

SHADOW REPORT
ON
NIGERIA'S COMPLIANCE WITH THE U.N.
CONVENTION ON THE ELIMINATION OF
ALL FORMS OF RACIAL DISCRIMINATION

PREPARED BY
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INTRODUCTION

Our organization would like to welcome from the outset Nigeria's submission in March 2004 of a report to CERD.

This report is being submitted to the experts of the United Nations Committee on the Elimination of Racial Discrimination as a shadow report to the combined periodic report of the state of Nigeria by the Movement for the Survival of the Ogoni People (MOSOP).

The MOSOP was formed in 1990 as one of the leading organizations in Nigeria fighting for the promotion and protection of minority rights, indigenous peoples rights and environmental justice and in recent years has been actively involved in activities aimed at promoting democratic accountability, equality and transparency at the grassroots of society especially in Ogoni and neighbouring minority territories in the Niger Delta.

It is however the conclusion of MOSOP that it is the responsibility of the state parties to ensure the implementation of anti-discrimination programmes at all levels of government from the national, state to the local administrations.

This Shadow Report attempts to fill the gaps in the combined periodic reports of the Nigerian government. As a supplement, it is intended that this report will assist the CERD committee to have a balanced view of the state of ICERD's compliance in Nigeria by determining the extent the government has conformed to its obligations under the convention.

This report examines articles 1-7 against the backdrop of the government's report. The government report attempts to give a holistic picture of the situation but this is far from the truth. Reports indicate that ICERD is partially operational in Nigeria as ethnicity is a fact of life and the closer your ethnic group is to power, the easier your access to socio-economic opportunities.

Unfortunately, this has been the lot of Nigeria's minorities whose peripherisation in Nigeria's political development has ensured that they hardly come close to power any day in the country.

Justification for the Shadow Report

The combined periodic reports of the 14th, 15th, 16th, 17th and 18 periodic reports of Nigeria due on January 4, 1994, 1996, 1998, 2000, 2002, 2004 portends that the government has done much in regard to the government's compliance with ICERD.

In MOSOP's view, this is not the case as there are obvious gaps that the report inadvertently glosses over especially with respect to adequacy of steps and issues that were omitted. Certain policies aimed at achieving the objectives of ICERD are not being implemented adequately where present. In other cases, there is no evidence of even minimal compliance with ICERD provisions.

In the Nigerian circumstances, the perpetuation and persistence of both formal and informal forms of discrimination on the grounds of ethnicity is committed by both the federal and state governments against specific groups.

MOSOP is examining this report in the context of the discrimination, which the Ogoni people and other minorities of the Niger Delta suffer in the face of majority domination and discrimination.

MOSOP is submitting this report based on its concern that the present civilian government in Nigeria is not doing much to tackle issues of discrimination and the deprecating including egregious human rights violations by state and non-state actors against the Ogoni people and other indigenous minority peoples of the Niger Delta of Nigeria.

Article 1

Definition of Discrimination

The constitution of Nigeria confers equality on all citizens of the country irrespective of ethnic origin, sex, religion, and political opinion. However, it does not define discrimination against minority indigenous groups.

Chapter 2 of the Constitution purports to create equal opportunities for all irrespective of ethnic origin.

Thus, while the constitution provides for individual rights, it neglects minority and indigenous peoples' rights. There is no mention of minority and indigenous peoples' rights in the constitution. The neglect derives from the assumption that the protection of individual rights will be sufficient for the protection of individual and groups against oppression, exploitation and internal colonialism.

Reality

The reality is that discrimination against minority and indigenous ethnic groups exists in Nigeria. One of the failures of the government is its refusal to disaggregate the national census data according to ethnic groups or language groups. The 1991 national census omits all references to the ethnic origins of all citizens which in a multi-ethnic state is a violation of community and indigenous peoples rights¹. This is very serious in a country where the government is keen on promoting a negative national integration at the expense of the diversity of the cultures of the peoples. There are attempts to assimilate other ethnic groups into the mainstream majority ethnic group in each of the regions. The non-inclusion of this data in census means that the identity and existence of these minority and indigenous groups are not recognised.

Gender, Poverty and Discrimination

There is an inter-relationship between gender, poverty and discrimination. Our findings confirm that like in most parts of Nigeria, the incidence of poverty in Ogoni and other minority indigenous peoples' territories is higher among female adults than among male adults. Our investigation shows that women's incomes, on the average, are about 50 percent of men's incomes².

