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HUMAN RIGHTS COMMITTEE

Fifty-sixth session

SUMMARY RECORD OF THE 1495th MEETING

Held at Headquarters, New York, on Monday, 1 April 1996, at 3 p.m.

Chairman: Mr. AGUILAR

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (continued)

Initial report of Nigeria (continued) (CCPR/C/42/Add.2)

Right to life, liberty and security of the person and right to a fair trial (articles 6, 7, 9 and 14 of the Covenant) (section I of the list of issues) (continued)

At the invitation of the Chairman, Mr. Yadudu and Mr. Otuyelu (Nigeria) took places at the Committee table.

Mr. FRANCIS asked whether decrees broadcast by radio or television also had to be published in the Official Gazette before they could take effect in law.

He asked the representatives of Nigeria when military rule could be expected to end and invited their comments on recent reports from Amnesty International of beatings, torture and ill treatment of prisoners, who were held incommunicado under extremely harsh conditions and given very little food.

Mr. OTUYELU (Nigeria) thanked the Committee for the professionalism with which it had considered the initial report of Nigeria and noted that some of the information the Committee had received regarding the situation in his country was inaccurate, because the sources were not always objective. He said he and Mr. Yadudu would make every attempt to provide the Committee with accurate information.

Mr. YADUDU (Nigeria) thanked the members of the Committee for their candid observations regarding violations of the Covenant in Nigeria and said that he was anxious to hear any suggestions for improving the implementation of its provisions in his country.

He disputed the allegations of torture of the Ogoni people. While there had been instances of torture, proceedings were public and recorded and he had heard no reports of prisoners being held incommunicado. He would verify the Committee's allegation that members of the Tribunal and the prosecution lived in the same house.

With regard to the jurisdiction of courts, he acknowledged the existence of "ouster clauses" in decrees, but said that they were subject to modification or appeal. When
the Guardian newspaper was proscribed by decree in August 1994, the Guardian attempted to appeal the ban before a Federal High Court, but the Court claimed that it no longer had jurisdiction. The Guardian then appealed to a higher court, which overturned the decision of the lower court. Thus, even though decrees contained "ouster clauses", the courts were still required to hear appeals. Furthermore, all the newspapers which had been proscribed in 1994 were currently in circulation throughout Nigeria. A number of decrees to which the Committee had referred predated the country's accession to the Covenant. Decrees promulgated between 1980 and 1987 which remained on the statute books, would be subject to review in the near future.

The Committee had raised the issue of the fairness of Ken Saro-Wiwa's trial. It was true that one member of the Civil Disturbances (Special) Tribunal was a member of the military, that the Tribunal had been appointed by the Executive and that there was no right of appeal to the Tribunal's ruling. Nonetheless the trial had been conducted within the limits of domestic law in Nigeria. Two of three members of the Tribunal were judicial officers. Furthermore, the dangers of having a tribunal that could pass a death sentence against which there was no appeal had been well recognized by public opinion in Nigeria.

He asked Lord Colville to identify the community alluded to in his question about communal disturbances. The Civil Disturbances (Special) Tribunal had been created in 1987 in the aftermath of communal strife which had led to massive destruction and had threatened the peaceful existence of the communities themselves. It was found that the regular courts did not handle such cases adequately and a decision was made to establish the Civil Disturbances (Special) Tribunal Act. The selection of the cases brought before the regular courts and those that were heard by the Tribunal was not made arbitrarily. Whenever there was a massive civil disturbance between or within ethnic or religious groups, a special investigation panel was established. A decision to establish a Civil Disturbance (Special) Tribunal was then made on the basis of a report on the situation submitted by the panel.

In reply to an inquiry regarding the fate of the other suspects who were being tried in the Ogoni 19 trial, he informed the Committee that the trial had been suspended following a court ruling. It was not yet known whether the trial would be resumed before the Tribunal or in the regular courts.
Chief Abiola had been arraigned on charges of treason on 23 June 1995 before a Federal High Court after declaring himself the winner of an inconclusive presidential election. His oral request for bail was denied by a Federal High Court judge, who ordered him to apply in the appropriate manner i.e., by entering a motion. Abiola's lawyer appealed the order of the High Court judge to the Court of Appeal. Concurrently, Abiola charged that the judge appointed to hear his case was biased and the judge then withdrew from the case. A new judge was assigned, but before he could proceed with the case, he had to decide on the matters which were being appealed, namely, the issue of bail and whether Abuja was the proper venue in which to try Chief Abiola. Abiola's lawyers then sued the second judge on the ground that he was biased because he belonged to a party which was in opposition to Abiola. As a result, the second judge was withdrawn from the case. In the meantime, the Court of Appeals had granted Abiola bail, but the State appealed that decision, requesting a stay of execution of judgment. His lawyers then appealed to the Supreme Court, but just as the Supreme Court was about to hear Abiola's appeal for bail, his lawyers alleged that seven of the nine Supreme Court justices were biased, thereby impugning their character, including that of the Chief Justice. As a result, those judges had withdrawn from the case. As the situation now stood, Abiola was being detained by court order and had not been granted bail owing to the actions of his lawyers, and not those of the Government.

To the best of his knowledge, none of the three people who were allegedly being detained - Mr. Falomé, Mr. Le (Chief Abiola's lawyer) and Mr. Eno - were still in custody. He challenged the allegations of the extrajudicial executions; notwithstanding Amnesty International's charges, no newspaper in Nigeria had ever mentioned such executions and, in the case of Ken Saro-Wiwa, the Government did not consider that execution to have been extrajudicial.

The military had assumed power in view of the special circumstances prevailing in the country and was committed to restoring democracy by October 1998. It had already taken many of the steps it had promised to prepare for a return to democracy: Committees of Reconciliation had been created, the Electoral Commission had recently overseen municipal elections and, on 1 April, political parties would begin to register for elections to be held at the end of 1996. In 1998 the reins of power would be handed over to democratically elected officials.
Significant steps had also been taken in the area of human rights. An independent National Human Rights Commission had been created composed of representatives from independent non-governmental organizations, journalists, and individual citizens, to assist in implementing the human rights provisions of the Covenant and other international instruments. An independent fact-finding mission sponsored by and reporting to the Secretary-General was currently in Nigeria and he hoped that its report would help clear up some misunderstandings about the human rights situation in Nigeria.

Mr. LALLAH expressed great concern about the criteria for deciding which matters would be tried by special courts, and who would make those decisions. If the "ouster clauses" removed any rig