on April 23, 1996 when fierce-looking uniformed soldiers armed with machine guns and ammunitions swooped into his compound in large numbers, looking desperately to arrest him 'dead or alive'. Even though they were unable to locate him, they maltreated, arrested and put in military detention some of his children, staff and students who were around and removed his properties.

The petitioner claimed that he gathered that one Lt. Asade led the armed soldiers that besieged his premises on that faithful day on the instruction of Lt. Colonel Frank Omenka. The two officers were alleged to have kept a false witness to rope him in as a coup plotter.

He said he was on exile for three years as a result of the injustice he suffered in the hands of the agents of the government, and right now, he has no home in Lagos where he has his business. Besides, his business is in total ruins. He has no vehicle to move around. He is therefore asking for a modest compensation of the sum of one hundred million naira from the Federal Government to cover his losses. He prays that government should bring to book all the culprits involved in his ordeal to serve as a deterrent to others.

PETITION No. 208: EX-LT. COLONEL MAJEKODUNMI

The petition is about the unlawful detention and denial of food; the ordering of soldiers to follow the petitioner with guns; denial of fair hearing; denial of privacy; and denial of medical treatment for the petitioner.

He accused Major-General Patrick Aziza of being responsible for the violation of his rights.

The petitioner is seeking the following reliefs through the Commission:

- i) General Aziza should tell the Commission why he was Court-martial;
- ii) Reinstatement into the Army and promotion in line with his colleagues;
- iii) Straightening his records;
- iv) Payment of all outstanding salaries and allowances; and
- v) Public apology from General Aziza.

Four exhibits were admitted in evidence. The witness testified that Major-General Milton Patrick Aziza once told him that since he could not get him roped in for the coup of 1995, he would show him that he is the Alpha and Omega of Ibadan. He alleged that he was then charged with stealing a Maruti. This is the official vehicle assigned to the witness. He claimed that even the members of the court told him that they found nothing against him, but still Brigadier-General Victor Malu went ahead to jail him - just to dance to the tune of General Aziza. He lamented that overnight; General Aziza destroyed his 24 years of meticulous service.

When the witness requested that some persons be invited by the Commission as witnesses, the Chairman of the Commission objected and assured him that the witnesses will not be necessary since the Commission does not doubt the fact that he was arrested, detained and that he lost his rank. He also reassured him that they have heard his prayer, and the reliefs sought. The case was concluded and closed.

PETITION No. 226: MR. G. REWANE & FAMILY

The petition is about the murder of Chief Alfred Rewane and the need for justice for those involved. Chief Rewane was murdered by people

the family suspect to be state agents. The murderers used a sophisticated bullet that melts in the body leaving no trace. The petitioner alleged that only the state could procure such sophisticated bullets. The petitioner stated that the people arraigned before the court were not the people that killed Chief Rewane. Moreover all the six people arraigned in court are alleged to have ended up dead.

The petitioners said Chief Rewane was accused of funding The National Democratic Coalition (NADECO) and calling for the restructuring of the Federation and this might be the reason why the General Sani Abacha government assassinated him.

The petitioners are seeking justice from the Commission. The counsel for the Rewane family applied to the Commission to issue Witness summons to LT. Umar and the Provost Marshall of the Nigerian Army to give evidence in the case before the Commission.

Seven exhibits were tendered and admitted in evidence. Four witnesses testified in the case. The first witness, Mrs. Doris Rewane testified that on October 6, 1995 some strange people came to their house looking for her late husband, Chief Rewane. Soon after that they rounded her and some other members of the household up in a room and locked up the door. She affirmed that she later heard gunshots and when eventually they took her husband to the hospital, he had already died. She said that the police came and rounded up the driver and security men along with six others and arraigned them in court. Surprisingly, six of those arraigned in court are all dead now.

The second witness, Mr. Esijolomi Rewane, one of the sons of the deceased, testified that on October 11, 1996, the Chief Consultant

Pathologist of Lagos State in the presence of two other persons conducted a post-mortem examination on the corpse of the deceased. He said the report showed that the deceased was shot in the chest but the bullet did not exit and there was also no trace of the bullet in the body. The witness said the type of bullet used in assassinating his father made it clear that his killers were not armed robbers but state agents as only the State could procure such sophisticated bullets. The witness further testified that they were informed by the then Lagos State Police Commissioner, James Danbaba, in company of ACP Zakari Biu that the deceased was killed by his domestic servants who wanted to rob him to get some money to abort a pregnancy.

The third witness, Ms. Eriwu Rewane said they wrote several petitions to the Police and the Director of Public Prosecution, Lagos State Ministry of Justice because they knew that the people who were being arraigned before the court were not the people that killed her father.

PETITION NO. 234: KUNLE AJIBADE

The petition is about the unlawful arrest, detention and torture of the petitioner. He claimed that he was arrested in connection with a story of coup plot published in his magazine, *TheNews*. He was made to appear before the Special Military Tribunal (SMT) and was jailed for life. He was sent to the Makurdi prison on October 18, 1995 and released on July 1998.

He alleged that he suffered psychological torture. His wife was two months pregnant when he was arrested. He did not see the child until when they visited him in prison five months later.

The petitioner is seeking the following reliefs from the Commission:

- i) The Commission should get to the bottom of the alleged “phantom coup” of 1995; and
- ii) Justice for all those wrongly convicted based on the alleged coup.

Two exhibits were admitted in evidence. The Commission noted that it is not in dispute that the petitioner was arrested, detained and tortured. The Commission asked the journalists to come together and author a memo on how to change the system. Counsel to the petitioner, Femi Falana, made an application under Section 5 of the Commission’s mandate to make an order for the preservation of the detention and torture centres at Alexander Avenue, Security Group, etc, as they are. The case was then closed.

PETITION NO. 263: PETITIONER: MAROKO EVICTEES COMMITTEE

The petition is about the forced eviction from their traditional and ancestral homes by Lagos State Government agents and the dehumanization of 300,000 Lagosians of the Maroko Community. The petitioners claimed that on July 14, 1990, a fleet of about 30 heavy-duty bulldozers began pulling down houses and crushing the roofs and walls till the buildings fell. According to them, this action took eleven days with a lot of public outcry.

The petitioners’ prayers to the Commission are as follows:

- i) Permanent shelter should be provided for some of them who had been allocated the flats at Ilasan, Ikota and Epe housing estates. They should be given the necessary ownership documents to allay any future fears;

- ii) Flats that are uninhabitable should be completed and their occupants should be reimbursed;
- iii) Those of them not allocated houses should be provided with accommodation and rent subsidies; and,
- iv) The Commission should determine whatever general compensation it can give to Maroko evictees.

The Chairman of the Commission informed the petitioners and their counsel that he had taken up their case with the Governor of Lagos State and an assurance has been given that the State Government would look into their case with a view to making amends.

PETITION NO. 296: PROFESSOR A. O. I. OSUNTOKUN

The petition is about the alleged unlawful detention of the petitioner under very dehumanizing conditions. He affirmed that he was arrested on February 10, 1998 and was kept in detention and incommunicado, without his underwear, wristwatch, glasses and food for one hundred days, until his release in May 1998 for alleged bomb throwing.

He alleged that Chief Tom Ikimi, who had threatened to deal with him earlier, might have been behind his detention by the SSS and the DMI, for writing critical articles on him.

The petitioner is seeking the following reliefs through the Commission:

- i) Full investigation and explanation of the reasons for his detention and those responsible for it; and
- ii) Appropriate monetary compensation, restitution and redress.

Two witnesses and two exhibits were admitted in evidence. The case was concluded and closed.

PETITION NO. 299: LT. COLONEL SAMUEL E. OYEWOLE

The petition is about the unlawful arrest, detention and torture of the petitioner. He stated that Major-General Victor Malu, then GOC 82 Division, Nigeria Army, Enugu ordered him into a close arrest on the 27th of February 1995. No reason was given for the arrest. The petitioner disclosed that he was later accused of conspiracy because he moved a battalion from Ikom to Enugu. He argued that he could not have done that if he was not given instructions and logistics to do so. He said he faced the Special Investigation Panel (SIP) headed by Major-General Mujakperuo. Under the SIP, he was interrogated, chained, tortured, tormented, and was kept stark naked in handcuffs and leg chains. He was tried by the Special Military Tribunal (SMT) headed by Major-General Aziza and sentenced to death. He claimed that Colonel Shuaibu Habibu who was the chief witness at the SMT told lies just to implicate him.

He claimed that he suffered separation from his kindred; loss of family care; loss of material items; and loss of salary and promotion.

The petitioner's prayers to the Commission are as follows:

- i) That he should be promoted to the rank of Colonel to be at par with his mates whom he would have been promoted with had it not been for the "phantom coup" of 1995;
- ii) That he should be paid all entitlements to date;
- iii) That he should be given the option to voluntarily retire from the Nigeria Army;
- iv) That he should be paid financial compensation; and
- v) That the Federal Government, for the injustice and violation of his human rights, should write a letter of apology to him.

He accused Colonel Frank Omenka, Colonel John Olu, Colonel M. M. Santuraki, and ACP Zakari Biu of giving instructions for his torture.

The second witness, Colonel Kolawole John Olu, said he was shocked when the petitioner accused him of being one of his tormentors. He said nobody was tortured at the Security Group under his command. He said he was not present at any of the interrogations or any place where people were tortured though his boys were present at such places.

The Chairman requested the petitioner to give a write-up on how to reform the Military and Intelligence system. The petitioner reminded the Commission of his prayers and a member of the Commission assured him that they have taken note of them.

PETITION NO. 322: SILIFAT FOLAKE IBRAHIM

The petition is about an eight-month pregnant woman that was shot by a policeman, Ayoola Aborowa, on April 19, 1998 inside a bus while on her way to the hospital for antenatal care.

She testified that the bus driver offered the policeman twenty naira instead of the fifty naira, which was demanded. The policeman became angry and fired a shot into the bus, which caught her in the hand.

The petitioner claimed that her husband spent alot of money for her treatment. That she eventually gave birth to twins but could not breast-feed the babies properly, because she had lost the use of the affected hand as a result of the gun shot.

The petitioner is seeking the following reliefs through the Commission:

- i) Compensation from the government to the tune of ten million Naira for the injuries she suffered as a result of the gun shot; and
- ii) That the Police Officer who shot her, be brought to book for his action.

Two witnesses testified in the case and five exhibits were admitted in evidence. The second witness testified that the charge against the Police Officer in the Magistrate Court had been struck out and no charges have been filed against him in the High Court. He said that the police authorities found the conduct of the Police Officer wrong and he was dismissed from the Police Force after an orderly trial.

PETITION NO. 323: PETITIONER: BAYO OSINOWO

The petition is about an alleged unlawful arrest, detention and torture of the petitioner by security agents. The petitioner claimed that he was arrested in 1996 in connection with the murder of Alhaja Kudirat Abiola. After his release, men of the SSS for alleged undisclosed reasons, arrested him again on September 16, 1997.

He claimed he was arrested on the orders of Major Al-Mustapha and was kept in solitary confinement in handcuffs and leg chains. He claimed the soldiers of the Strike Force whipped him every morning during his detention. He said officers working under CSP Rabo Lawal who took instructions from the FCT Police Commissioner and the Chief Security Officer to the Head of State tortured him.

The petitioner said he has developed poor vision, damaged bladder and skin disease while in detention.

The petitioner is seeking the following reliefs through the Commission:

- i) Full compensation for losses and injuries he suffered;
- ii) Return of his properties and documents or payment of their current monetary value; and
- iii) The violators of his rights should be brought to book.

Witnesses testified in the case and ten exhibits were admitted in evidence. One of the witnesses was the former Chief Security Officer to the former Head of State, Major Hamza Al-Mustapha, who claimed that he never met the petitioner until at this hearing. He averred that such actions against the petitioner as alleged, could have been taken as a result of security reports. He said he neither ordered the beating of the petitioner nor his re-arrest and detention after Major-General Chris Garuba had released him. He tendered two security reports that had triggered the arrest and detention of some individuals: the first report was titled "Professor Dare's Revelations on Armed Struggle" was dated December 2, 1996; and the second report was titled "NADECO's Bombing Campaigns. Another witness in the case, CSP Rabo Lawal claimed responsibility for the detention of the petitioner and apologized. He confirmed that he never took instructions from Major Al-Mustapha.

In the spirit of reconciliation, the petitioner embraced Al-Mustapha and CSP Rabo Lawal. The petitioner exchanged caps with Al-Mustapha. The case was concluded and closed.

PETITION NO. 325: PETITIONER: SENATOR OLABIYI DUROJAIYE

The petition is about the unlawful detention, emotional trauma to the petitioner and family, and financial losses occasioned by his detention. The petitioner argued that though he was not physically tortured, he

suffered from mental agony because of his observation of brutality on other detainees. He affirmed that his detention affected the health of his wife and his children.

The petitioner affirmed that the authorities were vexed because he was said to be a NADECO member. He said although Lt. Colonel Frank Omenka claimed he was ordered from above to detain him, he did not reveal those who ordered him.

The petitioner is seeking the following reliefs through the Commission:

- i) The Commission should unearth the causes of human rights abuses in Nigeria;
- ii) The violators of human rights should be charged and if convicted should face appropriate punishment; and,
- iii) Monetary compensation to the petitioner to the tune of N60 million. He pledged to use any such compensation for charity

The case was concluded and closed pending the recommendation of the Commission.

PETITION NO. 327: PETITIONER: CHUKS NWANA ESQ.

The petition is about alleged unlawful detention, torture and violation of the rights of the petitioner. Counsel to General Musa Bamaiyi objected to the hearings on the grounds that the Commission lacked jurisdiction. However, the Commission ruled investigations, that it had the mandate to hear the case.

The petitioner claimed he was accused of sending Steven Nworah and Ike Nwadike to Niamey, Niger Republic to collect drugs on his behalf of which he denied. He said he was first detained for sixty days at the NDLEA complex in Lagos and later for sixteen months in Abuja under

Decree 2. He was later 'deported' to Niger Republic and put on trial. The judicial authorities in Niger Republic, however, observed that they had no case against him.

The petitioner is seeking the following reliefs through the Commission:

- i) The Commission to determine whether a lawyer should suffer for the alleged crime of his client; and
- ii) Whether his deportation to Niger Republic was legal

Five exhibits were admitted in evidence. Counsel to General Bamaiyi stated that Exhibits 2 & 5 showed that his detention was legal. The counsel to NDLEA also pointed out that the detention was legal as it was done under Decree 2. Counsel to the Commission argued that his arrest was initially legal but his latter detention for 60 days was illegal. The counsel also added that his torture was also illegal.

The Chairman of the Commission ruled that since the petitioner was granted bail by a court of law before the expiration of the sixty days, he was not detained under Decree 2 *ab initio*. The case was closed.

PETITION NO. 328: APOSTLE TURNER OCHUKO OGBORU

The petition is about the unlawful detention, torture, inhuman and degrading treatment and loss of money of the petitioner. He said he was humiliated, brutalized, and was compelled to sleep on the bare floor, only to be transferred to Kirikiri Maximum Security Prison where about eleven of them were kept in one small cell.

He disclosed that he got into trouble for escorting his brother, Great Ogboru to the border. He averred that although Major Hamza Al-

Mustapha was not personally responsible for his brutalization, he ordered his boys to do so.

The petitioner is seeking the following reliefs:

- i) Compensation and apology from Major Hamza Al-Mustapha and Alhaji Ismaila Gwarzo;
- ii) Alhaji Gwarzo should be made to explain why he kept the petitioner in jail despite a court order directing his release; and
- iii) The Babangida and Abacha governments should be made to return all his personal assets seized as a result of the 1990 Orkar coup in which he was not involved.

Three witnesses testified in the case and two exhibits were admitted in evidence. The second witness, Major Al-Mustapha, confirmed that Ogboru was actually beaten by soldiers spontaneously out of anger at the alleged coup. He accepted responsibility for the action of the soldiers. He further explained that to have stopped soldiers from beating him would have amounted to showing sympathy for him and this would have attracted the wrath of the soldiers on him (Mustapha). Further, he pointed out that the petitioner was arrested at the border between Nigeria and Benin Republic after escorting his elder brother across the border. He denied taking Turner Ogboru's money. He stated that there was no coup suspect that was not beaten on his or her arrival at the Security Group.

The third witness, Alhaji Ismaila Gwarzo denied ordering the re-arrest of Mr. Ogboru after his release. Gwarzo maintained that he could not remember whether Mr. Ogboru was considered by a committee set up to review cases of those detained under Decree 2, although he was a member of the committee. The case was then closed.

**PETITION NOS: 379 & 380: MR. OLADOTUN DURO EMMANUEL,
AND PETER ARIGE**

The petition is about the unlawful arrest, detention and torture of the petitioners under inhuman conditions in various police cells in Lagos and Kano. While in detention, they alleged that they suffered economic losses which include two factories (a rubber and textile factory); two banks which were liquidated by the NDIC and thus they have been deprived of their means of livelihood.

The petitioners are seeking the following reliefs:

- i) The Commission should find out what happened to Pagade Textiles;
- ii) Compensation for the use of Pagade Textiles from August 1995 to September 1997, without any legal authority;
- iii) Return of the two factories: Pagade Textiles Ltd. and Pagade Agricultural Processing Industries Ltd. to them; and
- iv) Compensation for loss of revenue.

Chairman of the Commission requested that counsel address the Commission on whether or not the petitioners were arrested or detained legally and whether they were tortured. Counsel to the petitioners argued that although they were detained under Decree 2, detention under the Decree could still be illegal depending on the circumstances. He argued further that the petitioners were psychologically tortured, denied fair hearing, including the breach to their right to life and deprivation of their properties. The case was concluded and closed pending recommendations.

PETITION NO. 540 CHIEF (MRS.) JOSEPHINE DIYA & CO.

The petition is about the illegal/unlawful detention, threat to life, loss of money and other valuables, stress, pains and trauma of the

petitioners. The petitioners were held incommunicado for nine (9) months and three (3) weeks.

The petitioners alleged that they were so treated merely because they were spouses to a top government official who ran into trouble with the government.

The petitioners are seeking the recovery of their money and valuables from the government or its agents; they are seeking redress for the injustice done to them due compensation for their illegal detention and deprivation of their rights by agents; of the Federal Military Government.

Six exhibits were tendered and admitted in evidence. Brigadier-General Zidon informed the Commission that exhibits 2-6 which were properties belonging to General Diya and his family are in the store at the Lagos Garrison Command. These were later brought to the Commission intact and were confirmed by the petitioners to be intact. This drew applause from the audience and commendation from the Commission. The Commission further observed that an arrest, could be illegal, and that psychological torture could be self-evident without evidence of physical torture. The case was concluded and closed.

PETITION NO. 575 MRS. CHRIS ANYANWU

The petition has to do with the unlawful arrest and detention for four years, assault and battery, physical and mental torture, loss of freedom and property, financial losses estimated at 170. 6 million naira, damages to health, pain, trauma and loss of prestige suffered as a result of the ordeal experienced by the petitioner.

The petitioner was the publisher of *The Sunday Magazine* (TSM) that got into trouble by publishing stories of rumours of coup in the making on March 2 and 19, 1995.

The petitioner is seeking for the following reliefs:

- i) Full compensation for financial losses to the tune of N200 million suffered;
- ii) Adequate reparation and compensation for the brutalization and abuses she suffered;
- iii) A public apology from the Federal Government and the Shell Petroleum and a public acknowledgement by the Federal Government that she was never involved in any coup plot;
- iv) Payment by the Federal Government of her medical bills;
- v) Instructions by the Federal Government that her companies be paid all debts owed them with interest;
- vi) Re-allocation to her of all her plots seized while in detention; and
- vii) Investigation of Shell Petroleum's role in the propagation of lies against her.

She claimed that ACP Zakari Biu slapped her in the process of interrogation. ACP Zakari Biu could not remember slapping the petitioner, but stated that if he did, he was sorry. Thereafter, the petitioner and ACP Zakari Biu embraced each other and reconciled. The Chairman and other members of the Commission commended this gesture.

Two witnesses and four exhibits were admitted in evidence. The case was concluded and closed.

PETITION NO. 663: SADAU BABANGIDA

This petition is about the wrongful detention, torture, and dismissal of the petitioner. The petitioner, a soldier, was summarily dismissed from the Nigerian Army on the allegation of assault on General Patrick Aziza. The petitioner alleged that on December 25, 1996, while driving away from Bonny Camp in company of Cpl. Jon Gaude and Dr Andrew Bala, there ensued a traffic problem involving Dr. Andrew Bala and another man, later identified to be General Patrick Aziza. After some exchanges, the General ordered their arrest and detention at 65 Bn in Bonny camp where they were tortured.

The petitioner claimed that they were later handed over to Colonel Frank Omenka at the Security Group where they spent 72 days with legs and hands in chains. He was later posted to 65 Bn where he faced summary trial and dismissal from service on the order of General Aziza for allegedly assaulting him. The petitioner said he did not directly or indirectly participate in the said alleged assault on the General. The petitioner insists that General Aziza gave the orders for his arrest, trial, conviction, and dismissal.

The petitioner is seeking the following reliefs through the Commission:

- i) That the Commission, quash his trial and conviction; and
- ii) That the Commission investigates the whole issue and allows justice to prevail.

Two witnesses testified in the case. The second witness, General Aziza, denied giving any directive for the arrest, trial, conviction and dismissal of the petitioner. The Commission noted that detention and torture of the petitioner is not in dispute. The arrest was noted to be

lawful but the detention and torture were unlawful. The case was then closed.

PETITION NO. 664: LT. COLONEL FEMI MEPAIYEDA

The petition is about the unlawful detention of the petitioner in February 1995. The petitioner claims that the reason for his arrest and detention are still unknown to him.

The petitioner is requesting the Commission to:

- i) Investigate the allegations against him;
- ii) Recommend his promotion to an appropriate rank and be given the opportunity to voluntarily retire;
- iii) Unearth all documents and videotapes pertaining to the 1995 coup in order to probe into the reasons for his arrest.

The Chairman of the Commission requested the petitioner to assist the Commission, to find out why he was arrested in February 1995. The case was concluded and closed.

PETITION NO. 744: OLUSEGUN ADEBUSUYI

The petition had to do with the unlawful arrest and detention, torture and inhuman treatment and physical assault of the petitioner. He said his wife and father were detained to compel him to cooperate.

He testified that he was compelled to make a confessional statement on January 8, 1997 to the Police that he knew General Alani Akinrinade.

The petitioner is seeking the following reliefs:

- i. Prosecution of all those involved in perpetrating abuses on the petitioner and others;
- ii. Return of the petitioner's international passport and that of his wife in the custody of the police;
- iii. Compensation of N10 million;
- iv. Adequate compensation to all those who were similarly abused; and
- v. Collective national resolve never to allow such bestiality again in our land.

PETITION NO. 747: MR. LAYI ODUMADE

The petition is about the unlawful arrest and detention, torture and inhuman treatment, mental and psychological trauma, financial indebtedness and untold hardship, stigmatization and ill health resulting from torture experienced by the petitioner.

He was accused of collecting N10, 000.00 from late Mr. Nelson for ulterior motives pertaining to bomb blasting. He said he was subjected to the above ordeal to compel him to admit that he did what he didn't do. He said Zakari Biu, A. S. Darma and Mrs. Adokie were involved in torturing him. He insisted that Mrs. Adokie prompted her co-torturers to use electric shocks on him.

He is seeking the following reliefs:

- i) Prosecution of all those involved in the violation of the petitioner's rights; and
- ii) Adequate compensation for the violations of the petitioner's rights.

Two exhibits were admitted in evidence. Those that were alleged to have been involved in his ordeal denied all the allegations made against them.

PETITION NO. 748: MICHAEL OLORUNTOBA FALAYE

The Commission noted that the petitioner was absent. It also noted that the petitioner could not be located at the given address. The petition was struck out.

PETITION NO. 749: CHIEF ABIODUN OKUNUGA

The petition is about the unlawful arrest, detention, torture, and inhuman treatment of the petitioner. He alleged that a week after the airport bomb blast, he was in bed in the guest chalet of General Oladipo Diya's official residence in Abuja, when at about 2.00 a.m. in December 21, 1997, he among others were woken up by soldiers and taken to the SSS office in Abuja where they remained till January 8, 1998. They were transferred to Gado Nasko Army Barracks, Abuja on January 8, 1998.

On January 15, they were handcuffed to one another and flown to Jos, where they appeared before the Special Investigation Panel (SIP). They were handcuffed and leg-chained and a team, which included Colonel Frank Omenka, interrogated him. On February 23, 1998, he was declared 'not guilty' and was told that he would be released on getting to Abuja. On reaching Abuja, however, they were locked up in an empty room in the barracks, still in chains, awaiting Al-Mustapha's final order. It was only on July 8, 1998, six months after their promise of release in Jos he claims, that he was released unconditionally. They were driven to town in an open van and dropped off without any money or means of getting home on the day of their release.

The petitioner is seeking the following reliefs:

- i) Compensation in the sum of fifty million Naira (N50,000,000.00) for the torture, agonies and dehumanizing treatment he received at the hands of the soldiers in Jos and Gado Nasko Barracks, Abuja and the SSS in Abuja;
- ii) Trial of Major Mumuni and his team, including Sergeant Rogers who handcuffed and leg-chained them and made them undergo such agony in Jos, for human rights abuses;
- iii) Return of personal effects and N450,000 cash, or in the alternative, two million in replacement;
- iv) Payment of N3.5 million for a contract already completed, and for a contract of worth N16.9 million from Lagos State Government, which was 60% completed.

The Chairman observed that the fact of the arrest and detention were not in dispute, so the various counsels should examine the surrounding circumstances of this Case, whether the arrest was legal/justified, whether the detention for 7 months — more than was due — was also justified. He asked the counsel to consider all these so that it could be taken along with the others in General Oladipo Diya's case.

PETITION NO. 757: DR. FREDRICK FASEHUN

The petition is about an alleged unlawful detention and torture of the petitioner by the state security agents. He claimed that he was arrested by a team of SSS officials, led by one Darman and Mrs. BMU Adokie, on December 18, 1996 for “throwing bombs”. He said he was detained for sixteen months.

He alleged that certain security officials exhibited base hostility and intimidation to him. He charged ACP Zakari Biu for dispensing torture on him; CSP Ogaba for carrying out ACP Biu's order on him; Mrs. Adokie for mercilessness; and Darman for his extreme ethnic bias and hostility.

The petitioner said his family suffered trauma, his business collapsed, and he now suffers an impaired vision as a result of his detention.

The petitioner is seeking the following reliefs:

- i) Perpetrators of the crime against him should be brought before the Commission to testify;
- ii) Compensation for the loss of property destroyed and carted away by the Police;
- iii) Compensation for income lost during his nineteen months detention period; and
- iv) Unreserved apology from the Government.

Three witnesses testified and four exhibits were admitted in evidence. The case was closed pending the recommendation of the Commission.

PETITION NO. 834: MAJOR-GENERAL ABDULKAREEM ADISA

This is a case of violation of human rights, unjust arrest, detention, trial and the conviction of the petitioner. The petitioner claimed that Major Adamu Argungu, acting on the instruction of General Sani Abacha on the allegation that they planned to overthrow his government, arrested him on December 21, 1998.

He claimed that he was subjected to severe torture, inhuman treatment, physical and brutal assault by Colonel Frank Omenka. A

military tribunal, under the chairmanship of Major-General S. V. L. Malu, found him guilty and sentenced him to death. On March 4, 1999 the Head of State, General Abubakar granted all the convicts pardon and released them.

The petitioner is seeking the following reliefs:

- i) Investigate the inhuman treatment and breaches on his fundamental human rights;
- ii) Set aside his conviction and sentence; and
- iii) Direct adequate compensation to be paid him.

In the alternative,

- i) investigate his complaints of unjust arrest, detention, trial, conviction and sentence;
- ii) proclaim his innocence; and
- iii) Make such recommendations as may be permitted by law to remove the records of conviction and sentence imposed on him.

The petitioner revealed that Lt. General Ishaya Bamaiyi assured him that he ordered the petitioner's properties to be kept after seizure but he is yet to recover all his properties including a Peugeot 505 car and a Peugeot 504-saloon car.

The petitioner revealed that General Diya told him about a four-point demand that was to be presented to General Sani Abacha nine days before his arrest. He claimed he also told him that the originators of the four-point demand were Bamaiyi, Idi Musa, Patrick Aziza, and Sabo Ibrahim. The petitioner said he told General Diya that he did not believe in the sincerity of those involved and that he did not believe in the four-point demand. He told the Commission that he looked at the

four-point demand as a coup attempt because the late Head of State was to be compelled to accept the demands.

Three exhibits were tendered and admitted in evidence by the petitioner. The case was then closed

PETITION NO. 913 PETITIONER: SYLVESTER ODION AKHAINE.

The petition is about the unlawful arrest, detention and torture of the petitioner. He claimed he was arrested on January 17, 1995 by security operatives. He was tortured and thrown out of a moving vehicle by the said security operatives and received serious injuries as a result.

The petitioner is asking for a sovereign national conference and the destruction of the apparatus that makes for oppression. Five exhibits were tendered and admitted in evidence.

PETITION NO. 1296: PETITIONER: ADETOKUNBO FAKEYE

The petition is about the unlawful arrest, detention and torture of the petitioner. He said he did not commit any crime but was punished because of the story carried by his paper. The petitioner averred that he did not contribute to the story of Abacha's failing health but he was arrested, tortured, and detained because his newspaper carried that story.

The petitioner confirmed that the SSS was not involved in his detention and ordeal. He stated that statements by Lt. Colonel Frank Omenka and others made him believe that Major Al-Mustapha was behind his ordeal even though Major Al-Mustapha was not one of those who captured him or was he arraigned before him.

The petitioner is demanding for an apology and two million naira compensation for his ordeal.

Counsel for the Commission submitted that the petitioner's arrest detention and torture was unlawful and illegal. The case was concluded and closed

PETITION NO. 1302: PETITIONER: LEWIS AIMOLA

The petition is about the unlawful arrest, detention and torture of the petitioner by agents of State Security. He testified that on December 16, 1997, while standing near Opebi/Allen Avenue junction, a convoy of the Military Administrator of Lagos State drove past and then he heard a loud blast. He found himself thrown into a nearby gutter and the Police brought him out of the gutter bleeding and in pains.

He said that he was taken into custody by the Police and charged for treason. While in detention he was tortured and hung with an iron bar until he became paralyzed.

The witness prayed the Commission that he be compensated for the loss of means of livelihood and for the torture he underwent while in custody.

Four witnesses testified in the case and nine exhibits were admitted in evidence. One of the witnesses, ACP Zakari Biu, denied ever torturing the petitioner. He stated that the petitioner was arrested because his name and particulars were found in the diary of one late Nelson Kazeem, who is alleged to be one of those responsible for throwing bombs across the country. The case was concluded and closed.

PETITION NO. 1310: SOJI OMOTUNDE

The petition is about the unlawful arrest and detention, inhuman treatment in detention resulting in aggravation of physical injuries, eye defect, psychological trauma and loss of livelihood of the petitioner. He claimed to have spent a total of 182 days in detention. He said he was dragged, beaten and physically tortured during and after his arrest.

The petitioner averred that he was given the impression that he suffered his ordeal because he published a story on “the highest authority of that time”, which he identified as Major Hamza Al-Mustapha. He said he did not personally see Major Hamza Al – Mustapha, but he felt his shadow.

The petitioner is seeking the following reliefs:

- i) Obedience to a court order for the award of damages of N100,000 to the petitioner;
- ii) Prosecution of all those involved in the abuse of the petitioner’s rights; and
- iii) Adequate compensation for the injuries suffered.

Under cross-examination, the petitioner said that though the Strike Force arrested him, he was later on handed over to the SSS.

PETITION NO. 1342: MRS. OLUBUSOLA ARINOLA ADEBUSUYI

The petition is about the unlawful detention of the petitioner. She said the Police arrested her husband on December 26, 1996. When her husband was brought home for a search, she was arrested, interrogated and detained by ACP Zakari Bui for three months in a female prison.

The petitioner is not asking for compensation but wished the violators of her rights would repent and show remorse. The case was closed.

PETITION NO. 1402: MRS. FLORENCE OMOTEHINWA

The petition is about the murder the husband of the petitioner, Rear Admiral Omotehinwa on May 23, 1996. That despite all efforts, neither the police nor the military authorities has carried out any investigations into the gruesome murder. She suspects the culprits to be agents of the State who claimed that Rear Admiral Omotehinwa was a member of NADECO due to his closeness to Lt. General Alani Akinrinade.

The petitioner is seeking the following reliefs:

- i) Fish out those who killed her husband; and
- ii) Assist her in raising her remaining three children that are still in school as the cost of putting them through the universities are becoming too much for her.

Five witnesses testified in the case. The first witness, Mrs Omotehinwa, widow of the late Rear Admiral Olugbenga Emmanuel Omotehinwa, said that her late husband was shot at on the largest artery of his thigh and he bled to death. She stated that Lt. Ahmed Bashir, the former Military Assistant to the late Admiral, appeared unexpectedly that evening. He was there in the House when the Admiral was shot at and he did nothing other than preventing them from going out. She suspects that he was privy to the murder. She pointed out that no police officer went to their house to conduct any interview since the case was reported to the police on May 24, 1996. She disclosed that it was largely believed in government circles that

her husband was the business partner of General Alani Akinrinade and that he was the connecting factor between the NADECO chieftains and NADECO in Nigeria then.

The second and third witnesses, Mrs Funmi Omotehinwa-Gbemudu, and Mr. Alex Omotehinwa, daughter and brother of the deceased respectively, both testified that the Police and Naval authorities have refused to investigate the murder of the Admiral till date.

Navy Lt. Ahmed Bashir also testified. He denied knowledge of, or complicity in the murder. He stated that he was close to both his boss and his wife and served them loyally and was in fact instrumental to conveying the wounded Admiral to the hospital where he was declared dead.

PETITION NO. 1411: CHIEF OLU FALAE

The petition is about the unlawful arrest and detention of the petitioner. He said the Panti Police Station first invited him on 9/12/1996 in connection with the bomb blast at Murtala Mohammed Airport. He was released only to be invited again after a month to the Force CID at Alagbon on the orders of ACP Zakari Biu. He was thereafter detained for 18 months.

While in detention, he was charged to court for treason and conspiracy along with others. The petitioner said he was told by some police officers that his arrest was political and that they were acting on orders from above. He attributed his ordeal to his membership of NADECO which, the government saw as a threat.

The petitioner is seeking compensation for the indignities and humiliation he suffered. He however left the amount he should be

compensated with for the Commission to determine. The case was closed.

PETITION NO. 1516: GANIYU A. ADESANYA

The petition is about physical assault, brutality, human degradation and torture for alleged involvement in the 1997 coup. He alleged that soldiers stole his personal effects and money contained in two big suitcases; one big radio cassette player; two new radio receivers; two passports, all from the Guest House of the then Chief of General Staff, General Oladipo Diya, where he was a guest.

He alleged that Major Hamza Al-Mustapha and soldiers under him, carried out the violations outlined above.

The petitioner is seeking the following reliefs:

- i) Compensation of sixty million Naira for the violations of his rights and sixty million for his stolen personal effects and money; and
- ii) Public apology;

There was no representation for Major Al - Mustapha. The case was closed.

PETITION NO. 1580: MR. EMMANUEL KWAME APEDO

The petition is about the alleged unlawful arrest and imprisonment of the petitioner who is a Togolese married to an American Jew. He claims to be an international businessman. The petitioner alleged that it was during a business trip to Nigeria, at the Nigerian border with Cameroon at Gamboru Ngala in Borno State, that security officials collected his money, arrested and detained him on January 27, 1989.

In addition, NIPOST Staff stole a cheque of Five hundred thousand US Dollars sent to him by his wife.

The petitioner is seeking the following reliefs:

- i) That the matter be re-investigated;
- ii) That all monies stolen i.e., 1.8 million US\$, 450,000 pounds, 310,000 CFAs, S300,000 should be refunded to him; and
- iii) Compensation of N10 million paid to him for unlawful imprisonment.

The Commission held that the case would be better handled through diplomatic channels. The Commission will write to the Togolese and Ghanaian Embassies to assist the petitioner.

The Commission recalled that the matter was partly heard at the Enugu sitting. It was told that the Ghana High Commission had replied to a letter written to it and had advised that the matter was a human rights case and should be treated as such. At that juncture, counsel for the petitioner reminded the Commission that the Nigerian Immigration Service had decided and advised that the petitioner be treated as a refugee seeking political asylum. He listed the various sums of money in different currencies the immigration claimed it released along with the petitioner. He added that the money was with the SSS because its staff, Messrs. Orji and Agbo collected the money.

The counsel for the petitioner claimed that the Lagos State Judge gave two judgments on the case because there was a directive from the State Chief Judge to substitute an earlier judgment, which had been lost. He added that there was an appeal on the case. He agreed that

Justice Belgore dismissed the case and the appeal court sustained his judgment.

PETITIONER: MR. EMMAUNEL APEDO

The first witness, Mr. Emmanuel Apedo, stated that he came to Nigeria in January 1989, to pursue an oil business. He disclosed that while he was to depart Nigeria for Cameroun on January 27, 1989, Nigerian officials at the Nigeria-Cameroun border arrested him. He said that while Mr. John Duru questioned him at Maiduguri, Mr. Orji interrogated in Lagos after which he was detained at the Inter-Center. The witness explained that though he was taken to Lagos to confirm whether he was actually a businessman, he ended up being beaten tortured and compelled to sign a written statement.

He alleged that the security officials who took him to NITEL to call his wife to send the sum of \$1 million later shot him. He explained that he was shot at because he spoke to his wife in Hebrew on the phone. He added that efforts were made to deport him but did not materialize because he had a bullet wound on his leg. The bank statement (i.e. bank passbook) was marked as exhibit 3 while the x-ray of his wounded leg was marked exhibit 4. He stated that he had been walking with a limp since he received the bullet injury though he was operated upon.

A letter written by the Nigerian Immigration Service to the UN to assist the petitioner was marked Exhibit 5. Also a letter from UNHCR asking the YMCA to accommodate the petitioner was marked Exhibit 6. The judgment at Justice Belgore's court was tendered and marked Exhibit 7. Also, the judgment at the appeal court was tendered and marked as Exhibit 8. Thereafter, counsel for Mr. Olubiya of the immigration and

one of the respondents claimed that Exhibit 5 was a forgery. He tendered what he considered the genuine document, which was tendered, and marked Exhibit 9. Also a letter from the SSS to the Immigration Services dated February 21, 1989 was tendered and marked Exhibit 10. He explained that Exhibit 10 did not contain dollars or pounds but only CFA francs. The statement made by the petitioner at the SSS was tendered and marked Exhibit 11.

Under re-examination, the witness explained that while signing for 105,000 CFA, he objected that he was not being given all his money. He insisted that he was not convicted in Ghana and Togo as alleged in his statement to the SSS. He argued that although he signed the statement he did not write it.

The chairman then directed counsel for the petitioner and the SSS to submit within one week, to the commission's secretariat, written submissions on whether or not the commission could dabble into the case after it had been heard by two superior courts. They were also to address the issue of arrest (whether legal or illegal), detention and torture.

PETITION NO. 1771: CAPTAIN A. A. OGUNSIYI

The petition is about alleged unlawful arrest, detention, torture, humiliation and inhuman treatment of the petitioner by military personnel. He said he was arrested on March 5, 1995, and charged with being "an accessory after the fact" of the coup of 1995. He was later arraigned before the General Aziza Panel where he was sentenced to 2 years imprisonment. He argued that he was arrested because of his relationship with Colonel Bamgbose who was his boss in Jaji.

He accused Major-General Aziza, Major-General Mujakperu; Colonel Frank Omenka and Major Al-Mustapha of violating his rights. He claimed he lost his property and his career was truncated as a result.

He is seeking the following reliefs:

- i) Reinstatement into the Army;
- ii) Promotion to equivalent rank with his course mates;
- iii) Compensation for rights violated; and
- iv) Payment of salary arrears and other benefits.

Two exhibits were admitted in evidence during the hearings.

PETITION NO. 1774: PETITIONER: BEN CHARLES OBI

The petition is about the unlawful arrest, detention, torture and violations of the rights of the petitioner. The petitioner, a journalist with the *TELL* Magazine, testified that he was arrested as a result of a coup plot story in the *Classique* Magazine titled “Man who Betrayed Coup Suspects”. The story identified Colonel Habibu Shuaibu as the man.

The petitioner said he was tried for “accessory after the fact of treason” and was sentenced to life imprisonment. He spent three years in prison before he was released.

The petitioner is seeking the Commission to help quash the conviction and also assist him get compensation.

Colonel Olu denied giving orders for the torture of the petitioner. Major Mummuni Bashir denied ever speaking to or threatening the petitioner.

PETITION NO. 1775: PETITIONER: GEORGE MBAH

The petition is about the unlawful arrest, detention, torture and imprisonment of the petitioner. He claimed he is a journalist who was tried as a coup plotter because of what he wrote in his newspaper. He was in detention from May 5, 1995 to July 1998.

The petitioner was charged for “accessory after the fact of treason”. He was initially convicted and sentenced to life imprisonment. It was later reduced to 15 years. He claims his wife left him while he was in jail and that his health was also affected. Two exhibits were tendered and admitted in evidence.

PETITION NO. 1761: PETITIONER: ALHAJI SANUSI MATO

The petition is about the unlawful arrest, detention, and violation of the fundamental rights of the petitioner. The petitioner said he was arrested on March 8, 1995 by a team of Police and Army officers in Jos and was taken to Kirikiri Maximum Security Prison and under Decree 2. Thereafter, he was charged for “accessory after the fact of treason”. A Special Investigation Panel interrogated him and was tried by a Special Military Tribunal, which sentenced him to life imprisonment. This was later reduced to 15 years.

The petitioner alleged that Lt. Colonel Yakasai confessed to him privately when they were in detention that they were framed up to stop some of them from opposing the self-succession bid of the late General Sani Abacha.

The petitioner said he lost his grandmother during the period of his incarceration and his father became hypertensive. He also lost seven of his commercial vehicles as a result of his detention. All contracts

awarded to his company by State Governments were allegedly revoked on the orders of General Sani Abacha and his potential customers were scared away.

The petitioner is seeking the following reliefs:

- i) Official apology from the Federal Government of Nigeria for keeping him in prison for three years; destroying his business; and causing his family undue hardship;
- ii) Compensation for his imprisonment and for all the loses consequently suffered; and
- iii) A judicial panel should be set up to unearth the truth about the 1995 coup so that the guilty could be punished.

The second witness, Colonel Lawan Gwadabe was not present to give evidence in the case. The case was then closed.

PETITION NO. 643: PETITIONER: MRS. MARIA IFEWEKWU

The petition is about an alleged kidnapping, harassment and torture of the petitioner by Lt. Commander Awolabi. The case was reported to the Police and all attempts to get the said Lt. Commander Awolabi to respond proved abortive.

The petitioner alleged that N40, 000 was removed from her husbands' bedroom while property worth N500, 000.00, was destroyed in their house. Her health was affected and she is still undergoing treatment.

The petitioner is seeking the following reliefs:

- i) Refund of damaged and stolen property; and
- ii) Compensation of N5 million by Lt. Commander Awolabi.

The Commission concluded that the act was a personal action by Lt. Commander Awolabi and advised the petitioner and her Counsel to sue him in a court of law. The case was closed.

B. PETITIONS STARTED IN LAGOS BUT CONCLUDED AT THE PORT HARCOURT CENTRE

PETITION NO. 313: PETITIONER: MRS. THERESA ELIKWU

The petition is about the unlawful arrest and torture of her son, Chidi Elikwu. She claimed that policemen arrested her son, in their residence on June 4, 1998. The policemen claimed they were from the State Anti-Robbery Squad. She claimed her son was detained, beaten, and tortured by the police for 71 days before he was arraigned for robbery and later detained at Kirikiri Maximum Prison, Lagos. She revealed that she believes he was arrested because the Police suspected his involvement in the attack carried out on ACP Kehinde Oyenuga at the residence of one Joy Chukwuka, a girlfriend to Mr. Oyenuga, who happened to be his childhood friend.

The petitioner's prayers to the Commission are as follows:

- i) Order the immediate release of her son;
- ii) Payment of compensation for the unlawful detention, beatings and torture of her son; and
- iii) Prosecution of the culprits.

C. PETITIONS STARTED IN LAGOS BUT CONCLUDED AT THE ABUJA CENTRE

PETITION NO. 50: BRIGADIER-GENERAL SAMUEL E. OVIawe

The petition is about the petitioner's unlawful detention, ill-treatment and wrongful retirement from the army on July 29, 1998. He alleged

that the Security Group of DMI detained him for ten months without any charge.

The petitioner testified that he was a victim of the reckless use and abuse of state power by the regime of General Sani Abacha and General Ishaya Bamaïyi. During his detention, his wife received anonymous telephone calls threatening to kill her. He was informed that the Chief of Army Staff was responsible for all that was happening. He was accused of being a member of the *Pirates Confraternity*.

As a result of his predicament, the petitioner alleged that he lost his family life, was tortured and lost his investment and business. He also lost his promotion to the rank of General including, financial and terminal benefits. His son, a student in a university, was harassed and traumatized.

The petitioner is seeking the following reliefs:

- i) His detention be declared illegal;
- ii) His retirement be declared wrongful and he be re-enlisted into the Army; and
- iii) Compensation of N23 million for all the losses he suffered.

Eight exhibits were tendered and admitted in evidence. The case was closed and the Commission directed counsel in the matter to send written addresses.

PETITIONS NO. 186 & 584: ALFA BELLO OYEDEMI, OLORUNKOSEBI AND ALHAJI RASHIDI A. SALAMI.

The petition is about gross violation of human rights arising from pervasion of justice, misapplication of judicial power and extreme abuse of office in the desperate bid to cover up the assassination of late Chief Amuda Olorunkosebi – the Asipa of Oyo by the military regimes of Oyo State under Colonels Samuel Nwosu and Usman Mohammed.

The Chairman wished to know if the petition as it was titled falls under the mandate of the Commission. Counsel to the Commission argued that the real kernel of the petition is if the culprits of the murder have not been brought to justice, and that the State has deliberately refused to prosecute the real killers of the Asipa of Oyo.

The petitioners want the Commission to recommend a full investigation of the case; prosecution of those involved; and put a stop to threats to the life of Comrade Rashidi Salawu.

Counsel representing the Attorney-General of Oyo State informed the Commission that this particular case is pending before the Supreme Court and the number of the case was given as SC/88/2000. This matter, according to him, started from the High Court and went to the Court of Appeal before getting to the Supreme Court.