Though, women all over the country are discriminated, the problem of women from minority territories are compounded by the fact that they suffer from double discrimination. The incidence of lack of access to power and discrimination in access to financial resources has made women from minority areas to suffer disproportionately from the rest women in terms of access to power and income.

A particular case is that of women participation in politics. In 2003, though the political parties made some half hearted attempts aimed at enhancing women participation by waving the cost of application forms for women, the cost of the

electioneering campaigns were so high that women found it difficult to effectively participate in the process. The cases of women from Niger Delta Indigenous Minority Ethnic groups were even worse.

Statistic showed that only thirty-eight (38)³ women emerged in the State Houses of Assembly in the country of nine hundred and ninety (990) seats. Out of this thirty-eight (38), only ten (10) came from minority ethnic groups of both the south and North. A further disaggregation of the data showed that women have their poorest showing in the Hausa dominated areas of the Muslim north where religion played a prominent role.

In areas of agriculture, men are able to cultivate larger farms using both family and paid labour, women's farms are generally smaller. In fact in most cases women's farm activities are subordinated to those of their husbands. Certain crops that yield better incomes such as yam are still regarded as men's crops. This gender-based division of labour relegates women to what is traditionally considered secondary crops such as vegetable⁴.

Furthermore, the effect of environmental degradation and discrimination affects men and women disproportionately. Women in the Niger Delta have only farming as their major income earner. When their farmlands are destroyed through oil pollution, they lost their means of local livelihoods and in the face of the gender-based division of labour, their survival is imperiled⁵. The situation of their male counterparts is somewhat different since they can adjust to other alternatives.

Conflict Response and Discrimination

In recent years, the country has faced both political and economic convulsions largely due to incidents of religious and ethnic upheavals, which took place in many parts of the country.

The Federal government in its response to crisis has been very discriminatory along ethnic faults with the minority ethnic groups at the receiving end of unfavourable government interventions. This is due largely to the discriminatory and unequal power relations that exist between the minority ethnic groups and the majority ethnic groups with the latter dominating.

Some few examples suffices to this point. Between 1993-1999, the government's response to the Ogoni agitations was to set up an Internal Security Task Force whose only duty was to crush the Ogoni resistance without any attempt to engage the Ogoni people on the issues that they had raised.

This same treatment was visited on the Ijaw people in 1999 when the Federal Government criminalise a whole community on the condemnable murder of police officers by some miscreants with the sending of troops to ransack Odi. This troop embarked on a scorched earth policy by destroying everything in the Community.

In 2001, it was the turn of the people of Zaki-Biam⁶ of the Tiv, a northern minority that was invaded by government troops who destroyed every imaginable thing in the community and the Federal government in 2004, under pressure from the Hausa/Fulani hegemony, imposed a state of emergency on Plateau State, a minority state.

While we cannot deny the fact that government has a duty to intervene in situations of conflict, we condemn the selective and detestable government intervention, which seem only directed towards teaching the minorities that they are a conquered group in the country.

It is worthy to note that when crisis of even magnitude that is greater occur in majority territories; the government chose the path of dialogue.

A case in point is the activities of the Odua Peoples Congress (OPC), a Yoruba irredentist group in Lagos who in 1998- 2001 embarked on a campaign of terror against non-Yoruba residents of Lagos and declared war against the Nigeria Police. The government responded with a call for dialogue and today, in spite of the continuing threat of OPC, the Federal Government has appointed its leader a 'Peace Ambassador'. The same treatment can also be said of the Hausa/Fulani elements in Kano who continue to kill non-Hausa elements in Kano and Kaduna without government taking a definite stand because of the fear of backlash from the Hausa/Fulani.

Non implementation of International Instruments

Section 12 of the Constitution restricts implementation of international treaties signed by Nigeria except the treaty has been "enacted into law by the National Assembly. The implication of this is that though Nigeria has signed and ratified ICERD and other international covenants stated in the State Report, it has not been passed as a domestic law capable of enforcement. If ICERD had been domesticated, its provision would have made up for the lapses in the constitution.

The fundamental freedoms and human rights stated in Chapter II of the Constitution are non-justiciable thus rendering its noble objective on equality nugatory.

