

rights concerns, including: use of military and special courts to try cases of supposed crimes by civilians; secret trials; allegations of summary executions committed by security forces; abuse of power in response to peaceful pro-democracy demonstrations; lack of right of appeal for persons sentenced to death; harassment of Nigerian NGO representatives, notably members of the Nigerian Civil Liberties Organization; indefinite and incommunicado detention, with the associated increase in the possibility of torture, particularly of persons detained in secret detention centres; detention without charge; lack of right of habeas corpus; lack of access to medical care for detainees; power of military tribunals to nullify the supervisory jurisdiction and judicial review of the high courts with no appeal from decisions of the tribunals; unrestrained executive power in relation to judicial appointments; denial of access to legal counsel for long periods prior to trial; continuous involvement by the military in cases before special or military tribunals, leading to doubts about the credibility of witnesses, restrictions on freedom of access to these tribunals and intimidation of the accused, members of the family and the public; and, lack of a requirement that judges to customary and area courts be legally qualified.

The addendum to the report by the SRs (E/CN.4/1997/62/Add.1) contains a section on extrajudicial, summary or arbitrary executions noting: constitutional provisions related to the right to life; the fact that there is a general pattern related to (i) victims killed in police custody; (ii) victims killed while attempting to avoid being stopped or arrested by the police; and (iii) victims killed when security forces indiscriminately fire upon demonstrators; numerous allegations have been received about the use of torture that results in death, or extrajudicial, summary or arbitrary execution by the police following the arrest and/or detention of criminal suspects; cases of shooting by police or security forces as individuals attempt to avoid being stopped or arrested frequently occur at police checkpoints when the victims refuse to obey police orders to stop; the police invariably claim that the victims were armed robbery suspects; reports of demonstrators being killed when the police or military fired upon crowds to disperse participants in demonstrations; ouster clauses contained in the Constitution create an environment in which the security forces can act with impunity; the death penalty may be applied following hearings before ad hoc tribunals in which hearings violate international standards on the right to a fair trial before an independent and impartial tribunal; reports related to the deaths of scores of detainees owing to the harsh conditions in prisons and other places of detention, and to the subsequent lack of provision of adequate medical attention to the detainees; the failure of the government adequately to address the problem of communal violence that exists within various regions of the country, such as the religious conflicts in the north of the country and the civil unrest in Ogoniland.

The report also contains a section on issues related to the independence of judges and lawyers, noting: the erosion of the Constitution; ouster of the jurisdiction of the ordinary courts over some fundamental rights issues and measures making the judiciary subservient to the federal military government; provisions granting the government unlimited power to violate fundamental rights with impunity; executive

disobedience of court orders; differential treatment in the allocation of resources to the ordinary courts and the special and military tribunals; detentions; inaction by the government on recommendations submitted in 1995 by the Committee on judicial reform; and, efforts by the government to control the Bar Association.

The Special Rapporteurs recommended that:

- ▶ all decrees revoking or limiting guarantees of fundamental rights and freedoms be abrogated;
- ▶ all courts and tribunals comply with all the standards of fair trial and guarantees of justice prescribed by article 14 of the International Covenant on Civil and Political Rights;
- ▶ all decrees which establish special tribunals or oust the jurisdiction of the ordinary courts be abrogated;
- ▶ the ordinary courts be given the necessary support and assistance to carry out their duties and, further, that the government cease to interfere with and hinder the judicial process and obey court orders;
- ▶ those who have been convicted and sentenced by special tribunals in which there have been violations of the right to a fair trial, such as those convicted by the Special Military Tribunal in the so-called "coup plotters' trial", be pardoned and immediately released from detention and, further, that these victims be compensated for the injuries they have suffered as a result of these violations;
- ▶ in regard to the trial of Ken Saro-Wiwa and others, the government implement fully all the recommendations contained in the report of the fact-finding mission of the Secretary-General;
- ▶ the recommendations of the Human Rights Committee (1996) be implemented fully;
- ▶ those who are awaiting trial be afforded all the guarantees of a fair trial explicitly provided for in article 14 of the International Covenant on Civil and Political Rights, and those who have been convicted and sentenced be granted the right to have their convictions and sentences reviewed by ordinary appellate courts in accordance with article 14.5 of the Covenant;
- ▶ the government take effective measures to prevent extrajudicial, summary or arbitrary executions, as well as torture, ill-treatment and arbitrary arrest and detention, by members of the security forces;
- ▶ training for law enforcement officials be provided, on an urgent basis, on the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- ▶ the government investigate allegations brought against law enforcement officials in order to bring before the courts those suspected of having committed or participated in crimes, punish them if found guilty, and provide compensation to victims or to their families;
- ▶ the commissions of inquiry that were established to investigate alleged extrajudicial executions or murders, such as the one established in the case of the murder of Mrs. K. Abiola, complete their investigations and make their reports available to the public;