The Commission Chairman pointed out that even if the Commission went ahead to hear the case and eventually made its recommendation to the President on the issue, the Oyo State Attorney-General could decide not to prosecute the case at his discretion as he seemed to have earlier decided. In the final analysis, he pointed out that the petitioner

might just be wasting its time. The Chairman pointed out that the Commission was an inferior tribunal to a regular court and therefore a superior court could stop its proceedings. The case was then adjourned *sine die* pending the determination of the case on the matter in the Supreme Court.

PETITION NO. 212: PETITIONER: MR. GODSON OFFOARO

The petition is about the mysterious disappearance and possible death of the younger brother of the petitioner, Chinedu Offoaro. The petitioner testified that his younger brother, Chinedu, was working at the Business Desk of the *Guardian* Newspapers but made contributions on national issues by writing articles. He said he was last seen when he came to the village in Mbano and was seen off to the road to enter a vehicle to Owerri. He and the family suspect that security agents might have been following him and may have mistaken him for Chinedu Offor who was also working for the *Guardian* Newspaper and was noted for his critical comments on the Abacha regime.

After the disappearance of the brother; he wrote to the police, SSS, Walter Offonagoro and the DMI to look for his brother but made no headway.

The petitioner is seeking the assistance of the Commission to unravel the mystery behind the disappearance of his brother and also demanded ten million naira compensation.

The Chairman of the Commission directed that a letter should be prepared and sent to the Inspector-General of Police to open up

reinvestigation of the disappearance of Offoaro. The case was then closed.

PETITION NO. 233: PETITIONER: OLAIWOLA BENSON

This petition is about alleged unlawful detention, torture and extra-judicial murder of his nephew, Mr. Adesegun Benson, by officers of the Anti-Robbery Squad, Lagos Police Command in their office at Ikeja on or about October 7, 1996.

He said the police arrested his nephew on suspicion of robbery and tortured him to death. He averred that the autopsy report on the deceased also confirmed that he died from torture but nobody has been prosecuted for the murder. He claimed that he has written a petition to the Police but the Police just ignored him.

The petitioner prayed the Commission to ensure that those responsible for torturing the deceased to death are brought to book. Fourteen exhibits were admitted in evidence. The Police claimed that inmates of the deceased tortured him. The case was concluded and closed.

PETITION NO. 289: PETITIONER: MRS. R. A. AKINYODE

The petition is about the unlawful arrest, torture, conviction and death of the husband of the petitioner. The petitioner affirmed that her husband, late Lt. Colonel Akinyode was framed up as a having participated in the coup plot of 1977. He was said to have been convicted and sentenced to death but the sentence was later commuted to 20-year imprisonment. The husband died in Makurdi prison while serving the jail sentence.

She averred that it was not true that her husband was planning a coup and that her husband told her that he was tortured, brutalized and forced to inhale some chemicals to force him to implicate some superior officers the authorities wanted to rope into the coup plot. She said the husband was in good health while in prison until he suddenly took ill and died on December 28, 1998. She alleged she was maltreated along with her children and forcefully ejected from the official quarters of her husband.

The petitioner is seeking relief from the Commission to investigate the human rights violations suffered by her husband, which led to his death and also recommend compensation for the family. She also pleaded that Col. E. F. Zamani who ejected her and her children from their residence should be prosecuted for tormenting them and carrying away their belongings. She also wants the Commission to ensure that their property carried away be returned to them.

Sixteen exhibits were tendered and admitted in evidence. Five witnesses testified in the case. One of the witnesses wondered why if Col. Akinyode was in good health when he left the Jos Prisons on 8/6/98, his death in December, 1998 should be traced to his alleged torture of January to February, 1998.

The fourth witness, Colonel E. F. Zamani explained that the petitioner carted out everything from the house because she claimed that government did not furnish the house. He said the army authorities allocated the house in question to the deceased and was ratified by the Ministry of Works and Housing. He denied being involved in the arrest of the petitioner.

The fifth witness, CSP Nathaniel K. Nandevu, revealed that Lt-Colonel Akinyode was treated as a special prisoner at the Makurdi prisons.

The Chairman of the Commission directed the relevant counsel and other interested parties to agree on the list of properties belonging to government and the petitioner and submit it to the Commission. The Chairman requested further that relevant counsel should submit written addresses within one week not later than July 19, 2001. He asked them to concentrate on the cause of the death of Colonel Akinyode and the harassment and detention of the petitioner.

Both parties later signed the reconciled list of properties to be returned to the petitioner. The Chairman then ordered that the properties listed in exhibit 17 should be returned to the petitioner.

PETITION NO. 408: PETITIONER: MRS. CHINYERE OHALETE

The counsel for the Commission informed the Commission that all efforts to serve the petitioner had failed. She applied that the petition be struck out unconditionally. The petition was struck out but with leave to re-list since there was no proof of service on the petitioner apart from newspaper publications.

PETITION NO. 486 B: PETITIONER: OLADIPO MOROHUNDIYA

The petition is about the illegal arrest, solitary confinement and torture leading to the current use of eyeglasses, and wrongful dismissal of the petitioner.

The petitioner is seeking the following reliefs:

- i) Re-instatement into the NDLEA;
- ii) Compensation and restitution;

- iii) Public apology from Major-General Musa Bamaiyi; and
- iv) Probe of the tenure Major-General Musa Bamaiyi as the Chairman of NDLEA.

The Commission held that while an arrest might have been lawful, detention and torture were unlawful. The case was closed.

PETITION: 416 & 537: CHIEF GANI FAWEHINMI, RAY EKPU AND OTHERS

The petition is in respect of the brutal murder on October 19, 1986 of Mr. Dele Giwa, who at the time of his death was Editor-in-Chief of NEWSWATCH, a weekly newsmagazine.

The petitioner alleges that Dele Giwa, who was working on a story on Gloria Okon's drug connection with Mrs. Maryam Babangida, wife of President Ibrahim Babangida, was interrogated sometime in September, 1986, by Colonel Halilu Akilu, then Director of Military Intelligence. On Tuesday, October 16, 1986, the State Security Service (SSS) invited Dele Giwa for another interrogation. On Friday, October 17, 1986, Mr. Dele Giwa was subjected to an intensive interrogation by Lt. Colonel A. K. Togun over four serious allegations, one of which was treason. The petitioner averred that Dele Giwa had been falsely accused of holding discussions with some people with intent to import arms into the country and cause social unrest and destabilize the Government. The same day, Dele Giwa visited Chief Gani Fawehinmi his counsel at his chambers and narrated his ordeal in the hands of Colonel A. K. Togun. On October 18, Colonel Halilu Akilu phoned the house and demanded from the wife, Mrs. Funmi Dele Giwa, the full description of Dele Giwa's house to enable an ADC bring "something" to him. On October 19, at about 11.00am., Colonel Akilu phoned Dele

Giwa and told him that everything was settled. Forty minutes after the telephone discussion a parcel arrived for Mr. Dele Giwa, with an inscription: "From the C-IN-C" in front of the parcel and another inscription: "should not be opened by anybody else" at the back. The parcel also had the Coat of Arms, which made Dele Giwa to remark that: "this must be from the President". When Dele Giwa was about to open the parcel, there was a loud explosion, which blew him up from the lower abdomen and killed him consequently.

The petitioner prays that the Commission recommends that the principal suspects, General Ibrahim Babangida, Colonel Halilu Akilu and Lt. Colonel A. K. Togun, be charged for criminal prosecution for the murder of Dele Giwa, and to also recommend the payment by General Ibrahim Babangida, Colonel Halilu Akilu and Lt.-Colonel A. K. Togun of two billion naira as compensation to the mother, wife, children and other dependents and relations of Dele Giwa.

Forty-six exhibits were tendered and admitted in the case. The petitioner claims that General Ibrahim Babangida, Colonel Halilu Akilu, and Lt. Colonel A. K. Togun have not formally denied any of the revelations.

The Commission was informed that one of the respondents in the petition, General Ibrahim Babangida, had obtained a court injunction not to be compelled to appear before the Commission in Lagos.

Chief Gani Fawehinmi applied that the investigation into Dele Giwa's death be adjourned until the respondents appeared. He insisted that the person/persons he petitioned against could not be represented by counsel in their absence and be cross-examined accordingly in regard

to the murder of Dele Giwa and the payment of compensation, therefrom, to the family of Dele Giwa. He reminded the Commission that a deliberate refusal to appear before it was an act of disrespect and contempt, which was punishable under the relevant laws of the country. He said that the counsel to the respondent could not respond to the over 500 questions, which he intended to personally, ask General Ibrahim Babangida. He drew a distinction between appearance in a regular court and appearance in a Commission of inquiry, adding that civil proceedings were different from criminal proceedings which was what the case in question was all about.

Chief Clement Akpangbo, counsel for General Ibrahim Babangida, argued that presidential immunity could not be removed retroactively in order to enable General Ibrahim Babangida testify before the Commission. He urged the Commission to quash the witness' summons served on his client since it had to do with investigating something done when his client was Head of State and since the relevant laws of the country protect him from being so investigated. The counsel held the view that because Chief Olusegun Obasanjo waived his immunity and appeared before the Commission should not be a reason to compel his client to also appear before the Commission. He argued that his client could not be accused of being in contempt of the Commission because there was a case in court challenging the constitutionality of the Commission.

The Chairman of the Commission intervened and referred to section 5 of the Tribunal of Enquiry Act and reminded Counsel that the Commission had the power to summon anybody in Nigeria to attend its sittings and give evidence.

However, counsel for General Ibrahim Babangida noted that the section referred to by the Chairman was “subject to just exemptions”.

The Chairman, in his ruling, discussed the legal *pros* and *cons* for the non-appearances of some four head of states and top government functionaries who ignored the Commission’s summonses to attend and testify before it as well as the implication for such action(s). The Chairman remarked that if counsel could fix when their clients would appear, it would help the Commission and assured the counsel that their clients would be fully protected as provided for by the law. The Chairman also added that the case was closed but could be re-opened.

PETITION NO 458: MR. KOLA ABIOLA AND DR. ORE FALOMO

The petition is about the unlawful arrest, detention, inhuman treatment and denial of medical treatment leading to the death of Chief MKO Abiola. Late Bashorun MKO Abiola was arrested on June 23, 1994 and was detained and violently abused while in various detention centre for four years until he died on July 8, 1998 while in custody of the regime of General Abdulsalami Abubakar.

The petitioners prayed the Commission to:

- i) Find out the medical doctor who took over the treatment of Chief Abiola after Dr. Ore Falomo was barred from seeing his client.
- ii) Recommend full compensation to Chief Abiola’s wives and children; and
- iii) Make any other recommendation, which is just and fair in the circumstance.

Eight witnesses testified in the case. These were Dr. Ore Falomo, ACP Suleiman Abba, Major Hamza Al-Mustapha, Brigadier-General

Ibrahim Sabo, ASP Zadok, Lt. Colonel Richard Bangaje Tartar, Major A.S. Aliyu and Lt. Gen. Ishaya Bamaiyi (rtd). Fifty-seven exhibits were tendered and admitted in evidence.

The first witness, Dr. Ore Falomo affirmed that while Chief Abiola was detained and humiliated in custody, his businesses were closed down while the government cancelled his airline and oil licenses. In detention, Abiola suffered solitary confinement, cruelty, torture, and denial of access to his family, counsel and doctor, even though the government was aware that his health was failing. Abiola eventually died in the custody of the military junta on July 8, 1998.

The second witness, Major Hamza Al-Mustapha, in his response to the allegation against him by the petitioners, denied knowledge about the arrest of Abiola or his movement to various prisons. He stated that he never blocked attempts to treat Abiola abroad. He also denied being privy to the confiscation of his properties. He testified that the death of Abacha and Abiola were similar in nature and circumstances.

The fourth witness, Brig-General Ibrahim Sabo testified that General Bamaiyi told him that since General Abacha was dead, Chief Abiola should also be killed. He alleged that the Directorate of Military Intelligence (DMI) could not investigate the circumstances of Abiola's death because of the reorganizations going on in the Presidency after General Abacha's death.

The fifth witness, ASP Zadok, testified that before Major Al-Mustapha's appointment as Chief Security Officer (CSO), all security outfits in the villa were answerable to their respective headquarters. However, he asserted that Major Al-Mustapha changed this arrangement and made

all the security units in the villa answerable to himself. He revealed that Major Al-Mustapha used to give him N800, 000 quarterly for the feeding of Chief Abiola and the purchase of toiletries. He said that he tasted all food and drinks before Chief Abiola ate and drank them. He pointed out that when General Abdulsalami became Head of State, a new CSO was appointed by name Major A. S. Aliyu. He alleged that on June 7, 1998, Major A. S. Aliyu, the CSO to General Abdulsalami phoned and told him to take Chief Abiola to Aguda House for an interview. He confirmed that before they left Gado Nasko Barracks, where Abiola was detained, he was hale and hearty. He revealed that Major A .S. Aliyu came and met him where Abiola was detained and went with them to Aguda House. He testified further that on their way to Aguda House he received a phone call ordering him to go and see the Chief of General Staff, Admiral Mike Akhigbe. He said that after deliveries of Chief Abiola to Aguda House, he then left to see the Chief of General Staff using the CSO's car and leaving his own behind as ordered by the CSO. After seeing the Chief of General Staff, on his return, he was informed by Major Aliyu that Chief Abiola took some tea and was not feeling well. At that point, he alleged, Chief Abiola coughed and fell down and all attempts to revive him failed. They then transferred him to Aso clinic where the CSO phoned the Head of State that Abiola was dead. ASP Zadok then raised some posers: Who gave Chief Abiola tea in his absence? Who tasted the tea and in whose presence?

The sixth witness, Lt. Colonel Richard Bangaje Tartar confirmed searching and recovering certain items in Major Hamza Al-Mustapha's houses in Kano, Abuja, and Nguru. He affirmed that all the items recovered could fill eleven 'Ghana-must-go' bags and that they were currently in the custody of the government.

In his testimony, Major A. S. Aliyu, who was summoned from the United States, stated that Chief Abiola took a sip at his tea in the presence of himself and the two American officials that had come to see him. He stated that although he changed the arrangement put in place by Major Al-Mustapha for the care of Chief Abiola, he took adequate care of his welfare. He was of the view that there was no foul play in the death of Chief Abiola. He was however very evasive during cross-examination.

The fifth witness, General Ishaya R. Bamaiyi, led in evidence by his counsel, admitted that he was never mentioned in the petition, but because of the evidence of the fourth witness, he was summoned. He affirmed that his relationship with the fourth witness was not cordial. He also explained that Major Al-Mustapha was directly serving under the C-in-C then as CSO, but as officer in the Army, Al-Mustapha was his "subject".

Under cross- examination, he admitted he never held any political post when he was in the Army. He said Sgt. Rogers never linked him with Kudirat's murder as is being alleged. He said that there is a police report on his brother's accusations against him. He stated that he arranged a bail for Chief Abiola and was opposed to General Abacha's self-succession bid, which was the beginning of his problems. In response to Fadipe's statement that General Bamaiyi "was the prime mover of Diya's Coup," he admitted involvement in the coup planning but explained that he did so on the order of the C-in-C and so also did Generals Sabo, Magashi and Aziza. He said he had nothing to gain by Abiola's death. He admitted that he never saw the report of Abiola's death and did not know if Chief Abiola took poisoned tea.

Major Al-Mustapha, who was recalled to throw more light on the circumstances of Abiola's death, asked the following questions:

- i) Where were the clothes Abiola was wearing when he died? Who took them?
- ii) Why was the HOS's maiden address to the nation on the death of Chief Abiola delayed?
- iii) Why Chief Abiola was not rushed to the hospital or given first aid, but was left lying on his face by those who were there?
- iv) Why did General Abubakar keep sending his lieutenants to Abiola but avoided meeting him personally?
- v) Why was Zadok kept in detention?
- vi) Why did Abdulsalami and others refuse to appoint Rear-Admiral Ayinla, who was senior to Akhigbe, the CGS immediately after Abacha's death?
- vii) Who was afraid of Chief Abiola taking over power in Nigeria? The witness also recommended a book "The Confessions of a CIA Agent" to the Commission.

The Chairman instructed the various counsels to write very comprehensive addresses and among other things, and to proffer answers to the seven questions that the last witness posed, and added the question, "Did the prices of evidence point to any conspiracy"?

PETITION: NO. 696: PETITIONER: LT.-GENERAL OLADIPO DIYA

The petition is about an alleged set – up for a phantom coup plot; assault and battery; illegal arrest, detention and imprisonment of the petitioner; physical and psychological torture; abuse of fundamental human rights; theft of his property and property of his wives and

family members, friends, and guests; and harassment of his family and friends.

The petitioner alleged that all these acts were committed by General Sani Abacha, aided by Major-Generals Ishaya Bamaïyi, Bashir Magashi, Patrick Aziza, Air Vice Marshal Idi Musa, Brigadier-General Ibrahim Sabo, Alhaji Ismaila Gwarzo, Majors Al-Mustapha, Argungu, Mumuni and Sergeant 'Rogers' – all of the Nigerian Armed Forces.

He alleged that the very people who engineered the 'coup' plot, announced it, investigated it, set up a panel to try it and indeed tried it and also sat in the Provisional Ruling Council (PRC) to review and confirm the so-called verdict.

The petitioner's prayers to the Commission are as follows:

- i) To set aside the findings and verdict of the "Kangaroo court" as illegal, totally null and void for reasons of breach of the rules of natural justice and other related acts of injustice;
- ii) To order a full investigation into the alleged bogus plot and the circumstances surrounding the set-up;
- iii) To order investigations into the abuse of office which enabled General Sani Abacha and General Bamaïyi and company to set up such an elaborate hoax in order to cleanse the army and its top echelons of a particular ethnic group, using state and military machinery. The panel should make an order to deal with the perpetrators and to act as a deterrent in future;
- iv) To order full investigations into the assault and battery, as well as the torture he suffered at the hands of Majors Al-Mustapha, Mumuni, Argungu, and Sergeant 'Rogers';
- v) To order the trial of Mohammed Abacha, Captain Bature, as well as the above named officers and soldiers for:

- a) the attempted murder of staff employed at his official residence, that they arrested, detained and tortured; and
 - b) the murder of Lance Corporal Mohammed, one of his security guards, and Lt. Colonel Akinyode, both of whom died as a result of the torture undergone.
- vi) To order the trial of Lt. Colonel Yakassai, Major Argungu and Lt. Dagaji for the looting of his property, the property of his family, staff and guests;
 - vii) To compel them to return the looted property;
 - viii) To order Lt. Colonel (Dr.) Yakassai, Lt. Colonel Frank Omenka, Brigadier-General Sabo and Sergeant 'Rogers' under whatever name or alias he uses, and all others involved to give evidence about the matter in the light of their various 'confessions' from prison, and their sinister roles under General Sani Abacha;
 - ix) That the families of the two deceased victims of torture be compensated for the loss of their breadwinners;
 - x) To remove from office and retire immediately any officer who served as a member of the investigation panel and/or the tribunal in both the 1995 and 1997 bogus coup plots. The involvement of any officer in both investigations and/or trials suggests that such an officer has been compromised. Officers of integrity are usually not called back a second time for such work. Officers of questionable integrity should no longer serve in any meaningful capacity in the military, as they have nothing to offer;
 - xi) To order a full restitution of his rank and entitlements to him; and
 - xii) To pay compensation in the sum of seven hundred million naira to him, for unjust imprisonment, the debasement of life, degrading and humiliating treatment meted out to him, the

torture, assault and battery by General Sani Abacha's minions, during these 15 months of incarceration.

Nine witnesses testified in the case. One hundred and sixty-six exhibits were tendered in evidence. The nine witnesses included Generals Oladipo Diya, Ishaya Bamaiyi, Victor Malu, Patrick Aziza and Ibrahim Sabo; others are Majors Hamza Al-Mustapha, Seun Fadipe, and Mumuni Bashir.

The first witness, General Oladipo Diya, led in evidence by his counsel, disclosed that he never supported the late Head of State's self-succession plan. Under cross-examination by counsel to Major Al-Mustapha, he agreed that Mustapha did not torture him. He denied ever instructing that a deposit of seventy million naira be called and described the document as a forgery. He said he added the title Lt.-General to his name because nobody had officially communicated to him that the rank had been withdrawn. He said because he innocently invited Major-General Patrick Aziza to ride in a car with him to the airport while he was travelling out of Lagos, the latter accused him twenty one days later of discussing coup with him. He denied ever suggesting the recruitment of Major-General Magashi because he was the former Commander of the Brigade of Guards and from the north – Kano State, for proper balancing. He denied the need to involve the Lagos Garrison Commander, Major-General Aziza because he was a commander of troops. He alleged that Major-General Aziza was part of the 'arrangee' group that framed him for a coup. He stated that General Sabo was not one of those who arrested, detained, and tortured him.

Under cross-examination by counsel to Mohammed Abacha, General Diya agreed that Mohammed Abacha was not among those who arrested him. He agreed further that there was no Lance Corporal Mohammed attached to him among his security staff, so no Mohammed died, or was tortured by Mohammed Abacha. He also agreed that Mohammed Abacha was not in Jos and did not torture Lt. Colonel Akinyode in Jos.

Under cross-examination by Counsel to Lt. Colonel Yakassai, he stated that his relationship with Abacha became strained by mid-1997. He reaffirmed that of all the convicts for the 1997 coup, eight were Yoruba out of nine and that it was not true that they were six. On the one billion naira his finance officer lodged in a bank in Abuja, he said it was money meant for the building of Houses of Assembly in six States. It was lodged in the account of the CGS. He averred that Lt. Colonel Yakasai was not part of the group that made or presented the four-point demand to General Abacha. He said Yakasai was roped into the coup by the authorities. He agreed under cross-examination to have delivered a speech to some traditional rulers in Benin in which he said Chief MKO Abiola was a joker for insisting on claiming his June 12 Presidential election victory but that the counsel was quoting him out of context. The witness agreed that his former Chief Security Officer pleaded guilty in his trial for the coup but with reasons.

Under cross-examination by counsel to General Bamaiyi, he denied vetting any coup speech or funding the coup. He said he did not report the issue of the four-point demand to General Sani Abacha because he could be killed by those involved. Witness insisted that General Bamaiyi's threats to remove the late Head of State if he refused to abide by the four point demands did not amount to treason. He denied

neither crying nor kneeling down to beg General Abacha after his arrest in spite of the video film that appeared to have shown him does so. He denied vetting any coup speech or funding the coup. He stated that Lt. General Bamaiyi did not arrest, detain, torture and interrogate him because he was also supposed to have been arrested. Counsel to Major-General Magashi argued that the institutions under which General Diya was arrested, detained, tortured and convicted were established under his administration and therefore he was not deserving of the requests he was applying for.

The second witness, Major Hamza Al-Mustapha, denied arresting the petitioner, but that he was arrested by two officers. The witness testified that all the meetings the petitioner held with other coup plotters were taped and transcribed by the witness. He said he had two different interviews with the principal actors and it was video-taped secretly. He affirmed that the petitioner was arrested with a shirt during which the first interview was conducted. The second interview was held with the petitioner wearing another dress. He testified that after the petitioner was arrested, the computer used in typing the 1997 coup speech was found. A copy of the coup speech was also found under the pillow of the petitioner's bed. Under cross-examination by Counsel to Mohammed Abacha, he testified that there was no torture group headed by him and Mohammed Abacha. He reiterated that the coup that had the most overwhelming evidence in the history of coup making in Nigeria was the 1997 coup and it was master-minded by General Diya. Under cross-examination by counsel to the petitioner, the witness confirmed that the government, via the SSS, put Diya and the coup suspects under surveillance.

The fourth witness, Major-General Bamaiyi, affirmed that they held a meeting on December 14, 1997, after Diya survived a bomb blast on December 1997. He agreed that he was fed up with military government and wanted them to hand over to a democratic government. He agreed that he did not wear the “Abacha badge” neither did officers working in his office. He stated that General Abacha never told him that he wanted to succeed himself. He confirmed that Gen. Aziza reported their discussion with Diya to him and that he in turn reported to the C-in-C who directed him “to play along.” Under cross-examination by counsel to General Diya, Bamaiyi stated that the Chief of Defence Staff convened the coup trial of 1997, and to that extent, the 1997 coup trial was not a *Kangaroo* trial.

The fifth witness further testified that he got to know about the coup on December 9, 1997, which was the day of the bomb blast. He said the date of December 13, 1997 was agreed between General Diya and General Bamaiyi as D-day. He confirmed that General Diya gave him two million Naira for the coup, which he passed to General Bamaiyi. The witness said that General Bamaiyi called him about 3.00 am and said that he should go to Oga and get the coup speech for him. Under cross-examination, the witness said that he was shocked when he heard the testimony of Diya and Bamaiyi.

The fifth witness, Major Seun Fadipe, disclosed that he and General Adisa went to General Diya to tell him that the coup plot had leaked to the Head of State and therefore he should discontinue the plot, but General Diya dismissed them and insisted on going ahead. He also informed the Commission that he dispatched his boys to General Bamaiyi to assist in the arrest of Major Mustapha on the day of the coup. He also claimed that he had advised General Diya not to shed

blood during the coup and that while in detention in Jos he advised him to own up to the coup planning so that the innocent boys they used could be released.

Cross-examined by General Magashi's counsel, the witness stated that General Magashi did not attend all the coup meetings and that the General's attendance was on the invitation of General Diya.

The seventh witness, Brigadier-General Ibrahim Sabo, under cross-examination by counsel to General AVM Musa, agreed that he was a member of the 'play-along-team'. He also agreed that General Magashi was also in the team and was supposed to have read the coup speech. Witness however disagreed with counsel's view that if General Magashi had read that speech, it would have meant the overthrow of General Abacha. He argued that it was not meant to be read as they were only playing along. He however agreed that there was a coup plot. He confirmed that none of them in the play-along-team was co-opted to write the speech.

The witness testified that General Adisa was deliberately dragged into the coup plot by General Bamaiyi at the late hour in order to scuttle his being made Chief of Army Staff. He alleged that General Onoja was dragged into the coup of 1997 merely because he had opined that the Chief of Army Staff should be given to someone who was intellectually sound. This, according to him, did not go down well with General Bamaiyi, especially as he was his course mate and at that time had been tipped for the position. He argued that although General Onoja was cleared of complicity in the coup, he was still retired from service through the machinations of General Bamaiyi. He further said that it was not only General Diya that initiated a coup but also General

Bamaiyi, who had the ambition to be Head of State. He averred that General Bamaiyi hatched another coup plot after the failure of the Diya coup.

Cross-examined by counsel to General Diya, the witness explained that 'to play along' was to pretend to be together with coup plotters. The purpose of this was for them to know the real plans of the coup plot in order to avert it and any subsequent coup plots in the future. Those involved in the 1997 coup plot were according to him Generals Diya, Bamaiyi, Magashi, AVM Idi Musa etc. He said General Ishaya Bamaiyi assured Diya that all the GOCs had been informed about the coup except General Sarki Muktar. He also confirmed that the C-in-C gave his blessings for them to play along.

Under cross-examination by counsel to Lt. General Ishaya Bamaiyi, he disclosed that General Bamaiyi instructed him to order Sergeant Rogers to torture General Diya. He insisted that General Diya was tortured and added that Major Mumuni would not know. He opined that at the time he carried out the Chief of Army Staff's instructions on General Diya, he deserved the treatment he received. He said General Patrick Aziza was a very loyal officer. He agreed that General Magashi could not have set up General Diya.

The eighth witness, Major A. S. Adamu Argungu (Rtd), testified that he did not arrest General Diya. He disclosed that a few days after the arrests had been effected he was instructed to convey General Diya to the late Head of State, which he did. He insisted that he never arrested nor tortured General Diya. He explained that when the need to collate evidence arose, there was a need to search the residence of the Chief of General Staff. He added that during the search, he recovered the

sum of 1.2 million dollars and 600,000 pound sterling. He submitted that General Diya's petition was completely baseless and was the act of a drowning man. He confirmed that the dress that General Diya wore on the day he picked him was the same one he saw on the video clip he saw on the case. He said that in carrying out his duties of effecting the arrests of coup plotters, he did not do it with Mohammed Sani Abacha, as he was neither a soldier nor a staff of the SSS.

The fourth witness, Major-General Ishaya Bamaiyi, stated during cross-examination that Major-General Aziza did not conceal any coup. He said the P.R.C. investigated Major General Lawrence Onoja for financial impropriety, found him guilty and recommended his retirement from the Nigerian Army.

Following some prodding by the Chairman and a member of the Commission with counsel to Hamza Al-Mustapha acting as a facilitator, the witness shook hands with General Sabo. They both indicated their readiness to forgive each other and reconcile. The Chairman expressed the Commission's delight with the reconciliation effected. He then declared the case closed.

PETITION: NO. 697: LT.GENERAL OLADIPO DIYA.

The petition is about the alleged assassination attempt of the petitioner. He affirmed that on December 13, 1997, he was scheduled to travel to Makurdi but started off behind schedule. That on turning up at the presidential wing of the airport, he heard a loud bang. The source of the explosion was traced to a Peugeot 504 vehicle parked on one side of the driveway into the presidential wing of the airport. One of the two occupants of the vehicle had been burnt to death in the resulting inferno.

Their identification tags, bearing Major Al-Mustapha's signature, identified them as Sumaila Shaibu and Usman Sumaila, members of Major Al-Mustapha's private security force in the presidency. The survivor, Usman Sumaila, badly injured, was rushed to Gwagwalada General Hospital, where a few hours later he gave details of the failed assassination bid, fingering Al-Mustapha as their recruiting officer into the Strike Force and also as special bodyguards of General Abacha.

The petitioner alleged that on the instructions of the presidency, Usman Sumaila was moved to the Aso clinic where he 'conveniently' died. He further alleged that although the Head of State was not travelling that day, he saw Al-Mustapha heading back from the airport at the time he was heading to the airport. At the airport, at the time of the incident, he noticed the presence of Alhaji Ismaila Gwarzo, Alhaji Arisekola Alao, and the Commissioner of Police for the Federal Capital Territory, Alhaji Mustapha. He further alleged that some thirty minutes after the attempt failed, they were joined by Major-General Ishaya Bamaiyi.

Reliefs sought by the petitioner are as follows:

- i) To order and compel the Nigeria Police, in particular the Abuja Command, to publish the result of their investigations into the incident at the time as announced by the Commissioner of Police, Abuja in December 1997;
- ii) To order a full investigation into the circumstances of that bomb scare, with a view to bringing the culprits to book;

- iii) To summon Major Al-Mustapha and the members of his Strike Force and private security outfit as witnesses and compel them to shed more light on the incident;
- iv) To order Lt. Colonel (Dr.) Yakassai and all others involved to give evidence explaining their various roles in this matter in the light of his alleged 'confessions' from prison and his sinister role in the death of Usman Sumaila and others; and
- v) Punitive damages in the sum of N300, 000,000.00 (three hundred million Naira) for the mental agony and trauma his family and he, were subjected to throughout their trying period.

Led in evidence by his counsel, the first witness, General Diya, averred that despite the assassination attempt on his life and promises by the late Head of State to order a full investigation into the incident, nothing had been done. He said he was rather arrested seven days later, on charges of a coup attempt, all in an attempt to permanently silence him. Under cross-examination, the witness said he neither saw General Bamaiyi, or Major Al-Mustapha at the airport. He denied that he participated in meetings to unseat General Abacha on December 13, 1997. He said he was not aware of any coup to unseat General Abacha at any time. However, he said he was aware of a four-point demand, which was to be presented to the late Head of State. He admitted that he could not have heard the alleged confessions regarding Major Al-Mustapha by the bomb planters because he was neither at Gwagwalada Specialist Hospital nor at Aso Clinic.

The second witness Major Mustapha expressed surprise that the petitioner claimed ignorance of the Joint Intelligence Bureau. He went on to say that the petitioner headed the functional inner caucus. He added that Major-General Adisa was a member of the inner circle but

not that of the inner caucus. He disclosed that there was to be a coup on the eve of December 13, 2000. The witness alleged that his assassination, which was ordered by the petitioner, was to herald the coup. He said the centrality of control of security operatives put in place by him brought about one central authority issuing I.D. cards to all security staff of the State House. He claimed that he never sent the two Ismailas that died on any bombing assignment. He said that the Ismaila that died did so at Gwagwalada Specialist Hospital at the hands of the petitioner and not at the Aso Clinic. He urged the Commission to request for the relevant document from the hospital. He said the Strike Force and the BodyGuards (BGs) were some of the seventeen units under him. Under cross-examination, the second witness stated that his security duties were protecting the late Head of State and the seat of government which extended to the Abuja airport in 1995 when an outpost was created there. He said though he normally sends bodyguards on assignment he did not send the two Ismailas to the airport.

The third witness, Mohammed Labbo, said he is a reporter of the NTA posted to the State House in 1991. He said that in December 1997 he was a reporter on the entourage of the then Chief of General Staff. He said he interviewed the Police Commissioner of Abuja Police Command after the bomb blast after which his Director of News instructed him to do his story but not to mention the name of Lt.-General Diya or those burnt in the exploded car because their families were not yet aware. He said that to the best of his knowledge neither Major Al-Mustapha nor any official at the Villa edited or influenced the editing of his story on the airport incidence.

The fourth witness, Lt.-General Ishaya Bamaiyi, stated that he was never at the Abuja airport on December 13, 1997 as he was at Forte Ibrahim Babangida.

The fifth witness, Lt.-General Victor Malu, testified that there was no doubt that the petitioner plotted a coup in 1997. He denied that the trial was done in such a way as to eliminate persons of the Yoruba ethnic group in the Army. With regards to torture, the witness testified that only Major Mohammed complained that someone used to come to beat him in the night and he ordered that it should never be repeated. Apart from Mohammed, the witness said that no other person complained of torture. The witness further said that when the petitioner complained that the coup allegation was a set up, he brought all of them (accused and accusers), together but the petitioner could not substantiate his allegation. The witness said that as the President of the SMT, he gave the order that the properties of the petitioner and others convicted by the SMT should be confiscated. The witness testified that in all coup trials, it was customary to handcuff and leg-chain suspects. He also said that Major Al-Mustapha did his job well as CSO to General Abacha though by his rank as a Major he was given a task well above his capacity. He finally testified that the petitioner was obviously the architect of the 1997 coup plot and that by his trial and conviction he ceased to be member of the Nigeria Army, since he had been dismissed and cashiered from the Nigerian Army.

Another witness, Captain L. B. Mohammed, agreed that he signed exhibits 2-6, which properties were taken away from General Diya's house. He confirmed that the properties are with the Lagos Garrison

Command and that General Patrick Aziza ordered that they should be taken away.

The sixth witness, Major Mumuni Bashiru, testified that he was appointed as Security Officer at the SMT venue in Jos and he also liaised with the SMT and those detained on the coup plot. He said General Diya was brought to Jos on January 6, 1998. While in Jos he looked after the welfare of General Diya. The witness also testified that General Diya never reported any case of beating. That it was only Major Mohammed that complained that someone entered his cell and beat him up. He said that he thereafter warned all the guards never to beat up any detainee again. He also asserted that there was no reported case of death of any of the detainees in Jos during the SMT sitting and all the people that were brought to Jos left hale and hearty. Under cross-examination by the Chairman, the witness said that it was standard practice to handcuff and leg-chain detainees but to him this did not constitute torture. He also said that there was no law backing the practice.

The seventh witness, Brigadier-General Sabo, testified that General Bamaiyi asked him to tell Sgt. Rogers to “deal with Diya a bit” so that he will stop telling lies. Continuing, he said General Diya lied when he claimed that he wore the same clothes throughout the detention. He said that General Diya *defecated* in Mustapha’s office and had to change his clothes. He said he told General Abacha about the plot and he asked them to play along so that all the details would be gotten. He said he went to the meetings with recording devices and recorded all the discussions. He said a lot of dates were fixed as D-day but Abacha never attended the stated events and the plans were aborted. He alleged that the plot was contingent on the arrest or elimination of

Major Mustapha. The witness denied that the trial of General Diya and others over the 1997 coup was targeted at any tribe.

PETITION: NO. 845 PETITIONER: OTUNBA W. O. O. AJAYI

The petition is about the unlawful arrest, detention and denial of rights of the petitioner. He alleged that he was arrested on July 15, 1995 and detained for 207 weeks.

He affirmed that he was denied the right to freedom, right to fair hearing, right to bail, right to life, right to hold and disseminate information, right to justice, right to ownership of properties and right to good health.

The petitioner is seeking the following reliefs:

- i) A thorough judicial enquiry into the activities of the NDIC, CBN, and FCID Department of the Nigeria Police;
- ii) Reimbursement of medical bills;
- iii) Revoked Licenses of his two banks to be returned to him;
- iv) N500 million compensation for loss of income; and
- v) Written apology by the government.

Two witnesses testified in the case and fourteen exhibits were admitted in evidence. The second witness claimed that the petitioner was the founder and Chief Executive of Republic Bank as well as Financial Merchant Bank and that the two banks were liquidated due to financial malpractice. The petitioner's involvement was reported to the Failed Banks Tribunal for which he was to be tried. Though he was granted bail, he could not meet the conditions for the bail. He was later prosecuted and convicted for the offences. The petitioner was said to have voluntarily surrendered his properties to off-set the amount that he was ordered to pay for payment to depositors whose

funds were misappropriated and this was in accordance with the law on such matters. The witness averred that there are two cases currently pending in the High Court and Court of Appeal of which the petitioner has failed to attend the court proceedings since 1999, purportedly, on ill-health. The petitioner said he was therefore surprised that the petitioner could attend the Commission's hearing in such a high spirit and good health.

The case was closed while the Chairman directed that counsel should submit to the Commission their written addresses on the matter.

PETITIONS: NO. 896 AND NO. 539 ALHAJI IBRAHIM O. BAMIGBOYE

The Commission noted that the petitioners were absent and were not represented by counsel. Counsel for the Commission applied that the petitions be struck out. It noted that Mr. F. O. Okejiji appeared for the Commissioner of Police. He did not object to the application by counsel for the Commission. The petitions were accordingly struck out with permission to re-list.

PETITION: NO. 922: PETITIONER: MR. ELISHA OGBONNA

The petition is about the arrest of Chidi Ogboko Onyeador who was arrested in 1998 and has disappeared since then. The family fears that he might have been killed in detention. They claimed they petitioned the A.I.G Zone 2 Headquarters and the A.I.G wrote a letter to the petitioner confirming his death. He claimed that the A.I.G assured him that 'action' had been initiated to unravel the circumstances of his death.

Eight exhibits were tendered and admitted in evidence in the case. Under cross-examination by the Police lawyer, the petitioner stated

that it was Inspector Amos that told him that his brother might have been tortured to death.

PETITION NO. 932: PETITIONER: OLATUNDE F. SHITTU

The petition is about the illegal shooting and eventual death of the wife of the petitioner.

The petitioner is asking the Commission to recommend compensation from the government to the tune of N5 million for the unlawful killing of his wife and for the expenses he incurred while she was in the hospital.

At the end of the evidence by the petitioner, the counsel for the Lagos State Attorney-General reported that the Lagos Attorney-General had paid the sum of N200, 000.00 to the petitioner as compensation and had also agreed to train three children of the petitioner to secondary school level. Counsel for the Commission suggested and it was agreed that the report should be in writing, while the Commission should write to commend the Lagos State Government. The Commission thus closed the case.

PETITION: NO. 1564: REV. (DR.) F. A. FAPOHUNDA

The counsel to the Commission informed the Commission that the counsel for the petitioner had informed the Commission that they wanted to withdraw the petition and had requested that the case be struck out. The case was struck out accordingly.

PETITION: NO. 1645: MESSRS. FRANCIS AND GEORGE SHEEN.

The petition is about a suspected unlawful detention and consequent death of the petitioner's father, Mr. George Oputa Sheen. He alleged that his father was arrested by security operatives and detained under

the regime of General Yakubu Gowon. His father, who was said to have been a security risk, died in detention.

The petitioner made a request for a compensation of N6 billion. The petitioner wondered why the deceased was held in detention from 1965 to 1968 and died without having an opportunity to appear in court.

The Chairman asked the petitioner to apply for a copy of the report on the deceased since it was now a public document and further ordered that the counsels submit written addresses on whether the petitioners were entitled to any compensation.

PETITION: NO. 1773: PETITIONER: CHIEF OLU AWOTESU

The petition is about the unlawful arrest, illegal detention, and inhuman and degrading treatment of the petitioner by security agents. He was first arrested on January 3, 1984 and was cleared. He was re-arrested, a few weeks later, and detained till October 1984.

The petitioner is seeking the following reliefs:

- i) Return of pictures taken of him in prison;
- ii) Apology; and
- iii) Justice which should be exemplified by confession of guilt and clear displaying of remorse by those who violated his rights.

CHAPTER FOUR

PORT HARCOURT CENTRE

INTRODUCTION

4.1 As pointed out in Chapter One, the Commission in the discharge of its onerous duties sat in the six geo-political zones of the Federal Republic of Nigeria, where public hearings were conducted in respect of petitions received by the Commission. Port Harcourt city was one of such zones.

4.2 At the Port Harcourt zone, 38 petitions were listed before the Commission out of which 3 were struck out. The highlight of the hearings in this zone was the petitions submitted by the Ogoni against the both the Federal Government of Nigeria and some of its agents as well as against the Shell Development Company. The climax of the hearings was the reconciliation effected by the Commission between the two factions of the Ogoni people – “the Ogoni 4” and “the Ogoni 9”. This culminated in the signing of a memorandum of settlement by the now christened “Ogoni 13” as contained in Exhibit 10 of the hearings on petition 24. What follows is a summary of the petitions heard in the Port Harcourt zone.

PETITION NO. 4: PETITIONER: COL. SAM INOKOBA

This petition that came before the Commission was filed by one Col. Sam Inokoba. In the petition, the petitioner complained about the unlawful killing of his son. The petitioner however withdrew his petition and same was struck out by the Commission.

PETITION NO. 21. PETITIONER: PROFESSOR E. E. EZEWU

The second petition heard by the Commission was filed by Professor E. E. Ezewu. The petitioner in his petition alleged that his son was killed at the University of Port Harcourt because of a petition he (the petitioner) had previously written against Professor Theo Vincent, the then Vice Chancellor of the University of Port Harcourt. He alleged that the police refused to conduct an investigation into the matter.

Under cross-examination by the counsel, to the former Vice Chancellor of the University, the petitioner denied the assertion that his son was a cult member and that he was killed by other cult members.

The Commission ordered the police to conduct proper investigation into the matter.

PETITION NO. 149: PETITIONER: MR. J. B. PUTNOR

This petition had to do with the factional differences that have featured among the Ogoni. The petitioner applied to withdraw his petition in the spirit of reconciliation and peace reigning in the community. The petitioner was commended for his and his petition was accordingly struck out.

PETITION NO. 218: PETITIONER: MRS. KOBANI AND OTHERS

The petitioners complained in their petition about the murder of their husbands and the destruction of their properties. They also complained about the persistent threat to the lives and properties of the families of the *Ogoni 4* as a result of which they were forced into exile by members of MOSOP/NYCOP.

They prayed for the release of the bodies of the *Ogoni 4* to their families for decent burial and payment of the sum of N100 million each to their families as compensation. The Commission was informed that the petitions and MOSOP have resolved their differences as evidenced by Exhibit 10, the terms of settlement tendered before the Commission.

The Commission commended the parties for the reconciliation.

PETITION NO. 225: PETITIONER: G. E. DIRIKEBAMOR

The petitioner testified before the Commission and his petition was admitted in evidence as Exhibit 1. In the petition he complained about the murder of two Dirikebamor brothers in 1997 and 1998.

The petitioner alleged that the matter was not properly investigated and also asserted that the Director of Public Prosecutions of Bayelsa State gave a fraudulent legal advice which led to the release of the murder of the Dirikebamor brothers. The petitioner prayed the Commission to make an order for the arrest of the suspects, re-investigation of the matter and the prosecution of the suspects.

Responding however to the allegations, Mr. Kofi Aba of the police informed the Commission that in respect of the first allegation, a case of murder was not established against the suspects hence the suspects were released. His evidence in respect of the second incident was that because the location of the offense could not be determined with certainty, the Nigerian Police Force Headquarters, Zone 5, took over the investigation of the matter.

The Commission ordered the Delta State Police Command to re-investigate the two cases. It was also ordered that the suspects be prosecuted by the Delta State Ministry of Justice.

PETITION NO. 257: PETITIONER: MR. JUSTICE UWALAKA

The petitioner, an employee of Central Bank of Nigeria, alleged in his petition that the former Military Administrator of Bayelsa State came to his place of work and ordered soldiers to beat him up with horse whip, as a result of which he received injuries which led to his hospitalization for eleven days. He further alleged that the doctor who treated him and his counsel who wrote a petition on his behalf were also arrested and detained.

He prayed the Commission to order the Bayelsa State Government to pay him compensation.

The Commission advised the petitioner liaise with his counsel and the doctor that treated him for the purpose of consolidating the petitions relating to the matter. The petition was then adjourned to the Enugu session of hearing.

PETITION NO. 313: PETITIONER: MRS. THERESA ELIKWU

This part-heard matter from the Lagos Centre. The petition was adjourned to the Port Harcourt Centre due to the absence of the star witness, Mr. Chidi Elikwu who testified before the Commission on the 30th of January, 2001. The statement of this witness made to the police was admitted in evidence by the Commission as Exhibit 3.

The witness asserted that he was arrested on the 19th of June, 1998 and was taken to the State Anti-Robbery Squad (SARS) office where he

was detained and tortured. He was detained at SARS office until the 13th day of March, 1999, when he was arraigned before the court and was remanded in prison custody on the orders of the court. He alleged that for a period of 18 months he was not allowed to receive visitors and as a result the injuries he received could not be treated.

Counsel to the Commission was directed to write to the Chief Judge of Lagos State to expedite action on the petitioner's case and that having regard to the fact that the accused has been in detention for a period of 3 years, the issue of his bail should be considered.

PETITION NO. 377: PETITIONER: PRINCE SONNY OSON

The petition was listed before the Commission on Friday, 19th January, 2001 but was adjourned to the 30th of January, 2001 on the orders of the Commission.

It was observed however that it was not listed for hearing on 30th January, 2001.

PETITION NO. 383: PETITIONER: MR. ERES ORUOMAH

The Commission was informed that the petition was about the disappearance of the petitioner's brother which was alleged not properly investigated by the police. The petitioner prayed for the payment of compensation for the disappearance of his brother.

The Commission, however, observed that the issue of compensation would not arise after it is established that there was criminal conspiracy in the disappearance of the victim. The Commission ordered that the police should investigate the matter and report back to the Commission.