Recommendations

1). That the Federal Government of Nigeria should take steps to enact a law that defines racial discrimination according to the definition of the Convention

- 2) *That the Federal Government takes steps towards the domestication of the Convention on the Elimination of All forms of Racial Discrimination.*
- 3). *That the Federal Government develops a coherent policy on the collection and disaggregation of all data to show the ethnic composition of Nigeria, which is useful for programme and policy planning*
- 4). *That the impending census in 2005 reflects ethnic origin of the citizens*
- 5). *That the government enacts a law that eliminates all forms of discrimination against women with particular focus on women from minority ethnic groups*

Article 2

Article 2 recognizes the reality that most states have ethnic or minority groups such as the Indigenous minority Ogoni People. Consequently, attention must be paid to the socio-economic and political situation of these groups in order to ensure that their development in the social, economic and cultural sphere takes place on an equal footing with that of the general population.

Several policies and programmes have been adopted and declared by the government towards the improvement of the citizen such as the National Policy on Affirmative Action, Federal Character Commission and Universal Basic Education.

The National Policy on Affirmative Action is yet to be translated into action and does not contain anything about special measures or affirmative actions for the protection of minorities.

The National Poverty Alleviation Programme

The Poverty Alleviation Programme is presented as an effort by the government to reduce poverty without discrimination. The implementation of NAPEP leaves a lot to be desired as the target beneficiaries/the indigent and economically vulnerable group, which include Niger Delta minorities, have not been reached.

The politicization of the whole programme has made it failed to meet the desired objectives. Oftentimes, the beneficiaries are relations of influential political party members or the policy makers and this affects minority groups since most of them even in the political parties operate on the periphery.

The Niger Delta is the area with the highest poverty rate in Nigeria and the least developed region. The World Bank puts the per capita income at below \$280 despite its high population⁷.

The Nigerian Constitution only deals with general question of non-discrimination but does not deal with the problem of vulnerable communities like the Ogoni people. The non-justiciability of Chapter II of the constitution, which deals with the fundamental objectives and directive principles of the country, belies Nigeria's commitment to the elimination of Racial Discrimination.

Recommendations

1). That the government strives to make the provisions of Chapter ii of the constitution justiciable

2). That the National Poverty Alleviation Programme be strengthened so that it effectively meet the needs of vulnerable groups such minority ethnic groups and women

The Injustice of the 1978 Land Use Act and 1969 Petroleum Decree

Rather than ensuring that the development of the Ogoni people and her Niger Delta counterparts in the social, economic and cultural sphere takes place on an equal footing with that of the general population as required by Article 2 of the Convention, the laws and policies of the government, in this case, the 1978 Land Use Act and the 1969 Petroleum decree has served to reinforce the inequality between the Ogoni people and the rest of the population in the social, economic and cultural spheres.

These two pieces of legislation can rightly be described as the most obnoxious and discriminatory legislations against the peoples of the Niger Delta.

The Land Use Act divests the people of their rights of ownership and possession of land and its resources vesting such ownership in the hand of a far removed central government while the Petroleum Decree completely decree sealed this loss of ownership with the denial of consultation and participation of the local Niger Delta population in the exploitation of the natural resources in the belly of their land placing this only in the hands of foreign corporations in collaboration with their local compradors.

These laws have only led to the centralization of resource management and development to the exclusion of communities where these resources are produced. By vesting all these rights of ownership in the Nigeria government, foreign and local investors only needed to deal with federal government in relation to the granting of rights and exploitation of the resource.

Besides, the promulgation of the Land Use Act was also seen as an attempt by the Federal government to bring the entire country under a feudal land tenure system practised in the Northern part of the country and alien to the people of the South especially the Niger Delta minorities without taking into consideration the peculiar nature of the land systems of these people. This in itself is discriminatory.

Recommendation

The State of Nigeria should be requested to remove the Land Use Act and the Petroleum Decree from its statute books for they are anti-Ogoni people and anti-Niger Delta people.

Article 3

The Oputa Panel and Non Release of Its Report by the Government

The Human Rights Violations Investigation Commission otherwise called The Oputa Panel was set up in 1999 by the government in response to both pressure internationally and locally for the government to establish a commission, to unravel the causes of the horrendous human rights abuses that people in Nigeria, amongst whom, are the Ogoni had suffered under different regimes.

Under the State Report on Article 3, it reported about the landmark setting up of the Justice Oputa Panel of Inquiry. In setting up the Commission, the government said that it was intended to look into the injustices of the past committed against the citizenry and groups and to promote National justice, reconciliation and forgiveness.