PETITION NO. 486B: PETITIONER: OLADIPO MOROHUNDIYA

The petitioner, a former employee of National Drug Law Enforcement Agency (NDLEA), alleged that he was wrongly dismissed from service and further alleged that he was illegally arrested, tortured and detained for ten months without trial by the then Chairman of BDLEA.

He prayed the Commission for re-instatement, restitution and compensation.

The Commission found that while the arrest of the petitioner may have been lawful, his detention and torture were unlawful.

PETITION NO 513: PETITIONER. JUSTICE J. J. UMORER

This petition was adjourned to the Abuja session for hearing on the application of the petitioner.

PETITION NO 535: PETITIONERS, YAKUBU MOHAMMED & OTHERS

The petitioners were absent though they were served with a summons. The petition was struck out.

PETITION NO 589: PETITIONER CHIEF G. O. AKINLUYI

The petition was not heard due to the absence of the petitioner on health grounds. The petition was adjourned to the next session of the Commission for hearing in Abuja.

PETITION NO 595: PETITIONER DR CHARLES EKANEM

The petitioner alleged that he was arrested on an allegation of fraud by the Military Task Force on NITEL facilities in Akwa-Ibom State. He asserted that he was assaulted, humiliated and tortured by the Task

Force. He reported his ordeal to the police but the police was scared away by a major who was the head of the Task Force.

The Commission observed that the matter was earlier reported to the police but was poorly investigated due to the human rights posture of the military government. The Commission directed that the Inspector-General of Police should conduct a fresh investigation into the matter. It also ordered that the Commission should be duly informed about the outcome of the investigation.

PETITION NO: 617: PETITIONER: MRS. L. WILLIAMS

The petition is about the petitioner's elder brother Professor Claude Ake, who died in a plane crash involving A.D.C. Airline. In her petition, the petitioner alleged that the plane crash was planned by the General Sani Abacha Government because of the protest by Professor Ake over the trial and execution of Ken Saro-Wiwa. The petitioner further asserted that prior to his death, the late Professor Ake was being monitored by security agents. He was a leftist and a critique of the military. Professor Ake's letter addressed to the Director of State Security Services was admitted in evidence as Exhibit 3. In the said letter, the late Professor Ake complained about his constant harassments by the security agents. She alleged that it was the Government of late Gen. Sani Abacha that was responsible for the bombing of the A.D.C. Airline which was done purposely to eliminate late Professor Ake.

Under cross-examination the witness asserted that Shell Petroleum Company was privy to the bombing of the A.D.C. Aircraft.

The Commission ordered a re-investigation of the matter in line with

the petitioner's prayers as contained in Exhibits 1 and 2.

PETITION NO. 672: PETITIONER, MR CHARLES EYAM

The petition was tendered in evidence as Exhibit I. In the petition, the petitioner alleged that his brother was murdered and that a car with the sum of N20,000.00 was seized from his deceased brother. He complained about the denial of his freedom of movement and personal liberty.

He prayed the Commission for the payment of the sum of N50 million for the injuries he suffered. He also demanded for the release of the corpse of his deceased brother to the family and a re-investigation of the case.

The evidence of the petitioner was not controverted. The Commission therefore directed the police to re-investigate the matter in line with the petitioner's prayer.

PETITION NO 673: PETITIONER: MRS. JENNY IWARA OSUAYA

The petitioner was the wife of one Mr. Iwara Osuaya [deceased]. The petitioner alleged that her late husband was murdered by Mr. Usani Uguru Usani & Others. The assailants were arrested by the police Mr. Usani who was a member of the Cross Rivers State Executive Council used his influence to suppress investigation into the matter. The preliminary investigation report of the matter indicted Mr. Usani and others but the police did not prosecute them. The preliminary report was admitted in evidence as Exhibit 2.

The Commission ordered the Inspector-General of Police to constitute another panel to conduct fresh investigation into the matter.

PETITION NO: 674: PETITIONER: MR. OMIMI ENO OTU

The petitioner alleged in his petition which was admitted in evidence as Exhibit 1, that Mr. Omimi Eno Otu was brutally murdered by Sgt. Ike Eni of the Cross River State patrol team at Ugep on the 2nd day of February, 1998 as a result of gun shots. It was however revealed in evidence that that the deceased was actually shot by one Lance Corporal Suleiman Bello. The deceased was married and had three children.

The petitioner prayed the Commission for the payment of the sum of N50 million as compensation and for maintenance of the wife of the deceased and his three children.

The Commission directed Counsel to the petitioner to pursue the prosecution of Lance Corporal Bello with the Attorney-General of Cross Rivers State and the police and report back to the Commission.

PETITION NO 639/369: PETITIONER: MR PETER ENEWARI

Dr Augustine Enewari was a Director in Bayelsa State Environmental and Development Authority and was Secretary to the Bayelsa State Community Relations Committee, a body responsible for intervening in intra- and inter-communal conflicts arising between communities and oil companies operating in the State.

On 23rd of August, 1998, he together with the other members of the committee travelled on a speed boat to Nembe Local Government. Two hours after their departure, the other members of the committee came back and alleged that Dr Augustine Enewari fell off the speed boat in the course of the journey and was killed by the propeller of the

speed boat. On the 27th of August, 1998 his body was recovered from the waters.

An autopsy report conducted on the body of the deceased, Exhibit 4, ruled out the fact that the deceased died as a result of the propeller injury as asserted by the other occupants of the speed boat. The doctors certified the cause of death to be “MULTIPLE MATCHET AND STAB WOUNDS”.

From the nature of the evidence the petitioner argued, there is the need for proper investigation to be conducted into the circumstances of the death of Dr. Enewari, moreso as there is no explanation as to the circumstances under which he fell from the speed boat into the water.

The Commission ordered the arrest and prosecution of the survivors in the boat at the time of the incident.

PETITION NO. 746: PETITIONER: KEN SARO WIWA MR.

The first witness that testified before the Commission was one of the counsels that defended late Ken Saro-Wiwia before the Honourable Justice Auta Tribunal that tried and convicted the late Ken Saro-Wiwa.

His evidence was to the effect that the law established the law which established the Hon. Justice Auta Tribunal did not give a time limit within which the convicts could appeal against the decision of the tribunal and that there was also no time limit for the transmission of the record of the proceedings of the tribunal to the confirming authority. He alleged that the record of proceedings of the tribunal was

not transmitted to the confirming authority before the sentences of the convicts were confirmed by the relevant authority. This he asserted was due to the volume of the record of proceedings.

Mr. Ledum Mitee was the second witness that testified before the Commission. He was arraigned before Hon. Justice Auta Tribunal. He asserted that the convicts were not given an opportunity to make representations to higher authorities on their convictions. All the accused persons were detained in military cells.

According to this witness, the Chairman of the tribunal informed the convicts that they had 30 days to appeal against the judgment of the tribunal though there was no such provision in the law that set up the tribunal. However, he was discharged and acquitted by the tribunal.

PETITION NO 760: PETITIONER: MR JOE MOUKORO

The petitioner informed the Commission that his petition was about the murder of his brother by a Naval Officer named Hamidu Saliu. The matter was reported to the police, the suspect was arrested, but was later released and he was never prosecuted.

PETITION NO 784: PETITIONER: CHIEF SAM EGBELE

The petition was about the human rights violations of the people of the Niger-Delta by successive governments. He therefore prayed for the rehabilitation of the area and the payment of reparations.

In its response, the Commission directed that all abandoned properties in the area be documented and passed to the Niger-Delta Development Corporation [NDDC]. It is promised to draw the attention of the Federal Government to the plight of the people of the Niger-

Delta in its recommendations.

PETITION NO. 861: PETITIONER: CHIEF FEMI ADEKANYE AND OTHERS

In their petition, the petitioners complained about the arrest, detention and torture. The petition was however not heard at the Port Harcourt session as same was adjourned for hearing at the Abuja session of the Commission.

PETITION NO 887: PETITIONER, LT. CDR. T. O. ESAN

The petitioner, a former Naval Officer, he was compulsorily retired from the Navy on 24th December, 1996, on the ground that he had faced too many court martials and that he had lost two years' seniority. The petitioner further alleged that while in the Navy, he was assigned the duties of combating smuggling, piracy, illegal bunkering and fishing as a result of which he incurred the wrath of many people. After he was retired from service, he was detained for a period of thirty-nine days and was denied adequate medical facilities. This situation led to the deterioration of his health.

He prayed for re-instatement into the Nigerian Navy and payment for his illegal detention and the dehumanizing treatment he passed through while in detention. The case was subsequently adjourned to Abuja where the various counsels were ordered to submit addresses within 14 days focusing on: i) reasons for the arrest of the petitioner, ii) the validity/legality of the attack, iii) how long the petitioner was detained and the justifiability of the detention, and iv) whether there was any proof of the torture. The case then closed.

PETITION NO: 908: PETITIONER: MRS. ROXANNA A SPIFF

The Petition was not heard. It was struck out due to the absence of the petitioner.

PETITION NO 942: PETITIONER: MRS. ROSE ROBINSON IWERE

Petition was listed before the commission on the 6th day of January, 2001 but was adjourned due to the absence of the petitioner. The petition dealt with the murder of the son of the petitioner who prayed for a full investigation of the case.

It is observed that this petition was not listed before the Commission again during the session.

PETITION NO. 948: PETITIONER: DR. TEMI A METSEAGHARUM

The petition was about the murder of one Mr. Samuel A. K. Metseagharum Chevron, an oil company, was alleged to have been involved in the murder of the deceased person. An objection was taken by counsel to the petitioner to the appearance of counsel to Chevron company on the ground that he had earlier been briefed by petitioner to handle the matter but refused to handle same due to disagreement with the petitioner on professional fees.

The Commission ordered Counsel to the petitioner to depose to an affidavit stating the facts and serve same on counsel to Chevron Company who will also swear to a counter affidavit in reply to affidavit.

The matter was then adjourned to Enugu Centre for further hearing.

PETITION NO: 1413: PETITIONER: ALBERT EFFIONG ATTEH

The petitioner alleged in the petition that his uncle, Mr. Etim O. Atteh,

was murdered by his wife and brothers-in-law. He prayed the Commission to order the police to re-investigate the case and to release his brothers and sisters who had been arrested. Counsel to the Commissioner for Justice Akwa-Ibom State informed the Commission that the case was already in court. The Commission first adjourned hearings to enable the appearance of the petitioner and finally struck out the case when he did not appear.

PETITION NO: 1498: PETITIONER: SGT. JULIUS UWOM

The petitioner alleged that his nephew was murdered and that the father of the deceased was forced to swear to an affidavit withdrawing the case. The petitioner prayed the Commission for re-investigation of the case and the prosecution of the suspects.

The Commission ordered the Rivers State Police Command to re-investigate the matter.

PETITION NO: 147/1420: PETITIONER: MR. LEDUM MITEE & MOSOP

Petitions Nos. 420 and 467 were consolidated by the Commission on the application of the petitioner in petition No 420 on the ground that the two petitioners have the same substance.

Testifying before the Commission the first witness Mr. Ledum Mitee complained about the arrest, detention, torture and killing of the Ogonis by the members of the Task Force on Internal Security in Rivers State under the command of one Major Paul Okuntimo. He informed the Commission about the alleged complicity of Shell Petroleum Company in importing arms and ammunitions into the country for the purpose of suppressing agitation by the Ogonis about

the environmental degradation of their land by Shell Petroleum Company. The witness also testified about the communal clashes between Ogonis and the Andonis as a result of land dispute.

Evidence was also led before the Commission by some of the witnesses that the houses of some of the paramount rulers in Ogoniland who are members of the Conference of Ogoni Traditional Council were set ablaze by soldiers of the Task Force on internal security.

Other witnesses who testified before the Commission complained about the invasion of their villages by members of the Task Force on Internal Security and gave evidence of how they were raped by soldiers of the Task Force.

Evidence was also adduced before the Commission about the illegal arrest, detention and torture without trial of some of the leaders of the Movement for the Survival of Ogoni People (MOSOP) by the Task Force on Internal Security.

The last witness that testified before the Commission in support of the petition was one Mrs. Beremaki. Her evidence was to the effect that soldiers invaded her village and shot her daughter at the Assemblies of God Church and that when she got to the Church, she was also shot by the soldiers. She and her daughter were admitted at the University of Port Harcourt Teaching Hospital for a period of three months. She further said in her evidence that she knew it was soldiers who shot her and her daughter because of the type of guns the soldiers carried and their uniform.

Responding to the allegation in the petition, Lt. Col. Dauda Komo

(rtd.), former Military Administrator, Rivers State, testified before the Commission and denied the assertion that soldiers attacked communities to create disaffection among members of the community.

PETITION NO. 1626: PETITIONER: MR. JOSEPH UZEROH

The petitioner complained about the murder of one Cpl Samuel Uzeroh by the Divisional Police Officer for Omoku Local Government Area of Rivers State while on an official assignment. The petitioner further alleged that the police did not conduct proper investigation into the circumstances of the death of the deceased police officer and complained about the non-payment of compensation and entitlements to the family of the deceased police officer. He prayed for the prosecution of the assailant.

The Director of Public Prosecution in Rivers State at the time of the incident, Mr. Kofi O. A. Abah, testified as the second witness before the Commission. The legal advice written by him was admitted in evidence as Exhibit 6.

In line with the prayers of the petitioners, the Commission ordered that the case be re-investigated by the police.

PETITION NO: 1637: PETITIONER: MR. K. IROANYA & OTHERS

In the petition, the petitioners complained that the Igburuku/Okwarra people of Ikwerre tribe were displaced from their homeland after the Civil War. The Commission was informed that the matter was investigated earlier and the Government prepared a white paper wherein recommendations were made but the recommendations were not implemented.

Counsel to the Rivers State Government informed the Commission that the petitioners had been resettled in Port-Harcourt and other parts of Rivers State which the petitioners accepted. She asserted that the demand the petitioners to be re-settled in their pre-civil war location was impracticable.

Responding to the assertion by the counsel to the Rivers State Government, the petitioners' counsel informed the Commission that what the petitioners want is to be allocated land in their present places of abode and not to be re-settled in their pre-civil war places of abode. The Commission directed counsel to the petitioners and the Commission to write a letter to the Rivers State Government to accede to the request of the petitioners.

PETITION NO: 1647: PETITIONER: LEGOR T. SENEWO

The petitioner alleged in his petition that on the 12th day of September 1994, security agents under the command of one Major Okuntimo came to his father's house in search of his brother who was the local leader of MOSOP. His father was beaten and his father's house was set ablaze as a result of which he lost some documents and properties in the house. He alleged that his father died as a result of the psychological shock due to the incident. He prayed the Commission for the prosecution of Major Paul Okuntimo and payment of compensation of the sum of N30 million.

Under cross-examination however, the witness said he did not see Major Paul Okuntimo on the day the house was burnt and that he can not identify him.

The evidence of the petitioner was corroborated by that of the second witness who testified before the Commission H.R.H Theophilus Kerikpo confirmed that the petitioner's father's house was burnt by members of the Rivers State Task Force on Internal Security. Other witnesses that testified before the Commission confirmed the evidence of first and second witnesses.

Responding, however, to the allegations leveled against him and members of the Tasks Force on Internal Security, Major Okuntimo denied that the Task Force burnt the petitioner's father's house nor was it responsible for arson in Ogoni land. He opined that probably it was the Andoni's that were responsible for what happened as they were engulfed in communal land dispute with the Ogonis. He stated that he succeeded in brokering peace between the Ogonis and the Andoni's.

Lt. Col. Dauda Komo (rtd.) was the last witness that testified before the Commission on the issue. He informed the Commission that the Task Force on Internal Security, which he inherited, was set up to maintain internal security in the state due to the Ogoni and Andoni crisis. He denied that members of the Task Force were responsible for arson, killing and other atrocities in Ogoni land; rather, the Andonis were responsible.

PETITION NO: 1710: PETITIONER: IHUNWU OBI-WALI AND OTHERS

Witness No. 1 testified to the effect that on the 26th April, 1993, Senator Obi-Wali, his father was murdered in cold blood by some people. The petitioner alleged that preliminary investigation into the matter was manipulated to shield the culprits from prosecution Some

people including the 2nd wife of the deceased [Mrs. Nnenna Obi-Wali] were arrested with one Chief Omunaka Nsirim and detained for a period of four months. They were subsequently charged to court but were released from custody when a no-case submission was made by the D.P.P

The petitioner further alleged that the late Senator Wali was assassinated by the government during the regime of President Ibrahim Babangida because of his call for a confederation which did not go down well with the government. That the murder plot was executed with the assistance of the then Governor of Rivers State Chief Rufus Ada George. Mrs. Nnenna Obi-Wali was alleged to have confessed to her complicity in the crime for a reward of the sum of N8 million [eight million naira] out of which it is alleged she had been paid the sum of N5 million naira.

The petitioner prayed for the production of the case file before the Commission and the prosecution of the perpetrators of the crime and payment of the sum of N500 million as compensation.

The second witness who testified before the Commission was Williams Nwordi who alleged that he recorded the confessional statement of Mrs. Obi-Wali in two audio cassettes, where she confessed to being paid the sum of N5 million out of N8 million by Chief Nsirim.

Mr. A. T. O. Amasiemaka was the third witness before the Commission. He was the Director of Public Prosecution of Rivers State at the material time. The legal advice on the matter was admitted in evidence as Exhibit 2. He informed the Commission that police investigation into the matter was not exhaustive. The Commission

ordered that a new team of investigators be constituted by the Inspector-General of Police and that the case-files and the cassettes containing the confessional statement of Mrs. Obi-Wali be retrieved from Mr. Zakari Biu who led the initial investigation, and handed over to the new team of investigators.

PETITION NO. 1717: PETITIONER: UMUECHEM COMMUNITY

The petition was presented by counsel to the Umuechem community. The petition is about the civil disturbances that occurred in the community in which eight people lost their lives and about four hundred houses were burnt as a result of which several people were rendered homeless. The Commission was informed that the subject matter of the petition was pending before the Federal High Court by counsel to Shell Petroleum Company.

The counsel to the petitioner prayed that the Government White Paper prepared on the matter be implemented. The Commission directed that a letter be written to the Government to release and implement the white paper on the matter.

SUMMARY/CONCLUSION

The Human Rights Violations Investigation Commission sat in Port Harcourt zone between the 5th day of January, 2001 and 2nd day of February, 2001, and heard complaints from Nigerians on violations of their fundamental human rights by the military/government officials and organizations such as the Rivers State Task Force on Internal Security.

The nature of complaints varied from arrest, detention torture, murder, arson and rape of innocent citizens by security agencies that

ought to protect lives and properties

It is a matter of regret to note that the government that ought to protect lives and properties of its citizens turned against the people and severely suppressed their rights.

While it may not be correct to say that there was a deliberate state policy to violate peoples' rights by the government, it is, however, beyond doubt that the then government set up some organizations and institutions like the Rivers State Task Force on Internal Security and the Military Task Force on NITEL whose *modus operandi* was anything but humane.

From the nature of the evidence adduced before the commission, it was shown that the establishment of some institutions like the Rivers State Task Force on Internal Security though purposely established for the sake of maintaining peace and order in Ogoni land was counter-productive because the Security Agents (i.e. Nigerian soldiers) abused their positions to illegally arrest and detain innocent people and also raped women in the name of maintaining peace and order. Houses of some leaders were set ablaze and lives lost due to the protest by members of the MOSOP against environmental degradation in Ogoni land.

In order to bring peace, law and order to Ogoni land and other oil-producing areas in Nigeria, the government should embark on projects and provide social amenities in the oil-producing communities aimed at improving social amenities in the oil-producing areas.

It is also of importance that urgent steps should be taken to educate

our security agents on the need to respect human rights as most of the security agents see themselves as above the law.

CHAPTER FIVE

KANO CENTRE

INTRODUCTION

5.1 This chapter covers all petitions whose hearing commenced at the Kano Center from March 12, 2000. The Commission commenced hearing into 29 petitions at the Kano center between March 12 and 22. Some of the petitions were adjourned to the Abuja Center for continuation. All these have been covered in this chapter. The hearing was presided over by Hon. Justice Chukwudifu Oputa (rtd.) along with other members of the Commission.

5.2 The Chairman in his opening remarks observed that reconciliation is the key word in the president's address and our *quo warranto* is the search for this reconciliation. It takes two to quarrel and similarly it will take two to reconcile. There may be individual victims as well as individual perpetrators. There may also be communities who feel alienated by past political events. They also need to be reassured and reconciled with the rest of the country in order to restore harmony in our country.

5.3 He pointed out that during the public hearings in Abuja, Lagos and Port Harcourt, all alleged perpetrators blatantly denied any human rights abuses alleged by their victims. Because of this impasse, Justice Oputa observed, "it has not been easy to extract from those alleged perpetrators that measure of remorse and plea for forgiveness on which genuine reconciliation can be posited."

5.4 The Chairman averred that denial does not make any difference to the facts. He said that when so many witnesses from

different backgrounds, from different geographical areas allege unlawful arrest, illegal detention and torture against the same group of security agents, they cannot all be lying and the agents cannot all be witnesses of truth. In such a situation the Commission will be bound to read between the lines. Said the Chairman: “We have seen some handshakes and we have seen exchange of caps. These may be indicative of an intention to reconcile. Also, many of the security agents blamed the system. This may be an oblique admission that though we abused the rights alleged, we were merely carrying out orders. For one thing, a witness testified that it does take more than human courage to own up to one’s wrong doings. And so we found. The Commission has, however, recorded some modest gains in reconciling warring communities. During our session in Lagos, we reconciled the quarrelling inhabitants of Maroko village. We also recorded our first major break-through when the warring Ife and Modakeke communities came together, drafted and signed a Memorandum of Understanding and a Joint Declaration pledging to live in peace and harmony and to adopt only peaceful means in pursuing any of their rights and entitlements. It is rather unfortunate that the media did not give the Ife/Modakeke Reconciliation the prominence it rightly deserved. I am not criticizing them but I am saying that was a slip on their part. They have done marvelously well”.

5.5 During its session in Port Harcourt, Rivers State, the Chairman observed that the Commission succeeded in brokering a Peace Accord among the warring groups in Ogoniland. In particular, it managed to unite and amalgamate the Ogoni Four and the Ogoni Nine into the Ogoni Thirteen. The media did marvelously reporting this historic breakthrough. Both the media in Nigeria and the media overseas, reported and carried “the Ogoni Peace Treaty”, and some

tagged it “the Ogoni Peace Accord”. *The New Nigerian* of February 16, 2001 in its editorial observed: “The Peace Accord signed by the warring factions in Ogoniland will go down in the socio-political development and history of our country as one of the landmark achievements of the Human Rights Violations Investigations Commission”. That is the editorial and it continued: “*The New Nigerian* is enamoured by the series of warm embraces, huggings and back-slappings which permeated the signing proceedings of the Peace Treaty. They were symbolic expressions of the grace and magnanimity of a sober people willing to forget a bitter past and forge ahead.”

5.6 The Commission’s message, according to the Chairman, all along has been: “From our bitter past let us forge ahead to build a better future.” He said, “let us now, with the crossbow provided by the Human Rights Violations Investigations Commission, shoot each of this albatross and move freely in the interest of the peace and unity of Nigeria and the survival of our nascent democracy.”

5.7 Mr. Olaniyan, on behalf of members of the bar in Kano thanked the Commission for its sittings in Kano. He said they would have wished the Commission had had more powers and longer time to sit in Kano. He wished the Commission success in its assignment.

5.8 The Chairman responded that it was a pleasure for the Commission to sit in Kano. He recalled that about six groups and/or representatives of different communities who were at loggerhead pledged to work to bury their hatchets and work in harmony during the hearing session in Kano. He thanked all those who contributed to the reconciliation of the communities. He thanked members of the

various security agencies who have performed more creditably and the hearing in Kano.

5.9 On a final note, the Chairman thanked all that have participated in the Commission s hearings in Kano. The sitting thus came to an end.

**PETITION NO. 59: PETITIONER: ALHAJI (DR.) IBRAHIM
DASUKI**

Counsel to the Commission informed the Commission that the petitioner had withdrawn his petition. The letter of withdrawal sent in by the petitioner stating that he was no longer interested in pursuing the petition was admitted and marked Exhibit 1. In it, the petitioner stated the following reasons for his withdrawal:

- i. He leaves the issue of his deposition from the sultanate to Allah's adjudication;
- ii. The issue of his entitlements is being considered by the current Sokoto State government; and
- iii. His case against Brigadier-General. Yakubu Muazu (rtd), the former Military Administrator of Sokoto State, when the petitioner was deposed, is a matter before the law courts.

The Commission accordingly struck out the petition.

PETITION NO. 61: PETITIONER: ALHAJI MUSTAPHA GARBA

The Chairman drew the attention of the petitioner and his counsel to their petition and pointed out that the relief they were seeking, which was the release of the petitioner's contractual documents to him, was outside the terms of reference of the Commission. He, therefore, advised the duo to withdraw their petition and redraft it in order to

refocus its subject matter on the detention and torture the petitioner suffered so that the Commission could attend to them.

The counsel to the petitioner, however, informed the Commission that his client having listened to and accepted the Chairman's call for forgiveness and reconciliation among aggrieved parties in his speech has decided to forgive all those responsible for his detention and torture. What the witness wanted now was the release of his contractual documents, which were taken away from him when he was arrested and detained, as the documents were needed for the payment of the contracts he had executed. The counsel therefore wanted the Commission to issue his client a letter to effect the release of those documents and the payment of his contract money.

Reacting to the request, a member opined that the Commission could only request the relevant authorities holding the contractual documents of the witness to return them to him, rather than asking the organization he worked for to pay him.

At this juncture, counsel to the Commission disclosed that the Commission had earlier written a letter to the Presidency requesting for the release of the contractual papers but the reply received was that the documents could not be traced.

However, the counsel to the respondents, pointed out that the petitioner was not tortured by his client, and he could not have proved that he was tortured, hence he (the petitioner), withdrew his claim on torture. He took exception to individuals (like the petitioner), who he claimed take advantage of the Commission to defame innocent persons like his client. He therefore demanded that it should be put on

record that the petitioner had abandoned his claims of being tortured by his client and that the (petitioner), should apologize to his client.

Ruling formally on the petition, the Chairman took the view that the petitioner had abandoned his claims for detention and torture and therefore his claims in those aspects were dismissed. He then directed the Commission's counsel and that of the petitioner to give him a draft letter for consideration and issuance to Dr (Mrs.) Awosika of the National Programme on Immunization (NPI) and other relevant authorities with respect to the petitioner's contractual documents. The case was thus closed.

PETITION NO. 67: PETITIONER: LT. R.E. EMUOVHE

It was observed that the petitioner was absent though there was no application to withdraw the petition.

The Commission struck out the petition but it could re-enlist on the appearance of the petitioner.

PETITION NO.82: MALLAM NASIRU MOHAMMED TSANYAWA

The petition has to do with unlawful arrest and detention of the petitioner, unlawful invasion of the petitioner's house, vandalization of his properties and the loss of his son. He said he contested the Chairmanship election of his Local Government on Saturday 5/12/98. As the collation of the votes went into the morning of Sunday December 6, 1998, the DPO, one Samuel Mapul, announced that he had decided to delay the completion of vote collation until 6.00am, creating a two-hour break. This decision, he claimed, he protested calmly. At 7.00am the next day, his house was attacked with teargas and later live ammunitions by a contingent of armed mobile police, led

by the DPO, from which his son and one other boy were shot dead. He claimed that he was thoroughly beaten to the extent that he went into a coma. He said that his house was vandalized and looted.

He requested for a full and detailed investigation of the entire incident and for appropriate redress.

Led in evidence by counsel for the Commission, the first witness, Mallam Nasiru Mohammed Tsanyawa, affirmed the contents of his petition. He disclosed that those killed by the accused, DPO Samuel Mapul, were refused autopsy but hurriedly buried in order to cover up the cause(s) of death. He said that he was not aware of any riot or breach of the peace following the election in his hometown.

Under cross-examination by counsel for the Nigeria Police Force, witness said that the current Chairman of his Local Government Council used the Police in his community and one Mr. Hammed Hamza of the SSS to commit the carnage that took place in his hometown after the local government elections. He further alleged that the corpse of his son was buried by his family the same day the boy was killed.

Led in evidence by his counsel, the second witness, Samuel Mapul, stated that it was not his duty as DPO to regulate the procedures for local government elections in the local government. So he could not have interfered with the electoral process. He explained that his duty at the scene of the election was to maintain law and order. Counsel for the Nigeria Police Force argued that it was actually the petitioner that instigated a riot in the community because he was losing the election. He added that the petitioner on realizing that he was losing the

election mobilized rioters and held both the electoral and security officials hostage at the scene of the election. He went on to say that the matter was actually investigated and certain persons were charged to court. He regretted that the petitioner stalled the court proceedings and the suspects were never prosecuted, just as the petitioner boasted to him in person.

In view of certain disclosures on the matter by the second witness, counsel for the Commission requested for an adjournment so that the Ministry of Justice could be contacted on the actual position concerning the case. However, a lawyer from the Ministry of Justice submitted that it was not always the case that cases from magistrate courts were always forwarded to the Ministry of Justice for prosecution. He challenged the counsel for the Nigeria Police to show proof that this particular case was ever forwarded to the Ministry of Justice for prosecution.

The Commission directed counsels to the Commission, the Police and the Ministry of Justice, to meet and determine the true position on the matter.

The counsel to the Commission informed the Commission that they held the meeting as requested by the Commission and the Counsel for the Ministry of Justice was present to brief the Commission.

Counsel for Kano State Ministry of Justice told the Commission that the case was filed at the Magistrate Court but that it had nothing to do with the contents of the petition. He added that the Police never prosecuted even those who were to have been arraigned at the Magistrate Court on the matter that appeared similar to the petition.

Counsel for the Nigeria Police reminded the Commission that the counsel for the Ministry of Justice had earlier told the Commission that in such matters it was only the Ministry of Justice that was allowed to prosecute. Counsel for the Ministry of Justice pointed out that the State Ministry of Justice could not prosecute because the Police did not arraign the suspects in court. Counsel to the Nigeria Police denied this and urged the Commission to compel the State Ministry of Justice to prosecute the suspects.

At this juncture the petitioner insisted that there was no riot in Tsanyawa on the day in question. He said that the Police was using the remote case of rioting to becloud the issues in his petition which had to do with the killing of his son, vandalism of his house and his illegal arrest and detention. He disclosed that the Tsanyawa Police Station was built through community efforts. He remarked that the people of the community were not so stupid as to destroy what they built. He urged the Commission not to fall into the ploy of the diversionary tactics being applied by the Nigeria Police.

The third witness, Idi Mairijiya, did not understand the testimony of the first witness because he did not understand English. He could recall the election at Tsanyawa and the fact that the son of the first witness was killed that day. He recalled that the boy was killed in the process of crossing a road in the town, when a policeman shot him. He said he told the policeman that he had killed the boy, but the officer asked him not to be bothered. From there the police went on to shoot another boy dead. He stated that he could identify the Police that did the shooting if he saw him and that his name sounded like Mapul. He could not recall witnessing any riot on the day prior to the shooting and stated that may be the riot was after the shooting. He concluded

that Alhaji Nasiru, the first witness was in his house during the election, and as a candidate in the election he could not be expected to have caused the riot.

Under cross-examination by counsel to the Police, the witness testified that he works in the Local Government as a guard, which he does on shift basis. Under further cross-examination, the third witness said he knew the first witness was a candidate in the election but that he did not see him on the day of the incident. The third witness said that he was not a politician and was not at the house of the petitioner on the day of the incident but was returning from a visit when he witnessed the killing of the boys. He confirmed that there was a crowd of people on the day of the election, but could not say if there was any riot. He disclosed that on that day he saw some people surrounding the Police Station. He could not confirm if there was destruction of vehicles in the town on that day. He stated that he left the scene afterwards and did not know what happened thereafter.

Counsel for the Nigeria Police averred that the third witness was a liar and not a true witness. At that juncture the first witness requested to call more witnesses but the Chairman said there was no need and proceeded to ask the Counsel for the Nigeria Police to address the Commission. Counsel for the Nigeria Police insisted that there was a riot in the Tsanyawa on the day in question and that the matter was sent to court but the Ministry of Justice refused to prosecute the rioters.

Counsel to the Commission stated that from the evidence presented, it could not be stated categorically that there was a riot on the day of the election, but there were obviously some disturbances in Tsanyawa.

She also stated that she did not believe the petitioner was involved in any riots.

The Commission ordered that an independent investigation on the matter should be carried out. The Chairman also directed counsel for the Commission to include the petition amongst those to be referred to the Inspector-General of Police for independent investigations.

PETITION 93: INDIGENOUS PEOPLES' FORUM, KAFANCHAN

The petitioner was absent and was not represented by Counsel. The Chairman noted from subject of the petition that it seemed to have been overtaken by events. Counsel for the Kaduna State Government agreed with the view that the petition which had to do with the issues of self-determination and the creation of chiefdoms had been overtaken by events because the prayers of the petitioner had been granted by the Kaduna State Government. However, counsel for the Commission requested for an adjournment since the petitioner appeared not to have been served. The case was adjourned to the next Abuja sitting while efforts would be made to serve the petitioner and fresh hearing notices would be issued to the relevant parties.

At the public hearing of the Commission in Abuja, counsel for the Commission informed the Commission that the petitioner sent a letter to the Commission to the effect that the subject matter in the petition has been overtaken by events as a result of the creation of new chiefdoms in Jama'a emirate. The letter was admitted as Exhibit 1. The case was then struck out.

PETITION NO. 109: PETITIONER: ISHAKU SHEDUL

The petition is about alleged denial of access to life, fair hearing and inhuman treatment of the petitioner's son, Steve Ponzing Shedul,

while in the custody of the State Security Service in Jalingo, Taraba State. The petitioner testified that his son was arrested by the SSS in Jos on May 14, 1999 and was taken to Jalingo as a result of a business transaction between him and the Taraba State Government. He said he suddenly began hearing rumours that his son was beaten to death in custody. Upon inquiry, he alleged that the Taraba State Commissioner of Police and the SSS confirmed to him the death of his son. He said the DSS (Taraba) claimed that his son hanged himself while in their custody and that his remains were being preserved in a Yola Specialist Hospital. He affirmed that when the family delegation was led to the hospital, they showed them a near decomposed body of his son.

The petitioner is praying for the Commission's intervention to bring justice to him and members of his family.

At the public hearing of the Commission in Abuja, while responding to a question from the Chairman, the counsel to the petitioner alleged that investigation into the matter was deliberately stalled by the SSS. He said he had evidence to show that those he accused of the crime in question were actually culpable. The counsel later conceded to the suggestion by a member of the Commission that the case be referred to the IGP for re-investigation. The Commission accordingly ordered the IGP to re-investigate this case and report back to the Commission within three weeks.

PETITION NO. 219: PETITIONER: ABUBAKAR SADIQ UMAR

The counsel for Mohammed Sani Abacha informed the Commission that he had filed a preliminary objection to the petition. The Commission ruled that counsel should make a written submission.

Counsel for Mohammed Abacha submitted that the petition was not within the terms of reference of the Commission. He added that the petitioner was requesting for reliefs that could only be obtained from the regular courts. He added that the petition, if heard by the Commission, would amount to an abuse of the judicial process. He went on to say that the matter was *sub judice* because the same issues in the petition were also before a Federal High Court in the country. He argued that the 1999 Constitution should not be utilized as legislation in this matter because the alleged abuse of the petitioner's human rights occurred before that law came into force. In view of the submissions, he requested that the petition be struck out and dismissed.

However, counsel for the petitioner argued that the only aspect of the petition that was *sub judice* was the one requesting for refund of the money extorted from the petitioner by the respondent, Mohammed Sani Abacha. He held that the whole petition before the Commission was not *sub judice* since the parties at the High Court and those before the Commission were not the same. He added that the issues before the Commission and the Federal High Court were not the same. The counsel for the petitioner went on to say that the Commission had jurisdiction to hear the petition because the issues raised fell within the mandate of the Commission.

The counsel to the petitioner submitted to the Commission his written reply in respect of the objection raised against the hearing of the petition by Mohammed Sani Abacha's counsel which was presented before the Commission the previous day. He went on to read out the submission. Parts of the submission were that the petition was not

sub judice it was not an abuse of court process and that the Commission had the jurisdiction to hear the petition. The case in the High Court, he argued, was between the petitioner and Selcon Tanery while that before the Commission was between the petitioner and Mohammed Sani Abacha and Major Al-Mustapha. He further averred that the subject matter in the case before the High Court was different from that brought before the Commission. Continuing, he stated that the subject matter in the case at the High Court was the payment of salaries and allowances to the petitioner while the issues of detention and torture were the issues before the Commission.

The counsel further submitted that the claims in the two cases were also not the same, for while the claim in the High Court case was substantially monetary, those in respect of the petition were the demand for the reprimand of the accused for his detention and torture. Furthermore, the counsel stated that the Commission was just an investigating body, while the court was an adjudicator and therefore the two bodies were not the same. He went on to say that the terms of reference of the Commission and the period given to it to investigate issues of human rights violations gave it the jurisdiction to hear the case. He also pointed out that based on a Supreme Court ruling to the effect that erroneous reliance on a wrong law could not inflict a fatal damage to a submission, he argued that the erroneous reliance or reference to the 1999 Constitution by his client in his petition did no fatal damage to his case. The counsel also opined that his client's action could not be an abuse of judicial process because the parties in the two cases were not the same. He then concluded that the application for preliminary objection was baseless and should therefore be struck out.

The counsel to the Commission on her part aligned herself with the submission of the petitioner's counsel in its entirety. On the other hand, counsel to Major Al-Mustapha submitted that he was in support of the application for the preliminary objection and therefore aligned himself with the arguments of the applicant's counsel in that regard. The parties were then informed by the Chairman that the Commission's ruling on the application for preliminary objection would be delivered at its next hearing session at Abuja on a date to be announced later.

At the Commission's public hearing in Abuja, the Chairman responded to the preliminary objection raised by the counsel to the respondent at the Commission's hearing in Kano. First, the Chairman pointed out that the proceedings of the Commission were not adversary proceedings. He pointed out that there are no parties in dispute as such and that the Commission's proceeding do amount to a trial. Base on that, he argued that the Commission cannot find any person guilty or not guilty and since the Commission are witnesses before the Commssion. He argued that since the petitioner is not a litigant and has not filed any writ before before the Commssion, he could not have abused the process of Court since there are no actions or parties before the Commission and every person before the Commission was a witness.

Continuing, the Chairman pointed out that there was no law that justified torture, even the torture of persons in war let alone the petitioner who was a mere robbery suspect. In conclusion, the Commission ruled that the petition was not an abuse of court process that the case falls within the terms of reference of the Commission.

The Chairman then struck out the preliminary objection of the respondent.

The counsel for the respondent informed the Commission that there was a motion before the Kano High Court asking for an interlocutory injunction restraining the petitioner from presenting his petition before the Commission. However, the Chairman recalled that a similar objection had been over-ruled earlier on the grounds that the issues before the Commission and the Court were not the same. He therefore overruled the objection.

The original petition of the first witness, Abubakar Sadiq, and the amended petition were tendered and marked Exhibits 1 and 2 respectively. The 1st witness affirmed the contents of Exhibit 2. He stated that his petition had to do with abduction, illegal detention, and denial of fundamental human rights and torture. He added that he was teargassed, denied food and terribly tortured. He disclosed that he was detained both in Abuja and Lagos and moved about in handcuffs. He narrated how he was made to appear before the Task Force on Financial Crimes in Lagos. He recalled that though efforts were made and money paid to facilitate his release after being accused of financial malpractices at Selcon Tenary Ltd he was never released even after those efforts. He stressed the severity of the torture experience he went through and added that he was later treated for the injuries he received. He prayed that Mohammed Abacha, Hamza El-Mustapha and the Federal Government be reprimanded for the action. He also wanted Mohammed Abacha to pay him the sum of N60 million for false accusation. He also sought for adequate compensation for the ordeal he went through.

Led in evidence, the first witness stated that he kept a diary in detention to enable him keep track of events while there. The diary was tendered and marked Exhibit 3. Also, a photocopy of the detention order dated September 18, 1997 was tendered and marked Exhibit 4. In addition, a copy of the release order upon which he was released on bail was tendered and marked Exhibit 5. The first witness recalled that he wore only one dress for 125 days while in detention. He added that he was detained with late Chief MKO Abiola and the Sierra Leonian rebel leader, Foday Sankoh. He admitted that Major Hamza Al-Mustapha did not personally torture him. He added that the security men that moved him from Kano to Abuja were members of the security outfit at the Villa because they went around wearing their name tags.

The second witness, Major Hamza Al-Mustapha, agreed that he was told the story of the problem between the first witness and Alhaji Mohammed Sani Abacha. He said he was told that the first witness masterminded a fraud in Mohammed Abacha's company to the tune of about seventy million naira. He added that the personal issues of the first family did not come within his jurisdiction and he therefore referred the matter to the Police at the Villa. He recalled advising Mohammed Abacha to do all he could to settle the matter amicably and recover his money and reconcile with the petitioner because Kano was a small family. He recalled that the petitioner even opted, if possible, to settle the matter out of court. He advised that Rabo Lawal should be invited to testify since he may know more about the matter. He opined that the petitioner may have spent a long time in detention because of the length of time it took to investigate the matter. He alleged that the petitioner became a bit sensational by alleging that there was blood - which he claimed, belonged to previous detainees -

where he was detained. He agreed that he was in charge of the overall security of the late Head of State and the first family but added that security personnel were assigned specific duties from time to time such as the bodyguards who were attached to Mohammed Abacha. He added that such security personnel took orders from the immediate superior officer in charge of the team and the specific member of the first family they were detailed to protect. He reiterated that the Police and the Presidential Task Force on Financial Crimes were in a better position to say who owned the money that was alleged to have been stolen by the first witness.

The counsel for the respondent revealed that there had been an intervening factor — the case was at the Federal High Court [FHC], which he presumed had served an order on the Commission. The Commission, however, had not received any order, and the counsel for the respondent refused to tender his own copy of the order to the Commission.

The Chairman directed that the order be tendered so that he could refer to it. The order was tendered and marked Exhibit 7. The Chairman ruled that the order was of “*little avail and of little consequence*” and affirmed that the Commission would go on with the case. The Chairman also drew attention of the counsel of the respondent to the mandate of the Commission and also informed the counsel of the preliminary ruling on this matter. The Chairman closed the case and asked for written addresses to be submitted within two weeks.

PETITION 259: PETITIONER: MR. FEDELIS O. AIDEIOMON

The petition had to do with the wrongful arrest, detention without trial for over seventeen months, total deprivation, torture and humiliation of the petitioner by the State Security Service (SSS).

He sought for a thorough investigation into the matter, appropriate redress and rehabilitation.

Led in evidence by counsel to the Commission, the first witness, Mr. Fedelis O. Aideiomon affirmed the contents of his petition. An amended copy of Exhibit 1, which contained the petitioner's prayers, was tendered and admitted in evidence as Exhibit 2. The first witness asked for appropriate compensation for the period of seventeen months of his incarceration.

Under cross-examination, the first witness stated that officials of the State Security Service arrested him.

The Commission adjourned the case to enable counsels for the Commission and the State Security Services present written addresses on the case.

The Commission recalled that counsels for both parties were requested to submit written address on the petition. Counsel for the Commission and the State Security Service thereafter submitted their written addresses for the Commission's consideration. The Commission ruled that it would consider the written submissions accordingly and make its recommendations thereafter.

PETITION 343 PETITIONER: IBRAHIM BURAIMA MUHAMMED

The petition is in respect of the alleged unlawful killing of his younger brother, one Adamu Mohammed, a former Senior Inspector of Customs. The deceased Customs Officer was stationed at Maiduguri at the time of his death. The petitioner alleges that the deceased was on official duty at Biu with other colleagues on August 15, 1999, when he was intentionally shot and killed by one Captain E. O. Igoma of the Nigerian Army Corps of Artillery, Biu, along with other soldiers. According to the petitioner, the Army Captain is yet to be prosecuted in any court of law.

The petitioner is praying that the Commission finds and recommends the prosecution of the killers of his brother.

Counsel to the Commission informed that the problem of the petitioner is that the police investigated the case and at the close of the investigation, the case file was forwarded to the DPP for legal action. The Commissioner of Police said that in view of the above facts, suspects were charged to court under Section 224 of the Penal Code. The problem is that the court released the suspects on the third day. Not only were they released on bail, they were never arraigned before a competent court.

The counsel to the Commission reported that the Director of Public Prosecution (DPP) of Borno State who was summoned in respect of the petition was present and had relevant information to give on the subject matter.

The DPP who gave his name as Mr. B.U. Yerima, stated that the Police was yet to send the case to his office and therefore he did not have any

case file on the matter. He pointed out that although it was stated in the Police report on the matter that the case diary was in the process of being duplicated to be sent to the DPP there was no record that such document was ever received by the DPP: and this was as far-back as in 1990. Reacting, the counsel to the Nigeria Police Force (NPF) stated that it was curious and surprising that the case had not reached the DPP after so many years.

In the circumstance, the Chairman directed the counsel to the Commission, the NPF and DPP of Borno State to meet after the day's sitting to jointly look at the relevant documents on the case and report back to him the next day on what they could understand about the case.

The petitioner drew the Commission's attention to the difficulty in tracing the culprits (accused), in this case and advised that since they were Nigerian Army personnel they could be reached through the office of the Chief of Army Staff. He therefore requested the Commission to explore this suggestion to locate the accused. Accepting the suggestion, the Chairman directed the Commission's counsels to issue summons to the accused through the Chief of Army Staff.

Counsel for the Commission reported that there was a meeting with counsel for the Police and the DPP of Borno State. She added that the DPP asked for more time to contact the Borno State Police Command to find out the position on the case. She also suggested that a letter should be written to the Nigerian Army to find out if the suspects were still in service.

At the public hearing of the Commission in Abuja the Chairman of the Commission recalled the decision at the last public hearing in Kano, concerning the case, and inquired if there was any development.

Counsel to the Commission stated that all efforts made to get the officer's involved to appear had been to no avail. The DPP of Borno State corroborated that statement and added that four bench warrants had earlier been effected to get the officers involved to appear in the conventional court, but to no avail. At that juncture, counsels for the Commission and the petitioner requested that bench warrants be issued against the officers involved.

This was a part-heard petition on the alleged killing of a customs officer by one Major Igama. It was adjourned to enable the appearance of Major Igama before the Commission.

Under cross-examination by counsel to Lt. Colonel Igama, the first witness, Ibrahim Mohammed, stated that he was not present when the event took place or when the two reports by the Customs and Police were written. He however stood by his earlier position on the case that Major Igama was the killer of his brother.

The second witness, Lt. Colonel Igama, affirmed the contents of his response in the petition, which was tendered and marked as Exhibit 2. A copy of the affidavit sworn to by the second witness which explained his absence at the previous sittings was tendered and admitted in evidence as Exhibit 3. The second witness urged the Commission to unravel why certain people wanted him dead which he attributed to the fact that he was the then Chairman of the Task Force for clearing the area of armed bandits.

Under cross-examination, he said that after making a brief statement to the police he was never invited by the police on the matter. He recalled that he was taken to a magistrate court and released on bail after which he was deployed to serve in ECOMOG. The second witness said that thereafter the police took no further actions against him. He said the police never invited him before it wrote a report on the case.

Counsel for the Commission opined that the Attorney-General of Borno State should be invited to explain why the case file had not been received in his office. She disclosed that there has been buck-passing between the Ministry of Justice and the Police in Borno State. A member of the Commission suggested that the Attorney-General of Borno State should be requested to re-open the case.

Counsel for the Commission applied for a witness summons to be served on the police and the Director of Public Prosecution of Borno State and for the case to be adjourned to enable them appear before the Commission in chambers for further direction regarding the speedy prosecution of the case.

PETITION NO. 348: PETITIONER: MUSTAPHA D.S. WAYA

Counsel to the Commission, informed that there was a notice of withdrawal received from the petitioner for personal reasons. She accordingly applied that the petition be struck out. The petition was accordingly struck out.

PETITION 386: PETITIONER: MUHAMMED GIMBA ALFA

The petition is a case of denial of the right to life of the deceased, Mallam Adamu Isiyaku, under custody of the Tudun Wada Police

Station, Zaria. The deceased was reportedly detained in the cell, handcuffed and hanged upside down. He was then brutally beaten with police baton and had teargas sprayed on his face, until he became unconscious. The deceased aged father and his younger brother were equally beaten up mercilessly. The deceased gave up after one Sergeant Jimoh Zubairu, Sgt. John Donald and Sgt. Ishaya Erastus had given a last round of beatings on his head and chest with batons.

The petitioner is demanding for the following reliefs:

- i) That the culprits be brought to justice; and
- ii) Payment of adequate compensation to the family of the deceased in accordance with the Islamic law.(i.e *Diyah*)

Led in evidence by Counsel for the Commission, the first witness, Mohammed Gimba Alfa, testified that following a message that Mallam Isiyaku had a case at the Tudun Wada Police Station, Zaria, he went to the police station only to discover that his friend, Mallam Isiyaku, had been beaten into a state of unconsciousness. He said he made efforts to take his friend to the hospital for medical attention but was denied it by the Police. He disclosed that his friend died thereafter due to lack of the necessary medical attention. He said that the younger brother of his friend, who had also been beaten by the Police, died later on, due to lack of medical attention. He went on to say that he instituted a legal action to seek justice but he could not continue with the case due to lack of funds. He disclosed that Mallam Isiyaku got into trouble for being interested in a case, which his father had at the Area Court, Zaria in 1993.

Counsel for the AIG Zone 1 said that Zaria where the offence was alleged to have been committed was now under Zone 7 and no longer under Zone 1. He added that the relevant documents had been transferred to Zone 7 under which jurisdiction Zaria was currently. He requested for an adjournment to enable him secure the relevant documents from Zone 7. However, counsel for the Commission requested that the case be closed since the relevant Police officers invited did not appear before the Commission. Nevertheless, counsel for the AIG Zone 1 pleaded for a short adjournment of one week to enable him assist in contacting the relevant police officers to appear.

Counsel for the Commission disclosed that the Attorney-General of Kaduna State was present and could comment on the matter. Surprisingly, however, the Attorney-General of Kaduna State said he was just hearing about the case.

The counsel to the Police reported that he had been able to obtain the report of the Police investigation and recommendations on the case as well as the Kaduna State's Ministry of Justice legal advice on it. Reading from the Police report, the counsel stated that four policemen were involved in the case and it was established that there was sufficient evidence to prosecute them for culpable homicide. Continuing, he said the investigation report recommended among others that one Sgt. James should be given orderly room trial and be dismissed from the NPF thereafter. The report also found the officer in the Police Station Mrs. Agoyi guilty of negligence of duty for failing to take the suspect to the hospital. The officer was to be issued a query for this gross negligence. However, when the case was referred to the Ministry of Justice, Kaduna State, for legal advice, the Ministry advised that one of the culprits, one Williams, should be discharged for want of evidence; Mrs. Agoyi should be issued a query for

negligence of duty; Sgt. James should be issued a query for failing to take the suspect to the hospital; and that the other parties should be dealt with administratively. The ministry also stated in its recommendation that no one individual could be identified or held responsible for the death of the suspect. Thus they concluded that there was no case of culpable homicide.

At the public hearing of the Commission in Abuja, the Attorney-General of Kaduna State informed the Commission that they received the case diary and have informed the police that they are going to prosecute the alleged murderers. The state counsel, reporting on behalf of the Attorney-General of Kaduna State, informed the Commission that they have prepared a case against the respondents. According to him, the case has been assigned to a court and it has been fixed for hearing.

The Case was adjourned to enable the Attorney General of Kaduna State to file a charge, which the Counsel to the petitioner had appeared and notified the Counsel to the Commission that it had been done. The Case was closed.

PETITION NO. 388: PETITIONER: TUMBA LABBO

The petition is about alleged unlawful killing of the petitioner's son, Nuru Abdullahi, by agents of government.

The petitioner was once again absent. Counsel for the Commission reported that the matter was previously adjourned because the petitioner was said to be indisposed the previous week. However, no reason was given for the petitioner's current absence.

PETITION 415: ALHAJI ABUBAKAR UMARU ABBA TUKUR

The petition has to do with the illegal arrest, detention, deposition and eventual death of the former Emir of Muri in Jalingo, Taraba State. Counsel for the petitioner disclosed that the matter went to court but was struck out at the Supreme Court on the singular action frustrated the request for a compensation of six million naira (N6, 000,000.00) only, for the deceased family. He conceded to the plea for an adjournment by counsel for Colonel Yohanna Madaki (rtd), if that would enable him to come and personally apologize for the wrongs done.

Based on the application made for an adjournment, the petition was adjourned to the next Abuja sitting. The petition was also to be consolidated with ***petition 587***. It was also decided that fresh hearing notices would be issued to all concerned, while in the meantime the Honourable Attorney-General of Taraba State should file a response to Exhibit 1.

PETITION NO. 471: MAJOR B.M. MOHAMMED

The counsel to the petitioner reported that his client was down with malaria and therefore could not be present for the hearing. He thus applied for the adjournment of the case to the next hearing of the Commission at Abuja. The application was not opposed by any counsel. The Commission accordingly granted the application and the case was transferred to the next hearing session of the Commission in Abuja.

At the hearing session of the Commission in Abuja, the petitioner informed the Commission that he was withdrawing the petition. The

Commission ordered that the petition be struck out and it was struck out.

PETITION 482A, 763 AND 508/10 -ALH. DANLADI JUBRIN, & I.W. BUBA

Counsel for Major Hamza Al-Mustapha explained that the petitioner of petition 763 was absent because he had travelled for the *Hajj*. Counsel for the Commission requested that the petitions be struck out since the petitioners had not shown enough interest in their petitions. However, counsel for Al-Mustapha requested for stay of action on petition 763 to enable the petitioner appear.

The Commission struck out petitions 482A and 508/510. Counsel for the petitioner, later appeared and informed the Commission that he had instructions from the petitioner to withdraw the case. Accordingly, petition 763 was struck off.

PETITION No 561: MALL. SHUAIBU AHMADU

The petition is about an alleged unlawful torture and the extra-judicial killing of the son of the petitioner, Mohammed Awwal Shuaib, by the police. The petitioner alleged that his son was arrested for an alleged assault against a fellow community member on October 4, 1998 and was taken to Gwangwarwa Divisional Police Station. He claimed that when he went to bail his son at the station, he saw him being tortured, beaten, and dangerously kicked on the head and body, by the Divisional Police Officer, one Mr. Solomon Ngodo, until his son lost consciousness. He was later rushed to Murtala Mohammed Specialist Hospital, Kano, by the Police, where he was allegedly confirmed dead.

The reliefs sought by the petitioner are as follows:

- (i) That CSP Solomon Ngodo who killed his son should be brought to book; and
- (ii) The police to pay him adequate compensation for the extra-judicial killing of his son. The petitioner left the issue of compensation at the discretion of the Commission.

The counsel to the Commissioner of Police rose to inform the Commission that the petition was in respect of a culpable homicide case, which was already pending in the court, and therefore it was *sub judice*.

The counsel to the Commission pointed out that the accused in the case had never appeared in the court. He said the court had even directed the Police to declare the accused wanted for failing to appear in court. He further averred that there was no evidence that the Police had declared the accused wanted as directed.

The Chairman of the Commission pointed out that, legally, when an accused had not been arraigned before a court, his pleas taken and parties joined issues on the matter, it could not be said that a trial had commenced. The Chairman, therefore, directed the counsels to look at the Legal issues involved in the matter and address the Commission the following day on whether trial can be said to have commenced on the case.

On the next day, both counsels were in agreement that since the respondent had not been properly arraigned in court the case was not *sub judice*. The Commission then ruled that the case was not *sub judice* so the hearing should commence.

The first witness, Mallam Shuaibu Ahmadu, testified that his son, Mohammed Awwal Shuaibu, was unlawfully tortured and killed by the police. He was detained for an offence of assault against a fellow member of the community on October 4, 1998, at the Gwagwarwa Police Station. The deceased was tortured, beaten, dangerously kicked on the head and body by the Divisional Police Officer CSP. Solomon, until he lost consciousness and later died at the Murtala Mohammed Specialist Hospital Kano, where he was confirmed dead. Efforts by the community and the petitioner to bring CSP Solomon to book has failed as the police has not been able to arrest him and bring him to trial.

The Commission was informed that the body of the deceased was still in the mortuary.

The Commission ordered that the Inspector-General of Police should arrest and prosecute CSP Solomon Ngodo. Progress on the case should also be made known to the Commission within one month. The Commission also appealed to the petitioner to collect his son's corpse from the mortuary for burial.

PETITION NO. 562: PETITIONER: MR. COLUMBA OPARA

The petition is about the extra-judicial killing of Angus Opara, and the unlawful detention without trial of Mathew Abaraonye and Columba Opara the petitioner.

The complaint was that the petitioner and two others, late Angus Opara and Mathew Abaraonye were arrested, though separately, and detained by the police. He said Angus Opara was eventually killed in detention without trial. He said though he and Mr. Mathew Abaranoye were later charged to court and got discharged and acquitted by the

court, late Mr. Angus Opara was never charged to court. He attributed the genesis of their travails to a group who accused them of insubordination. He said this group recruited a police informant to report to the police and claimed that the petitioner and his late brother were armed robbers. He asserted that Mr. Angus Opara died in detention as result of torture and up-till date his body had not been released for burial. He said the death of Angus Opara had caused him the loss of a relation, and that he was suffering from pains, stress and trauma as result.

The reliefs sought by the petitioner were:

- i) That the circumstances that caused Mr. Angus Opara's death should be investigated and determined;
- ii) Individuals who were involved in causing the death should be brought to book;
- iii) An end should be put to extra-judicial killings by the Police in Kano;
- iv) Compensation of N100 million should be paid to him for the death of Mr. Angus Opara; and
- v) Mr. Angus Opara's body should be released for burial.

The first witness, Columba Opara, suggested when asked by the Chairman, that both the government and individuals involved in causing the death of the deceased should share the payment of compensation being demanded. The witness went on to tender a copy of the court order issued for the production of his brother in court which the police disregarded, and it was admitted as Exhibit 2. A copy of bail order granted to the petitioner that was disregarded by the police was admitted as Exhibit 3. A copy of the charge to the Magistrate Court in which the petitioners were accused of armed

robbery was admitted as Exhibit 5. The affidavit sworn to by a staff of the Kano State Ministry of Justice indicating for the first time that Mr. Angus had died was admitted as Exhibit 6.

The counsel representing the Commissioner of Police of Kano State deposed that the DPO that was at the Police Station then, Supt. Muktar had died. He said there was no trace of the case file of the matter. He said since there was no record to show that Mr. Angus Opara was arrested, detained or charged to court, he was of the view that Mr. Opara was never arrested nor detained and as such he was non-existent.

However, the Chairman of the Commission and some members pointed out to the counsel that the affidavit sworn to by the Ministry of Justice official alluded to the fact that Mr. Angus Opara was arrested and died in police custody. He was also reminded that since he said he was still looking for the case file it was better he asked for time to locate it than making a conclusive statement on the matter.

Led in evidence by the petitioner's counsel, the second witness, Mathew Abaraonye said he was an apprentice of the first witness. He said three policemen in company of two other people visited him and the late Angus Opara and had their shop and residence searched. Thereafter, they were arrested and detained all on March 10, 1993. He said they were accused of stealing but they vehemently denied it. He averred that they were beaten, tortured and hanged in an upside-down manner in the police cell. The late Angus Opara's leg was broken in the process of the torture, he said. He claimed that one Kojo who was a police informant told him that some people, for the purpose of implicating them, gave him N5, 000.00. He (Kojo) said that the first

witness had also given him the same amount to secure their release and he would do so. He said four policemen later took Mr. Angus Opara from their common cell and he never saw him since then. He claimed that one of the four policemen that took Angus Opara out of the cell, PC Shuaibu Abdulkarim, was among the police personnel deployed to the venue of the Commission's hearing. The policeman was called before the Commission and was identified by the witness. He was requested to prepare to give evidence in the case whenever called upon. The police counsel informed the Commission that the witness had earlier fingered a police Inspector as one of those who took the deceased out of the cell but later he changed to say that it was PC Shuaibu Abdulkarim. He said the PC was at the time of the incident at Zaria Road Station. The Commission's Counsel countered that the actual station the police served then would have to be indicated in the relevant service records.

The witness stated that he spent about six months in detention. He identified himself with the reliefs sought by the first witness and prayed that the reliefs be granted.

Counsel to the petitioner informed the Commission that the witnesses were apprehensive that the police, because of their evidence before the Commission, might victimize them. He therefore sought for protection of the witnesses. The Chairman called out the most senior police officer in the venue, SP Zakari Aliyu, the DPO of Fagge Police station, and asked him to give an undertaking to guarantee the safety of the witnesses. The SP accordingly gave an undertaking to guarantee the safety of the witnesses.

Counsel to the Commission reported that a letter in respect of the case had been received from the Kano State Ministry of Justice. The letter was handed over to the Chairman who after reading it wondered whether the letter was of any help in the case. The content of the letter was that the two petitioners were discharged on bail, as there was no case against them. The deceased was never arraigned before the court. The case was apparently stalled with the demise of Armed Robbery Tribunal on the advent of democratic government. The case was supposed to be taken to a regular court for determination.

Counsel to the petitioner saw no reason for contemplating transfer of the case to a regular court because the petitioners had been discharged and acquitted by the tribunal. The said court order was given to the Chairman for perusal.

Counsel to the Commission pointed out that the letter had not addressed the issue of the disappearance of Mr. Angus Opara; the subject of the petition. He reminded the Commission that a policeman was identified in the last hearing as one of those who took Mr. Angus Opara from the cell after which he was never seen again.

The Chairman directed the lawyers to look at the letter and all the other related documents and come up with suggestions on what was left for the Commission to do in the case. The petitioner's counsel argued that the kernel of the petition was the disappearance of Angus Opara and it should be addressed. But the Chairman pointed out that the counsel's position was at variance with the reliefs sought by the Petitioner. He then asked whether the counsel was satisfied with police investigation of the matter. The counsel answered that he was not satisfied with the police investigation of the case and also

expressed disapproval that the police should investigate the issue again in view of their early questionable role in the matter.

The petitioner in his own reaction said he wants the police to produce Angus Opara, dead or alive. He opined that it was apparent that Angus was dead, deducing from the letter and admission of Kano State Justice Ministry. Therefore, he wanted the production of Angus Opara's corpse for proper burial, and a compensation of ten million naira to be paid for the killing of the deceased.

A member drew the attention of counsel to the petitioner to the fact that there was no where the police had admitted being in possession of Angus Opara. In the circumstances, therefore, he said the appropriate order to make was that the police should investigate the whereabouts of Angus Opara. He pointed out that the issue of the production of his body and compensation could only follow the determination of the first issue; the whereabouts of Mr. Opara. Another member was of the view that the policeman who was accused of taking Angus Opara away should be called to state what he knows about the missing Angus Opara.

The Chairman, however, ruled that the Inspector-General of Police should set up an independent team to look into the alleged disappearance of Angus Opara to establish whether he was dead or alive and report back to the Commission and also prosecute the culprits if criminal case is established against them.

At the Abuja sitting, counsel for the police affirmed that the Inspector-General of police had ordered re-investigation into the case. However, the petitioner feared that the police might frustrate the investigations.

The petitioner's observations were noted and the case was adjourned for a feedback on police investigations.

Counsel for the Commission recalled that the case was for re-investigation but the police had not forwarded any report. The counsel requested the Commission to close the case. The request was granted.

PETITION NO 580: PETER EZENWA

The petitioner was absent. The petition was struck out with liberty for the petitioner to re-enlist it when he is ready to prosecute the petition.

PETITION NO. 587: YOHANNA MADAKI/MRS. GAMBO

The petition is about the unlawful killing of Bulus Gambo, the son of the petitioner, Mrs. Gambo, allegedly by the police. Mrs. Gambo disclosed that her son's assailants were policemen as they drove in a police vehicle. The petitioner prayed that the killer of her son should be prosecuted in a court of law.

The first witness, Mrs. Gambo, added that Bishop Jatau advised her to report the incident to Col. Yahanna Madaki to handle, which she did and the lawyer took up the matter. Copies of pictures of the corpse of the deceased were tendered and marked exhibits 2A-F. Copies of letters written by Col. Yohanna Madaki to the Commissioner of Police Kaduna State on the case were tendered and marked Exhibits 3 and 4. Other letters written to the Attorney-General and the then Military Administrator of Kaduna State were tendered and marked Exhibits 5 and 6. In addition, another letter written to the Deputy Inspector of Police, Bureau of Public Investigations and to the Inspector-General of Police were tendered and marked exhibit3, 7 and 8.

The first witness stated that Hamza, the alleged assailant of the deceased was arrested and taken to court but never prosecuted. She added that the person in question was even present in the Commission. At that juncture, receipt of payments by the first witness for the medical examination of her late son was tendered and marked Exhibit 9.

The second witness, Dr. E. O. Afolayan, recalled that while he was at Ahmadu Bello University (ABU), he was requested to perform an autopsy on the late Mr. Bulus Gambo. He regretted that the autopsy report appeared to be missing. However, second witness recalled that there were gunshot wounds on the deceased, which indicated to him that the late Mr. Bulus died of brain injuries received from gun shot wounds.

Counsel for the Commission referred to Exhibits f, d and e showing gunshot wounds on the deceased and sought to know whether the pictures depicted a fleeing suspect. The second witness replied in the negative. He reiterated that he had made a copy of the autopsy report available to the police. He explained that he was not aware then of the letters written by the Police to the authority of ABU teaching hospital requesting for the release of the autopsy report on the matter. He regretted that he even misplaced his personal diary where he had made some notes on the medical report.

The third witness, Maryamu Emmanuel, recalled that she was in her kitchen where she was cooking when she heard people shouting outside and was told that somebody had entered her room. She recalled that the person who had entered her room refused to come out and was shot by the police. She added that the clothes in the room

were smeared with blood because of the shooting. She went on to say that the victim was then dragged out by his assailant. The third witness narrated that she challenged the assailant and told him that what he had done was not good. She added that the policeman shot under her bed at the deceased.

The Chairman opined that the oral evidence was as good as any missing written report. A member of the Commission urged the officials of the Kaduna State Attorney-General's office to facilitate the proper prosecution of the case. The Commission recommended that a case be filed in court within one month by the Kaduna State Attorney-General against Mr. Hamza, the policemen who shot Mr. Bulus Gambo.

PETITION NO. 484 ALHAJI MAMMAN DUTSE; PETITION NO. 591 DR. OLUSEGUN ADELEYE & PETITION NO. 645 MRS. HAFSAT AL-MUSTAPHA

All the petitioners were absent and there were no appearances for them. The counsel for the Commission informed the Commission that all the petitioners were served and applied that the petitions be struck out. The chairman ordered that since the petitioners have been served and they failed to appear before the Commission and also since the cases were *sub judice*, the petitions should be struck out.

PETITION 623 - DR. ALAMVEABCE C. IDOYOROUGH & PETITION 629 - MR. BEN AKOSA

Counsel for the Commission explained that petitions 623 and 629 were related. She therefore applied for the consolidation of the two petitions. The application was granted. At that juncture, counsel for the petitioner of petition 629 applied to substitute the name of Mr.

Nankin Bagudu with that Mr. Ben Akosu who was the witness that would testify. He also applied to replace the original petition with a more comprehensive petition that had been written by Ben Akosu. The applications were granted.

Petition 623 was tendered and admitted in evidence as Exhibit 1. Led in evidence by his counsel, the first witness, Dr. Alamveable E. Idyorough, affirmed the contents of his petition. The petition had to do with the brutal police killing of Mr. Isaiah I.Ikereve and two others on July 14, 1995.

The amended version of petition 629 was tendered and admitted in evidence as Exhibit 2. Led in evidence by his counsel, the second witness affirmed the contents of his petition. The petition had to do with the extra-judicial killing of Mr. Andrew Akosu, a 400 level student of the University of Jos, by men of the Nigeria Police Force in Bukuru, in July 14, 1995.

The petitioner demanded for proper investigation to unravel the circumstances that led to the death of Mr. Andrew Akosu and two others. In addition, he requested for adequate compensation for the family of the deceased.

Counsel for the Nigeria Police Force did not dispute that the police shot the deceased persons. He also agreed that even if the deceased persons were armed robbers, the police had no right to shoot them. They could only have arrested them for trial. Also, counsel for the pastor affirmed that there was a dispute between the pastor and the church, which resulted in a demand by he congregation for the transfer of the pastor. He also affirmed that the pastor and the

deceased persons had to travel out of station together though under different circumstances.

Under cross-examination, the first witness said he was not aware whether his church had any constitution. Counsel for Rev. Ijor, one of the respondents, tendered a copy of the Nongou Kristu Usudan Hen Tiv (NKST), Jos constitution. The constitution was admitted in evidence as Exhibit 3. Counsel for the pastor stated that what the deceased persons did was unconstitutional.

Under further cross-examination, the witness admitted that he signed an advert in the defunct *Broom* Newspaper of Monday September 11, 1984. The paper was admitted and marked Exhibit 4. In the said exhibit, the witness identified the petition he sent to the Commissioner of Police. The witness also said that in the petition he linked the pastor with the killing of the deceased.

The witness confirmed that Emmanuel Oziyi was in the petrol station when the deceased persons were shot. He also confirmed the allegation that the pastor was the person who contacted Noel C. Uzor who now contacted the Police.

When asked by the Chairman about the source of his information, the witness identified the minutes of the meeting held on 20 July 1995 which was marked as Exhibit 5 (pages 4-5).

The Chairman ordered that the police counsel should ensure that all police witnesses appear at the next hearing in Abuja.

At the public hearing of the Commission in Abuja, the third witness, Sergeant Emmanuel Oziyi, appeared before the Commission and was

led in evidence by counsel for the Commission. He testified that on July 14, 1995, he was one of the policemen invited to rescue a man allegedly attacked and kidnapped by supposed armed robbers. He said they met the suspected-armed robbers at a filling station with the station wagon of the kidnapped pastor. He said he chased one of the robbers who shot at him and attempted to run away by jumping a fence. The witness added that he shot the suspected-armed robber on the knee to defend himself. The robber later died on the way while being taken to the hospital. He informed further that the said armed robbers were said to have earlier stolen the sums of N13,000.00 and N53,000.00 respectively.

The third witness explained that no further investigation was carried out because he was convinced that the person he shot was an armed robber because the person was in possession of a locally made pistol. He informed the Commission that the name of his colleague that accompanied him on the rescue mission was Corporal Remi Gaya.

Under cross-examination, the third witness said he was never aware of any affidavit sworn to opposing the granting of bail to some of the persons involved in the case. He also affirmed that pastor Jonathan never spoke to him at the scene of the incident.

Led in evidence, the fourth witness stated that he was a taxi driver. He said on July 14, 1995, a passenger approached him to hire a taxi to Gboko. He disclosed that he proceeded to the church compound with his client to carry the church elder and certain members of his family. He recalled that after carrying his passengers, they stopped at a filling station to buy fuel where they were accosted by policemen on the allegation that the occupants of the taxi cab were armed robbers.

He narrated how some of the occupants of his vehicle were brutalized and later shot. He disclosed that the third witness was one of the policemen that shot his passengers. He lamented that the police, because of that incident, tortured him. He added that the occupants of his vehicle never carried or shot any guns. He recalled that his vehicle was detained for one month after which it was released to him.

Under cross-examination, he affirmed that the pastor pointed to one of the deceased as one of the persons involved in kidnapping him.

The fifth witness, Rev. Jonathan Ijor, led in evidence by counsel, claimed that his efforts to reform the church made him to incur the wrath of the petitioners and the deceased. He adduced that the deceased persons committed a lot of atrocities. He recalled that members of the Plateau State Police Command who miraculously intervened gunned down three of his abductors at a filling station. He denied the allegation of corruption as levelled by his accusers. He claimed that he regretted the death of the deceased persons and added that he never wished them to die. He denied ever pointing out anybody to the police at the filling station where the police intervened. He stated that he was not the one that labelled the deceased persons armed robbers. A copy of a letter by the secretary of the church, Rev. Ameto, affirming the deceased persons were not armed robbers was tendered and admitted in evidence as Exhibit 11. Under further examination, he said he did not know the names and identities of all the persons that came to abduct him in his residence. He insisted that he told the police at the time that his abductors were not armed robbers.

At the commencement of its sitting, after adjournment, counsel to the Commission recalled that this case was adjourned to enable the police to bring the case file. The chairman opined that the case file would be of little or no use, more so that it did not contain a legal advice. He solicited for evidence from witnesses. However none was present. The counsel to the Commission disclosed that at the last sitting, the first suspect promised to get the second suspect to appear. However, the latter was said to be hospitalized as a result of an accident.

The counsel to the Commission explained that some individuals, other than the two deceased persons, survived the incident, so the case file was ordered to be brought in order to know what happened to them — whether any action was taken against them by the Police or not. He added that the Inspector-General had already ordered a re-investigation but that the outcome was not evident. The Chairman instructed the counsel to the Commission to confirm the identity of the two suspects, and prepare an order to the Attorney-General to initiate charges against the duo. The Chairman added that the counsel should get the transcript of the hearing on this matter and send it to the Plateau State Attorney-General who is to charge the case in court and fix a date. The Chairman further observed, as he had done in several other similar cases, the dastardly attitude whereby the Police would kill human beings and label them armed robbers. The case file was tendered from the bar and marked Exhibit 12.

PETITION 624: MR. I. M. MOHAMMED (MAIKUDI)

Counsel for the Commission applied for the consolidation of this petition with other related petitions that would be heard. Counsel for Major Hamza Al-Mustapha appealed to the Commission to assist in ensuring the physical presence of his client to make the defense more

meaningful. The Commission replied that there was not much it could do in that regard.

Counsel for the petitioners applied for a substitution of the petition with a better version and also requested to call two other vital witnesses on the matter.

The petition is about an alleged unlawful arrest, detention and torture.

The Petitioner's complaints were that men of the Strike Force personnel arrested him in his official residence in Abuja on 23 December 1997. He was handcuffed, beaten and detained at Gado Nasko Barracks. One Lance Corporal Madara gave him 85 lashes. He said he was informed that Major Hamza Al-Mustapha ordered his arrest on the grounds that he is the junior brother of Major Bilyaminu Mohammed who was implicated in a coup plot. He said he was later transferred to Jos prison where he was thoroughly investigated and interrogated by the Special Investigation Panel, which he said cleared him. Despite that, he said he was arraigned before a Special Military Tribunal and charged with being accessory to treasonable offences. Although he was discharged and acquitted of the offence on 28/4/1998 he was still not released until July 1998. He said he spent a total of 216 days in detention. He complained that a number of properties and vehicles were removed from their family house in Kaduna. The sums of \$376,000, DM 75,000 and N25, 000 which were kept in custody of his brother by their uncle, one Prof. Ayuba Sarki, in the United States of America were also taken away by the authorities, he said. He claimed that his house was looted of 1 no 20 inches colour television, 2 no video recorder, super multi-system compact disc, 1 no ABG cable satellite system, double burner gas/electric cooker the sum

of N68, 000.00, Certificate of Occupancy for his lands in Jos and Kaduna; car stereo; battery; spare tyre; clothes; shoes; kitchen utensils; etc.

The reliefs sought by the petitioner are refund of his confiscated properties and reinstatement into service.

Answering questions from his counsel, the first witness, Maikudi, stated that although he was not a soldier, he was allocated residential quarters at the Sani Abacha Barracks in Abuja because he was then a staff of the presidency. He confirmed that he relocated his brother's properties to a different place when he heard his name was mentioned among the alleged coup plotters to prevent them from being looted. He averred that although he was discharged and acquitted by the Special Investigation Panel which interrogated and tried him in respect of the coup plot, Major Hamza Al-Mustapha refused to release him and insisted that he must be tried by the Special Military Tribunal. He said Major Al-Mustapha took that action against him simply because he (witness), was the brother of Major Bilyamin who was said to be involved in a coup plot. He said his dismissal from the civil service was conveyed to him verbally. He submitted a copy of his letter of temporary appointment and his identity card as a staff of the presidency to prove that he was a civil servant. The letter and ID card were admitted as Exhibits 2 and 3 respectively. His counsel claimed that the witness letter of confirmation of appointment was taken away with other items when some of his personal effects were carted away by the security personnel. He said he had written to the Secretary to the Government of the Federation (SGF) and Head of the Federal Civil Service for his reinstatement. He said he knew those who arrested him were men of the Strike Force because he knew their identities and

secondly that the vehicle they used was the operational vehicle of the force. He said Major Al-Mustapha was the one in-charge of the Strike Force.

On the issue of torture, he averred that while in detention, he was stripped of his clothes and beaten with a horsewhip. He said he was whipped 45 times at first which made him unconscious. He was later revived and given another round of beatings after that. A L/Cpl. Madara administered the beatings, he said.

While being cross-examined by counsel to Major Hamza Al-Mustapha, the witness confirmed that the petition he read to the Commission was an amended version of the original copy he earlier submitted to the Commission. The amended copy was then admitted as Exhibit 4. The witness admitted knowing Major Bilyamin and Col. Yakubu Bako as his brother and brother in-law respectively. He said he only knew that Major Bilyamin was an administrative officer in the presidency. He said it was because he was Major Bilyamin's brother that moved away his properties on hearing his name among alleged coup plotters. Answering another question, he said he did not know whether Major Bilyamin was in charge of administering oath to members of the Strike Force. At this juncture a videotape was tendered by the counsel and admitted as Exhibit 5. The counsel deposed that the tape contained film showing Major Bilyamin administering an oath on members of the Strike Force. The videotape was played for the Commission to view.

On further cross-examination, the witness admitted that he moved away a total of twelve cars from Major Bilyamin's house on hearing of the coup. He said he did not know whether Major Bilyamin owned all the cars. He stated that the vehicles were later taken away to the

presidency on the order of Major Al-Mustapha. He said he did not know that the action of the security personnel that took away the vehicles was in accordance with the oath of office they took. He further said he did not know that the vehicles were taken away on the instruction of the Special Investigation Panel. The counsel at this stage tendered from the bar a letter dated 23/3/98 and entitled letter on recovery of fund, which he said contained the instruction for the recovery of the vehicles among others. The letter was admitted as Exhibit 5 and the counsel read it out to the Commission.

On further cross-examination the witness admitted that he was not arrested detained nor tortured by Major Al-Mustapha personally but those who did so were his boys and they acted on the Major's instructions. He said he knew that Major Al-Mustapha was responsible for his ordeal because some security personnel with whom he interacted in detention stated that the Major had said he would never release him. Responding to a question, he said he did not see it as an offence to have gone to remove his brother's properties to safety on hearing his name among coup plotters. Concluding, he said he gathered from Sgt. Rogers that Major Al-Mustapha ordered his trial by the SMT.

Examined further by his counsel, the witness stated that he was interrogated and charged for being accessory to the facts of reason. He said that although he was discharged and acquitted by the SIP, he remained detained until the death of General Sani Abacha.

Counsel to Major Al-Mustapha at this stage stated that there was the need for his client to be present at the hearing of the case in order to present his own side of the story.

At the Abuja public hearing of the Commission, the petitioner informed the Commission that he is withdrawing his petition and apologized to the Commission for the inconveniences that he caused the Commission. The petition was then struck out.

PETITION NO 625: ALHAJI MUSA MOHAMMED SALLAH

The lead counsel for the petitioner informed the Commission that his client intended to withdraw his petition and therefore requested that he should be so allowed. The Chairman granted the request.

Before withdrawing his petition, the petitioner expressed gratitude to Almighty Allah for surviving the harrowing experience of arrest, detention and humiliation that he and some other members of his family went through. He said in the spirit of his gratitude to Almighty Allah he was withdrawing his petition, preferring to leave the whole affair to Allah to judge. He also thanked the Commission for the work it was doing and for granting him audience. The Chairman thanked him in return.

PETITIONS NOS: 794 AND 742 MAJOR-GENERAL ZAMANI LEKWOT AND OTHERS, AS WELL AS ATYAP YOUTH FORUM AND-BARR. FRANCIS KOZAH

Counsel for the Commission applied that petition 794 and 742 be consolidated. There was no objection to the consolidation of the two petitions.

Petition 742 is about alleged unfair conviction, non-compensation and vandalism of Kataf Community, Technical/Vocational College by the Nigerian Police.

Counsel for the petitioner disclosed that the democratic government in the state was addressing some of the communal clashes that occurred in Kaduna State. Specifically, he disclosed that the state government was addressing the issues in petition No. 794 and he was hopeful that an amicable resolution would soon be reached. In view of that, he stated that he had instructions from his clients to apply for an adjournment of the petitions to Abuja by which time it was hoped that the issues would have been resolved amicably. Counsel for the Kaduna State Government corroborated the statement by counsel for the petitioner. He added that chiefdoms had been created and this had partly satisfied the wishes of the people in the area. He went on to say that a committee was looking further into the other issues raised in the petitions. He agreed that the petitions should be adjourned to Abuja. Other counsels associated themselves with the application for adjournment.

The Chairman in his response recalled that the *New Nigerian Newspaper* that had challenged the petitioners appearing before the Commission in Kano to take a cue from the peaceful initiative embarked upon by petitioners in the Port Harcourt zone. He thanked the petitioners and all parties to the issues in petitions 794 and 742 for the peaceful initiatives they had undertaken. He promised to make available to the parties involved the memoranda of understanding reached by the Ogonis and the Ife/Modakeke communities. Thereafter, petitions 794 and 742 were adjourned to the next Abuja sitting while fresh hearing notices would be issued to petitioners in due course.

At the Commission's hearing in Abuja, counsel for the petitioner reported that though both parties had made written submissions to

aid reconciliation, the case could still be heard as listed. It was explained that the case was two-pronged and that petitioners were interested on the aspect that dealt with the violation of the human rights of Zango Kataf by agencies of the Federal Government of Nigeria. He added that the other party was making impracticable demands to the matter in the area in question, and that has informed the request to hear the case.

Counsel to the Attorney-General of Kaduna State stated that he was briefed that efforts at reconciliation were still on course and therefore re-opening the case for hearing was premature.

A member of the Commission however opined that there were various dimensions of the case, which have to do with the Kaduna State Government while the other aspects related to the Federal Government of Nigeria as a party.

The first witness was Major-General Zamani Lekwot. An addendum to petition 794 was tendered and marked Exhibit 1 while petition 794 was marked exhibit 2. Thereafter, the first witness affirmed the contents of Exhibits 1 and 2. A copy of a letter threatening the beginning of a *jihad* in Zango Kataf if nothing was done about the Muslims who lost their lives in the Zango Kataf market riots was tendered and marked Exhibit 3. The first witness stated that he and his kith and kin were illegally arrested, detained, tortured and sentenced to death because of the Zango Kataf crises. He recalled that his conviction to death was later commuted to a lesser sentence. He recalled that the sum of N25 million provided as compensation for the damage done during the riots was only enjoyed by the Muslim settlers of the area while the actual indigenes were denied benefit therefrom.

He explained how his people were discriminated against even in comparison to the various communities in the area. He noted that the government of Alhaji Ahmed Makarfi has been implementing policies aimed at restoring peace to the area. He sought for the quashing of all the sentences passed on him and his colleagues during the two trials, which he and his brethren were subjected to. He also sought for sufficient rehabilitation of all the victims of the episode. He requested that each Kataf victim should be paid N10 million and that adequate infrastructure should be provided in the community's new layout. He also requested the release of the proceedings of the trials of those concerned.

The third witness, Major James Atomic Kude (rtd.), recalled that on May 14 1992, he received a letter from the Secretary of the Zango Kataf Local Government inviting him to a special security meeting. That letter of invitation was tendered and marked Exhibit 28. The third witness recalled that the security committee meeting held on the May 15, 1992 with about seven or more persons in attendance. The original letter to the Sultan of Sokoto on the purported *Jihad* to be executed in the area was tendered and marked Exhibit 29. He referred to Exhibit 5 which was the minutes of the security meeting of the October 15, 1992 and stated that he did not thereafter go to Zango Kataf to fight anybody.

He recalled that on the 19th May, 1992 he travelled to Kaduna to see his family in the barracks and returned to the temporary office of the local government area on the 20th October, 2001. However, he added that he travelled to Kaduna to confirm whether General Zamani Lekwot had been arrested, which he confirmed. He recalled that he

travelled back to Zonkwa to attend a scheduled meeting of the Katafs after which he was eventually arrested. He disclosed that seventeen of them were initially arrested after which the Isaiah BaIat and Dominic Yahaya joined them in detention. He stated that he spent several weeks in prison and later had to make statements to the police.

The third witness explained that he was charged before the Okadigbo Tribunal in 1992. He recalled that after his second trial, the Okadigbo Tribunal condemned him and General Zamani Lekwot to death by hanging and discharged and acquitted the Chairman of the Zango Kataf Local Government on the grounds that he was at a security meeting when the crisis started. However, the third witness regretted that even though he was at that same security committee meeting, he was not similarly discharged and acquitted. He also regretted that the district head that was also at that meeting was never charged. He thanked God that after his conviction, it was thereafter commuted to five years imprisonment, which he fully served out. He recalled that even though his lawyers appealed against the conviction not much came out of it.

At that juncture, the full report of Air-Vice Marshall A. B. Muazu's committee report was tendered and marked Exhibit 30. He recalled that the May 15, 1992 riots were the aftermath of the February 6, 1992 riots and the dissatisfaction of the Hausa/Fulani community over the siting of the new market. The in-patients register of A.B.U Teaching Hospital for the period May, 1992 was tendered and marked Exhibit 31. The third witness affirmed that many of those admitted from the period in May 1992 were Katafs and the diagnosis indicated gun-shot wounds, machete cuts and lacerations. He affirmed that while most of the victims of the May, 15 1992 were Katafs, it was on

the May 16, 1992 that there were Hausa/Fulani victims and with lesser injuries, like burns.

At that juncture, a copy of *Details* magazine regarding an interview on Zango Kataf which the third witness granted in 1997 was tendered and marked Exhibit 32. The third witness insisted that it was not true that the Hausa/Fulani citizens in Zango Kataf were being asked to leave the area or face the consequences. He said the documents being circulated to that effect could not have emanated from the Katafs. A statement purported to have been released by the President of the Atyap Youth Forum threatening the Hausa/Fulanis was tendered and marked Exhibit 33. A letter dated October 23, 1996 written by the District Head of Zango Kataf implying that after the Hausa/Fulanis returned to the area they were still being harassed, was tendered and marked Exhibit 34.

The third witness said Exhibit 34 was tantamount to blackmail, as there was no iota of truth in it. A document titled "Day of Atonement" regarding the programme of events of a Christian Association of Nogeria (CAN), meeting at Kafanchan on September 20, 2000 involving the thirteen local government areas of Southern Kaduna was tendered and marked Exhibit 35. Also, a video tape where the witness attended a party where statements were made to the effect that the liberation of Kataf people was a must and young children initiated to that effect was tendered and marked Exhibit 36. Counsel for the Hausa/Fulani community tendered in evidence a copy of the *Citizen* magazine of April 1993, which was marked Exhibit 37. A copy of the *African Guardian* on "Lekwot's Trial Tribunal under Fire" was tendered and marked Exhibit 38.

The third witness affirmed that both Katafs and Hausa/Fulani suffered losses in the 1992 Zango Kataf crises. He regretted that despite that, no Hausa/Fulani person was arrested and charged to court for the murder of the Katafs who died. He recalled that while the federal government rebuilt Zango town and allocated newly built houses to the Hausa/Fulani and paid them compensation after the crisis, the Katafs did not benefit from this. At that juncture, an advertorial in the *Weekly Trust* on the issue was tendered and marked exhibit 39. The third witness recalled that while relief materials were sent to the Hausa community in Zango, the Katafs were denied this largesse. He recalled that the federal government did not rebuild a Kataf school, which was destroyed during the crisis, when the houses of the Hausas in Zango were being rehabilitated. A document on efforts by Atyap Youth Forum to rehabilitate the said school was tendered and marked Exhibit 40. He estimated that it will cost the Katafs over N35 million to rehabilitate the said Technical College.

He lamented his inability to complete his tenure as a councilor because the local government council was dissolved since the Chairman was a Kataf man. He supported his position by stating that other local government councils were not similarly dissolved in the wake of the crisis, the fact being that their Chairmen were not Kataf citizens. He agreed that those killed in the crisis deserved justice and that the culprits, rather than innocent citizens, should be charged. He said that the census and enumeration figures used in determining development in the area were not correct and were to the disadvantage of the Kataf people. He said that Exhibit 33 was an anonymous publication.

The fourth witness, Inspector Timothy Adams, stated that he was the station officer of the police station in the area at the time of the crisis. He lamented that in the course of the crisis, the Commissioner of Police asked the fourth witness to strip his uniform and accompany other Kataf suspects in a Black Maria to Kaduna. He said that on getting to Kaduna, twenty of them were put in a detention cell for one month without food from the police but that only his family fed him. He narrated that thereafter, he was arraigned before the Okadigbo Tribunal and charged for fighting and instigating the crisis. He recalled that at the end of the trial, he was discharged and acquitted but rearrested by Superintendent of Police, Mohammed Dan Kano and taken to the Kaduna Central Prison where he stayed for about ten months after his acquittal.

He recalled that in October 1993 he was released from Kaduna Central Prison and asked to go home. He regretted that he was not allowed to go back to his job. A letter of request to be reinstated by the witness was tendered and marked Exhibit 41. Also, a signal of suspension of the witness was tendered and marked Exhibit 42. He lamented that he had never received any salary since that signal was issued. A letter on the case of fourth witness from the Kaduna State Police Commissioner was tendered and marked Exhibit 43. The fourth witness noted that despite Exhibit 43, he was not reinstated. Another related letter on the case to the Deputy Inspector General of Police and dated February 1994 was tendered and marked Exhibit 44. Also, a letter written by Counsel to the fourth witness to the Inspector-General of Police was tendered and marked Exhibit 45 while the reply to it was tendered and marked Exhibit 46. A copy of the court ruling in regard to the application by fourth witness regarding his loss of job was tendered and marked Exhibit 47. The Commission noted that the court ruling

was in favour of the witness. The case was struck out because of non-appearance of petitioners and now re-listed, but the respondents were absent.

The fifth witness, Tonad Dabo, was a farmer who lived at Zanzan in Zango Local Government Area. He admitted that he knew when the riot in Zango area occurred. He admitted that the District Head, who was an Atyap, was living in Zango town and resided with his family and 6 others. He disclosed that when the riot broke out, the family escaped; meanwhile the District Head had gone to Zonkwa the Local Government Headquarters. He said that the riot started at the old market when the Hausas insisted that nobody should go to the new market. This led to a fight and two persons were killed instantly. He said that some dignitaries whose names he did not know came from Kaduna and announced that a Commission of Inquiry would be set up. The District Head [DH], he said, did not go back to Zango town after the riot broke out. He admitted that he was at his house in Unguwar Wakili, not quite a kilometer from Zango, when the riot broke out.

The fifth witness remembered that the police came from Kano and asked the DH to invite members of his Traditional Council to a meeting at Zonkwa. He joined them and was transferred to Kaduna in the same group. He said that he was in the prison at Kaduna and only learnt that General Ibrahim Babangida visited Zango town. He admitted he was also tried and sentenced to 15 years with an additional fine of N1000.00, but General Babangida commuted the sentence to 5 years, which he served and returned home. He said that when he came back, he saw that many houses were damaged. Meanwhile, when he was in prison, he had heard that General

Babangida had ordered the old town rebuilt and people were asked to identify their houses. He said that the Kaduna State Government [KSG] set up a committee made up of 6 Hausas and 2 Katafs including himself to oversee the resettlement and they counted over 1,000 houses rebuilt which belonged to the Hausas. He admitted that the houses were rebuilt for the Hausas, but none for the non-Hausas, and added that money [over N3,000.00 each] was also shared to the Hausas owning houses but nothing was given to the non-Hausas.

The fifth witness disclosed that he knew a Hausaman called Aliyu Jibril who had lived for over 20 years in Zango town before the crisis, and was the Qu'ranic teacher who used to lead the daily moslem prayers. He affirmed that the son of Aliyu Jibril had a hand in the "Jihad Letter." He disclosed that he was 88 years old now and at the time of the riot could not have participated. He was also a member of the Traditional Council of the District.

Under cross-examination, the fifth witness explained that Ungwan Wakili was in Zanzan and only less than a kilometer from Zango town. He admitted that he gave evidence before the Kudjoe Judicial Commission and led the Commission to Mabarado [Zango] to see the sacred "hoe". He admitted that there was an argument between a Hausa and a Kataf, but there was no fight. He also denied that it was fear that kept the Hausas from returning to their houses in Zango, and added that it was rather their reluctance. He admitted that two of the Chief's family members houses were rebuilt; the house of one was rebuilt while the other was given N25,000.00 to rebuild his house. The fifth witness confirmed the names of the various quarters in Zango town and admitted that the non-Hausas lived in some of these areas and constituted only 1% of the total population of Zango. He also

confirmed names of Hausas who had left Zango and its environs to elsewhere. The fifth witness stated that he did not know of any Hausa or Fulani that was killed but only heard of the names of Kataf killed.

Under further cross-examination, the fifth witness admitted that he knew of the Technical School at Zango that was burnt during the riot. He admitted, also, that the Kataf had just repaired the Technical School. The fifth witness also admitted that he knew of AVM Mu'azu's Report and agreed that the headquarters of the Atyap Chiefdom as Samaru Kataf was not in accordance with that report.

The counsel for the petitioner observed that the documents they requested from the Cabinet Office, were, still, not available, and suggested that the subpoena should be issued to a name, not an office, and lamented that the non-availability of these documents had prevented his client from getting relief from the Supreme Court.

The sixth witness, Muktar Mohammed Dodo, was the Chief Registrar of the Supreme Court. He identified the document he brought on summons to be the Record of Proceedings in the case between Zamani Lekwot vs. Supreme Court, which was tendered and marked Exhibit 4. The Chairman observed that the document needed was the Record of Proceedings and Judgment of the Okadigbo Tribunal, not what the sixth witness had brought. After some arguments, it was established that the sixth witness would be of no use to the Commission. He was therefore discharged.

The first witness, Zamani Lekwot, agreed that the Okadigbo Tribunal called 12 witnesses and closed their case, whereas the defence called only 9 witnesses. He disclosed that the Attorney General of the

Federation sent an order that terminated the case, as a result of which they were discharged, but they were re-arrested and taken to Kaduna Prison. A “Motion on Notice” filed at the Supreme Court was tendered and marked Exhibit 50. Court of Appeal Records were also tendered and marked Exhibit 51, while the judgment of Akpabio J.C. was tendered and marked Exhibit 52 [pg 18-19 of Exhibit 51].

The first witness admitted that he had appealed to the Kaduna High Court but the High Court said it lacked jurisdiction to adjudicate over the matter. The witness further stated that he filed another application at the High Court of Appeal where he got a dissenting judgment of 2:1 in favour of the Kaduna High Court’s position of “no judgment”. However, the minority judgment led by Justice Akpabio debunked this position on the supremacy of Section 5 of the new Decree 21 of 1990 to which the counsel to the respondents had no reply, and which nullified all other decrees of the Federal Military Government, 1990.

The first witness agreed that he went further to appeal to the Supreme Court to intervene and contended that Justice Akpabio’s judgment was the correct one. He also agreed that he applied for a stay of the proceedings at the Okadigbo Tribunal pending the determination of the appeal at the Supreme Court, but his appeal was not even listed for hearing up till when the second trial of the Okadigbo Tribunal started with an additional charge of culpable homicide. The witness stated that Decree 55 of 1992 was then promulgated by the Federal Military Government to offset Justice Akpabio’s judgment and was backdated to 1983 in order to ‘catch the accused [the first witness and his kinsmen]. He admitted that it was on the basis of this decree 55 that their lawyers withdrew from the second Okadigbo trial when it was apparent to them that the Federal Government was all out to

convict their clients. Consequently, he further disclosed, they applied for a day's bail in order to find other lawyers but Okadigbo replied that only the government at Abuja could grant them bail. Thus their application for a bail mounted to a case of No-Submission. They were subsequently offered a lawyer from the floor, which they rejected knowing fully well that Okadigbo was just a tool used by the Federal Military Government [FMG].

The first witness further disclosed that none of the accused persons gave evidence but Justice Okadigbo went ahead on the 3rd February 1993 to sentence them, under Decree 2 of 1987, to death by hanging with the exception of the 2nd accused. The first witness said that, he, again, filed a motion at the Supreme Court to set aside the proceedings of the Okadigbo Tribunal. From the moment he applied for stay of proceedings up till the day of the judgment, the Supreme Court did not respond. He disclosed that the Supreme Court responded to all motions filed in December 1992 except his own which they responded to only much later on 2nd June 1993 after the FMG had achieved its purpose. The 1st witness agreed that the Constitutional Rights Projects [CRP], a non-governmental organization, complained on his behalf, in February 1993, to the African Commission on Human and People's Rights (ACHPR) on the violation of his human rights. He said that the ACHPR held a hearing at which the FMG failed to appear, although it was served. A letter from the ACHPR to Chief G. O. K. Ajayi, dated 11/10/99, was tendered and marked exhibit 53.

Exhibit 53 contained the certified true copies of the proceedings and judgment of ACHPR's hearing. The 1st witness read Exhibit 53. The ACHPR's judgment based on Articles 56.5 7 sub 1 a, 7 sub 1 c, 7 sub

d7 and 26 condemned, inter alia, the closure of any avenue for appeal, harassment of accused counsel with their consequent withdrawal and subsequent trial without counsel for the accused, and the composition of the tribunal. A document of the National Defence Security Council that confirmed the Okadigbo Tribunal was tendered and marked Exhibit 54. Letters recently communicated from the Army and Airforce to the first witness addressing him in full rank, were tendered and marked Exhibit 55 and Exhibit 56 to prove that the first witness had not been de-ranked and was still held in honour by the military. The counsel disclosed that other intended exhibits would be discussed in their address.

The Chairman observed that the Commission could not set aside the judgment of the Okadigbo Tribunal, although the proceedings and Judgment of the Okadigbo Tribunal was against all norms of justice.

Under cross-examination, the first witness affirmed that he had no problem with the Hausa-Fulanis and, as for tendering an apology for whatever wrong he might have done to them, he stated that the wrong he had committed needed to be established first. He admitted that he called the Zango Hausas “strangers” in a BBC radio programme. He also admitted that he gave his complimentary card to one Alhaji Babajo after a meeting at Zango with the latter, but the Alhaji did not visit his home. The complimentary card was tendered and marked Exhibit 57. The Counsel read the memo attached to the complimentary card in which the first witness was alleged to have made unfriendly and provocative remarks about the Hausa community in Zango, but the first witness denied the allegations and demanded for the minutes of that meeting with Alhaji Babajo and others towards the development of Zango town.

Still under cross-examination, the first witness admitted that he was fond of Ambassador Jolly Tanko Yusuf and often visited his house, but denied that he attended a caucus meeting of the Northern Christian Elders Forum in his house. The minutes of the caucus meeting was tendered and marked Exhibit 58. The counsel read Exhibit 58 which revealed the plan of the first witness and others to destroy the mosque at Samaru as a counter move to the 'Islamisation' of the area. After some prevarication the first witness admitted that he was detained under Decree 2 signed by Vice Admiral Augustus Aikhomu when the SSS invited him over Exhibit 58. The first witness agreed that he stated in his petition that General Babangida cried when he visited Zango, but did not know the reason. A *Hotline Magazine* was tendered and marked Exhibit 59. The Counsel read Exhibit 59 in which General Ibrahim Babangida stated that he was moved to fears by the sheer carnage. The 1st witness admitted that he had never seen the mass grave at Zango.

Still under cross-examination, the 1st witness admitted that he would still recognize the rebuilt Zango town and identified Yuri Baba Ayo and others jubilating, in video pictures. The first witness agreed with Colonel Madaki's assertion that one could not mention 15 names of important people in the Zango Local Government without including his name and added that it was a fact. To corroborate the fact of the importance of the first witness, *The Citizens* magazine was tendered and marked Exhibit 60. The first witness disagreed that violence was a means of pressing fourth their demands and would not encourage jubilation to celebrate violence as in the Zango case. He added that the promotion of goodwill was his business as a community leader. The 1st witness acknowledged that he knew His Grace, Bishop P.Y. Jatau,

and admitted that he was one of the 15 most important people in his Local Government. The statement of Bishop Peter Jatau in an interview he granted in a magazine was tendered and marked Exhibit 61. The counsel read the Exhibit 61 in which the Bishop was alleged to have jubilated over the Zango killings and said that they now had respect having stood back and fought and that others should follow suit.

Still under cross-examination the first witness stated that he disapproved of demolishing peoples houses to settle scores, as was the case with Adamu Bako in Manchok. He denied knowledge of Alhaji Agebu's case in Kachia where the latter was killed because of a land dispute. Documents pertaining to Alhaji Agebu were tendered and marked Exhibit 62. The 1st witness admitted that he knew Alhaji Aliyu Zango, a gentleman who the counsel said made peace overtures to the Katafs. A letter dated 23/3/92 written by Alhaji Zango was tendered and marked Exhibit 63 while the Court judgment on Alhaji Aliyu Zango, was tendered and marked exhibit 64.

The Kataf Youth Development Association's letter notifying members of Atyap Day celebration was tendered and marked as Exhibit 65. The counsel read the letter, which listed branch offices of the Association in various towns around, but excluding Zaria. The counsel then demanded to know whether the Katafs did not live in Zaria. But the first witness replied that something was wrong with the list, as there were branch offices of the association even as far as Lagos. The first witness acknowledged that most of the Hausas now lived outside Zango. The first witness affirmed that he had no problem with the Hausas and added that the Hausas were accepted as settlers by the Kataf ancestors, but today they accepted the Hausas as brothers and

sisters because they were born and brought up in Zango. Thus, the Katafs would live with the Hausas provided the latter were of good behaviour. However, there were some of the Hausas who behaved like an army of occupation. The first witness agreed that God saved him from prison because he had a role to play for the peace of Zango and its inhabitants, both Katafs and Hausas.

Under further cross-examination, the first witness agreed that a lot of non-Hausas resident in Sabon-Gari, Zaria had no separate jurisdiction, but the Hausas in Zango had a district and a District Head. An advertorial by Alhaji Abubakar Zango was tendered and marked Exhibit 66. The first witness admitted that the advertorial by Alhaji Zango was insulting and provocative.

As a panacea for peace, the first witness recommended mutual respect, tolerance and acceptance of one another. He however condemned divisions, which he claimed were fostered by the Zazzau Emirate in Zango LGA. He also recommended that ethnic differences should be forgotten, but added that the Hausas discriminated against the Katafs and mentioned for instance that while the Katafs accepted the Hausas and gave them their daughters in marriage, the Hausas never reciprocated. The witness asserted that the clamour for a separate chieftdom for the Hausas would not hold, and added that implementation of AVM Muazu's Report would bring peace.

The seventh witness, Alhaji Ibrahim Bisallah, was the representative of the Hausa-Fulani of Zango. The Hausa-Fulani response to the Kataf petition was tendered in evidence and marked Exhibit 67. The seventh witness read Exhibit 67. He started his testimony with the quotation, "peace is not the absence of conflict but the presence of justice." The

seventh witness highlighted that after the riots of Zango Kataf, Commissions were set up, especially the Kudjoe Judicial Commission, which submitted a report to the government. However, government had not implemented the report. He observed that if the 'White Paper' had been implemented, the parties would not be at the Commission. Secondly, he argued, the verdict of Justice Okadigbo had done justice to the Zango case, but he alleged that the same people who even had their sentences commuted were still agitating for justice whereas it was the Hausas who were killed. Three video tapes were tendered as exhibits: [ii] "Zangon Kataf Town Before and After May 15&16, 1992" was marked Exhibit 68. [ii] "Meetings of Katafs and Hausas" was marked Exhibit 69. [iii] "The Parley at Zango" [11-8-95] "was marked Exhibit 70. Two audiotapes of the second parley between the Military Administrator (MILAD) and elders from both sides were also tendered and marked Exhibits 71 and 72.

The seventh witness discussed the conditions for peace: He said that compensations needed to be paid to the Hausas and added that the main dispute about compensation was with respect to the new market where compensations were only paid to a few individuals. However, the main problem with Zango he asserted was self-determination that needed to be accorded to the Hausas. He also mentioned that the reconstruction of Zango town should be completed.

Seeing that despite all efforts peace had eluded Zango town, the Chairman asked the seventh witness to give a recipe for peace in Zango including what the Government and the parties should do to bring peace to Zango and sustain it. The seventh witness referred the Commission to page 45 of Exhibit 67 [the Hausa Response]. The seventh witness stated that Government should carry out

rehabilitation in the full sense and consider that the contract for the reconstruction of houses was not properly executed. Government, he said, should also provide security to Zango town and pay compensations to all those affected. He also stated that Government should grant them self-determination, through the creation of a district, since only 1 % of Zango dwellers were non-Hausas.

The seventh witness admitted that the Hausas were killed *en mass* and disclosed that on the second day of the riot, his father who was the Chief Blacksmith of Zango, was marched along with some other Hausa people to the new market site, and matcheted to death by the Katafs. He admitted that there was a mass grave in Zango where the riot victims were buried but due to the manipulation by the other side, the Commission was not taken to the mass grave, and lamented that, although the visit was to the Hausa community, they were not allowed to lead the Commission to the important places. The seventh witness observed that the issue of compensation to a few individuals for the land acquired for the new market presupposed that the Hausas owned the land, and would want the Commission to note that fact. The seventh witness disclosed that the AVM Muazu Report, stated that there should be public enlightenment before the siting of the market and the authorities concerned should built the market at a different place other than the suggested one which had become controversial.

The seventh witness further disclosed that parleys were held between the then MILAD Colonel Ja'afaru Isa, and the parties at which the issue of land ownership was settled by the creation in 1995 of the Atyap Chiefdom and the Zango Urban District with the Headquarters of the Atyap chiefdom at Samaru Kataf. However, the 7th witness said, the Katafs were still occupying the Hausa community's land such as

the location of the Agwatyap's palace that the Commission visited. He also disclosed that at the parleys, the Hausa's accepted to live under the Atyap Chiefdom and the Chief himself, promised to look after the Hausa community on trust, but it had never been the case. Rather the Hausas have been frequently harassed and intimidated, so that they had never had peace. Three letters of complaint by the Hausa were tendered and marked Exhibits 73, 73a and 73b.

The seventh witness explained that they needed a separate jurisdiction, like the Atyap, under the same Local Government because the problem was that the Zango community being 99% Hausa did not share the same culture and religion with the Katafs. He also added that since the creation of Ikulu chiefdom in the year 2,000 by the Makarfi Government, they had been left with the katafs and had been undergoing horrifying experiences. With regard to the exhibit that was titled: "The Major-Major one "which is a video tape, the seventh witness agreed that he had seen where it was said that after the Emir of Jema'a died, the indigenes should take-over in Kafanchan and other indigenes should follow suit to eliminate the Hausas from Southern Kaduna. The seventh witness said that he did not consider General Zamani Lekwot as a leader of his people, but if his people decided to make him one, he would parley with him. He affirmed that reconciliation must come from the people. However, he alleged that Gen. Lekwot had never made any peace overtures to the Hausas since he came back from prison but rather dictated to his people what they should do.

Under cross-examination, the seventh witness disclosed that his family originated from Kano and, partly, Borno. He disagreed with other sources that were mentioned in an advertorial by the Hausa

community of Zango. The witness admitted that anywhere the Hausas settled, that place was called Zango as was the case with “Sango” in Yoruba land. However, the witness would not agree that he was a settler or stranger since he was born and brought up in Zango. He asserted that he was an indigene as defined by the Constitution, and disagreed with counsel to the petitioners that his interpretation of the Constitution was twisted. The witness claimed that the Katafs were also strangers who came after the Hausas, but dominated the area because of numerical strength. The witness disclosed that not more than 30% of the Hausas were resident in Zango town presently and refuted the claims that they did not want to go back to Zango. He added that despite all that had happened; they would want to go back if their security is guaranteed. However, he explained that if circumstances warranted them to leave, they would leave as there was ‘no big deal about Zango - there was neither a gold mine nor petrol’ he asserted. He denied that they were up to some “pranks” to extort money from the government in the form of compensation.

Under further cross-examination, the seventh witness admitted that he knew the authors of Exhibit 39 in which the first witness was vilified. He also believed that the Okadigbo Tribunal was fair, but admitted that no one was tried for killing the Katafs. The witness agreed that he signed the AVM Mu’azu Report but disagreed that the Kaduna State Government in sitting the headquarters of the Local Government did not follow the report. He did not support the view that other communities such as Sabon Gari, Zaria, should have separate jurisdictions as the Hausas in Zango, because those other communities were not homogenous while the latter was.

The Chairman at this point remarked that the Commission aspired towards a Nigeria where there would be no Sabon Garis or settlements, but a Nigeria in which any Nigerian was a Nigerian anywhere in Nigeria. For the addresses, he asked the various counsels to examine the fact of “our unity in diversity” as portrayed in the old anthem: “Though tribes and tongues may differ. . .” He also asked the counsel to bring out the ugly facts of ethnicity and to also examine how the various groups in the nation can be integrated. The counsel was asked to state any additional facts discovered in the course of research, whether the facts were in evidence or not. Addresses should be submitted within two weeks.

The eighth witness Jolly Baba Ayok, lived at Masamiya in Zango Local Government Area [ZLG] as a retired Assistant Commissioner of Police, held a public office as Chairman of ZLG with effect from January 1990. In his capacity as Chairman, he was also the Chief Security Officer [CSO] of ZLG at the time of the Zango riots. The counsel for the petitioners stressed the need to give the background into the remote and immediate causes of the Zango riots. However, the Chairman remarked that these were matters of history. He pointed out that after the riot, a committee was set up consisting of seven members from either side, which made recommendations and signed.

“That should be the starting point”, opined the Chairman. The counsel for the petitioners argued that the committee advised government to set up a tribunal that would determine land ownership as well as the remote and immediate causes of the Zango riots, but the AVM Mu’azu Commission did not address those issues. A Commissioner recalled that the Justice Kudjoe Commission had also dealt with the issues and also observed that the issues which had to do with the Federal

Government and its agencies, in the Lekwot petition, were being addressed by the Kaduna State Government. So, he advised the counsel to narrow down to the issues that were still outstanding.

The counsel for the petitioners, however, posited that the question of land ownership was the main contentious issue, but the Federal and State Governments could not resolve the issue. Rather, they continued to oppress the Katafs. The Chairman interposed that both sides would have to decide to live together. A plan of Zango Kataf was tendered and marked Exhibit 4. It depicted Zango town entirely surrounded by Kataf land. The witness agreed that originally belonged to the Katafs. He attributed the first Zango riot of the February 6, 1992 to attempts to prevent the relocation of the Zango market, which caused bloodshed and serious fatality as a result of which the Justice Kudjoe Commission was set up.

The counsel for the petitioners argued that the committee advised government to set up a tribunal that would determine land ownership as well as the remote and immediate causes of the Zango riots, but the AVM Mu'azu Commission did not address those issues. A Commissioner recalled that the Justice Kudjoe Commission had also dealt with the issues and also observed that the issues, which had to do with the Federal Government and its agencies, in the Lekwot petition, were being addressed by the Kaduna State government. So, he advised the counsel to narrow down to the issues that were still outstanding.

The Kudjoe Commission however did not finish its assignment before the second riot broke out in May 1992.

The witness attributed the second riot in Zangon-Kataf to a “*Jihad* letter” written on May 9, 1992, which provoked religious dichotomy. He received as the Chairman of Zango Local Government a copy of the letter on the 14th May 1992 and convened a security meeting the next day, 15th May 1992. It was at the meeting that the report of the second riot came to him. The minutes of the security meeting was tendered and marked as Exhibit 5. The witness disclosed that as the Chief Security Officer (CSO) of the LG, he sent a radio message to the Kaduna State Government [KDSG], dispatched a police team to Zango town and personally followed up shortly. A copy of the radio message was tendered and marked Exhibit 6. Altogether, seven Save Our Soul radio messages were sent, which were separately tendered and marked Exhibit 6— Exhibit 12. The witness had Police reinforcement on May, 16,1992 in response to his SOS messages. It was the reinforcement of two units of Mobile Police [MOPOL] that helped to finally quell the riot. A KDSG delegation came on the 17th May 1992, met the witness in his office and together visited Zango town. Meanwhile his arrest was already planned. When the team came back, he was arrested by a team of MOPOL and taken to Kaduna. At Kaduna, he met his kinsmen who had equally been arrested. They were taken to the Magistrate Court and remanded in Prison custody and were later served with a detention order [under Decree 2] and prosecuted.

The witness was the second accused of the trial in court while Major Atomic Kudeh [rtd] was the first accused. He disclosed that about sixty-one of them were imprisoned and the list included District Heads, Village Heads - excluding that of Zango town - Pastors and other Kataf elites, who were all charged with unlawful assembly and rioting before the Okadigbo Tribunal. The witness revealed that the

prosecution called 12 witnesses whereas they were allowed to call only 9 witnesses and had fresh charges of “culpable homicide” added on them, as a result of which their lawyers withdrew. He admitted that there was an appeal to stay proceedings at the Okadigbo Panel, pending the hearing of the case in the Supreme Court. However the case was never heard.

The witness stated that it was clear that government took sides in the arrests, detention and trials that resulted from the Zango Kataf riots. A letter by the KDSG to the Sole Administrator who took over, after his arrest, as the Head of ZLG, listed 62 suspects. The letter was tendered and marked Exhibit 13. Other letters listing names of suspects in connection with the crisis were separately tendered and marked as Exhibit 14 to Exhibit 16. The witness also wrote in his capacity as the Chairman and CSO of ZLG, four [4] letters to the KDSG copied to the Commissioner of Police and the Emir of Zazzau to inform them of the security situation then. The first letter dated 8th February 1992 was tendered and marked Exhibit 17. The second letter dated 31st March 1992, was tendered and marked Exhibit 18; the third letter dated 3rd April 1992, was tendered and marked Exhibit 19, while the fourth letter dated 16th May 1992 was tendered and marked Exhibit 20. The witness admitted these letters were proof that he was performing his duty as Chairman and CSO of Zango Local Government.

Under cross-examination, the witness admitted that he was recently involved in the reconciliation process at Zangon-Kataf and also agreed to have signed, the A.V.M Muazu Report as reflected on page 102 of Appendix A to Exhibit 1. The witness conceded that the Zangon-Kataf conflict could not be resolved unless the land ownership of Zango town was amicably settled, as stated on page 63 of Exhibit 1 [the

Addendum]. He also agreed, as alluded to on page 19 of Exhibit 2 that compensation would presuppose the ownership of the land for which compensation was paid. The witness admitted that he was not aware of any amendment of the 1995 Edict No 7 of the KDSG. This Edict No 7 created the Kataf Chiefdom and designated Samaru Kataf as capital, and would not stand to prohibit the shifting of the capital to Zango town. The Edict No 7 of KDSG [1995] was tendered and marked as exhibit 21. The witness also admitted that he knew the *I F I* Development Association of the Kataf. This Association also wrote to the Agwatyap protesting the shifting of the capital of the Kataf chiefdom to Samaru-Kataf. The letter dated 19-8-2000 was tendered and marked Exhibit 22.

The witness agreed that the “*Jihad* letter” contained in exhibit 1 was not signed by anyone but claimed that it was endorsed by a name and need not to have borne a signature before he could act on it. He denied that the second crisis of Zangon-Kataf was as a result of a meeting the Kataf’s held during the Easter break of that year. The witness agreed that he attended a party in Kafanchan but disagreed that the agenda of the party was to wipe out the HausaFulani from Jema’a Emirate after succeeding with Zango. He admitted that he got a fair trial at the Okadigbo Tribunal and added that he was not only discharged but acquitted. The witness also agreed that the petitioner got a fair trial, too, and admitted to be aware that the petitioner applied before the High and Supreme Courts to stay proceedings of the Okadigbo’s Tribunal but the request was not granted, and that the case was still at the Supreme Court.

The witness also admitted that a Commission was set up which called for memoranda but stressed that, while the Hausas were fully

represented on the Commission, the Katafs were not represented. He also would not concede that his reference to Hausa-Fulani meant reference to a religion and neither agreed that the problem of the capital of Kataf chieftdom was the Central Mosque at Samaru-Kataf. *Details Magazine*, which bore the photograph of the mosque, was tendered and marked as Exhibit 23.

The witness sneered at the allegation that he never did send any security reports to Kaduna State Government on the security situation in Zango Kataf. He also did not agree that the Deputy Governor then, who was indigenous to ZLG, was his friend. However he admitted that he knew the Deputy Governor who had met both the Katafs and the Hausas on the Zangon-Kataf conflict. He denied that he had discussed the security of ZLG with the Deputy Governor whom he knew and could identify in a photograph. A magazine, *New Impression* containing photographs of the Deputy Governor, was tendered and marked as Exhibit 24. Another publication, *Weekly Trust* newspaper, was tendered and marked Exhibit 25. The witness did not agree that the petitioner had re-opened old wounds. However the counsel put it to the witness that an agenda was well-articulated as reflected by the petitioner in his petition and this agenda was to eliminate the Hausas from the scheme of things in the entirety of Southern Kaduna and asked the witness to read from Leviticus 19. Witness disagreed vehemently, with all his assertions.

In the re-examination, the attention of the witness was drawn to AVM Mu'azu's reference to the status of Zango town on page 66, paragraph 18 of exhibit 1 [Addendum to the new Memorandum], and the witness agreed that 1995 Edict No 7 of the KDSG violated the submission by Mu'azu. He also agreed that the "Jihad letter" was not signed but

addressed with a name. The Chairman asked if the edict by KDSG could go beyond agreements by both parties.

PETITION 850: PETITIONER: SAYAWA COUNCIL OF ELDERS

Counsel for the petitioner's stated that there was encouraging development towards reconciliation and that the petitioner's sent him an addendum regarding the peaceful initiatives, which were taking place. Counsel requested that the matter be adjourned to the next Abuja sitting to enable a conclusion of these initiatives. Counsel for the respondents corroborated what the other counsel earlier said and hoped that a peaceful solution would have been reached by the parties even before the next Abuja sitting of the Commission. The Chairman promised to make available to the relevant parties, memoranda of understanding reached by similar parties in other places, so that they could use them to prepare a similar memorandum of understanding.

A member of the Commission thanked the parties for the peaceful initiatives and hoped that in the spirit of democracy, the various state governors would continue to encourage peaceful co-existence among various ethnic groups in their States.

The matter was adjourned to the next Abuja sitting by which time the Commission hoped that a copy of the parties' memorandum of understanding would be made available to it. The Chairman thanked all the relevant counsels for the efforts being made for peace and reconciliation in the area.

At the Commission's hearing in Abuja, counsel for the petitioner disclosed that all parties had almost reached an agreement but for one outstanding point on which he wanted to adduce evidence. A counsel

for the Bauchi State Government averred that it would not be convenient for him to lead evidence on the outstanding issue on Tuesday, October 16, 2001 because he would want to meet with his clients who were not here present on the subject. He added that his client had already conceded the so-called outstanding issues, which is the creation of a chiefdom for the Sayawa people. He remarked that the only contentious issue was where to locate the headquarters.

At that juncture, a member of the Commission opined that the issue of where to locate the headquarters of the proposed chiefdom should not warrant an adjournment because it could be taken care of in the written addresses of counsels. The Chairman remarked that the decision on the location of a new headquarters was that of government at the end of the day and not that of the counsel. Another member recalled that in the past, influential citizens determined the sitting of the capitals of newly created states and local government areas. He said that in the present democratic dispensation, however, in the sitting of new headquarters, the sensibilities of the citizens should be taken into consideration to avoid creating new problems. Counsel for the Bauchi State Government opined that the sitting of a new headquarters was not an issue bordering on fundamental human rights.

The petitioners filed an addendum to their petition, where they said that all other issues, except one, were being resolved. However the only one issue left was the centre of all the other issues. The counsel for the petitioners thus requested to tender all documents and address the Commission later. The petition titled "Memo on Human Rights" and the addendum were tendered from the bar and marked Exhibit 1 and Exhibit 2, respectively. Four other documents were tendered and

marked as Exhibits 3, 3a, 3b, and 3c. The Chairman called for addresses and asked all the counsels to look at the documents tendered to find out the areas of disagreement and proffer solutions. A counsel disclosed that the issue was the location of chieftdom headquarters. When the Chairman learnt that the issue was both factual and legal, he asked the counsels to explore both sides and examine: [I] who should locate the headquarters? [ii] What to take into consideration for the location? Addresses should be submitted within two weeks.

PETITION 1276: PETITIONER: HAUSA-FULANI COMMUNITY IN KAFANCHAN

Counsel for the petitioner requested for an adjournment to Abuja to enable him serve the other parties an addendum to the petition. He informed the Commission that reconciliatory efforts had reached an advanced stage. Counsel -for the Kaduna State Government corroborated what counsel for the petitioner said on peaceful initiatives.

The petition was therefore adjourned to the next Abuja sitting and fresh hearing notices would be issued to all parties concerned.

PETITION NO. 1393: PETITIONER: MR. MENON BAGAUDA

The petition is about alleged grievous violations including long detention without charge or trial, and a possible unlawful killing, by the State, of James Bagauda Kaltho, the senior brother of the petitioner and a former correspondent with *TheNews* magazine.

The petitioner alleged that his brother came home sometime in December, 1995, and informed them that his life was in danger as a result of an article that he wrote concerning the alleged coup plot involving General Olusegun Obasanjo, late Shehu Yar'adua, Lawan Gwadabe and others which the government did not like. After Christmas his brother left home for Kaduna but was not seen again by the family. The petitioner averred that although they have been in touch with the police, they did not give them any useful information only to read from the papers that their brother died in bomb blast in Kaduna.

The petitioner wondered how a person that was declared missing and was later arrested could be declared dead. He also wondered why Zakari Biu whom he alleged was in contact with his brother could declare him dead. If he (Kaltho) was truly dead why did he (Biu) not inform them but through the media? The petitioner alleged that Kaltho could not be the person that was alleged to have died at the Durbar Hotel attack in Kaduna as the person who died wrote his name as Y. Y. Yusuf and not Baganda Kaltho. The petitioner further alleged that the report of Zakari Biu is in conflict with that of the Commissioner of Police, Kaduna.

The petitioner claimed that they have suffered the trauma of looking for Bagauda Kaltho and have been subjected to psychological and mental torture, and many hardships, which he James Bagauda Kaltho, being the bread winner of the house would have solved save for his disappearance.

Reliefs sought by the petitioner are as follows:

- i) Full investigation into this matter to discover:

- a. Whether Mr. Kaltho is still in police custody and to effect his immediate release;
 - b. Whether Mr. Kaltho is dead and the circumstances of his death; and
- ii) In the event of 1(b), prosecution of all those involved in the unlawful killing of Mr. Kaltho; and
 - iii) Compensation of N25 million be paid to members of the Kaltho family and dependants to alleviate their sufferings.

The first witness, Mr. Menon Bagauda, testified that the search for their brother took them to Kaduna and Lagos, where they came to the conclusion that perhaps he had been arrested by the security operatives. The witness under cross-examination testified that the rumour of the disappearance of his brother started in April 1996, but that he heard nothing connecting Kaltho with a bomb blast until 1998. He further said that after he heard that his brother was killed in a bomb blast, no person invited the family to identify the body as that of Bagauda Kaltho. He only read in the papers that Zakari Biu said that the person who died in the bomb blast was his brother. He averred that it was the same Zakari Biu who told him that his brother was in detention and requested him to cooperate with him to effect the release of his brother. That he further told them eighteen files had been sent from the presidency and out of which Kaltho's was one of them. He alleged that Zakari Biu assured them that his brother would be released. Given this scenario, how could he possibly die in a bomb blast at the Durbar Hotel Kaduna? Under further cross-examination, the witness said that his brother informed him when he was alive that the Police, SSS and DM1 were all jointly looking for him.

The second witness, Mrs. Martha Bagauda Kaltho, wife of Bagauda Kaltho, testified that her husband left home back to Kaduna after the Christmas holidays but before he left, he assured them that he would come back home after one month. She became worried after she did not see him and started making inquiries as to his whereabouts. After she heard that he was in the custody of the state she sent a letter to the late Head of State, General Sani Abacha pleading that her husband be released. She also on August 10, 1998, sent another letter to the then Head of State General Abdulsalami Abubakar, pleading for his release.

The witness further testified that while she was at Billiri, she got an invitation from the police to visit Alagbon Close in Lagos. At Alagbon Close, she met Zakari Biu who informed her that they received 18 files from the Police Force headquarters and that her husband's file was one of them. He assured her that the detainees will all be released bit by bit. She said in evidence that she read in the papers about the bomb blast when she was returning from Lagos with the petitioner. She was shocked to read in the papers that her husband died in a bomb blast. More so since she had earlier pleaded with Zakari Biu to tell her what had happened to her husband but he was not forthcoming.

The third witness, ACP Zakari Biu, testified that he had read the petition against him and had also listened to the testimony of the witnesses. He produced his reply to the petition in writing. He testified that he had never met, arrested or interviewed Bagauda Kaltho while he was in service. He affirmed that on the order of the Inspector-General of Police, the D.I.G Force CID then Mr. Archibong Nkana directed him to take over the investigation of the case. In summary,

he stated, in his reply that Bagauda Kaltho was used by the management of *The News* magazine, particularly by Messrs. Dapo Olorunyomi and Babafemi Ojudu, to bomb the Durbar Hotel and that he died in the process. He said inquiries revealed that following the blast, the management of the *The News*' deliberately covered up the incident and falsely declared Kaltho as missing and deceived his wife into believing that he had been arrested by security agents. He said further that following the bomb blast, Olorunyomi surreptitiously left for the United States on self-exile, while the Kaduna Bureau Chief of *The News*, Timothy Bonnet, visited Bagauda Kaltho's wife and informed her that Kaltho was arrested by DMI operatives. He stated in his reply that the police neither arrested Kaltho nor detained him.

The counsel to the first witness applied to recall his client to tender an addendum to Exhibit 1, and the Chairman granted the request. The first witness was thus called to the witness box and the addendum was admitted by the Commission, and tendered, as Exhibit 2. The witness read the addendum in which he stated that the subject of their petition, Mr. James Bagauda Kaltho, left behind, after his disappearance, a wife, two daughters, two aged parents, three brothers and three sisters, who were all his dependants. These dependants of his have been going through psychological and mental trauma, as well as suffering material deprivation since his disappearance, he stated. He therefore prayed that a compensation of N25 million be paid to members of the Kaltho family and dependants to alleviate their sufferings. The witness was shown Exhibit 8, which contained four different pictures alleged to be of Mr. James Bagauda Kalto to identify. He identified only the first two photographs as those of Mr. Kaltho, He was also shown two pictures in Exhibit 10 and asked to identify them. He stated that the first of the pictures was Mr.

Kaltho while the second was not. Two other pictures in Exhibit 5 were also shown to the witness and he identified the first to be that of Mr. Kaltho's wife and her two children and the other as that of Mr. Kaltho.

Under cross-examination by counsel to Zakari Bui, the witness stated that he and Mrs. Martha Bagauda Kaltho had been to Kaduna where they visited the office of *The News* magazine in search of his missing brother. He said the boss of his brother in Kaduna, Mr. Bonnet, told them he thought Mr. Kaltho was in hiding in his (Kaltho's), village. Mr. Bonnet was said to have promised them then that he and the management of *The News* magazine would make efforts to trace Mr. Kaltho. He said the second trip in search of his brother was to Lagos and there he met some officials of *The News*, among who was one Mr. Bayo Onanuga. He said Mr. Kaltho's name had been published among those being detained by *Tell* magazine then. It was during this trip that *The News Magazine's* management approved to be paying Mr. Kaltho's salary to his wife. Responding to a member of the Commission's question, the witness asserted that nobody had ever told him that his brother had died except what he read in the newspapers to that effect. He then stated that his position on the matter was that security agencies that his missing brother had alleged were after him must have finally dealt with him. He said Zakari Bui had told him that if he did not cooperate with him he would never know the whereabouts of his brother. Secondly, he said Mr. Bui told him that his brother was one of the detainees that were about to be released. For these reasons he said he believed that Mr. Bui knew about the whereabouts of his brother. Finally, he concluded that Mr. Bonnet told him that he had reported the disappearance of his brother to the police.

The second witness, Mrs. Kaltho, was recalled by her counsel to the witness box. The witness was shown Exhibit 8 containing 4 different pictures. She identified the first two as those of her husband and the other two as not his.

Under cross-examination by counsel to Zakari Biu, the witness confirmed that she made a statement to the police at the Alagbon Police Station but denied that the statement in Exhibit 8 was hers, because the said statement was signed by one Mr. Caleb. She confirmed another statement that was shown to her as hers and it was admitted as Exhibit 17. She read it out to the Commission. The witness further stated that Mr. Bonnet had visited her once in Biliri village. She said she met with Mr. Bayo Onanuga in Lagos and expressed her displeasure to him about the unsatisfactory efforts of *The News* magazine's management to find her husband. She said *The News* magazine's management offered to be paying her husband's salary while he was still missing.

Answering another question, the witness said that some agents of the State Security Services (SSS) went to her in 1998 in Gombe to take away some pictures of her missing husband on the claim that they wanted to use them to trace him. She also said that Mr. Biu never mentioned nor linked her husband with any bomb blast on all the occasions she met him over her husband.

In response to some questions from his counsel, the third witness averred that he never signed any detention order for Mr. Kaltho. He further explained that it was professionally impossible to detain someone without making an entry into the relevant record book. He further informed the Commission that cell guards were those charged

with the protection of detainees in cells. These guards were regularly changed he said. He further said there were several record books in which entries about detainees were made at Force CID Alagbon Police Station and such record books included station diary, Blackboard, Detention Order, Cell register. He said Bagauda Kaltho's name would be found in these record books at the station if he was ever detained there. A letter by the SSS to the Inspector-General of Police in which Mr. Bagauda Kaltho was alleged to have died was tendered by the witness and was admitted as Exhibit 19. He said his press statement and conclusion on the case was based on the letter, (Exhibit 19), and other considerations and factors.

Under cross-examination by counsel for Independent Communications Network Limited (ICNNL), publishers of *The News*, the witness said he neither saw the person nor the corpse of Mr. Bagauda Kaltho. He said no forensic nor were DNA tests conducted on the bomb blast victim before he was buried. The family of the victim of the bomb blast was not called to identify the body, he admitted. He said the victim's body was marked as an unknown person. He said he was not aware that the Commissioner of Police in Kaduna, then, stated at a press conference that the body of the bomb blast victim was burnt beyond recognition, although he was aware that the Police issued a statement on the incident. The witness admitted that there were a series of bomb blasts across the country around the same period the Kaduna bomb blast occurred. He said Chief Olu Falae and some others were arrested and charged to court for the bomb blasts. He said neither the Independent Communications Network Nigeria Limited nor Femi Falana was implicated in the bomb blasts. He admitted that Mr. Femi Falana was the lawyer of the accused of the bomb blasts. The witness admitted that sometime in July 1993, he arrested and took to Abuja

Messrs Femi Falana, Gani Fawehinmi and Dr. Beko Ransome Kuti. He said the trio was not interrogated for any act of terrorism. He admitted that Mr. Femi Falana was detained in Nagawashi village in Jigawa state between 14 February and 20 November 1996, the period the bomb blast occurred in Kaduna. He said Mr Babafemi Ojudu was once interrogated by him at Alagbon but was never detained there. He said he was not sure then and now, whether Mr. Bagauda Kaltho acted on his own or in concert with Independent Communications Network Nigeria Limited in the bomb blast saga. He admitted interrogating about nine members of staff of the ICNNL on the whereabouts of Mr. Kaltho and the company's management staff. He said the nine members of staff were not charged to court but released to the counsel (Femi Falana). He said he had never come across any report that stated that the body of the bomb blast victim was burnt beyond recognition. He averred that it was in the letter of the SSS dated 22/12/97 to the Inspector-General of Police that the bomb blast victim was identified as that of Bagauda Kaltho. He said the body of the victim was never exhumed after its burial. The witness acknowledged that he was sued by the ICNNL for libel but did not know that his lawyer denied that ICNNL was linked with the bomb blast. He said it was only Ojudu that he had met among ICNNL management staff but that he was not aware of the latter's detention. He claimed to know about the imprisonment of Kunle Ajibade of *The News* magazine. He pointed that the best person who could make an authoritative pronouncement on the identity of the victim of the bomb blast was the author of the SSS letter to the Inspector-General of Police and not him. He admitted that he could not confidently say he knew what happened to Bagauda Kaltho because various security agencies engaged in uncoordinated arrests of individuals at the time he got missing.

The fourth witness, Mr. Babafemi Ojudu, led in evidence by the counsel of ICNNL the witness disclosed that he was the Group Managing Editor of the ICNNL, and that Mr. Bagauda Kaltho was also an employee of the company. He said the company lost contact with Kaltho in 1995. He said that in a reaction to the press conference held by ACP Hassan Zakari Bui in 1998 on Mr. Bagauda Kaltho, he, on behalf of his company, issued a press statement in which he questioned and debunked Bui's assertion and conclusion on Bagauda Kaltho that he died in the process of planting the bomb that exploded in Kaduna in 1996.

Cross-examined by counsel to Zakari Bui, the witness said his company reported the disappearance of Mr. Kaltho to the police and Human Rights Commission through their representative in Kaduna, Mr. Timothy Bonnet. He agreed that Mr. Kaltho's wife had once expressed displeasure over the nonchalant way the company was handling the disappearance of her husband. He said when all efforts to trace the whereabouts of Mr. Kaltho failed; the company started publishing it in its publications in June 1997. He said the public notification of the detention of Kunle Ajibade in the publications of the company immediately he was arrested was because the arrest was effected on the company's premises and it was clear that he was taken away by security agents. He said the conduct of Mr. Bui gave him the impression that he (Bui) might have been involved in Mr. Kaltho's arrest.

Answering questions from the petitioner's counsel, the witness said Mr. Kaltho joined the ICNNL from its inception in 1993 and worked there till his disappearance in 1996. He said Mr. Kaltho was a very

brilliant journalist. He said he believed Mr. Biu knew about the whereabouts of Mr. Kaltho. He said his company still paid Mr. Kaltho's salaries to his wife and was exploring ways to set up a Trust Fund for the welfare of his children.

The witness, answering questions from the Commission's lawyer, stated that Mr. Bonnet was released three days after his arrest in Kaduna. He said Mr. Bonnet informed the company that he was released on the condition that he would produce Mr. Kaltho for the Police. He said for that reason the company felt that the heat was on the journalist and asked him to relocate to Lagos for sometime. He said Mr. Bonnet did relocate to Lagos for a month or two and pointed out that it was not the time Mr. Kaltho was arrested. He said it was after the return of Mr. Bonnet to Kaduna that he sent a report on the disappearance of Mr. Kaltho to the company.

At this juncture, the Chairman wondered if it would be possible and useful to carry out a forensic or DNA test on the body that was purported to be that of Mr. Bagauda Kaltho. All the counsels in the matter agreed that if such tests were possible, it could be useful and therefore, worth exploring. The Chairman also pointed out that it would be necessary to first find out from the police where and how the body was buried. Mr. Femi Falana volunteered to inquire about the possibility of carrying out the tests for the Commission and asked for a letter of support in that regard to the police. The Chairman agreed to issue him such a letter.

The fifth witness, DCP Muktari Ibrahim, testified that the case was reported on 18/1/96. He claimed that he was informed by the D.P.O. that there was an explosion at Durbar Hotel Kaduna and that there

was an unidentified body lying at the scene. The witness testified that he and some policemen went to the scene of the bomb blast and that the bomb disposal unit came and joined later. He said that he carried a camera with which he took some shots of the scene. According to him, the expert told him that he discovered an unexploded bomb and a video-cassette at the scene. He said the corpse was later taken to the Teaching Hospital where he filled the necessary coroner's forms so that a post-mortem examination could be carried out on the body. He affirmed that on January 27, 1996, Zakari Biu came with a team from the Force C.I.D. in Lagos, to take-over the investigation of the case. He then handed over the case file to Zakari Biu on January 26 together with exhibits. The witness identified five photographs, which he took at the scene of the incident and agreed that the body was not burnt beyond recognition.

The seventh witness, Godson Eberechukwu Uzowulu, led by counsel to the Nigeria Police stated that he was a member of the bomb squad in Port Harcourt, Rivers State Police Command. He gave a run-down of his educational experiences and qualifications. He confirmed that he was head of bomb disposal unit in Kaduna Police Command in 1996 and that he was at the scene of the bomb blast at Durbar Hotel that year. He stated he was informed of the bomb blast when it occurred on January 18, 1996. He said that the blast was in the balcony and he found a corpse lying there when he went there. He said the corpse belonged to a male between 5 feet and 5 feet 6 inches and that it was blown. The groin had a deep cut, the right hand was damaged, the eye had multiple injuries and the hair had some burns on the right hand side.

He testified that he ordered everybody out when he came and that after studying the body it was evacuated. He alleged that on further investigation it was discovered that the blast occurred in a toilet, which shared a wall with the balcony. Further search revealed some torn clothes in the wreck. Hard textured plastics were also found as well as some cables, a cellophane bag with a video-cassette with the title: "Buhari's Interview". There was also another one bearing "Masters Broadcast; a book titled: the Man Died; a receipt in the name of Y. Y. Yusuf; a leg of brown sandals, a trousers belt and expanded Duracell batteries.

He revealed that on further observation the video-cassette titled "Master Broadcast" contained explosives. It was eventually detonated in his office. He concluded that it was after this that he made a report to the Commissioner of Police. The report was tendered and admitted as Exhibit 27.

Led by his counsel, he admitted that he had the defused video-cassette, which was found with explosives at the scene of the blast. The witness showed the device to members of the Commission and the public. He was asked to demonstrate his imagination of what happened by counsel. In the process, he stated that the evidence before him showed the possibility that the victim was in the process of placing the device under the toilet seat when it blew up and threw the victim off. He stated that the victim must have been affected by the "wave bang" of the explosion.

On the issue of the nakedness and completeness of the corpse, he argued that the absence of metallic fragments in the explosion meant the body could be intact but the flash of the explosion was capable of

tearing off the victim's clothes. The witness at this juncture identified the picture of the victim as well as the scene of the explosion. He also confirmed that the Banquet Manager of the Hotel Mrs. Sarah Luka was wounded and treated at the Belmont Hospital Kaduna. After reading from paragraph 9 of his report, the victim was Y.Y. Yusuf. He also agreed with counsel that he believed the body was that of the victim who was carrying the explosive.

Cross-examined by counsel to Major Hamza Al-Mustapha and A.C.P. Zakari Biu, he stated that it is possible for one to carry two explosives and for one to detonate without affecting the other. He explained further that it could only explode when opened to the extent where the explosive is activated.

Asked to compare the bomb blast in Kano and Kaduna, which he both dealt with, he stated that he reached his conclusion based on their similarities. He agreed that another professional of his standing is likely to reach the same conclusion as he did.

He agreed with counsel that an S.I.I.B team led by A.C P Zakari Biu was sent to investigate the blast and he handed over all exhibits to him. He also confirmed that Mr. Biu could not have seen the corpse on the day of the blast, as he was not there. He also agreed that the S.I.I.B came in because of his own limitations as bomb expert as opposed to an investigative expert.

He stated that he had no evidence that the victim he found at the blast scene was Bagauda Kaltho. Cross-examined by the petitioner's counsel, he stated that his job in relation to the blast was limited to the scene of the blast. Witness stated on further questioning, that he

could not confirm or identify that the victim was Bagauda Kaltho and that he had never met Mr. Kaltho in his life.

Asked to compare the case he handled in Kaduna and that of Dele Giwa he stated that there was a difference in the sense that Dele Giwa had the explosion on his lap i.e. close to him. Secondly, the contents of the explosion that killed Dele Giwa is not known to him. In the case of the Kaduna bomb blast there was an evident distance between the victim and the explosion and the explosion did not seem to have fragments.

He denied counsel's view that only an expert could handle the kind of explosive used in Kaduna.

Asked to explain the fact that ACP Mukhtar did not mention any sandal in his testimony, but he the witness did, he explained that he found it because Mukhtar did not and he could not explain the latter's inability to find the sandals.

On further query on the nakedness of the corpse, he said the wave band was enough to remove even his pants. He explained that it is possible that the exhibits found in the polythane bag could not be affected by the blast because the bag had to be placed somewhere to enable the victim lay the other bomb he had.

Witness disagreed with counsel that there was a conspiracy by the Police and the SSS to hoodwink the public on the case.

Cross-examined by counsel to the Commission, he stated that he did not have anything to do with the corpse after carrying out his

professional assessment. He said that he did not know whether or not the corpse was buried. The witness re-stated his view that the “wave band” bomb blast was enough to tear the clothes the way it was found and that he could not confirm with certainty whether or not the bomb that blasted Dele Giwa was a hand made bomb.

Cross-examined by counsel to the Network Communications Ltd., he agreed that he came to the scene some hours after the blast and that anything could have occurred in-between. He also agreed with counsel that his findings did not show that the body was burnt beyond recognition as stated in the press statement given by the Kaduna Police Command on January 19, 1986. He also agreed that his report dated January 23, 1986 was concluded after the said press conference. Counsel to the SSS in the process of cross-examination presented seven pictures, which were identified by the witness. The pictures were tendered in evidence and admitted.

Cross-examined by counsel to the SSS he agreed that there was a difference between “identity” and “recognition”. He also testified that to his knowledge, nobody ever reported that any Y.Y Yusuf was declared missing or dead. He also restated his view that a non-expert could detonate an explosive but he could not say how long it would take to carry out such a detonation.

Asked by the Chairman to explain some inconsistencies in the evidence before the Commission, witness stated that the dress on the victim were possibly a European-shirt and trouser. A member of the Commission made some observations on the theory of body swapping. He asserted that it could be swapped in hotel vicinity without witnessing the act.

Led by counsel to the SSS, the eighth witness, Samuel Fola Caleb, stated that he was an officer with the State Security Services. He confirmed that he once served in Kaduna. He also confirmed he knew Bagauda Kaltho because he used to visit a colleague who shared a flat with the witness. He testified that Mr. Kaltho eventually squatted with his colleague between 1992 and 1993. He testified that he saw him last in June 1995 and cannot say where he is now. He also stated that he could not say exactly where Mr. Kaltho moved to after leaving their flat in 1993. Witness also confirmed making a statement to the Police on the disappearance of Mr. Kaltho. He identified the statement and was asked to read the first two paragraphs. After reading it, he restated his position that Mr. Kaltho left them in 1993.

Asked if he could identify Mr. Kaltho in a picture, he replied in the affirmative. He was then presented some pictures already tendered to so identify. He stated that he couldn't conclusively identify them as Bagauda Kaltho because the pictures are not clear.

He also confirmed that he knew Mr. Kaltho's wife and that she stayed with them for between 10 and 14 days in 1993. He stated that the next time he saw her was in 1996 when she came to him to complain that she could not locate her husband. He testified that she told him that she heard that her husband was being detained by the SSS and he assured her that if he was with the SSS he would know. He then directed her to proceed to Lagos to continue further investigations. Witness reiterated that Mr. Kaltho was not arrested by SSS and that to the best of his knowledge Mr. Kaltho had no problem with the SSS.

Witness was then cross-examined by counsel to the Police. He confirmed that he related professionally with Kaltho as he was a source of information for him (witness) and the SSS. Counsel at this juncture presented witness with a document that is an exhibit before the Commission. Witness refused to read it as the document was not his own.

The ninth witness, Mr. Gadzama, was the State Director of SSS in Kaduna from 1993 to October, 96 - the period when the Durbar Hotel bombing occurred. He stated that he was at the Commission to testify about the incident. He stated that he had not known or ever seen Bagauda Kaltho. The ninth witness admitted that he was aware of the bomb blast on the January 18, 1996, but did not go there till the following day. He stated that he was alerted about the incident by Assistant Director Operations, who told him he had dispatched a team who had reported that a body was found at the scene of the bomb blast together with an unexplosive device and a copy of the book, "The Man Died" by Wole Soyinka. The ninth witness admitted that he would be able to identify photographs of the body, but could only identify two of the pictures when they were presented to him. (Exhibit 24a and Exhibit 24b). He recalled that they recorded over 27 exposures and immediately forwarded the "incidence report" to their headquarters. The ninth witness identified Exhibits nineteen and nineteen.two as the letter he sent to the Inspector-General then and the attached brief he asked Darma? to prepare, respectively. He admitted that the letter to the IG of Police was mandated by the Director General of SSS. It was tendered and marked as Exhibit 29. He disclosed that Darma was the Schedule Officer at the Counter Terrorism desk, then in January 2001. The ninth witness agreed that he was aware that there was a terrorism investigation team in place

headed by Zakari Biu. He also admitted that the IG had acknowledged in Exhibit 22 and receipt of the letter he sent (Exhibit 19). With reference to Exhibit 22, the ninth witness claimed that the Inspector-General and the Task Force were fully aware of the facts. He would not accept Zakari Biu's conclusion in Exhibit 24 (pg. 18 - 19). The counsel for the SSS observed that while SSS reports were not conclusive, the Police report was, yet Biu claimed he based his conclusion on the SSS reports.

Under cross-examination by the counsel for the petitioner, the ninth witness replied that he did not share the view of Biu. He said there was no clue as at the time of the incident being investigated and that even now he still could not say that the person that died at the scene of the Durbar bombing was Kaltho. Counsel recalled that the letter on which Biu based his conclusion was from the SSS. The ninth witness denied knowing any other security group operating, then, apart from the Counter Terrorism Team, which he requested the Inspector-General to direct them to take over the investigation. A Commissioner observed that Major Hamza Al-Mustapha's evidence claimed that the Inspector-General positively identified Kaltho as the deceased to General Sani Abacha in his presence should be looked at seriously. Counsel drew attention to the fact in Exhibit 1, page 1, paragraph 1, that Kaltho had sat his family down and told them that his life was in danger because he was being hunted by security agents but the ninth witness stated that it would be unfair for him to comment on that as he was not there. The ninth witness also disclosed that Darma, the Officer who wrote the intelligence summary of the report died earlier this year, as a result of sickness.

In another cross-examination by counsel for Independent Communications, the ninth witness said he was surprised that Zakari Biu claimed to have relied on the SSS reports because they (the SSS) had not investigated the claims or allegations from Lagos as referred to in Exhibit 19. He also said he was aware that Femi Falana was incarcerated for ten months after Kudirat's death. The ninth witness was also not aware that Prof. Wole Soyinka had claimed funding the pirate "Freedom Radio". He was also not aware that Yomi Tokoya was the informant on that issue. The ninth witness in the course of re-examination stated that the police were not bound to adopt the SSS reports.

The counsel for the petitioner requested for the summoning of the former Inspector-General of Police, Alhaji Ibrahim Coomasie and Kunle Ajibade whose cross-examination was stopped midstream, to be brought for cross-examination. He argued that Coomasie's presence was necessary considering the evidence given by another witness that a day after the said blast, the Inspector-General went to the late Head of State with a photograph of Kaltho. A Commissioner suggested that Al-Mustapha and Zakari Biu should also be re-called to clarify this matter. The Chairman asked the counsel for the Commission to serve Alhaji Ibrahim Coomasie and Zakari Biu summons through counsel for the police.

PETITION NO. 1506: PETITIONER: AKINMO A. ADESHAKIN

The petitioner was absent and was not represented by any counsel. The petition was therefore struck out while the petitioner was granted the liberty to re-list it if he so wished whenever he showed up.

PETITION NO 1761: ALHAJI SANUSI MATO

The petition is about alleged unlawful arrest, detention, torture and trial for being accessory to the facts of treason by a Special Military Tribunal in 1995. The petitioner's initial petition was heard at the public hearing at the Lagos centre but the petitioner applied to replace his earlier petition with another one which he said was slightly different from the other. His request was granted and the new version of the petition was admitted as Exhibit 2.

Led in evidence by the Commission's counsel, the petitioner read his petition in which he alleged he was unlawfully arrested, detained, tortured and tried for being an accessory to the facts of treason by a Special Military Tribunal in 1995. He said he was not allowed a counsel of his choice to defend him during the trial but a military lawyer was forced on him as his defence counsel. He said he was consequently convicted, initially jailed for life and later the sentence was reduced to fifteen years. He asserted that his real offence was that he obliged the request of his cousin Colonel, Lawan Gwadabe, to inform some individuals that he (Col. Gwadabe), had been arrested and detained for no offence. He said he was also told that he was arrested because he went to see Col. Gwadabe where he was detained, whereas he visited the Colonel with the permission of the security personnel. He said he was physically tortured by way of being slapped by Col. Frank Omenka during interrogation. He said he was subjected to psychological and mental torture in detention, and was subjected to interrogation sixteen times. He said he was denied medical attention in prison when he was sick and the only time he was given medical treatment, it was done under duress and crudely too. He claimed that his grandmother who brought him up developed high blood pressure and eventually died of the complication due to his incarceration. He

said he lost seven of his commercial vehicles and the government revoked all contracts that had been awarded to his company. He submitted a list of the losses incurred by his company as a result of his ordeal and it was admitted as Exhibit 3.

The petitioner claimed he met one Colonel Ibrahim Yakassai in prison and the latter confessed that he (witness) and others were deliberately framed-up by top security authorities for the offence they were convicted for. He said Colonel Yakassai disclosed to him that there was a plan to eliminate General Yar Adua, General Obasanjo, and Colonel Gwadabe among others in prison.

He said he met General Yar Adua in prison and the latter told him that he had been injected with a lethal substance.

The prayers of the petitioner were that the Federal Government should tender an apology to him for the ordeal he went through. He demanded compensation for the losses he incurred in his business as contained in his Exhibit 3 and wanted to be compensated for the psychological and mental trauma he went through in any form the Commission deemed fit. He also wanted those who tortured him to be prosecuted.

At this juncture, the Chairman pointed out that although the Commission would not hesitate to recommend compensation to victims of human rights violations where necessary, it was a different kettle of fish for the Government to accept and effect the compensation. He pointed out that the National Assembly would have to be involved for the Government to be able to effect such compensation. He said petitioners would have to bear these facts in

mind in their expectations over their demands. The Commission and Counsels agreed that since no one had come up to contradict the deposition of the petitioner, it did not need any corroboration from anybody. The case was thus closed.

CHAPTER SIX

ENUGU CENTRE

INTRODUCTION

6.1 The public hearings at the Enugu centre were held from 18 April 2001 to 7th May 2001. The venue was the Old Enugu House of Assembly, State Secretariat, G.R.A. Enugu. The first day commenced with an opening ceremony attended by several dignitaries. The Chairman of the Commission delivered a keynote address, in which he highlighted the desire of the Federal Government in setting up the Commission, notably to effect reconciliation in the polity and heal the wounds of the past. He added that the Commission was mandated to suggest ways of preventing a reoccurrence of such vices in the future. He called on those present to freely discuss and contribute to the proceedings. He further requested the people to help answer three key questions: What caused the 1966 coup? Why was there a civil war? What caused the pogrom?

6.2 A goodwill speech was also delivered by the Chairman, Enugu State Chapter of the Nigeria Bar Association. He commended the brief of the Commission and its composition, and hoped that government would accept and implement the recommendations of the Commission. The Attorney-General and Commissioner for Justice,

Enugu State, were also in attendance. While lamenting the violations of the fundamental rights of Igbo people since 1966, he urged the Commission to address these abuses. A similar goodwill address was made by the Chief Judge of Enugu State.

6.3 The Acting Governor of Enugu State welcomed members of the Commission to Enugu State. He highlighted the importance of reconciliation, stressing that rehabilitation, restitution and compensation were all critical to the process. The Commission assured the audience that it would do its best to achieve its mandate.

6.4 The opening ceremony ended at 12.30 p.m., after which the Commission began its public hearings. The following cases were taken in the course of the Commission's sitting in Enugu. The cases are arranged sequentially based on the HRVIC reference numbers of the various petitions.

PETITION NO. 83: PETITIONER: BONIFACE AMADI

The petition was about harassment, intimidation, unlawful detention and psychological torture caused by the Police. The reliefs sought include: an investigation of the allegations, vetting the Police files, publication of the legal advice of the Imo State Ministry of Justice, restraining the Imo State Police Command from further harassing the petitioner, and payment of adequate compensation. The Commission's counsel hinted that this case was before a court. Even though counsel to the petitioner denied it, the Chairman ruled that the petition was outside the terms of reference of the Commission. It was struck out.

PETITION NO. 88: PETITIONER: PAUL ALLANAH

This was a case of intimidation, wrongful arrest and prolonged detention without trial by the Police. The petitioner said he was arrested and detained for 16 days in Benin and 40 days in Lagos on account of theft, and allegedly based on false information. The prayer of the petitioner is for redress, public apology from the Police, and compensation.

The Police in their response argued that the petitioner was detained for only three days, and granted bail, but nobody was around to bail him. The petitioner stood his ground. The Chairman stated that it was unlawful to detain anyone for more than a day for any offence, let alone stealing. The Police noted that the DPO who handled the case was not served any summons. The Chairman directed that the Inspector-General of Police should re-investigate the case and report back to the Commission at the second Abuja. **(adjourned to the next Abuja).**

PETITION NO. 118: PETITIONER: CHIEF F.N. UWANDU

It is a case of illegal shooting of Paschal Uwandu, son to the petitioner, by a Police officer, Corporal (now Sgt.) Emmanuel Okoroafor. The petitioner, in pursuing this case, was himself arrested by the Police over alleged trailing of the culprit. The prayer of the petitioner is that the culprit should be brought to justice.

Emmanuel (Emmason) Okorafor, the respondent and second witness, maintained that the deceased was an armed robber, who was killed during exchange of gun fire between the Police and a gang of five armed robbers. He added that the deceased had a history of armed robbery, a charge denied by the petitioner.

The Administrator-General of Imo State Judiciary, third witness, hinted that when the case came before him, he advised that the victim be charged for receiving stolen goods rather than armed robbery, while the Policeman involved should be charged for manslaughter and not murder. Cross examinations showed a number of irregularities in the management of this case from both the Police and the Imo State Ministry of Justice. For instance, the Imo State Ministry of Justice was said to have been relating closely with the petitioner, while the name of the suspect was said to have been missing on the charge sheet. Sixteen exhibits were admitted, and 3 witnesses testified. While calling for additional facts from the petitioner and former Attorney-General of Imo State, the Commission closed the case by requesting counsel to submit written addresses.

PETITION NO. HRVIC 180: PROF. OLEKA K. UDEALA AND MRS. GRACE UDEALA

The petition had to do with the attempted assassination of Professor and Mrs. Udeala, and the violation of the human rights of his family. The Professor said he was persecuted by Professor Umaru Gomwalk, former Vice-Chancellor of the University of Nigeria Nsukka; and Col. Lucky Torrey, then Enugu State Military Administrator. His official lodge was allegedly invaded, and an attempt on their lives was made. He added that he was illegally removed as Vice-Chancellor and denied his salaries and other entitlements due to him. He prayed as follows:

- a) Those who attempted to assassinate him should be called to order and disciplined in accordance with the law,
- b) Full restoration of his position to complete his term as Vice-Chancellor, and thereafter retire voluntarily in the spirit of reconciliation,

- c) The University of Nigeria, Nsukka to pay his full entitlements, including medical fund (looted at his residence) to his wife, and out of pocket expenses and compensation and reparations for property looted at the lodge and those destroyed through arson,
- d) Varied sums in monetary compensation, as follows:
 - i) N50 million to his first son for disrupting his studies
 - ii) N20 million to his other children for traumatic experiences
 - iii) N100 million for his unlawful removal as Vice-Chancellor
 - iv) N100 million for the traumatic experience he encountered
 - v) N100 million for looting his wife's medical funds
 - vi) N100 million for what the family went through
 - vii) N100 million for character assassination
 - viii) N100 million for looted documents and pictures

The total monetary relief asked for is **N670 million**.

The Commission was informed by respondents that there was no plan to assassinate the petitioners, and that the VC's removal was caused by a report of an investigation panel which found his administration to be fraudulent. All those accused denied the charges of planning to kill the Professor and his wife. Counsels were called upon to present addresses which should take note of the petitioner's prayers, and whether they are within the jurisdiction of the Commission's terms. All relevant legal issues were also to be addressed. The case was adjourned to next Abuja because petitioner was absent on 7th May

when addresses were to be taken. Six witnesses testified, and seven exhibits were admitted.

PETITION NO. HRVIC 201: OGBUESHI PARTICK C. ISIDI

The subject matter of the petition was the unlawful killing of Rev. Fr. Emmanuel N. Isidi on a day he was meant to appear in court over the issue for which he was killed; and the alleged refusal of the police to investigate, arrest and prosecute the culprits. The petitioner was also worried by the undue harassment of the family of the deceased by the police. The petitioner prayed for the release of recording gadgets belonging to the deceased and which are relevant to the investigation. These include a mini-tape recorder with recordings, and a wrist watch with close circuit built-in recorder, all held by the police and the Issele-Ukwu Diocese respectively. The petitioner's prayers include proper investigation, identification and prosecution of the killers of the deceased.

The Commission encouraged parties through their counsel's to settle out of court. The Asagba of Asaba, who was invited by the Commission as a witness, was called upon by the Chairman of the Commission to intervene and attempt to resolve the civil matters of the case. A meeting was summoned for this purpose, even though the first witness expressed fears based on the claim that the Asagba had taken sides. The Commission still called on parties to cooperate for a settlement. The Commission ordered the Inspector-General of Police to re-investigate the murder aspect of this case and report back to the Commission. It encouraged the various quarters in Iyagba to try and reconcile among themselves. Three witnesses testified in this case, and three exhibits were tendered and admitted.

PETITION NO. 212: PETITIONER: GODSON OFFOARO

This petition was based on the disappearance and possible murder of the brother of the petitioner, Chinedu Offoaro, who worked for *The Guardian* Newspapers. The petitioner believes his “disappearance” was perpetrated by the General Sani Abacha regime based on his critical comments on national issues. He believed that Dr. Walter Ofonagoro and the Directorate of Military Intelligence (DMI) were responsible for the disappearance of Chinedu. He said he wrote Dr. Ofonagoro about the disappearance of his brother without any response from him. The petitioner likened the case of his brother to that of Bagauda Kaltho of *TheNews* magazine. He decried the lack of interest shown by *The Guardian* Newspapers, employers of his late brother. He was praying the Commission to help him unravel the mystery of the disappearance of his brother, Chinedu Offoaro. He also demanded for a compensation of 10 million naira.

Dr. Walter Ofonagoro, in responding to the petition, argued that the petitioner was sponsored to assassinate his character. He denied receiving a letter from the petitioner, adding that he never caused the arrest of any journalist during his tenure as Minister of Information. He also informed the Commission that he was not aware that Chinedu was missing.

The DMI also responded to the petition in writing, stating that it knew nothing about the case.

A member of the Commission prayed that the petitioner’s brother would be found alive, and suggested that the Police be ordered to open up investigation of the disappearance of the petitioner’s brother. The

Commission directed that a letter should be prepared and sent to the Inspector-General of Police of Police to re-investigate the matter. The case was closed on this note. Nine exhibits were presented and admitted, while two witnesses testified.

PETITION NO. 256: PETITIONER: EMMANUEL CHUKWUDI NWAFOR

This was a case of the killing of Obinna Peter David Nwafor, in which suspects were arrested by the Police but later set free. The petitioner prayed that those who committed the murder should be arrested and prosecuted.

The Commission directed its counsel to write the Inspector-General of Police requesting him to investigate the murder and report back to the Commission at its next Abuja sitting. The Police complied and sent in a report of their re-investigation to the Commission at Abuja. The report was read to the Commission. The Chairman, however, noted that there was no eye-witness, or any witness linking the suspect with the killing, and so the allegations remained a mere suspicion. The Commission was advised by its counsel to send the entire casefile and statements of witnesses to the Director of Public Prosecutions of Edo State for legal advice.

PETITION NO. 262: PETITIONER: CHIEF ISAAC ODERINDE AND 2 OTHERS

This case is about the murder of six persons by persons who are still walking about freely. The petitioner claimed that the matter was investigated, but they did not know anything about the outcome of the investigations. He came to the Commission to request for a release of the report of the special Crack Squad set up by the Inspector-General

of Police. He wants the report to be made public and petitioners should be served copies. They want the matter properly investigated, and the culprits prosecuted. A compensation of 20 billion naira was demanded to be paid to the families for the death of the six persons.

Even though it was revealed that a crack squad was set up by the Inspector General of Police on this case, the report was not being sighted. The Commission granted that the case should be investigated by the Police if it was not, and should be re-investigated if it was improperly done, with a view to charging those against whom a *prima facie* case is made, to court. The Commission's counsel will write the Inspector-General of Police to institute this investigation. The issue of investigation will be looked into only after the criminal proceedings.

PETITION NO. 264: PETITIONER: PRINCE JOHN I. MADUKASI

The petition was over the assassination of His Royal Highness, Eze John I Madakusi, and the subsequent failure of the Police to fully investigate the assassination. The petitioner, son of the deceased, is seeking an order from the Inspector-General of Police to set up a Special Squad to investigate the murder of the deceased, and, thereafter, prosecution of those behind the assassination of the Eze. The Police informed the Commission that some of the suspects questioned denied any knowledge of the killing. The Commission deplored the attitude of the Anambra State Ministry of Justice and the Police, stating that it was wrong for them to attempt to usurp the powers of the High Court. The Commission granted the prayer of the petitioner and ordered a reinvestigation. There were three admitted exhibits and two witnesses. The case was closed.

PETITION NO. 307: PETITIONER: UGOEZE FIDELIA AHUMIBE

The petition was over the unlawful assassination of Prince Emeka Ahumibe, brother of the petitioner, by men of the “*Operation Bang*”, Abia State. The petitioner was seeking an unspecified amount of monetary compensation for this killing. He also wants the culprits arrested and tried. It was explained in the course of deliberations that the deceased was killed by an Army officer, Gunner Hassim Ibrahim, who served at the 32nd Brigade, Obinze, and not a Police man.

In his response, the respondent claimed that he mistakenly shot the deceased, but his aim was to deflate the tyres of suspected criminals. He stated that the suspected criminals refused to stop when ordered to do so.

The Commission was informed that there was a pending charge against the culprit who shot the deceased, but the problem was that of handing him over to answer the murder charges prepared against him. The Commission handed over the suspect to the Director of Army Legal Services, and ordered him to further make him available to the Abia State High Court to answer the murder charge against him. Following this development, counsel to the petitioner applied to withdraw the petition. The application was granted, and the petition was struck out. Four exhibits were admitted.

PETITION NO. HRVIC 396: NNAEMEKA CYRIL OWOH

The issues in this petition were the execution of the brother of the petitioner (Bartholomew Azubuike Owoh) under a retroactive decree promulgated by the Buhari regime in 1984, whereas his brother was arrested in July 1983 ahead of that decree. The deceased was also denied the right to appeal against the judgment. The reliefs asked for

by the petitioner include: condemning the action and declaring that the trial and sentence of the Tribunal which sentenced him, and the Supreme Military Council that endorsed, it was repugnant to the rule of natural justice, equity and good conscience; and a gross violation of fundamental human rights of the deceased. A compensation of one billion Naira from the Federal Government is also being asked for. The respondent on his part explained that the deceased violated a decree with stiff penalty, and that retroactive decrees were in vogue then. The Commission demanded for the composition and proceedings of the minutes of the Supreme Military Council on the case for additional information. General Mohammodu Buhari was also expected to appear and shed more light.

At the third Abuja sitting where the case continued, the Commission was informed that the proceedings of the Supreme Military Council could not be found. Furthermore, General Mohammodu Buhari refused to appear before the Commission to shed more light on the case. The Chairman closed the case by asking for addresses within two weeks.

The Commission also permitted a counsel for *Interights*, London, to make an address. The counsel stated that this was a case of death through the use of the instrument of the state. He reiterated the fact that the deceased was arrested in 1983, tried and sentenced before the military took over power in December 1983. The backdating of Decree No. 20 of 1983 was responsible for the execution of the deceased, who would have been out of prison within six months were he was tried under the subsisting law when he was arrested. He described the act as indescribable negligence, willful murder which was wrongful and unlawful. He discussed extensively and cited many

legal authorities to back his stand. He gave the Commission some reference materials on the issue.

PETITION NO. 404: PETITIONER: LAZARUS J. OPARA

This petition was the case of an unlawful detention for eleven days, of Oji Oma by the Police at the Umuahia Central Police Station, leading to his death in detention. The petitioner alleged that the deceased was left to die because the family did not give the police the money they demanded. The petitioner demanded 50 million Naira compensation, and investigation of the circumstances surrounding the death of the deceased, as well as prosecution of the culprits. The Police Counsel argued that the arrest was lawful, but the prolonged detention was unlawful.

The Commission came to the conclusion that the duration of the detention made it unlawful, and that the particular Police officer responsible for that unlawful detention should take responsibility. The Commission advised the Police to go through their records in order to determine which officer was responsible for this illegal detention. Three exhibits were tendered and admitted. The case was closed.

PETITION NO. 409: PETITIONER: CHIEF THOMAS UDENCHUKWU IDU

The petitioner made a case for his late brother (Chief Emmanuel Idu) who was eliminated because of a chieftaincy dispute in their community. The deceased was said to have told his son, before he died, the names of those who shot him, and their sponsors. Those arrested and charged to court had been on bail for a year, and the case file was said to be missing. He believed there would be no justice.

The petitioner requested for Police protection for himself and members of his family.

The Chairman of the Commission directed the Police to give the petitioner protection. The Chairman noted that the case was already in court and so the Commission could not take it. However, the Commission would write the court to give accelerated hearing to the case. The Commission further advised the petitioner and his lawyer to explore the means of bringing about reconciliation between them and their adversaries. The case struck out because it was in court.

**PETITION NO. 427: PETITIONER: CHIEF B.O. BEREDUGO
AMBULE AND OTHERS FOR THE OKPAOMA/EWOAMA
COMMUNITY**

The petition was about the alleged violation of the human rights of the Okpoama community of Brass Local Government Area (LAG), Bayelsa State by the Armed Forces of the Federal Republic of Nigeria on January 4th 1999. The background was a community conflict between Okpaoma/Ewoama and Twon communities which occurred on 3 August 1998. The Armed Forces personnel guarding Agip installations were said to have attacked and devastated Okpaoma town, allegedly in support of the Bayelsa State Government, capitalising on the sour relationship between the rival communities. Agip Oil Company was accused of supporting the attack and providing logistical support to the soldiers. Agip Oil denied involvement in the attack on the communities.

The prayers of the petitioners were for the victims of the Okpoama/Ewoama communities to be given relief materials, and for a 100 million Naira compensation to be paid to the communities by Agip

Oil Company. Those who lost property are also to be compensated for physical, mental and psychological agony. In addition, Agip should be reprimanded; and a secondary school science laboratory destroyed during the fracas be rehabilitated. The case was closed in Enugu, and written addresses were asked for.

At the third Abuja sitting, however, the case continued with Col. Charles Omoregie, as third witness, testifying before the Commission. He insisted that as leader of the team charged with the internal security of Bayelsa State, he could not affirm that there was no attack on the Okpoama/Ewoama community. Rather, certain Ijaw youths were fond of attacking and sabotaging oil installations. He posited that the troops in the area were deployed to secure oil installations. A member of the Commission noted that learning from the Ogoni saga, the fact that the third witness was unaware of an attack does not necessarily mean that there wasn't one. Thirteen exhibits were tendered and admitted. The matter was closed, and written addresses asked for within two weeks.

PETITION NO. 474: PETITIONER: TIM AKPAREVA

This petition was filed by the National Association of Sea Dogs, alleging human rights abuses and torture to their members in Enugu and Port Harcourt. It cites the example of Ifeanyi Onochie who was arrested and detained along with others for eleven and half months. Other members in Port Harcourt were said to have been detained, tortured and flogged with horse whips, and their names were published in *The Guardian* newspapers. They were later taken to the Miscellaneous Offences Tribunal where they were discharged and acquitted, only to be re-arrested and arraigned before a High Court in Port Harcourt. The petitioner testified that the organization was

registered with branches worldwide. He added that the group was a social organization with safe and good objectives.

The reliefs sought include: the determination of the extent of the violation carried out against members of the Confraternity in Enugu and Port Harcourt, a public apology in a national daily to the group by the former Commissioner of Police in Rivers State, Abdulkadir Musa, and the release of the group's documents seized by the Police. In addition, the Police should be restrained from further harassing the members of the group. They should be paid 50 million naira for general damages.

Ifeanyi Onochie, who was the second witness, told the Commission that he was tortured at the Enugu barracks by daily whippings and made to roll on the floor in what the torturers referred to as "operation hot tea".

DSP Festus Nwamae spoke for the Rivers State Police Command, and as a representative of the Rivers State Panel of Inquiry on Secret Cults. He said the investigation of the cult activities of the petitioners was carried out by a joint team of the Army, SSS and the Police. He said the detainees were students of the Rivers State University of Science and Technology, Port Harcourt and the University of Port Harcourt. He added that apart from their confessing to being members of a secret cult, their initiation rites in the night, marked with bonfire, blood and other items, indicated they were cultists. A skull belonging to one of the petitioners named "Evil Surgeon", was said to have been impounded and submitted as an exhibit. The suspects had been provisionally charged before a Magistrate Court. Under cross examination, the third witness maintained that even though the

suspect from whom the skull was recovered was a medical student, the skull was not kept for study, adding that the University he attended disclaimed ownership of the skull. The third witness told the Commission that if the activities of the National Association of Sea Dogs were known to the Internal Affairs Ministry, it would not have registered the association. He further recommended that their registration be revoked and the members be tried in a court of law.

The Chairman addressed two issues. First was whether or not the rights of the suspects were violated. The second was whether such associations should be encouraged in the universities. He added that cult membership notwithstanding, suspects should not be tortured. The Chairman, in closing this case, asked for written addresses to be submitted on the following issues:

- a) Could the National Association of Sea Dogs be described as a secret society under the law?
- b) Could the Association be described as a cult vis-à-vis the evidence before the Commission?
- c) If both positions above are correct, could the accused be prosecuted?
- d) Suppose the accused were cultists, is it justified to torture them?
- e) Was the arrest of the suspects legal or not?
- f) Would the period of detention be justified under the law?

A total of 18 exhibits were tendered and admitted in this case.

PETITION NO. 564: PETITIONER: CHIEF GABRIEL MBANISI

The petitioner testified at the Commission through his son as a result of ill-health. Six exhibits were tendered and admitted. The case is about the murder of the son of the petitioner, Anthony Mbanisi, at the

Onitsha General Hospital on 11 November 2001 because he gave evidence against arsonists at Onitsha market at the Panel of Inquiry investigating the market fire episode. The suspects who were charged to court were later discharged and acquitted by a High Court under allegedly questionable circumstances. The petitioner has been trying to appeal, but the records of court proceedings could not be obtained. The court allegedly blocked access to the proceedings. The petitioner had written to the Minister of Justice about the case, and in reaction, got a writ of summons where the Chief Judge of Anambra State sued him for 30 million Naira for defamation of character. The prayer of the petitioner is for the investigation and prosecution of the culprits.

The Chief Registrar of the court had earlier declined to come to the Commission, claiming he knew nothing about the case and had no information to give the Commission. He later appeared and apologized. The Chairman had earlier directed that a bench warrant be issued to compel him to come. *(Witnesses absent. Case adjourned to 3rd May, but absent from records).*

PETITION NO. 594: PETITIONER: ERIC MBADUGHU

The petition was against the illegal invasion of the residence of the petitioner on the 3rd of February by one Captain Zubairu, then leader of “Operation Storm”, Imo State, along with his “boys”. He explained that the soldiers stripped him naked and beat him after shooting his friend (Mike Naze) in the house. Mike Naze narrowly survived after some major operations and was still receiving treatment at the time the petition was being heard in Enugu. The petitioner added that he passed out when he was being beaten, and has since then been having intermittent blackouts and serious headaches. They later arrested and illegally detained him for five weeks at the 34 Artillery Brigade

barracks, Obinze. The petitioner claimed that he lost valuables during the assault, among them cash, electronics, travelling documents, and jewelry. The petitioner's prayers include a redress of the violation of his human dignity, and an unspecified amount in compensation.

PETITION NO. 720: PETITIONER: COMRADE EMEKA UMEH

This was a case of a man, Paul Adibe, said to have been killed in Police custody as a result of alleged torture by the Police in Awka. The father of the deceased and the Civil Liberties Organization (CLO) were the principal witnesses.

The Police counsel explained that the deceased was arrested and charged to court, but took ill and died of cerebral malaria. He said the Police obtained two separate medical reports to establish the cause of the death. The Commission wanted the petitioners to establish that the deceased died as a result of torture. Counsel to the petitioner was permitted to produce an amended version of his petition as he had requested. The case was later adjourned to the next Abuja sitting. There, the doctor who conducted the autopsy responded in writing. He attributed the death to cerebral lesions in the head, possibly caused by tear gassing. The Chairman concluded that the autopsy was not enough evidence on which to charge the Police. He called for addresses to be submitted by counsels within three weeks. Three exhibits were admitted.

PETITION NO. 848: PETITIONER: MRS. UCHAA IRO OLUA

The subject of the petition was the mysterious death of Iro Olua on January 1 1999. The petitioner prayed for investigation and justice. The Commission was informed that the case was in court, and that two of the suspects were military personnel, and there was difficulty

apprehending them. The Commission directed that the Chief of Army Staff be written to produce the two military suspects on 3 May 2001. The Solicitor-General of Abia State and counsel to the Commission were to liaise with the relevant High Court to get concrete facts on the case.

PETITION NO. 859: PETITIONER: MRS. UZOMA EZIKPE

The case was one of acid attack against the son of the petitioner, Rev. Ogba Okoro Ezikpe, which eventually led to his death. The deceased identified and named the attackers and their sponsors. They were arrested, but the influence of their sponsors stagnated the case. The Inspector-General of Police waded into the matter and fresh investigations were conducted, but the sponsors have made it impossible for the case to see the light of the day.

The reliefs sought include: that the Police confirm the outcome of the investigations; the Director of Public Prosecution of Abia State be compelled to say what had been done to bring about justice; and culprits be re-arrested and prosecuted. In addition, a grant of 500 million Naira compensation from the state, police protection for the petitioner's family, and an order that the suspects should be compelled to respect peoples' rights.

The Chairman directed the Police to give protection to the petitioner and her family. The Commission was informed that the case was pending in the Ohafia High Court. The Director of Public Prosecution, Abia State also stated that in view of the discovery that the victim died, the case would be re-filed in the court. The attackers are to be arrested and charged with murder and the case is to be tried before

the Abia State High Court. The Commission ordered that it should be kept posted of developments in this case.

PETITION NO. 1599: PETITIONER: INSPECTOR LEONARD AKPAN INWANG

This was a petition against dismissal of the petitioner from the Nigeria Police. The petitioner prayed for 5 million naira compensation from SP Joseph Effiong, 10 million naira from Zakari Biu, and 300 million naira from the Federal Government. Counsel to the Commission alerted the Commission that the prayers of the petitioner were outside the terms of reference of the Commission. Counsel to the Police agreed. In addition, the case was pending in court. The petitioner requested to read his petition and amend his prayers. The Chairman accepted the observations of the Commission's counsel, and struck out the case.

PETITION NO. HRVIC 1648: BEN NWABUEZE AND OTHERS (OHANEZE NDI-IGBO)

This was one of the most celebrated cases before the Commission. It was a petition by Professor Ben Nwabueze and others, on behalf of *Ohaneze Ndi-Igbo*. The hearing was also one of the longest. It started at Enugu and terminated at the third Abuja sitting. The case was well-represented by counsel, and towards the end, it brought in responses from other parties mentioned in the petition, as well as others who though not mentioned, wished to react to some of the issues raised in the petition. There were 35 witnesses in this case. A total of 151 exhibits were tendered and admitted in this petition.

The crux of the *Ohaneze Ndi-Igbo* petition was the felt marginalisation of the Igbos, atrocities alleged to have been committed against them

from 1966 to 1999, and, therefore, the violations of the human and civil rights of *Ndi-Igbo* in the Nigerian Federation from 1966-1999. These include: marginalization in the polity, violation of Igbo rights before the civil war, alleged genocide against Igbos, territorial dismemberment which split and fragmented Igbos into non-Igbo states through states creation from 1967, and war crimes committed against Igbos during the Nigerian Civil War. The petition also alleged social strangulation through mass dismissal of Igbos from the public service, economic strangulation via the denial of pre-war savings and the policy on abandoned properties, and political strangulation through the manipulation of demographic figures which exclude the *Ndi-Igbo* from key political offices. Igbos are also said to be denied social infrastructures and are victims of inequitable resource transfers. The petitioners referred to the several riots in all parts of Nigeria which targeted Igbos and their property for destruction. The *Ndi-Igbo* petition sought the following reliefs:

- a) Public apology to the Ndi-Igbo
- b) Prosecution of the perpetrators of war crimes during the civil war
- c) Payment of accumulated salaries and allowances from May 1966
- d) to 1970, as well as N100,000 per person for inconveniences suffered by Igbos displaced from their jobs
- e) Construction of schools, churches and hospitals, etc., in Igbo states
- f) Restoration of bank accounts, with interest, of the Igbos who had been operating such accounts as at 29th May 1967
- g) Restoration of all Igboland carved into Rivers and Akwa Ibom states

- h) Implementation of all reports of Commission of Inquiry into all ethnic riots affecting the *Ndi-Igbo* in Nigeria between 1980 and 1999
- i) Compensation for the discrimination in the implementation of the PTF programme in the South-East zone by providing necessary infrastructure in the zone, commensurate with the provision in other geo-political zones
- j) Appointment of *Ndi-Igbo* in key government positions to reflect the Federal Character principle
- k) The reversal of the discriminatory citing of federal industries to the disadvantage of the *Ndi-Igbo*

Monetary compensation of **N8,680,150,000,000**.

Among the many witnesses in the *Ohaneze* petition were former Ministers of the Federal Republic of Nigeria, retired justices, retired Professors, retired Army officers and civil war veterans, lawyers, Bishops, Prison Officers, etc. By the end of the Enugu sitting, 24 witnesses had testified in this petition with 39 exhibits admitted. There was much discussion of the 1966 coup and the events which followed, leading to the civil war and afterwards.

Within the *Ohaneze* petition, witnesses made other separate prayers. They include:

- i) Third witness, Ben Gbulie, a former military officer alleged to be one of the key actors in the planning and execution of the 15 January 1966 coup, prayed for rehabilitation,
- ii) Fourth witness, Patrick Anwuna, a retired Colonel, prayed for restoration of his rank and promotion to the rank of

General as his course mates and payment of his salary arrears and other entitlements.

- iii) Sixteenth witness, Barrister Ukpabi, prayed that the Federal Government acquires land in Port Harcourt to build and resettle Aro- Ikwere displacees from the civil war, pay them compensation, and provide farmland for them.
- iv) Twenty-fourth witness, Emeka Onyinwe, prayed that disabled war veterans (like him) should be reintegrated into the wider society through proper rehabilitation, as they presently share a camp with leprosy patients.
- v) The case of Gideon Akaluka, who was beheaded in Kano was brought by the 9th and 10th witnesses.

They prayed for monetary compensation to the family, and the summoning of two persons from Kano relevant to the case. The Commission accepted the latter.

Abandoned property of Igbos from the war was a main highlight in the testimony of the witnesses. The Commission decided it would use the case of the 7th witness, Mrs. Cecilia Ekeme Obioha as representing others on the issue, making it unnecessary for witnesses with similar cases to testify.

At the end of the Enugu sitting, the Commission requested all lawyers involved with the petition to prepare briefs on the case. It was adjourned to the next Abuja sitting.

At the second and third Abuja sittings, the case became enlarged and extended as there were new parties responding to the *Ohaneze Ndi-Igbo* petition, namely the Arewa Consultative Forum (ACF), Joint

Action Committee of the Middle Belt (JACOM) Rivers State Government, the Ogbakor Ikwere Convention and the South-South Consultative Forum. All of them insisted that the Commission should give them time to respond to the *Ohaneze* petition because it is central to the history of Nigeria and bringing out the truth will enhance reconciliation, which the Commission sought to achieve. Individual respondents to the *Ohaneze* petition include General Yakubu Gowon, Alhaji M.D. Yusuf, Alhaji Shehu Shagari, Alhaji Maitama Sule and Alhaji Inuwa Wada.

The **Rivers State Government**, represented by counsel, was at the Commission to respond to the issue of abandoned properties in the state. The government stated that the issue of abandoned properties was covered by a law (Rivers State Edict No. 8 of 1969) which provides that the action cannot be contested by any court or tribunal. The Chairman then requested the government to brief the Commission on the issues in contention.

Third witness, Ben Gbulie, was cross-examined by the ACF counsel on the January 1966 coup and the dominance of Igbo officers in that coup, the structure of the coup, the civil war, and marginalization of Igbos in Nigeria. He was also cross-examined by counsel to JACOM on the January 1966 coup and the alleged massacres in Tiv land. Counsel to Rivers State Government also cross-examined the witness on marginalisation of minorities in Nigeria.

The **Arewa Consultative Forum (ACF)** explained that it came to the Commission because of allegations against it by the *Ohaneze*, and that had the Federal Government responded to the petition, the ACF would not have bothered to come. ACF responded to the *Ohaneze* petition in

writing. Lead counsel to the ACF told the Commission that the Igbos had an agenda of dominating Nigeria, and the January 15, 1966 coup was part of this agenda. He asserted that there was no pogrom in the north and that General Yakubu Gowon's attempt to stabilise the country was frustrated by then Colonel Ojukwu. Arewa is of the opinion that the 1966 coup was an Igbo coup targeted against northern leaders, a charge denied by Igbo representatives. He added that the Arabic insignia on the cap badge of Nigerian soldiers had both Christian and Islamic roots, and was crafted by the military. He disclosed that Gideon Akaluka's action in Kano was provocative, and that over 20 northerners were arrested and extra-judicially executed in connection with this issue; and that no amount of monetary compensation could compensate the North for the murder of its leaders, both military and civilian, in the 1966 coup. Finally, he announced that reconciliatory moves have been made towards the ACF, and that ACF was responding positively. The submission of the ACF was that the Igbos was not marginalized. Rather, based on documentary evidence showing the distribution of senior positions in the Nigerian public service, it was the north that was marginalized.

The Kano State Commissioner of Police was represented at the Commission by ASP Ikechukwu Nwosu, who came to answer questions about the death of Gideon Akaluka. The State Command explained that before they could investigate the murder, the case was taken over by Force Criminal Investigations Department (CID) Lagos, and nobody could be charged in connection with it.

The **Middle Belt** petition was about marginalization. It stated that there was collective human rights abuses and dehumanizing treatment meted out to the people of the area. It added that Middle

Belt men constituted the bulk of the West African Frontier Force, the Nigerian contingent to the Second World War and to peace keeping missions, as well as the Nigerian Civil War. It noted that 60% of the Nigerian Army as at 1970 was made up of Tiv men, with the Middle Belt accounting for 80%. It drew attention to the Tiv crisis of 1960-64, when troops sent by the Northern Peoples' Congress (NPC) decimated Tiv land through the use of maximum force. The petition complained about the marginalization of the Middle Belt through systematic neglect and impoverishment, which left about 90% of the people living below the poverty line. It added that there was a systematic Islamisation of the area even though it is mainly Christian, and alleged that Middle Belt officers were denied promotions. The petition complained about the killing of Middle Belters in riots, and the reluctance to exploit resources in the Middle Belt, including oil. The petitioners came with a map of the Middle Belt as understood by them, and argued that the creation of states had not resolved the Middle Belt question. They sought to clarify that the Middle Belt, often lumped with the north, did not marginalize the *Ndi-Igbo* since the region was itself marginalized.

The prayers of the Middle Belt include: an identity of their own, stressing they were not part of the north. They also want a 3-trillion naira compensation to Middle Belters who fought in the civil war, reinstatement of Middle Belt soldiers who were stripped of their ranks and retired from the Army, and payment of their emoluments up to date. Furthermore, Middle Belters who lost their lives in riots in the north should be compensated to the tune of 5 trillion naira; a withdrawal of Nigeria from the Organization of Islamic Conference (OIC); and the restructuring of the country to meet the needs of Middle Belters.

The **Ogbakor Ikwere** in Rivers State also responded to the *Ohaneze* petition. They disclosed that their grouse was with the *Ohaneze*, and not the entire Igbo people as such. The petition stated that the rights of Ikweres had been violated by Igbos, and that the Aros (Igbos) were settlers and not indigenes of Ikwere. It added that the Igbos used their position in the then Eastern Region to marginalize, and colonize the Ikweres into abject poverty, disease and death. In addition, Aros allegedly spear-headed the ethnic cleansing which decimated Ikweres. In the First Republic, Igbos allegedly monopolized scholarships, admission, employments and contract awards. The Ikweres were shocked that ironically, Igbos in turn complained of marginalization, adding that such a lack of vision by the Igbos contributed to the Nigerian Civil War.

The prayers of the Ikweres were that: the Commission should facilitate the payment of 500 million Naira to the Ikweres for the loss of 5,143 lives and 2,537 houses, and the dehumanization of the Ikweres by the *Ndi-Igbo*; as well as a rent of 150 million Naira from the Aros as rent for occupying the Igbuta school and church premises. The 33rd witness maintained that the Rivers State Government had paid full compensation to Igbos with proven claims on abandoned properties.

There was another memorandum from the **South-South Zone**, presented by Bright Niemogha. The memo argued that the people of the zone were used as pawns during the civil war, in a fight of the big three ethnic groups in Nigeria. The sole objective of the civil war, according to this submission, was the control of the resources of the South-South zone. The memo alleged that Col. Emeka Ojukwu and

Chief Obafemi Awolowo had agreed before the civil war, to share the Niger-Delta between the Republic of Biafra and Republic of Oduduwa.

The prayers of the South-South presented before the Commission include the following:

- a) Payment of reparations to the people of the South-South zone as a result of losses from the civil war;
- b) Niger Delta should be allowed to control its resources;
- c) Reparation to the tune of 50% of the resources exploited from the Niger Delta from 1967 to date;
- d) The inclusion of the continental shelve to the states where they relate in computing their derivation entitlements; and
- e) A compensation of 20 billion naira for the damages and deprivations done to the area over the years.

Afenifere was the next respondent to the *Ohaneze* petition. They opined that Nigeria had persecuted the Yorubas over the years. They pointed out that that they were responding to the invitation of the Chairman of the Commission to submit a petition, and to straighten records where other respondents had mentioned them.

The grievances of the Yoruba, according to them, include the declaration of a state of emergency in Yorubaland on 25 May 1965; the aftermath of the 1966 coup; the emergence of General Yakubu Gowon as Head of State over his Yoruba seniors; the annulment of June 12 1993 election results; and the detention of Yoruba people which followed; the bombing, acid attacks and assassination of Kudirat Abiola. Others are the arrest of Pa Michael Ajasin who never recovered as a result of his brutalization; the marginalization of the Yoruba in all facets of Nigeria; and the presence of the Islamic logo on the N20

currency note. They also complained about the fact that no Yoruba man ever headed the Nigeria Security, Printing and Minting Company and nine other government ministries and parastatals, and the incursion of the north into Yoruba land in Kwara and Kogi States. Counsel to ACF put it to the presenter of the *Afenifere* petition (35th witness) that based on positions occupied by the Yoruba in the Federal Government and its agencies, as shown by documentary evidence, they were not marginalized.

The prayer of the Yoruba was for a Sovereign National Conference to be convened for all ethnic nationalities to air their grievances and set the foundation for a solid Nigeria based on true federalism.

This case came to a close following the *Afenifere* response on 11 October 2001. The Chairman requested lawyers to consider all the points and arguments that have been made in this case, and try to identify common grounds. He remarked that “once it can be established that Nigeria is our country and we are all Nigerians, then our greatest enemy is ethnicity.” This problem was traced to the country’s colonial roots and the divide-and-rule tactics of colonialists. He appealed to counsels to invent ways of turning the sectional groups into Nigerians, and decried that nobody was complaining of being marginalized as a Nigerian, but as an ethnic group. Counsel should brainstorm and provide answers as to what should be done to redeem the situation. Addresses of Counsel should be submitted within six weeks.

PETITION NO. 1653: PETITIONER: A.G.E. NWACHUKWU (IDU WEST AUTONOMOUS COMMUNITY)

The petition was about the destruction of property, arson and the detention of some members of the Idu community by the Police, in collusion with some indigenes of that community. There was a prayer for the investigation and prosecution of the culprits. The case was struck out because the petitioner was absent, even though he was personally served with the order to appear before the Commission. This was with leave to re-list if need be.

PETITION NO. 1673: PETITIONER: O.E. OMENE (JESSE ADVANCEMENT MOVEMENT)

The petition was about the Jesse fire disaster of 17 October 1998, arising from oil spillage and fire explosion from Nigeria National Petroleum Corporation (NNPC) pipes. None of the witnesses testified in Enugu where the case was listed, and so it was adjourned to Abuja. Counsel to the petitioner was advised at Enugu to amend the petition to fall within the terms of reference of the Commission. He had not done so by the time the case came to the third Abuja, and he instead wanted to amend it during his presentation. The Commission ruled against this, and the case was struck out, but with permission to re-list.

PETITION NO. 1685: PETITIONER: MR. ONUOHA U. UKPO (FOR AMAEKE ITEM DEVELOPMENT UNION)

The petitioner wrote on behalf of himself and his town development union of Ameke Item. The petition is about trauma, looting, arson and murder caused by attacks from the Federal Troops during the civil war, specifically 5 January 1970. The petition stated that the village was destroyed by men of the 26th Battalion of the Nigerian Army, and

over 400 people killed, including men, women and children. The people were first deceived and lured into a meeting at the village square, after which the soldiers killed them. The prayers of the petitioner include the following:

- a) N4,455,000,000 as damages for the 485 houses destroyed, at N3 million per house
- b) N2,000,000,000 as damages for properties destroyed
- c) N8,000,000,000 as damages for the 400 lives that were lost
- d) N3,545,000,000 as general damages.

A second witness from the community, Chidi Ikwuagwu Abali, also made personal claims based on personal injury suffered, and loss of property. His prayer was for the release of his properties in Port Harcourt and compensation in line with his petition.

In closing this case, the Chairman noted that it should have been presented along with the *Ohaneze* petition. The case was closed, and counsel asked to present their addresses at Abuja.

PETITION NO. 1714: PETITIONER: MR. AND MRS. S. O. NWADINOBI

This petition had to do with the killing of Ikechi Nwadinobi Jr., son of the petitioner, at Enugu on 24 February 1994. The deceased, according to the father, was a student at the Abia State University. He added that the Police report, which he described as full of lies, has suggested that his son was an armed robber, but he rejects the claim. He queried why the son was shot at close range with the bullets piercing from his frontal view to the back. He said he wrote to the Inspector-General of Police and other relevant persons, but the letters were never replied. The prayers of the petitioner were for the Police to

re-investigate the case, apologize to him, and pay him adequate compensation.

The Police response from its earlier investigation posited that the deceased was a suspected armed robber who was found to be in possession of some weapons. He was said to have been shot by the Police in an attempt to escape. However, A.S.P. Okpe who testified for the Police at the Commission (as third witness) hinted that on the day of the incident, a car approached the police with full speed. It was stopped on routine search, but the vehicle refused to stop. When the passengers were ordered to disembark, only two of them submitted themselves for search, while the other three refused to be searched. One of them reportedly opened fire on the policemen. The police also opened fire from about two poles away, and killed three of the passengers in the car. The police added that after the exchange of fire arms were recovered from the car and taken to the Police Station.

The Commission asked for written addresses from Counsel within one week. 18 exhibits were tendered and admitted, and 3 witnesses testified.

PETITION NO. 1751: PETITIONER: ENGINEER AKUZU NWOKEDI

The petitioner informed the Commission that his petition was a corroboration of the *Ohaneze* petition. His prayer was that the post war policy of rehabilitation, reconstruction and reconciliation should be implemented in earnest. The issues will be considered along with petition No. HRVIC 1648. Case closed.

PETITION NO. 1772: PETITIONER: FRANCIS EDE AND CHUKWUMA MBA

The Commission, the petitioner and the Police Force were all represented by counsel. Fourteen exhibits were tendered and admitted. The subject-matter of this petition is that the two petitioners were unlawfully arrested, detained and tortured on trumped up charges that they intended, as members of National Democratic Coalition (NADECO), to bomb the NNPC depot at Ejigbo in Lagos. They were allegedly pressurized into signing prepared statements which implicated them and other Nigerians. They were in detention for eight months before they were charged to the Miscellaneous Tribunal. The petitioners lost family members as a result of shocks from their arrest. One petitioner claimed to have lost his manhood from an injection administered on him in detention by the Police. Relief sought is a 150-million naira compensation as damages caused. Counsel to the Police tendered reports of the Police investigations conducted. The case was closed at this point.

PETITION NO. 1778: PETITIONER: UMODE COMMUNITY

The petition was about violations of the rights of the Umuode community by the Orukus, both in Nkanu East LGA of Enugu State. The Umuodes alleged discrimination against them, ostracization and displacement of members of their community from their ancestral home based on the OSU caste system in Igboland. This was perpetrated by the Orukus. The petitioners were given a new homeland in 1999, only to be attacked, killed and driven out again by their new neighbours.

The petitioners prayed that the Commission should help guarantee their fundamental rights as citizens of Nigeria by ensuring a

resumption of the murder trials, which had been suspended, of suspects; payment of compensation of 5 billion Naira for violations they suffered; proper investigations of atrocities committed against their people; and stoppage of continuous killing of their people. In addition, government should provide adequate shelter for those displaced, while those who are refugees should be resettled.

The counsel and traditional rulers of the parties in this dispute were assigned to work towards reconciliation. The progress made on the case before it was brought before the Commission, was the offer of Abali land to the Umodes by the Orukus. The Igwes also came to the Commission to announce the outcome of their meeting. However, the land on offer was undoubtedly in dispute, as three different parties came to the Commission, represented by counsel, to argue that the land did not belong to the Orukus, nor did the Igwes have authority over it. The land had been a subject of litigation. The Commission appealed to the parties to be considerate in finding a solution, rather than insisting on the legality of the issue. Finally, counsel to the parties announced that they were still holding negotiations. The Commission asked them to go ahead with such talks and then report to it afterwards.

At the second Abuja, it became evident that there was no headway in the attempt by the counsel to work out a settlement in this case as agreed at Enugu as no meeting was held. The Committee resolved that since the two communities could not resolve the outstanding issues, the case was stood down and closed. Counsels were requested to submit written addresses to the Commission. Five exhibits were tendered and admitted.

6.5 **PLACARD CARRYING CHILDREN**

While the Thomas Idu case (petition 409) was being considered, the Chairman took note of four children carrying placards in the audience. He invited them to state their grievances. The children led by their father, claimed they were being persecuted, and they had written to the Commission. However, their case was not slated for hearing. The Chairman directed counsel to the Commission to include it.

CLOSING

6.6 The Enugu sitting came to an end on the 8th of May 2001. The victims of the Nigerian Civil War at the Orji River Rehabilitation Home came to the Commission to re-present their petition which they had earlier been requested to reduce to writing. It was accepted by the Commission. The Commission is to study their submission with a view to making recommendations.

6.7 The Chairman of the Nigeria Bar Association, Enugu State, made some remarks, thanking the Commission for doing a good job. He used the opportunity to call on the law courts to borrow a leaf from the volume of work which the Commission did within the period.

6.8 The Chairman of the Commission also thanked the Enugu State Government, the press, the security agencies, members of the Commission, and the public for the support given to the Commission. Members of the press were also permitted to ask questions. There were questions about the case of the Umode community and whether or not the Commission was satisfied. The Chairman responded to the effect that it was prejudicial, since the issues were being discussed by the parties.

CHAPTER SEVEN

ABUJA II

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INTRODUCTION

7.1 During the Commission's public sittings in the various zones across the country, a good number of petitions were not concluded in the zones they were originally listed for hearing. Even The effort of the Commission in extending periods of its sittings in some of the zones with the hope of, at least, concluding hearings in respect of all part-heard petitions in each zone did not improve the position either. Part of the reason for this is the growing public interest in the work of the Commission, culminating in the desire by witnesses (comprising both petitioner and those individuals or institutions petitioned against) to present their claims and responses

in accordance with the due process of law, often with the assistance of their lawyers.

7.2 As at the 8th of May 2001 when the Commission concluded its last zonal sitting in Enugu, the Commission had a total number of 103 petitions yet to be concluded. The Commission had to adjourn these part-heard petitions for continuation of hearings at Abuja, hence, the second Abuja sitting.

7.3 This hearing commenced in Abuja on Monday the 25th of June 2001 with a total number of 112 petitions listed for hearing. This number excludes the special hearings with relevant government institutions and Commission's researchers. The second Abuja sitting was programmed to end on the 31st of July, 2001 and also to signal the end of the Commission's public hearings of petitions relating to the gross violation of Human Rights committed in Nigeria between January, 1966 and May 1999.

7.4 However, the Commission could not conclude the public hearings on the 31st of July 2001 as planned for two main reasons. First, the Commission had to adjourn the hearing of some petitions '*Sine die*' or indefinitely to enable some key and vital witnesses appear before the commission on a more convenient date. Second, the Commission proceeded on break on the 27th of July, 2001 to enable the Commission attend a conference in London and also to enable the lawyers representing the various witnesses participate in the annual Nigeria Bar Conference in Calabar, Cross River State.

7.5 Although the Commission subsequently reconvened on Monday, the 23rd of September 2001, this segment of the report only

covers the period of the Commission's sittings in Abuja from the 25th of June, 2001 to the 26th of July, 2001. During this period, about 112 petitions were presented before the Commission.

7.6 Out of this number, about 15 petitions were struck-out from the Commission's hearing lists. The Commission also concluded hearings in respect of about 32 petitions and adjourned about 67 of petitions for continuation of hearing, which was finally done at the third Abuja session.

PETITION NO 654: PETITIONER: CHIEF YOMI TOKOYA

FACTS: The petitioner filed a petition dated 22/7/99 alleging that he was unlawfully arrested, detained, tortured and thoroughly humiliated by some former and serving public officers/soldiers under the defunct late General Sani Abacha regime in connection with the alleged coup of December, 1997. He further alleged that his properties were in the process looted and vandalised while the sum of two thousand naira was stolen from the booth of his car. The petitioner specifically named Lt. Gen. Ishaya R. Bamaiyi, Air-Vice Marshal Idi Musa, Majors-General Patrick Aziza, and Bashir Magashi, Alhaji Ismaila Gwarzo, Ambassador Zakari Ibrahim, Brig-Gen Ibrahim Sabo, Col. Frank Omenka, Majors Hamza Al-Mustapha and Adamu Argungu, Alhaji Mohammed Doba, Captain Laman, Lt. I Ibrahim Lt. Sabiu Dagari, Sgt. Barnabas Jabilla a.k.a Sgt. Rogers, L/c. Gani Mohammed and W/O Hassan Baba as being collectively and individually responsible for the violations of his fundamental human rights. To buttress his allegations, he referred the Commission to the proceedings and report of a Board of Inquiry headed by one Group Captain S. Disu which was set up by General Abdulsalami Salami

Abubakar to investigate all allegations of looting and vandalisation of properties of those of December 1997 by some security operatives.

Evidence during Hearing

On the 27th of June 2001 when the petition was fixed for hearing, the petitioner was absent and was also not represented by counsel. He, however, sent a letter dated 22/6/01 informing the Commission that he is now a born-again Christian and has decided to put the past behind him by forgiving all those responsible for his ordeal and predicament. He accordingly requested to withdraw his petition against all those he named as being responsible for the abuse of his rights.

This request was vehemently opposed by all, except one counsel representing all those that allegedly violated the petitioner's rights on the ground that the petitioner has, through his petition, wilfully and gravely defamed his clients before the Nigerian public. He accordingly requested the Commission to give his clients the opportunity to present their respective responses to the petitioner's damaging allegations. The Commission after a very long deliberation reluctantly acceded to this request and directed all those named by the petitioner to present their responses in the overall interest of justice.

The Commission's counsel first presented the petitioner's petition which was admitted in evidence as Exhibit 1 while the controversial letter requesting for the withdrawal of the petition was admitted as Exhibit 2. In his own response, Major Hamza Al-Mustapha tendered six exhibits and gave graphic details of how he came to know the petitioner through the late General Sani Abacha during the Interim National Government of Chief Ernest Shonekan.

Recalling the antecedents of the petitioner, Major Al-Mustapha described him as a notorious security informant whose singular objective is just to make money by whatever means through praise-singing and undue association, with any government in power, right from General Ibrahim Babangida to date.

He stated that the petitioner was previously sending constant security reports of several coup plots by Lt. General Oladipo Diya and his group to late General Sani Abacha. The witness, however, observed that the petitioner started having problems with the regime of late General Sani Abacha when he could not get money which the late General promised him through the then National Security Adviser, Alhaji Ismaila Gwarzo. From thence on, the petitioner began a systemic campaign against the then National Security Adviser and was in the process easily recruited by Lt. Gen. Sani Abacha which subsequently led to his involvement in the alleged coup plot of December, 1997.

On the issue of the petitioner's arrest, detention and trial, Major Al-Mustapha stated that the then Chief of Defence Staff and former Head of State, General A.A. Abubakar was the convening authority at the time and was accordingly responsible for that. The witness noted that he was not even allowed to appear before the Disu Panel which was referred to by the petitioner, despite his efforts and insistence. The witness finally advised that people in government should not be like the petitioner whose stock-in-trade is to promote hatred and vengeance between successive governments just for their own personal gains.

The second witness Brig.-Gen. Ibrahim A. Sabo described the petitioner as someone who lacks integrity and is highly addicted to money. He denied the allegations of the petitioner stating that he only became aware of his arrest on the day he was arraigned before the Special Military Tribunal in Jos. The witness tendered Six Exhibits to show that the petitioner initiated the campaign for the self-succession bid of late General Sani Abacha and sustained same mainly for monetary benefits.

Following the damaging allegations of Major Al-Mustapha and Brig-Gen Ibrahim Sabo, the petitioner subsequently appeared before the Commission and gave evidence describing both witnesses as habitual liars. He described Al-Mustapha in particular as an unrepentant sadist. He tendered his written response to the allegations made against him and also nineteen different pamphlets and other publications to prove his revolutionary zeal and political record. He admitted that he supported previous administrations. He rejected the appellation of a patron of '*Any Government in Power (AGIP)*', emphasising that it is on record that he was a critic of both Generals Gowon and Obasanjo military regimes for which he was arrested and detained by security agents.

Under cross-examination, he admitted that he was the former Chairman of Nyanya Community Bank but denied having any criminal records for financial impropriety. He, however, stated that he removed the former manager of the bank because she had a psychiatric problem and was taking sides with disgruntled members of the Board of Directors. The petitioner admitted that he supported the late General Sani Abacha regime in different ways but explained that he did that in the overall interest of the nation.

PETITION NO. 1328: PETITIONER: PROFESSOR FEMI ODEKUNLE

The petitioner was a Special Adviser and Chairman, Advisory Committee on Socio-political and Economic Matters to the then Chief of General Staff, Lt. Gen. Oladipo Diya when he was arrested in his residence at about 3.30am on the 21st of December 1997 in connection with the alleged coup plot of December 1997 on the orders of Major Hamza Al-Mustapha. He alleged that he was severely beaten and brutalised by hooded security operatives who bundled him into a vehicle and took him to Aso Rock in the early hours of that morning. At Aso Rock, he was again severally beaten from all conceivable directions, with boots, fists and gun-butts. The petitioner further alleged that Alhaji Mohammed Abacha, the second son of the late Head of State, General Sani Abacha, came into the scene and started torturing him with an electric prod while one of the security operatives doused him with cold water in the early morning harmattan. He was first detained at Gado Nasko Barracks from where he was moved to Jos prisons with leg chains and subsequently arraigned before the Special Military Tribunal headed by Gen.Victor Malu. At the conclusion of the trial, the petitioner was discharged and acquitted on each of the two separate charges against him but was not released until two and half months after his acquittal. The petitioner named Major Hamza Al-Mustapha, Alhaji Mohammed Abacha, Major Adamu Argungu and the Nigerian Army for being directly responsible for the violation of his fundamental rights. He accordingly urged the Commission to recommend:

- i. Prosecution of all those responsible for his underserved suffering.
- ii. Compensation for the violations of his and his family's rights which suffered while he was in detention.

- iii. Return of all properties documents, money and valuables illegally impounded/stolen from his house by security operatives.

Evidence during Public Hearing:

During the public hearing of the petition on the 27th of June, 2001, senior counsel representing Alhaji Mohammed Abacha notified the Commission that his client has obtained an injunctive order from the Federal High Court, Abuja, restraining the Commission from hearing any aspect of the petition involving or affecting Mohammed Abacha pending the determination of the substantive suit. The senior counsel read out the relevant portions of the courts order and accordingly requested the Commission to suspend proceedings in relation to any complaints against Alhaji Mohammed Abacha. The Commission acceded to the senior counsel's request, emphasising that the Commission is bound to comply with a specific order of court. The Commission while sympathising with the petitioner, directed him to present his petition without reference to any human rights violations he suffered in the hands of Alhaji Mohammed Abacha.

The petitioner testified as the first witness. He identified his petition dated 30/7/99, which was admitted in evidence and marked as Exhibit 1. In his evidence-in-chief during the public hearing, the petitioner identified his petition which was tendered and admitted in evidence as Exhibit 1. He read the petition and recounted how he physically and emotionally broke down before Major Mustapha and later Colonel Frank Omenka when he enquired to know about the conditions of his wife and children. He remarked that the special torture sessions and ordeals he experienced in the hands of Sergeant Rogers while in Jos prison resulted in the high blood pressure he has

today. The petitioner tendered a picture, which was admitted in evidence as Exhibit 2 to show his terrible physical condition immediately after his release from prison. He also tendered a report of a brain scan he did in London after his release, which established that he received serious brain injury. This report was admitted as Exhibit 3 while the x-ray itself was produced and sighted by the Commission. The petitioner repeatedly lamented the mental and agonising tortures his family members went through in the hands of the security operatives, the severe restriction of their movements without visitation by family members, the detention of his wife for one day and the fabrication of charges against him before the General Victor Malu Tribunal. Commenting on the impact of torture on him, the petitioner stated that 'torture' is not just physical but is equally mental, social and psychological. He emphasised that the impact is not limited to the person directly tortured but extends to his family, his wife, children and even friends, noting that the effect and duration is life-lasting.

The petitioner further called two witnesses, to corroborate his evidence. First was his wife, Mrs Rukiat Odekunle, who recounted the ordeals of her husband on the date of his arrest, her anguish and the sufferings of her children, the uncertainty as to the whereabouts of her husband, the restrictions of movement of family members without visitors, the trial and acquittal of her husband and his subsequent release after spending seven months in detention. Both the petitioner and his wife were not cross-examined by counsel to Major Al-Mustapha.

The third witness, DSP Isaiah Adebowale, a State Security Service operatives and a Chief Detail to the then Chief of General Staff, Lt.

Gen. Oladipo Diya, also gave evidence confirming that the petitioner was tortured in his presence by security men. On his part, Major Hamza Al-Mustapha gave evidence explaining the reason and circumstance of the petitioner's arrest, detention and experiences in Jos in connection with the coup plot of December, 1997. While apologising to the petitioner and his family for the sufferings they went through, he maintained that he never ordered anybody to torture him even though he witnessed the torture himself. He explained that the situation at Aso Rock Villa at the time of the torture was tense and confusing as everybody was eager to show or prove that he was not a party to the coup plot, hence the general beatings by security agents of those arrested in connection with the coup plot. He linked the petitioner's arrest to an incriminating memo he wrote in 1995 against the government of late General Sani Abacha, his diary of events against the government and himself potential list of ambassadors to be appointed after the change of government with him as the Minister of Foreign Affairs. Under cross-examination, he stated that the petitioner could not be prosecuted successfully because of the interception of necessary incriminating documents by the then Chief of Defence Staff, General Abdulsalami Abubakar, emphasising that General Abubakar intercepted those documents for his own safety because they could have implicated him.

PETITION NO. 274: PETITIONER, DR BEKO RANSOME KUTI

The petitioner, a medical practitioner and a well-known human rights activist, submitted a petition dated 24/7/99 alleging multiple violations of his fundamental human rights by successive Military regimes spanning over two decades. He also referred the Commission to the February, 1997 invasion of their family house by officers and men of the Nigerian Army under the regime of General Olusegun

Obasanjo which resulted in total destruction of their family property, assault, torture, confiscation of their landed property by the government, culminating in the death of his mother a year after. The petitioner further lamented the unfortunate incident of his framed trial by a Special Military Tribunal for his alleged complicity in the alleged coup plot of 1995 – a process, which left him with the stigma of an ex-convict. The petitioner named those responsible for the alleged violations to include General Olusegun Obasanjo in his capacity as the head of the Federal Military Government in 1977, General Muhammadu Buhari, General Ibrahim Babangida, the regime of late General Sani Abacha, Lt-Gen. T.Y. Danjuma, Major-General Felix Myakperu and Patrick N Aziza, Lt-Gen. Salihu Ibrahim, Mr Clement Akpangbo S.A.N. Colonels John Olu and Frank Omenka, the then Inspector-General of Police Alhaji Ibrahim Commassie, ACP. Zakari Biu, the State Security Service, the Nigeria Police and Director of Military Intelligence.

He requested for full investigation, adequate compensation and public apology from the federal government.

Evidence during the Public Hearing

At the public hearing of the petition on the 28th of June, 2001, the petitioner testified before the Commission and tendered his petition which was admitted in evidence as Exhibit 1. He read Exhibit 1 and noted that he was constrained to present the petition before the Commission because of the persistence of these violations by successive military regimes right from the administration of General Olusegun Obasanjo. Specifically, he referred to the great injustice his family members suffered in 1977 following the invasion of their family house by some members of the Nigerian Army. He also referred to his

arrest and detention by the Buhari/Idiagbon regime in connection with the industrial action embarked upon by members of the Nigerian Medical Association (NMA). The petitioner further enumerated the several arrests and detentions he suffered in the hands of the security agents under the regime of the General Ibrahim Babangida following public demonstrations over the Structural Adjustment Programme (SAP) imposed by his regime and finally referred to his arrest, detention, torture in prison by the regime of late General Sani Abacha and his subsequent trial on spurious charges before General Patrick Aziza's Military Tribunal in connection with the alleged coup plot of 1995. The petitioner lamented that this flawed trial subsequently resulted in his wrongful conviction and sentence to life imprisonment. He was released after four years imprisonment, following the demise of General Sani Abacha. He lamented his excruciating prison experiences and insisted that the Comptroller General of Prison should be subpoenaed to produce copies of 'Special Instructions' that were allegedly issued to prison officials for the maltreatment of those convicted for the alleged coup plot of 1995, The petitioner finally tendered all the ten appendices attached to his main petition and they were admitted in evidence and marked as Exhibit 2.

Under cross-examination by various counsel representing those responsible for the alleged violations of his rights, the petitioner stated that he did not like the military and would not be surprised if the military never liked him. He stated further that he was detained in Kuje prisons by the State Security Service under Decree No.2 of 1984 as amended and was tortured several times. The petitioner vehemently rejected the suggestion that his activities as the then Chairman of Campaign for Democracy (CD) (an umbrella human rights organisation) impacted negatively on law and order. He

explained that his allegations against Mr Clement Akpangbo in respect of his alleged treasonable acts in 1992 were based mainly on newspaper reports and agreed that he was treated very kindly by Brigadier-General Ibrahim A. Sabo when he was in detention for the alleged coup plot of 1995.

While admitting that General Patrick Aziza neither arrested nor detained him, the petitioner consistently maintained that the General and his Judge-Advocate conducted themselves in a most unwholesome manner during the proceedings of the Special Military Tribunal of 1995. He therefore insisted that the Commission should procure and play the video tape recordings of the Military Tribunals sittings to confirm his assertions. The petitioner further stated that ACP Zakari Biu played different roles at different times in the process of the violation of his rights by the regimes of General Ibrahim Babangida and late General Sani Abacha.

The second witness to give evidence was President Olusegun Obasanjo, who appeared before the Commission to defend himself on the allegations of his involvement in the invasion of the family house of the petitioner by some officers of the Nigerian Army in 1977 which resulted in massive violations of the rights of the petitioner's family members. The President denied any involvement in the incident and tendered five exhibits to show that the government at that time took necessary steps to address the matter, ranging from setting-up of a Commission of Inquiry, to issuing of a White Paper by the Lagos State Government. He further testified that the petitioner's family members also filed a civil action in respect of the matter and the case was litigated up to the Supreme Court. A copy of the judgement of the Supreme Court was tendered and admitted as Exhibit 3. While

emphasising that he was not in any way involved in the violation of the petitioner's rights, the President emphasised that he appeared before the Commission because of his belief and respect for the rule of law and due process.

Under cross-examination, President Olusegun Obasanjo admitted that he was the head of the Federal Military Government at that time and also admitted setting-up a Commission of Inquiry to look into the matter. He however vehemently rejected the suggestion that his government subsequently compensated the Chairman of the Commission of Inquiry (Justice C. O. Anya) with a judicial appointment for submitting a favourable report to his government.

PETITION NO: 1364: PETITIONER, CHIEF CHUMA NZERIBE

By a petition dated 19th of July, 1999, the petitioner alleged that he was deliberately framed-up, arrested and detained for ten months without trial at the Directorate of Military Intelligence (DMI) underground cell and mercilessly tortured by officers of the Directorate of Military Intelligence in liaison with their civilian collaborators. Explaining the circumstances leading to his ordeal, the petitioner stated that large quantities of bombs, explosives, live ammunitions and dangerous bomb-making agents were secretly planted in his uncompleted and inhabited building in Ihiala (his home town) Anambra State by officers of the Directorate of Military Intelligence in conjunction with some civilians in a well-rehearsed plot aimed at eliminating him. These explosives were few days later 'recovered' from his home by the same people who planted them. The petitioner was on account of these 'recovered' explosives arrested, detained, tortured and accused of being responsible for the spate of bomb blasts that rocked the nation under the late Gen. Sani Abacha

regime. He named those responsible for this wanton abuse of his rights to include: the Director of Military Intelligence, Brig.-Gen. Ibrahim A. Sabo (then substantive Director of DMI), Col. Steve Idehenre Col. O. Majoyeogbe, Col. Frank Omenka, Capt. F.B.Y. Dulagha, W/O Rasaan, late Victor Okafor (alias Eze-ego), Messrs Ifeanyi Nwabuife, C.Y. Obunadike and Charles Maduka. The petitioner accordingly prayed the Commission to recommend:

- i) that the Federal Government should issue a letter of apology, clearing him of the bomb blast accusations;
- ii) prosecution of all the DMI officers involved in the sordid frame-up and subsequent cover-up along with their civilian agents.
- iii) payment of the sum of one hundred million naira to him as compensation for his suffering, damages to his health and family name, loss of personal liberty, trauma and total loss of business.

Evidence during Public Hearing

During the public hearing of the petition, six witnesses gave evidence while thirty three exhibits were tendered. In his testimony, the petitioner reiterated the facts contained in his petition and urged the Commission to recommend the reliefs he is seeking in view of the extreme sufferings he went through in the hands of the DMI operatives and their civilian collaborators. The second witness, one captain F.B.Y. Dulagha admitted that he led his Surveillance Operation Team to the petitioner's home in Ihiala, Anambra State on the instructions of Col. O. Mejoyeogbe. While noting that there were some over-statements and exaggerations in the petitioner's claims, Captain Dulagha in his written submission (Exhibit 2) admitted further that his team responded to a false petition by one Chief Victor Okafor alias "Eze-ego" (King of money) who was a political opponent of the

petitioner in their home town, Ihiala. He painfully regretted his involvement in the episode which he described as “messy” and unfortunate.

On his part, the then Acting Director of DMI, Colonel Steve Idehenre, tendered many exhibits stating that the operation by some DMI officers at the petitioner’s home was illegal and unauthorised. He accused Colonel O. Majoyeogbe the then Director, Intelligence Production Centre, DMI, of masterminding the entire episode for personal monetary gains from his surrogate friend late Chief Victor Okafor. He went further to state that he subsequently ordered the immediate release of the petitioner after conducting a preliminary investigation into the unfortunate incident. Col. Idehenre also accused Brig.-Gen. Ibrahim A. Sabo, the then substantive Director of DMI of being responsible for the subsequent arrest and detention of the petitioner at the DMI’s underground cell for ten months. The witness noted that the case of the petitioner (whom he noted to be a trouble maker) and the sufferings he went through, offered a classical insight into the dirty intrigues at DMI under Brig. Gen. Ibrahim A. Sabo. He concluded by tendering a Legal Advice from Army Headquarters (Exhibit 21) which indicted Col. O. Majoyeogbe and subsequently culminated in his compulsory retirement from the Nigerian Army (Exhibit 24).

Col. Majoyeogbe also gave evidence, and tendered a written submission (Exhibit 22) denying the allegations of the petitioner and Col. Steve Idehenre. While admitting that he ordered the operation at the petitioner’s home in Ihiala based on a petition he received from late Chief Victor Okafor, he emphasised that the operation was carried out in good faith with the full knowledge and authority of Col. Steve

Idehenre. He accused the petitioner of outright falsehood, exaggerations and a victim of “rural politics”. The Commission further received evidence from one Major M.I.U. Adeka in the matter. The Officer tendered a written submission (Exhibit 25) and informed the Commission that his preliminary investigation into the incident revealed that the operation was illegal and unauthorised. He emphasised that the illegality of operation became more apparent when Col. Majoyeogbe unsuccessfully attempted to surreptitiously register late Chief Victor Okafor’s false petition at a time (24/7/97) when the operation was already declared illegal.

Brigadier-General Ibrahim A. Sabo was the last witness to give evidence. He tendered the re-investigation report of the Security Group on the matter. He vehemently disclosed the allegations of Col. Steve Idehenre describing them as sponsored and most unfortunate. He however admitted full responsibility in his capacity as the then Director of Military Intelligence. He accordingly apologised to the petitioner for the improper use of the facilities and personnel of DMI against him. Brig-General Sabo then embraced the petitioner publicly before the Commission and repeated his words of apology.

PETITION NO 289: PETITIONER: MRS. R. A. AKINYODE

The petitioner, a widow of late Lt. Col. Oluwole Akinyode and mother of four children sent this petition alleging gross violations of the rights of her husband in connection with the coup plot of December, 1997 which subsequently led to his death in Makurdi Prisons on the 28th of December, 1998. The petitioner recalled to the Commission her late husband’s military career and good medical history and also the circumstances leading to his arrest, detention, investigation, trial, conviction and sentence to life imprisonment of his alleged role in the

coup plot of December, 1997. This sentence was however, commuted to twenty years imprisonment. She further recalled that her late husband told her that he was badly tortured and forced to inhale certain chemicals between 14th January, 1998 and 28th April 1998 during the Special Investigation and Panel Session in Jos. She concluded that it was these severe tortures that impaired her late husband's sight, led to his ill-health and subsequently resulted in his death in prison custody. The petitioner lamented that she was thoroughly harassed with her children and detained while their official residential quarters was immediately taken over by Col. E.F. Zamani whom she accused of confiscating their personal/family properties. She named those responsible for violations of her late husband's fundamental rights to include: Major-General Patrick Aziza, Col. Frank Omenka, Col. E.F. Zamani, Major Bashir Mumuni, Sergeant Barnabas Msheila a.k.a. Sgt. Rogers) and the prison authorities particularly at the Makurdi Prisons. The petitioner accordingly urged the Commission to:

- i) investigate the matter;
- ii) clear her late husband's name and restore his military ranks;
- iii) recommend that the Nigerian Army apologise to their family for their undue harassments and sufferings;
- iv) invite Mr. N.K. Nandevé the then officer in charge of Makurdi Prisons to explain the circumstances of her husband's death;
- v) direct Col. E.F. Zamani of the Nigerian Army to return their family properties; and
- vi) award the sum of fifty million naira as monetary compensation.

Evidence during Public Hearing

At the public hearing of the petition, five witnesses testified while sixteen exhibits were tendered and admitted in evidence. In her

evidence-in-chief before the Commission, the petitioner reiterated the facts contained in her petition (Exhibit 1), emphasising that her late husband was a loyal officer with a good record of service in the military and could not have been involved in a coup plot. She maintained that her husband enjoyed good health and never had a history of heart or eye problem. Yet, her late husband started using eye glasses in prison while the Authority Report (Exhibit 4) indicated that he died of Hypertensive Heart Disease and Acute Myocardia Infraction. She insisted therefore that it was the severe torture of her husband in Jos that resulted in his health problems, culminating in his death in prison. The petitioner charged the prison authorities of negligence, claiming that they kept him for six hours before taking him to hospital. She accused Col. E.F. Zamani of high-handedness and finally urged the Commission to assist in recovering her personal properties from him.

Under cross-examination, the petitioner denied her husband drafted the proposed coup speech. She however admitted that she was not in Jos when her husband was allegedly tortured, emphasising that she relied solely on what her husband told her before he died.

Major Abubakar Mummuni Bashir of the 82 Division, Enugu also gave evidence. He denied ever torturing the late Lt. Col. Akinyode. He maintained that he was not the one guarding the detainees in Jos explaining that his function then was mainly to liaise with those that were kept in Jos Prisons and the Special Investigation Panel or the Military Tribunal. Major Mumuni traced the sources of these false allegations against him to *Tell magazine* publications (Exhibits 6 and 7) and Lt. Gen. Oladipo Diya. He noted that Gen. Diya had to retract a similar allegation under cross-examinations during the Commission's

public sitting in Lagos. The third witness, Mr. Kunle Ajibade, who was once an inmate of Makurdi Prisons testified on the conditions of the Prison.

Describing the conditions of Makurdi Prisons as horrible and lacking in medical facilities, the witness claimed that inmates of the prison sleep in hundreds on the bare floor resulting in high incidence of deaths. Col. E.F. Zamani also gave evidence on his alleged involvement in forceful ejection of the petitioner and the confiscation of her family properties. He tendered his written response (Exhibit 13) denying the allegations. Col. Zamani explained that late Lt. Col. Akinyode's residential quarters was officially and formally re-allocated to him and that he took necessary and proper steps in moving out the Akinyodes from the premises. While noting that he has never met the petitioner in his life, Col. Zamani denied ever confiscating any of the properties belonging to the Akinyodes or even removing Lt. Col. Akinyode's military accessories he said that would be absurd and ridiculous in view of his seniority to the deceased Lt. Colonel. The witness disclosed that some of the petitioner's properties are at the Lagos Garrison Command of the Nigerian Army. He emphasised that the petitioner caused the problem herself by removing government properties from the house. He referred to the inventories signed by all the parties involved including the petitioner and stated that the petitioner can collect her properties at the Lagos Garrison Command after verification of inventories.

Based on this evidence, the Commission ordered immediate reconciliation of inventories for the purposes of returning the petitioner's properties to her. This order was complied with on the 4th

of October, 2001 when the parties filed a list of 58 items to be returned to Mrs Akinyode.

The last witness to give evidence was Mr. N.K. Nandevé, a Chief Superintendent of Prisons, in charge of Makurdi Prisons. He tendered a written response (Exhibit 14) which he read before the Commission. He enumerated his duties as the officer in charge of Makurdi Prisons and explained that late Lt. Col. Akinyode was received in his custody on the 16th of July, 1998 from Jos Prisons. He stated that the deceased was treated as a Special Prisoner because of his status as Senior Military Officer and was also allocated a separate cell on the recommendation of a Medical Doctor who examined him and found that he had a history of hypertension. The witness further disclosed that the deceased was given supplementary feeding and was provided honey (on his request) instead of sugar, garlic and vegetables everyday while a Doctor from Benue State Ministry of Health, Dr. J.U. Kwagbtsule, attended to him weekly. He tendered the weekly medical reports (Exhibits 15(a) – 15(i)) on the petitioner and denied petitioner's allegation of negligence against the Prison authorities. He admitted that the deceased complained to him of poor eye sight, consequent upon which he procured a pair of glasses for him. CSP Nandevé emphasised that the medical condition of the deceased was very stable as at 24/12/98 and noted that the deceased was very stable as at 24/12/98 and noted that the deceased did not complain of any health problem as at the final lock-up time of Prisons (6 pm) on the 27th of December, 1998. He disclosed that when the Prisons cells were opened as 7.30 am of 28/12/98, Lt. Col. Akinyode did not respond to greetings as a result of which he sent for the visiting Doctor, who after careful examination certified him dead (Exhibit 16).

PETITION NO: 1298: PETITIONER: MR FEMI FALANA

Mr. Femi Falana, human rights activist alleged that he suffered numerous instances of abuse of his fundamental rights under the regimes of General Ibrahim Babangida, Chief Ernest Shonekan and late General Sani Abacha on account of his struggles for a just and democratic Nigeria. He further alleged that the authorities of the National Youth Service Corps Scheme NYSC had withheld his NYSC Discharge Certificate since 1983 after he had completed the service on schedule on the grounds that he embarrassed the government and the Corps by challenging the illegal detention of some undergraduate students of the University of Ibadan which was reported in the decided case of **Andrew Ogo & 5 ors vs. Kolawole (1983) INCR at page 342**. The petitioner urged the Commission to hold the regimes of General Muhammadu Buhari, General Ibrahim Babangida, Chief Ernest Shonekan and late General Sani Abacha accountable for these multiple violations of his rights. He alleged that these regimes implemented a programme of human rights violations as a deliberate policy of the state and accordingly requested the Commission to ensure that the perpetrators are brought to book. He further asked for the sum of one hundred million naira as compensation a public apology from the Federal Government.

Evidence during Public Hearing

At the public hearing of the petition on 5/7/01, two witnesses testified while five exhibits were tendered and admitted in evidence. In his evidence-in-chief, the petitioner relied on his petition (Exhibit 1) and recounted several instances of his arrest and detention by the State Security Service (SSS), the Nigeria Police and the Directorate of Military Intelligence under successive military regimes and also the Interim National Government of Chief Ernest Shonekan. Specifically,

he recalled that he was unlawfully harassed, arrested and detained on twelve different occasions under the regime of General Ibrahim Babangida between 1985 and 1993 while the regime of late General Sani Abacha arrested and detained him on nine different occasions between 1994 – 1994. He narrated his ordeals in the hands of the security operatives and lamented the severe sufferings he went through during his detention for 10 months by the regime of late General Sani Abacha in 1996. He deplored the Prison conditions describing Nigerian Prisons as torture centres and emphasised that the Nigerian Prison Act remains the most antiquated in the whole of African continent. The petitioner further depreciated the subservient and partisan role of the office of the Attorney-General and urged the Commission to recommend wholesome structural reforms. He also gave evidence on the non-release of his NYSC Discharge Certificate since 1983 despite the fact that he completed his service on schedule. The witness's Discharge Certificate was to make sure that he was employed by anybody in the country since the possession of the Discharge Certificate is a condition precedent for any graduate employment in Nigeria. He accordingly requested the Commission to direct the authorities of the national Youth Service Corps Scheme to release his NYSC Discharge Certificate forthwith.

Under cross-examination, the witness admitted that he was never physically tortured since he enjoyed tremendous goodwill from the security operatives whenever he was arrested. He emphasised that the people that were directly responsible for the abuse of his rights were the military rulers and not really the security operatives. While admitting that he was aware that he was always detained under the State Security Detention of Persons Decree No. 2 of 1984 as amended, the witness disclosed that the military authorities never complied with

the requirements of that Decree. He stated that his worst moments in prison were periods he was not released after a court had made an order for his release. The second witness that gave evidence was Mr. Gregory K. Eneagwa, the Director Corp Mobilisation of the National Youth Service Corps in Nigeria. He denied the petitioner's allegation of withholding his NYSC Discharge Certificate, explaining that the petitioner himself failed to collect same in accordance with the scheme's procedures. The witness stated that the NYSC scheme encourages Corps members who are Legal Practitioners to defend or assist indigent litigants in court instead of punishing them. He noted that the NYSC authorities would have commended the petitioner if they had known of the case he handled in court and maintained that there was no link whatsoever between the petitioner's handling of the case and the non-release of the petitioner's Discharge Certificate. The Commission subsequently ordered the witness to produce the Discharge Certificate and present same to the petitioner before the Commission. The witness complied with the order while the petitioner promised to appear before the NYSC Secretariat to comply with other requirements. The petitioner thanked the Commission for achieving this feat after eighteen years of fruitless efforts on his part.

PETITION NO. 1403: PETITIONER: PROF: WOLE SOYINKA

The petitioner, a renowned writer, playwright and Nobel Laureate, filed a petition dated 13/8/99 alleging multiple violations of his rights by the late Gen Sani Abacha's government and his agents through severe damage to his character and reputation, vandalism of his property and arbitrary attacks on his associates, friends and relations. While admitting that his case is not at par with other victims of gross human rights violations like the purge of Ogoni leadership and the gruesome murder of Kudirat Abiola etc., the petitioner referred the Commission

to the provisions of Article 12 of the Universal Declaration of Human Rights which recognised an area of potential damage to the human persona.

The petitioner recounted the unprincipled manner the late General Sani Abacha regime, utilizing the full machinery of the state, embarked on a sustained campaign of character assassination character assassination of his person, honour and reputation through sponsored publications in a magazine Conscience International of March 1997 published by one Chief Abiola Ogundokun.

He disclosed that these publications were systematically distributed all over the world through the Ministries of Information, Foreign Affairs and all Nigerian Missions/Embassies abroad, resulting in severe psychological turmoil to his person and damage to his character and reputation.

Evidence during Public Hearing

At the public hearing of the petition, only the petitioner gave evidence and was cross-examined while about thirteen exhibits were tendered and admitted in evidence. In his evidence-in-chief, the petitioner tendered his petition (Exhibit 1) and supplementary petition (Exhibit 2) which he read before the Commission. The petitioner also tendered the offensive publication of the Conscience International magazine (Exhibit 3) and narrated how it was effectively distributed world – wide by one Emmanuel Agbeji on the instructions of Chief Tom Ikimi, then Minister of Foreign Affairs. He further recounted the many instances of the late Abacha regime’s abuse of the rights of hundreds of innocent people whose only crime was their association with him. He said he deprecated the manner of the attack on his person, his life history,

achievements and associates, emphasising that even in war there is limit to the degree of calumny that one can heap on one's enemy.

The petitioner also made an extensive submission of his formation and membership of an organisation called *The Pyrates Confraternity*, explaining that the association was a perfectly loyal and open organisation that was founded in 1952 while he was a student at the University College, Ibadan, in order to raise social and political consciousness among Nigerian students in the colonial days. He referred to the documented history of victimization of its members by the various security agencies ranging from routine harassment, arrest, tortures to murders as in the Umuluku massacre, merely on account of deliberate disinformation as to the activities and objectives of the organisation and its members. While enumerating the achievements of the organisation, the petitioner deplored the tendency of the ill-informed public and even the media to fall victims of mass hysteria and sweeping generalization by routinely demonising the organisation and confusing it with the notorious campus killer-cults.

The petitioner accordingly requested the Commission to recommend that the Federal Government should issue a formal apology to him for the savage attack on his person, honour and reputation, through the sponsored publication and distribution world-wide of the offensive *Conscience International* magazine. He emphasised that he was not asking for any monetary compensation or just any kind of apology, but an apology that would be agreed upon (in terms of its wordings), between the government and himself and will be compulsorily pasted on all Nigerian Missions abroad for a period of not less than one year in view of the magnitude of the damage to him. He also requested the Commission to accord adequate monetary compensation to all those

who suffered human rights violations on account of their association with him, particularly the members of the *Pyrates Confraternity*.

Under cross-examination by various counsel representing those named as being responsible for the abuse of his rights, the petitioner maintained that the *Pyrates Confraternity* was a harmless organisation and denied any charges of laying the precedent that subsequently led to the emergence of other dangerous cult groups in the country. He vehemently denied the allegations of embezzlement and misappropriation of public funds levelled against him by Chief Abiola Ogundokun, explaining that he has refrained from commenting on those allegations because he has filed a libel suit against Chief Ogundokun at a Lagos Court of Justice in Suit No. LD/2910/98 in respect of the matter.

The copy of a written response of Prof. Ibrahim Gambari confirming that the copies of the offensive magazine were sent by air parcel to the permanent Mission of Nigeria to United Nations in New York was tendered and admitted in evidence as Exhibit 4.

PETITION No. 725 PETITIONER: MRS HADIZAR PINDAR AND OTHERS

The petitioners Messrs Hadizar Pindar, Doshima Adaa, Franca Odache and Nwano Eze-Ukagha are representatives of the widows and families of one hundred and eighty six officers of the Nigerian Armed Forces who died in the Nigerian Air-force C-130 plane crash in September, 1992, while participating in the 15th Course of the Senior Division of the Command and Staff College, Jaji. The petitioners alleged that the military authorities have completely abandoned them to their fate by failing to implement the pledges and welfare packages promised them

on the 6th of October, 1992 by the then Chief of Defence Staff, late General Sani Abacha. They further claimed that their entitlements under the terms and conditions of service for officers of the Nigerian Army in respect of officers who died in active service were totally ignored and lamented that it is ironical that the same Nigerian military authorities provided adequate welfare for the foreigners who died on the same C-130 crash.

Most importantly, the petitioners wondered why the report of the panel of inquiry that investigated the cause of the crash was not released and given to the families of the victims as promised. While acknowledging and thanking the Federal Government for the help and welfare packages so far given to the families of the victims, the petitioners lamented that the refusal of the military authorities to accord them their due entitlements and fulfil the pledges made, has occasioned extreme hardship for most of the families, resulting in the death of eight of their members.

Evidence during Public Hearing

During the public hearing of the petition on 17th July, 2001, counsel representing the parties informed the Commission that they were exploring the possibility of amicable settlement of the issues at stake. They requested the Commission to grant them an adjournment to enable the parties agree and file and acceptable terms of settlement. The Terms of Settlement were agreed upon and signed by all the parties and submitted to the Commission on the 19th of September, 2001. In the Terms of Settlement, which was also counter-signed by the Chairman of the Commission, the military authorities as represented by the Ministry of Defence agreed as follows:

1. To harmonise the school fess due and payable to the children of the deceased officers at par with that paid by the Nigerian Navy effective form September 2001.
2. Pensions and gratuities will be paid to widows and children as provided for in the provisions of the Armed Forces Decree and also the Terms and Conditions of Service in the Military.
3. That the Ministry of Defence shall ensure that the Federal Government directives and, or pledges, as it relates to cars and houses are implemented.
4. That the report on the cause of the crash of NAF C-130 plane will be made available to the petitioners as soon as it is received by the Chief of Air Staff from the manufacturers of the C-130 Hercules aircraft.

PETITION NO. 1421: PETITIONER: DR. B.O. BABALAKIN

The petitioner was the former Chief Executive Officer of Commercial Trust Bank Nig Plc. He alleged that he suffered numerous violations of his rights in the hands of the Nigerian Police Force, The Nigerian Deposit Insurance Company and the Central Bank of Nigeria following the liquidation of the bank.

On the 17/1/2001 when the petition was called for hearing, counsel representing the petitioner informed the Commission that he was instructed by his client to withdraw the petition. The request for withdrawal was not opposed by counsel representing the other parties in the matter. The petition was accordingly struck-out by the Commission.

PETITION NO: 1532. HON NWABUEZE UGWU

The petitioner filed a petition alleging that his elder brother, Mr. Ugwu Sunday Ugwu, was murdered in cold blood while he was driving out of his apartment on the 8th of September 1999. The petitioner who was an elected member of Enugu State House of Assembly claimed that the circumstances of the murder coupled with his political antecedents gave him enough room to suspect the officials of Enugu State Government as being responsible for the murder. He prayed the Commission to thoroughly investigate the matter with a view to identifying and punishing the culprits.

When the matter was called for hearing on the 16th of July, 2001, objection was raised by counsel representing the Enugu State Government as to the competence of the Commission to hear the petition. First, he informed the Commission that the matter has been severally investigated at different levels by the Nigerian Police and that part of the grievances of the petitioner before this Commission is the subject of a pending suit at the High Court of Enugu State. Most importantly, the counsel argued that the Commission does not have the power to investigate the matter since the murder of the petitioner's brother took place on 9/9/99, which is outside the period contained in the Commission's Terms of Reference which is 28th May, 1999.

After hearing arguments from both counsel, the Commission noted that even though its duty is a fact-finding one, the fact-finding must be done within the ambit of the law. The Commission accordingly held that it lacks the power to hear the matter in view of the express limiting date contained in its Terms of Reference. The Commission further advised the petitioner to pursue the matter before the law courts. The petition was accordingly struck-out.

PETITION NO: 471. PETITIONER: MAJOR BILYYAMINU MUSAH MOHAMMED (RTD)

The petitioner was a former Administrative Officer in the Presidency under late General Sani Abacha regime. He alleged that he was maliciously implicated in the alleged coup plot of December, 1997, by Major Hamza Al-Mustapha. He was subsequently arrested, detained and severely tortured by Major Al-Mustapha and his security boys (Strike Force). He traced the motive of this wicked frame-up and his subsequent ordeal in the hand of Al-Mustapha and his security boys to a long existing discord between him and Al-Mustapha towards the end of 1995, a few weeks after his promotion to the rank of a Major. The petitioner disclosed that the alleged coup plot of 1997 provided a cover for Major Al-Mustapha to persecute and ruin him for life.

On the date fixed for the hearing of the petition, the petitioner, after a mild drama with Major Al-Mustapha and one I. M. Mohammed Maikudi, his cousin, informed the Commission of his desire to withdraw the petition. Retired Colonel Yakubu Bako, a relation of the petitioner who intervened in the case, explained further to the members of the Commission that there were moves by family members to reconcile the petitioner with Major Hamza Al-Mustapha. Based on that information, the petition was struck-out by the Commission.

PETITION NO:186 PETITIONERS: ALFA BELLO O. OLORUNKOSEBI, L.A AYANKOJO, ALHAJI RASHIDI A. SALAWU & THE FAMILY OF THE LATE ASHIPA OF OYO, CHIEF AMUDA OLORUNKOSEBI

This case first heard in the Lagos Zone. The petitioners are the family and community members of the late Ashipa of Oyo, Chief Amuda Olurunkosebi, who was murdered in cold blood by hired assassins on

the 26th of November, 1992. Recounting the circumstances of the murder, the petitioners gave a detailed account of their long search for justice from 1992 to date. They disclosed that various Police Investigation Reports point accusing fingers to the Alaafin of Oyo, Oba Lamidi Olayiwola Adeyemi 111 as the master-minder and prime suspect. They lamented however that efforts made to prosecute all the suspects have been severally hampered and frustrated by the prime suspect in collusion with the office of the Attorney-General of Oyo State.

The petitioners charged the then Attorney-General of Oyo State, Alhaji Yusuf Akande, of undue perversion of justice in that he deliberately refused to charge the Alaafin of Oyo as recommended in the Legal Advice of the Director of Public Prosecutions. The family members refused to bury the corpse of the late Ashipa of Oyo demanding that justice must be done in the matter.

Public Hearing: When the matter was called for hearing in Lagos on the 13th of November, 2000, several objections were raised by the Attorney-General of Oyo State and the senior counsel representing the Alaafin of Oyo. They argued that the subject matter of the complaint is currently on appeal before the Supreme Court of Nigeria. It was further argued by counsel that the Attorney-General of Oyo State is constitutionally empowered to decide on whom to charge to court in respect of any criminal indictment.

After arguments were taken from counsel representing all the parties on these issues, the Commission noted that the matter which is on appeal before the Supreme Court is materially different from the subject matter of the complaints. The Commission accordingly held

that it had power to hear the petition and adjourned the matter for hearing at Abuja.

On the resumed hearing of the matter in Abuja on the 10th of July, 2001, the Alaafin of Oyo, Oba Lamidi O. Adeyemi 111, served a writ of summons from the Federal High Court, Ibadan on the Commission through his senior counsel. In the said writ of summons, Oba Lamidi O. Adeyemi, was urging the court to restrain the Commission from hearing the matter in view of constitutional provisions on the powers of the Attorney-General in criminal matters and also the provisions relating to fair hearing. After hearing arguments for the second time from counsel representing the parties on the effect of the civil suit at the Federal High Court, Ibadan, the Commission decided to adjourn the matter indefinitely pending the determination of the suit filed by the Alaafin of Oyo.

The Commission however expressed reservations over the awesome and often over-bearing powers of the Attorney-General under the Constitution, observing that it can easily be abused as can be seen in a number of cases before the Commission.

PETITION NO. 59: PETITIONER: MR BAMIDELE OBAKOYA

The petitioner was a Special Assistant to Lt. Gen. Oladipo Diya, then Chief of General Staff under late Gen. Sani Abacha's regime. He alleged that he was arrested mercilessly tortured and detained in the wake of the alleged coup plot of December, 1997 by soldiers under Major Hamza Al-Mustapha. The petitioner claimed that the only reason for his arrest and detention was because of his closeness to then Chief of General Staff, Lt. Gen. Oladipo Diya.

When the matter was called for hearing during the Lagos public sittings, the petitioner did not appear or send a representative despite due service of notice of hearing. The matter was then adjourned to Abuja to afford the petitioner a second opportunity to present his case. On the 9th of July when the petition was called up for hearing, the petitioner did not appear despite service of the notice of hearing for the second time. The matter was accordingly struck-out for want of appearance.

PETITION NO: 270: PETITIONER: MR RAYMOND INYANG

The petitioner was the Managing Director of one MFC Savings and Loans Ltd, a licensed finance house. He stated that one Mr. Udo Essien Akpan deposited money with the Finance House and was issued with a Certificate of Deposit. This deposit was subsequently rolled over in accordance with an agreement the depositor had with the company. However, the petitioner alleged that the then Chief of Air Staff, Air Vice Marshall Nsikak Eduok, demanded the deposited money as well as the accrued interest claiming that he lodged the sum in question under the assumed name of Udo Essien Akpan. The petitioner disputed the claims and asked for proof, consequent upon which he was arrested, tortured and detained at the Directorate of Air Intelligence, Ikeja for seven months without trial.

Public Hearing: On the date fixed for hearing of the petition, the petitioner was absent due to the inability of the bailiffs to effect service on the address he provided. The matter was subsequently adjourned to Abuja to enable the bailiffs attempt a second service. On the 9th July when the petition was mentioned for hearing neither the petitioner nor his counsel appeared before the Commission despite

due service through his solicitors. The petition was accordingly struck – out.

PETITION NO: 861 PETITIONER: CHIEF FEMI ADEKANYE & RALPH OSAYEMEH

The petitioners were former Chief Executive Officers of Commerce Bank Ltd, now in liquidation. They alleged that they were unlawfully arrested and detained by the Nigerian Police on the instigation of Central Bank of Nigeria and Nigeria Deposit Insurance Corporation for alleged financial impropriety in the management of the bank.

When the matter was called for hearing on the 4th of July 2001, the counsel to the petitioners sent a letter expressing their intention to withdraw the matter before the Commission on the ground that they were looking at other options for redress for the injustices they suffered. The request for withdrawal of the petition was not opposed by counsel representing the other parties. The petition was accordingly struck-out by the Commission.

PETITION NO: 607. PETITIONER: NASH N. HARUNA

The petitioner alleged that his brother, Sergeant Momoh Arumah, was murdered in cold blood by one Major Charles Olufemi Macaulay along Ekenwan Road, Benin-city on the 30th of November, 1993. The petitioner lamented that the then Commissioner of Police in Edo State refused to apprehend the suspect for prosecution in line with the Legal Advice of the Director of Public prosecution on the matter.

When the petition was called for hearing on the 4th of July 2001, petitioner was absent due to non-service of notice of hearing. The

Commission was informed that the bailiffs could not locate the petitioner at the address he supplied for service after several attempts.

The petition was accordingly struck-out.

PETITION NO: 1482. PETITIONER IDRIS ABDULKADIR

The petitioner alleged that he was unlawfully arrested and detained for seven months without trial by one Capt. H. Buba on the instructions of Col. Frank Omenka, the then Commanding Officer of the Security Group. He claimed that his arrest was sequel to an argument he had with one Mrs. Mayaki concerning the probe of former NITEL chief executives and other government parastatals.

On the 1st of November, 2000 when the petition was fixed for hearing, the Commission was informed that it was not possible to locate the petitioner at the address he provided for service. The matter was adjourned at the instance of the Commission to enable bailiffs attempt substituted service on the petitioner. On the 26th of June, 2001, when the petition was again mentioned for hearing, it was still not possible to effect service on the petitioner as a result of the obscure address he provided. The matter was accordingly struck-out.

PETITION NO: 620. PETITIONER: MR AUDU OGBE

The petitioner, a politician and former minister during the Second Republic, alleged that a gang of hired assassins invaded his home in Makuridi on the 7th of December, 1998 at about 1.00am shouting that they were sent to kill him. The gang started firing gun shots in all directions of his home and succeeded in hitting him severely from behind. He received serious injuries on his skull, jaw, nose and lower lips and had to undergo several surgical operations at the Makurdi

Medical Centre. He alleged that his political opponents from his area were behind the plot to assassinate him as the incident happened immediately after he had returned from the Local Government Elections in his area. The petitioner lamented the failure of the Benue State Police Command and other security agencies in the state to investigate the incident, emphasising that it suggests complicity on the part of the then Benue State Government.

On the 3rd of November 2000, when the petition was originally fixed for hearing, the petitioner was absent due to non-service of notice of hearing. The then Military Administrator of Benue State, Brigadier-General D. Oneya and the then Commissioner of Police, Alhaji Mairamri, were both present and ready to respond to the allegations. The petition was however adjourned by the Commission to enable the bailiff attempt a further service on the petitioner.

When the matter was finally called for hearing on the 27th of June, 2001, the petitioner sent a letter to the Commission expressing his desire to withdraw the petition on the ground that he has forgiven all those that were involved in the attempt to assassinate him. This was not opposed by any of the parties. The Commission accordingly struck-out the matter.

PETITION NO: 122 PETITIONER MRS OLUBUKUNODA A. OSHODI

The petitioner is the widow of late Mr. Oladimeji B. Oshodi who was a passenger and a victim of the ill-fated Nigerian Air Force C-130 plane that crashed in Ejigbo, Lagos State on the 25th of September 1992. The late Mr. Oshodi was a participant in the Senior Military Officers Course in Jaji at the time of the incident. The petitioner strongly suspects that her husband and other victims of the plane crash were

killed by the authorities at that time as they were deliberately ordered to fly a faulty C-130 Air Plane.

On the 3rd of November 2000, when the petition was originally fixed for hearing, the petitioner was absent due to non-service of notice of hearing. The Commission consequently adjourned the matter to enable the bailiffs effect service on the petitioner. When the matter was subsequently mentioned for hearing on the 26th of June, 2001, the petitioner was absent and was not represented by counsel despite due service of notice of hearing. The matter was accordingly struck-out by the Commission.

PETITION NO. 309: PETITIONER: BRIG.-GEN. FRED B. CHIJIUKA (RTD)

The petitioner was the former officer in charge of Army Public Relations Office. He alleged that soon after his retirement from the Army, he was invited to the office of Directorate of Intelligence and subsequently detained by Col. Frank Omenka without any explanation. Col Frank Omenka claimed that he was instructed to detain him based on the allegation that he was fraternizing with the media. After his release from detention, he contacted the then Head of State, late Gen. Sani Abacha, to find out the reason for his detention but General Sani Abacha feigned ignorance of his detention and apologised to him for the embarrassment.

When the petition was called for hearing on the 29th of June, 2001, the petitioner sent a letter to the Commission requesting to withdraw his petition on the ground that the person who violated his rights (Col Frank Omenka) has fled the country. The petition was accordingly struck-out by the Commission.

PETITION NO. 408: PETITIONER: MRS CHINYERE OHALETE

The petitioner alleged that she was unlawfully arrested, tortured and detained by officers of the National Drug Law Enforcement Agency (NDLEA) on the instructions of Major-General Musa B. Bamaiyi. The petitioner, who claimed to be a close friend and associate of Gen. Musa Bamaiyi, alleged that she was mercilessly tortured and flogged by one Lt. Col. D. Abel on the orders of retired General Bamaiyi for no just cause. She claimed that it was after she had smuggled out a petition to the press from her detention camp in Yola that the former Chairman of NDLEA, General Musa Bamaiyi, hurriedly arraigned her before a tribunal on charges of impersonation.

When the petition was mentioned for hearing on the 4th of December 2002, the petitioner was absent due to non – service of notice of hearing on her. The matter was then adjourned to enable service be effected on the petitioner. On the 29th of June 2001 when the petition was called for definite hearing, the Commission informed that it was not possible to locate the petitioner at the address she supplied for service. The matter was accordingly struck-out by the Commission.

PETITION NO: 384. PETITIONER: JOE BILLY EKWUNIFE

The petitioner was the former Managing Director/Chief Executive of Ivory Merchant Bank Ltd. He alleged that he was maliciously arrested, detained and wrongfully arraigned before the defunct Failed Bank Tribunal on five count charges of aiding and abetting one Dr. Edwin U. Onwudiwe (erstwhile non-executive Chairman of the Bank) to steal about N16.56 Million from the bank. He claimed that his arrest, detention and wrongful arraignment were based on false allegations and corporate conspiracy between the Nigerian Deposit

Insurance Corporation and a company named Partnership Investment Ltd.

Public Hearing: on the 4th of July, 2001, when the petition was mentioned for hearing, both the petitioner and the representatives of the NDIC requested for an adjournment of the matter. The NDIC requested for time to enable it brief counsel properly and respond to the petition.

The petitioner on the other hand requested for indefinite adjournment to enable him travel to the United States of America for medical treatment for his son. The matter was accordingly adjourned *sine die*. The petitioner did not however notify the Commission of his return and his interest in the matter.

CHAPTER EIGHT

ABUJA III

INTRODUCTION

8.1 The third Abuja session took place between 3 September 2001 and 18 October 2001. The Commission sat for a total number of thirty four (34) days, and took one hundred and twelve (112) cases. Of this number, only seventeen (17) may be considered as fresh cases that were started and concluded at the third Abuja sitting. The rest were continuation of cases from other centres, including the first and second Abuja sittings. The third Abuja was the final lap of the Commission's sittings. A visit was paid to Zangon Kataf where meetings were held with the two conflicting parties in that community, as part of the reconciliatory efforts of the Commission. Special hearings also took place for the human rights community in Nigeria, and for the security agencies in the country.

8.2 Below is a list of the petitions heard at the third Abuja, arranged sequentially in line with the HRVIC reference numbers.

PETITION NO. 136: PETITIONER: CHRISTOPHER EZEMA

This was a case of wrongful dismissal from the Navy, and illegal detention of the petitioner in a naval cell for seven months, after which the petitioner was handed over to the NDLEA for possessing *marijuana* (Indian hemp), and was tortured. The Nigeria Navy announced at the Commission that it was already responding to petitions from the Navy through the Commission, by attempting to review cases of dismissal into retirement with full benefits. The counsels were instructed to agree to, and facilitate a settlement and report to the Commission. The

Chairman also called for addresses, noting that they should address whether or not the detention of the petitioner was extra legal. One Exhibit was admitted.

PETITION NO. 400: PETITIONER: ENGINEER. MADUKWE I.A. KANU

This was a case brought forward against the detention of the corpse of the petitioner's brother. The prayer was for the release of the corpse to the petitioner. Counsel to the petitioner informed the Commission that the corpse had now been released. The other issues raised in the petition were withdrawn by the petitioner. The case was then struck out.

PETITION NO. 413: PETITIONER: HON. MOHAMMED INUWA ALI

Two exhibits were tendered and admitted for this case. The petitioner went to the Commission with a case of illegal arrest, detention and torture. The petition was earlier struck out because the petitioner maintained repeated absence. It was, however, re-listed and heard. The Commission heard the respondent in the absence of the petitioner. The respondent, a former Military Administrator of Kaduna State, explained that the petitioner was a fraudulent character having been involved in the falsification of files and irregular allocation of plots in Kaduna. He added that he had tried to use blackmail to get N5 million from the Kaduna State Governor to drop the case. The respondent believed that the petitioner went ahead with the case because his demand was not met by the Governor. The case was closed because the petitioner was not there to be cross-examined. Counsel was asked to submit addresses within two weeks. The address should reflect the improper approaches of the petitioner to the

former MILAD (first witness) and consider a probable report of the matter to the “appropriate authorities”.

PETITION NO. 451: PETITIONER: CHIEF (DR.) MRS. ADA ESTHER MADU

This petitioner stated that she and her daughter were unlawfully detained for 26 days at Rahama Hotel Makurdi by men suspected to have been directed by the Benue State Commissioner of Police. They were under guard for 24 hours a day during the period of detention. They suffered continuous interrogation, psychological and mental torture and were later treated for “post traumatic stress disorder”. They eventually escaped from the hotel, leaving behind valuables like jewelry, research materials and her daughter’s school books. Five exhibits were presented. She prayed the Commission to help her retrieve her research materials, and make her torturers pay for the mental torture and the setback in her research to which she claimed she had invested up to ten million naira (N10 million). The case was adjourned to the next day **(no record of continuation/conclusion of this case on the next day’s proceedings, or anywhere else. Verbatim report not available).**

PETITION NO. 741: PETITIONER: LINUS A. NDIOYEMA

The case, which was originally listed at Enugu, had been struck out because the petitioner was absent, but was re-listed upon their appearance. The petitioner alleged that his problem began with a publication in *The Rising Sun* of 2 to 9 August 1999. Counsel to the Commission was instructed to write the Commissioner of Police. The Police should submit a written response. Counsel should also submit written addresses within two weeks.

PETITION NO. 1292: PETITIONER: SAMUEL IGRA

This was a case of alleged extra-judicial killing by the police on account of armed robbery. Compensation was demanded by the petitioner. The police maintained that the deceased was a self-confessed armed robber, and was shot in an attempt to escape. Addresses were to be presented within three weeks. Counsel to the petitioner is to highlight the issue of compensation, and whether the Commission could recommend compensation if the deceased was indeed, an armed robber. Counsel to the respondents should list their concerns.

PETITION NO. 1295: PETITIONER: SAMUEL ABRAHAM

The petitioner wrote on behalf of his younger brother who was arrested by the Police and his property removed. The brother later died in Police custody. The late brother had been sighted alive by another person who went to inquire from the Police. The inquirer was equally detained by the Police. The Police explained that the victim was a self-confessed armed robber who was shot in an attempt to escape, and later died in the hospital. The petitioner prayed for the release of his brother, and that he should then be properly charged to court. The Commission noted that the brother was already dead and there was nothing it could do. The case was struck out.

PETITION NO. 1404: MAJOR NYA I. NYA

The case was struck out at Enugu because the prayers were outside the terms of reference of the Commission. In addition, the case had been concluded at a regular court. The petitioner thought he did not have a fair hearing at the court and thus brought his case to the Commission. The petitioner was, however, allowed to re-list at the third Abuja.

The subject-matter is illegal detention, torture, inhuman treatment wrongful removal from the Army by General Ishaya R. Bamaiyi and others. The petitioner believes his ordeal was based on orders given by General Ishaya Bamaiyi. He prayed for an apology from those who tortured him, compensation to the tune of 100 million naira, and payment of his outstanding emoluments and benefits, as well as proper retirement from the Army. He also wants a national award for service to his motherland.

Two exhibits were tendered and admitted. The Chairman closed the case by calling on Counsel to send addresses within one week, on the legality of the petition, as well as the arrest, detention and torture of the petitioner.

PETITION NO. 1428: PETITIONER: KING RICH

This was a petition alleging unlawful detention totaling six months, torture (injected with a stupefying substance, tear gassing and three stokes of the cane daily), vandalisation and outright looting of equipment and properties; and intimidation of the staff of the *Congress Newspaper* by the late General Sani Abacha's Task Force on Financial Malpractices. The petitioner added that while in detention, varying amounts of money were extorted from him by his captors. The petition stated that a total amount of N233, 717,000 was lost by way of extortion, vandalisation, confiscation of his products, equipment, etc. In addition, he lost 10 Billion Naira for being out of business from 1994 to 2001. He prayed the Commission to assist in bringing the culprits to book, getting his properties returned to him. He also asked for security from the Commission as he believed his life was still in danger.

Counsel to the Police argued that the newspaper he claimed he was running was false. The petitioner failed to bring any supporting documents to buttress his case. The case was adjourned to give him time to present relevant documents supporting his claims that he was a genuine publisher and a business man. He was absent on the slated date. The Commission ended the case by asking for addresses to be written within two weeks.

PETITION NO. 1473: CHIEF AKIN OMOBORIOWO

This was a petition against illegal detention (at Victoria Island for seven weeks, and at Kiri-Kiri Maximum Prison for one month), deprivation, humiliation and business losses caused by the Buhari military administration which detained the petitioner. After he was released by the Justice Uwaifo Panel of Inquiry, he was arrested again by the Oyo State Military Administrator and incarcerated at the Owo Medium Security Prison for another sixteen months. General Mohammadu Buhari, the principal witness, failed to show up to respond to the petition. As such, the case was closed pending when the respondent would appear to testify.

PETITION NO. 1776: CHRISTIAN OKONGWU

The petition is against extra-judicial killing of six Igbo traders by the Police at Panteka market, Kaduna. It alleges that the victims were extorted of their goods, personal properties and substantial amounts of money by the Police. The petitioner prayed for compensation. The Director of Public Prosecutions of Kaduna State had maintained that it was an armed robbery case, and had further advised that since the suspects were all dead, the case should be terminated. The Commission directed that a letter be written to the Commissioner of Police and the Attorney-General to charge those who killed the

suspects to court. Counsel to the petitioner is also to assist in charging the case to court. The Commission ordered that all the policemen involved in the killing of the suspects should be charged to court. The issue of compensation was to be looked into after that. When the case came up again, it was clear that the directive of the Commission to prosecute the culprits was not followed. The Commission was displeased with this development and further directed that a letter be written to the Police Inspector-General to convey its feelings. The Commissioner of Police and Ministry of Justice in Kaduna State were to be copied the letter. Counsel to the petitioner was requested to submit an address within two weeks, noting all that transpired, and the claims.

PETITION NO. 1779: MRS. S.O. OLUSEMO

The petition was against unlawful detention. However, the petitioner wrote to the Commission to state that the substance of the petition had been overtaken by events. The Chairman struck out the petition having been withdrawn by the petitioner.

PETITION NO. HRVIC 1783: MAJOR Y. W. HARRY

The petitioner prayed for his reinstatement into the Army. The Chairman informed that he had sent a list of such names to the Army for administrative action, but asked for confirmation that the petitioner's name was included. The case was closed.

PETITION BY PASTOR KAYODE WILLIAMS

The petitioner was the Director General of the Prisons Reactivation Ministry, Ikeja. He made suggestions to aid the reformation of the Nigerian prison system. The case was closed.

SPECIAL HEARINGS FROM THE HUMAN RIGHTS COMMUNITY

These hearings took place on the 19th day of the third Abuja sitting, specifically on the 27th of September 2001. It involved presentations by civil society groups and the National Human Rights Commission. The Chairman of the Commission commended the human rights community for the work they had been doing before the Commission came on board. He explained that the Commission stood to gain from their work. He stressed the centrality of civil society in the struggle for human rights.

a) **The National Human Rights Commission** was the first to make its presentation (marked Exhibit 1). It observed that human rights violations had become synonymous with military rule in Nigeria, and added that it would no longer go un-addressed. The Commission advocated for better forms of justice than retributive justice, pointing out the need to examine the causes of human rights violations. It opined that violations were perpetrated by government at all levels, and also by government agencies, and tribal militias. The National Human Rights Commission advocated the teaching of civic education and human rights norms in schools. Transparency was also advocated as a solution to corruption.

b) **The Constitutional Rights Project** followed (marked Exhibit 2). They opined that the great distortion of the Nigerian polity by the military and the use of decrees as opposed to constitutional processes were key causes of human rights violations. It decried the military justice system and called for non custodian methods of punishment for convicted offenders. It argued that the present Nigerian constitution was handed down by the military: it is thus devoid of

legitimacy and credibility. It called on the Commission to compel three former heads of state who were dictators, to appear before it.

c) The **Prisons Rehabilitation and Welfare Action (PRAWA)** made a presentation titled “Prisons and Penal Reforms Issues: Human Rights Violation and Recommendations”. The paper drew attention to the hidden and voiceless nature of prisoners. It examined issues of death in custody, torture and overcrowding. It advocated that all prison deaths should be investigated. The paper stated that torture occurred during interrogation in order to elicit confessions. It added that evidence-based policing should be practiced, rather than confession-based policing. The paper attributed overcrowding to Awaiting Trial cases.

Other areas considered include the lack of facilities for juvenile convicts, female prisoners, mentally ill prisoners and prisoners with disabilities. Reformation and rehabilitation of prisoners, lack of planning and coordination by the criminal justice system lack of funding for prisons, irregular use of prison funds and inadequate community involvement in the justice system were also considered. The paper finally examined measures to improve Awaiting Trial Prisoners and the administration of prisons.

d) The **Centre for Free Speech** made the next presentation, marked Exhibit 4. The paper did a comprehensive documentation of the draconian laws promulgated in Nigeria since 1968. It highlighted some of the major human rights violations on persons, especially journalists.

e) The **Civil Liberties Organization (CLO)** made the final presentation titled “The Epoch of Impunity”, marked Exhibit 5. Other publications were also presented to the Commission for reference. A petition from one Mohammed Sule was also presented, as typical of cases from ordinary Nigerians who would not be able to present their petitions before the Commission.

The presentations were discussed generally. A contributor drew attention to the need to tie environmental rights to human rights, as people have a right to a safe environment. He advocated for Environmental Audit. He added that the Bakolori incident should be considered by the Commission as an act of human rights violation under a democratic regime, and recommendations for redress should be made. The Chairman of the Commission observed that such issues were outside the mandate of the Commission. However, following a suggestion from a contributor that most persons whose rights were violated would want compensations, there was a discussion about compensations and where the funds would come from. A discussant suggested that Nigeria’s looted funds should be recovered and used for this purpose. Another was of the opinion that those individuals responsible for the violations should be compelled to pay for the compensations so that it can serve as a lesson to others in the future.

Another contributor drew attention to the conditions of prisons in Nigeria, describing them as the worst in the world. He suggested that recommendations in the research papers presented should be implemented. Another discussant attributed the problem of prison congestion to faulty legal processes. He added that whereas Section 35 of the Nigerian Constitution requires speedy trial of cases, the police

would normally take accused persons to courts which lack jurisdiction over their cases.

Finally, there was a discussion on the meaning of “death by natural causes”. Another participant commented on the atrocities committed by security agents in the name of “duty”. He added that terms like “accidental discharge” and “stray bullet” should be examined closely.

The Chairman expressed his appreciation on behalf of the Commission, and assured them that the Commission would avail itself of the views and materials from the human rights community.

SPECIAL HEARINGS FROM SECURITY ORGANISATIONS

On the 5th of October 2001, there was a special hearing session for security organizations. The organizations represented were the State Security Service (SSS), The Nigeria Police, The Nigeria Army, The Nigeria Prisons, and the National Intelligence Agency (NIA).

a) The SSS made a presentation titled *The Constitutional Role of the SSS* (marked exhibit 1). It covered a definition of national security, fundamental human rights, and the relationship between national security and fundamental human rights. It deliberated on the functions of the SSS, its mode of operation, the legal functions of its operations, and the environment within which the SSS operates. The paper also delved into the threats which the SSS was facing, challenges facing the organization, the activities of the SSS under the Commission’s terms of reference, repositioning the SSS, and a conclusion.

b) The presentation by **The Police** was made by Commissioner of Police C.J. Akaya, who is in charge of the Legal Department at the Force Headquarters. The paper was titled *Improving the Police Image/Performance* (marked Exhibit 2). The paper opined that among the factors that give the Police a bad image are the quality of personnel, poor conditions of service, inability to attract good calibre of persons into the service, poor quality of training facilities, poor quality of directing staff at the Police Colleges and improper handling of firearms. Others are extortion and corruptive tendencies, police involvement in civil matters, inadequate manpower, difficulties of logistics and equipment, and funding problems. The paper examined the effects of prolonged military rule on the police and made recommendations. It gave the Police a pass mark.

c) The Nigeria Army presentation was made by Dr. Bello Fadile for the COAS. It was titled *The Nigeria Army: A Call to Duty* (marked Exhibit 3). The paper noted that in charting a new course for the Army, it was committed to the ideals of democracy. In addition to discussing the role of the Army, it delved into military incursion into politics, the rule of law in the Army, military justice system, human rights in the Nigeria Army and the petitions and allegations of human rights violations in the Nigeria Army. Other areas are the illegal arrests of civilians, torture, misuse of task forces, trials by court marshal, trials before tribunals, illegal deployment of troops, etc. The paper also discussed civil-military relations and the lapses of the media, civilian collaborators in military rule, the distinction between military government and the Army, and the effects of military adventurism. The vision of the current COAS for the Nigeria Army were presented. It concluded by stating the faith of the Nigeria Army in justice and the judiciary.

d) The **Nigeria Prisons** presentation was made by O. Ibrahim and O.W. Orakwe. It was titled *The Overview of Human Rights Violations and Professional Hazards in the Nigerian Prisons* (marked Exhibit 4). It defined the objectives of the Nigeria Prisons. It attributed human rights violations in the nation's prisons to two sources, the first being prison congestion due to delays in the justice system, and overbearing state policies (e.g. bringing people to the prisons without warrants); and ouster clauses that incapacitate the prison. Violations also result from punitive treatments and lack of rehabilitation, transfer and removal of prisoners from custody, violation of prison officers' rights by the state, professional hazards faced by the prisons staff, the effects of military rule on prisons and human rights violations and prison reforms. Recommendations were also made.

e) The **National Intelligence Agency** (NIA) presentation was titled *Perspectives on Institutional Reforms and National Reconciliation* (Exhibit 5). It articulated the mandate and objectives of the NIA. It also examined new relationships for a new order, the need for social justice to create a positive impact on Nigerians. The engagement of the unemployed as well as sectarian crisis and its effects on citizenship were considered. The paper advocated that the directive principles of state policy should be made justiceable. The presentations were followed by a general discussion.

CLOSING

8.3 The third Abuja came to an end on Thursday 18th October 2001. The Chairman of the Commission gave a closing address titled *In Recinciliatione Stat Progressio Humana (Restoration is the Foundation of Human Progress)*. He recalled the reference made by Mr.

President, while inaugurating the Commission, to the principles of openness and transparency in government, healing the wounds of the past, reconciliation of those previously alienated, and restoration of harmony. Chairman stated that the Commission had tried to bring the message of hope and reconciliation to Nigerians in its public sittings, and did so by moving to different zones in the country. The Chairman stated that a number of reconciliations had been brought about by the Commission, involving individuals, groups and communities. Even though old wounds were opened, the Chairman, explained, the purpose was to get to the truth so that permanent healing could be achieved. The Chairman called for input from the public to enrich the final report and recommendations to be made to government. He also thanked security agencies, the media, and the audiences for the support they gave the Commission in the course of its work.

CONCLUSION

8.4 Having gone through the hearings petition-by-petition and centre by centre, what is our assessment of what transpired at the hearings? From the context of the Commission's mandate, could the public hearings be said to have lived up to expectations? Before we address these issues, we may need to avert our minds to what appeared to be an inadvertent dominance of particular petitions – types in the centres, giving rise to the dominance of particular issues in such centres. For instance, the hearings in the Abuja (1) and Lagos Centres were dominated by military matters. In Abuja, it was the issue of the 1995 alleged coup attempt and its fall-outs, while in Lagos the focus was the 1997 coup attempt and the in-fighting at the top echelons of the military.

8.5 The dominant theme in Port-Harcourt was the Ogoni issue in its various ramifications, while Kano featured various cases of communal clashes between the Jukun – Kuteb; Kataf – Hausa/Fulani and Sayawa-Hausa/Fulani. In Enugu, it was the resounding echo of the 15th January, 1966 *coup de'tat* and the resultant Civil War and its aftermath that filled the hearing hall. While the echo of the communal rancour started in Kano continued in Abuja (II) and (III) The two sittings here were however dominated by reactions and responses by various sectional groups to the *Ohaneze Ndigbo's* version of the history of the Civil War and the claim of Igbo marginalization in the Nigerian Federation.

8.6 Apart from these zonal patterns there were some petitions whose subject matter and/or the information unraveled during the hearings, evoked much national interest. First of these were the series of petitions from soldiers who were arrested, detained, convicted and later retired from the Armed Forces, for alleged involvement in the 1995 attempted coup attempt. Without exception, all the petitioners claimed ignorance of the coup, claiming they were either victimized or set up. Contradicting them however, were the duo of Major-General Patrick Aziza (rtd) the Chairman of the Special Military Tribunal that tried them and Major-General Felix Mujakpero (rtd) the Chairman of the Special Investigation Panel that investigated the matter. The two officers maintained that given the evidences before them, their verdicts were not only just, and fair but incontrovertible. This thus means the controversy over the 1995 alleged coup attempts still stands unresolved.

8.7 Second and related is the issue of the 1997 alleged coup attempt, which discussion revolved mainly round the petitions. of Ex.

Lt.-Gen Oladipo Diya (Petition nos: 696 and 697) and Major-Gen. Abdulkareem Adisa (Petition No: 834). While ex-General Diya claimed there was no attempt at a *coup de'tat* and that he was set up, all the other witnesses and respondents to the case controverted his assertion and presented ample evidence to confirm that indeed there was a plan for a coup and that Diya was fully involved.

8.8 Other revelations on the military were unfolded in the hearings on the Diya petition, the Kola Abiola and Dr. Ore Folomo petition (no: 458) the petition by Chief Yomi Tokoya (no: 654) and the petition by Mr Chuma Nzeribe (no: 1364). Collectively the hearings on these petitions gave the nation not only an insight into the seamier side of military governments, but they presented, in nauseating details, the in-fighting, greed, vaulting ambition and kleptomaniac tendencies that characterized the military leadership during the era of military rule. Also exposed, were the crass nepotism and sectionalism that informed some military postings and retirements. The cumulative effect of all these was that they rendered nugatory considerations of national interest in the conduct of military affairs and jeopardizing military ethics, professionalism and discipline in the process. However, as Major Fadipe former Chief Security Officer to Diya and a key witness in the hearings on the Diya petitions and a major key witness in the Chuma Nzeribe petition show, the Nigerian Army could still boast of honourable, dedicated, professional and loyal officers even at the nadir of its disgrace.

8.9 The hearings on the petition of Kola Abiola and Dr. Ore Falomo which dealt with the death and circumstances surrounding the death of Chief M. K. O. Abiola, is significant in its own right given the national and international interest in the subject of the petition

8.10 After a lengthy hearing that started in Lagos and went through Abuja II and III, the hearings on the petition ended without any conclusive proof of who was responsible for the death of the Chief. However, the hearings exposed enough information to show that the official verdict of “death by natural causes” was rather hasty. Indeed, this was the view of virtually all the key witness in the case. The only exception on this score was Major A. S. Aliyu the former Chief Security Officer to the then Head of State General Abdulsalami Abubakar (rtd). His effort to exonerate the former Head of State and his government from complicity in the death was however presented in such an incoherent and unconvincing manner that it ended up raising more questions than providing answers. Indeed, before the matter can be laid to rest, some convincing answers and explanations are needed in response to the horde of unanswered questions and posers thrown up by key witnesses such as Major Hamza al-Mustapha and A.C.P Zadok on the conduct of Gen Abdulsalami Abubakar and his government, before, during and after the death of Chief Abiola.

8.11 Mention must also be made of the petition by Professor Ben Nwabueze et al, on behalf of the *Ohaneze Ndigbo* (no: 1648) and the resultant reactions and responses to it. While individually these reactions articulated the respective views of the ethno-sectional and regional groupings on the experiences and existential plight of their people in the Nigerian Federation, collectively, they encapsulate the dilemma of Nigerian existence as a national entity. As eloquently captured by the Chairman of the Commission in rounding off discussions on the petition, it was significant that everybody felt marginalised and oppressed as an ethnic or sectional group, but not as a Nigerian.

8.12 Another issue of note about the hearings has to do with the refusal of some former retired military Heads of State and officers to appear before the Commission in response to summons issued to them to appear to respond to some allegations made against them in some petitions before the Commission. General Ibrahim Babangida was to respond to allegations in petitions nos: 274:416:537 and 1782. General Muhammadu Buhari was summoned with respect to the following petitions: 274:396; 1773 and 1782. General Abdulsalami Abubakar was to appear to respond to allegations in petitions nos: 458 and 695; while Colonel Halilu Alilu and Lt. Col. A. K. Togun were to respond to petitions nos: 416 and 537 respectively.

8.13 Their refusal to appear before the Commission was viewed seriously by the Commission as evidenced by the amount of time it devoted to the issue. After hearing Counsel to both petitioners and respondents argue the case for their respective clients, the Commission made a seminal pronouncement on the issue. Citing the instrument establishing it, the Commission argued that it had the power and the legal basis to summon anybody in Nigeria to appear before it and these officials were therefore no exceptions. On the reason(s) why these former government officials refused to appear before it, the Commission opined thus:

The former Heads of State who refused to attend might have been motivated by motivated by the feeling of pride and arrogance, or through fear. Dictators govern an unwilling citizenry through fear. By the setting up of the Human Rights Violations Investigation Commission, fear changed sides. The erstwhile dictators are now

afraid of exposure, afraid to appear and give evidence relating to their period in office.

8.14 While pointing out that Section 10 of the Tribunal of Inquiry Act empowers the Commission to issue a warrant to arrest any person failing to respond to its surmons, the Commission stated that it was not invoking that power in this instance, as “discretion is usually the better part of valour” but most important, because “the Commission is on a reconciliation process and one does not reconcile under duress”. The Commission however barred Counsel to these officials from cross-examining witnesses on behalf of their clients, on the argument that “the right to examine or cross-examine witnesses of the Commission is an absolute right qualified by attendance of the person seeking to examine or cross-examine”.

8.15 Despite the dark clouds that sometimes covered the public hearings of the Commission, however, it was able to make the sun shine in some instances as some persons accused of violating the rights of their countrymen showed remorse and even apologized, while others reconciled with their accusers. Typical of these instances were the reconciliations effected between President Obasanjo and Col. Bello Fadile; between Major Hamza al-Mustapha and the duo of Major Bilyaminu and Professor Femi Odekunle; Brig-Gen. Ibrahim Sabo and Mr. Chuma Nzeribe and Lt. Gen. Ishaya Bamaiyi and Brig Gen. Sabo and between Lt. Gen T.Y. Danjuma and Alhaji Umaru Dikko, all during the Abuja hearings.

8.16 During the Lagos hearings reconciliation were effected between A.C.P Zakari Biu and Mrs Chris Anyanwu and between Major Hamza al-Mustapha and Mr Bayo Osinowo and Pastor Turner Ogboru.

In Enugu the former Military Administrator of Bayelsa State, Navy Capt. Olubolade (rtd), apologized to and reconciled with his accusers: Justus Uwalaka, Dr. E.S. Aneke and Dr. A. N. Agunwa; while in Port Harcourt some respite was brought to Ogoniland, when the “Ogoni Four” were reconciled with the Ogoni Nine”.

8.17 At the communal level, peace was brokered between the Maroko villages and the Lagos State Government as well as between the Ife and their Modakeke brothers during the Lagos hearings.

8.18 Although the Tafawa Balewa (Bauchi) and Zangon Kataf (Kaduna) feuds were not conclusively settled during the period of the hearings of the Commission, the reconciliatory measures put in place and the continuing search for an amicable settlement by the respective state governments were greatly enhanced by the intervention of the Commission.

OBSERVATIONS

8.19 At this juncture some general observations need to be made on the hearings. First, is the fact that the bulk of the petitions before the Commission during the public hearings dealt with allegations against government security agencies and personnel. Specifically, these petitions focused on the Armed Forces and particularly the Army, the Police and to a lesser extent the State Security Service. The irony – and this is the point worth noting – is that these are the very agencies and institutions charged statutorily with responsibility for the security of the citizenry. While some of these abuses and violations could be traced to the overzealousness of some of the operatives of these agencies, some were the product of the

consciousness and belief that these agencies – or indeed the operators – were above the law of the land.

8.20 Second, the military who ruled during the bulk of the period under review hardly drew any boundary between the barracks and the larger society. Indeed, most times, they tended to see the latter as an extension of the former and treated everybody as a soldier militarizing society in the process, and thus brazenly violating the rights of the civilian population in the process.

8.21 Third, was the inability of our security operatives to differentiate between loyalty to the State and loyalty to an office holder. The two were either seen as synonymous or the office holder was seen as an embodiment of the State. While this might have been the outcome of deliberate indoctrination (for example the taking of an oath of loyalty to General Sani Abacha by the members of the *Strike Force*), it was also the result of the common tendency of the privatization of government structures and processes by public officers. Some public officers not only reduced their offices and organizations to personal fiefdoms, but public officials tended to loom large in the process of governance. The result was that a criticism of government policy was interpreted as a personal attack, inviting the most vicious response and most often resulting in the most base desecration of the rights of the victims.

8.22 A third observation has to do with the extent to which sections of the judiciary derelicted on their responsibilities during the era of military. For instance, evidences abound during the Commission's hearings on how some State Ministries of Justice

connived with security operatives to pervert the cause of justice. This they did by exceeding their brief in two ways: first by passing judgement on cases referred to them for legal advice and second by refusing to prosecute a case despite overwhelming evidence for that cause of action. Most of these instances were motivated by the need for pecuniary benefits, sycophancy or sheer incompetence and ineptitude. The result, however, was the perversion of justice, the further violation of the rights of those at the receiving end and the denigration of the judiciary which thus enabled such violators to continue to operate with impunity.

CONCLUSION

8.23 What conclusions can we draw from the public hearings of the Commission? We can answer this question from various dimensions. First, on the side of the Nigerian public, the public hearings not only provided theatrical entertainment, but at a more serious level, it afforded Nigerians an opportunity of knowing first hand what went wrong.

8.24 Second, it gave Nigerians the opportunity of having a peep into the inner recesses of the machinery of government and the ugly and hitherto hidden side of the conduct of their leaders and of the process of governance during the military era.

8.25 For public and government officials, the lesson rang out loud and clear that there is a day of reckoning and that however long it takes, that day will come to pass when they will be called to account for their tenures. The message then is that of the need for caution honesty, accountability and transparency.

8.26 Finally, it is hoped that the lessons learnt from the hearings will not only contribute towards the genuine reconciliation of individual Nigerians as well as the various sections of the country, but will ensure that the conduct of government business is modelled on the interests and aspirations of the people.