It is relevant to say that Nigeria's establishment of this Commission was in tandem and justified by the various international human rights covenant for which Nigeria is a signatory. Apart from the African Charter, which has been ratified and domesticated as an act of Parliament, Nigeria has also ratified International Covenants on Civil and Political Rights, Convention Against Torture and other Cruel inhuman and Degrading Treatment or Punishment and the Convention on the Elimination of all Forms of Racial Discrimination, Intolerances and Xenophobia.

As a signatory to the aforesaid instruments, Nigeria is duty bound to undertake and adopt legislative, executive and judicial measures to give effect to these provisions. Specifically Article 6 of ICERD states as follows:

that States parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other state institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this convention, as well as the right to seek from such tribunals just adequate reparation or satisfaction for any damage suffered as a result of such discrimination⁸

and Article 12 of the CAT which states as follows:

Each State party shall ensure that its competent authorities proceed to a prompt and impartial investigation whenever there is a reasonable ground to

believe that an act of torture has been committed in any territory under its jurisdiction.

It was in this light that the Ogoni People received and welcomed the Human Rights Violations Investigation Commission otherwise referred to as the Oputa Panel, which was seen in Ogoni as an attempt to address the systematic discriminatory patterns of human rights abuses, which was visited on them. The Ogoni people participated in the process with more than 80% of the total number of the petitions that were received by Panel.

Out of ten thousand petitions, the Ogoni people submitted more than eight thousand, which go to show the extent of the State inspired violence and discrimination against the Ogoni people during the period of military repression.

Unfortunately, instead of the government to seize the opportunity of the Panel to promote justice, reconciliation and enter into genuine process of dialogue with the Ogoni, the government refused to publish the report of the panel. This has given rise to deepening cynicism and has aggravated the frustrations of people like the Ogonis who spent time and energy in participation in the process with the hope that the Panel would provide an opportunity for them to address the nagging issues of the Ogoni agitations. Contributing to the debate on government's refusal to publish the report of the panel, *The Guardian* in its editorial of December 10, 2004, titled the *Oputa Panel: Matters Arising*, rightly described the decision of the Federal Government to withhold the publishing of the Report of the Human Rights Violations Investigation Commission as “***one of the most unfortunate actions taken by this administration***”⁹

The government in a recent defence of its action said that it was withholding the publication of the report because its decisions cannot be enforced based on the judgment of the Supreme Court in the case of *Fawehinmi vs Babangida (2003)12 WRN 1 (2003) NWLR(PT 808)604*.

It is however instructive to note that before the judgment of the Supreme Court, the Government had already made up its mind not to put the report in the public domain. Upon receipt of the Report of the Commission, in June 2002, the Federal Government set up an Implementation Committee of eight members headed by Mrs. Elizabeth Pam. The Committee concluded its work within three months and submitted its Report to the government. But the consideration of the White Paper on the Report was, however, put off by the Federal Executive Council in October 2002, on the advice of the Attorney-General of the Federation and Minister of Justice, Hon. Kanu Agabi. This shows that the government never wanted to commit itself to the Report nor to the work of the Commission.

Furthermore, not less than three months before the Supreme Court judgement, the then Minister of State for Justice, Mr. Musa Eleayoe was reported to have stated “***that while government could go ahead to prosecute some of the cases in court, it was more interested in pursuing reconciliation***” as if you can separate

reconciliation from justice. According to the junior Minister, “*the objective of the Panel to seek reconciliation has been achieved to a great extent*”.

The Ogoni People who as a group participated in this process more than any other group in Nigeria wonder aloud about the manner of reconciliation that had been achieved when they are still seeing a perpetuation of the sufferings and the terrible injustices of the past hanging around their necks more so when the Oputa Panel which was seen as a response to the militarisation of Ogoni during the military is being consigned to the rubbish bin of history by the same government that set it up.

Recommendations

1) *That the government publishes and emplace a genuine process of implementation of the Report of the Oputa Panel*

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Article 5

While the Nigerian Constitution enunciates the range of rights stated in Section 33-44 of the Constitution, there are doubts as to Nigeria’s implementation of these human rights principle.

The Right to Freedom of Thought, Conscience and Religion.

With the introduction of Sharia Law in some parts of the northern region dominated by the majority Hausa/Fulani Muslim group, the lives of the northern ethnic minorities who are mostly Christian and animists and other non-Hausa elements are at risk¹⁰. The introduction of Sharia has led to discriminatory practices against other Nigerians resident in the North.

Right to Life

The Nigeria government in league with the oil companies particularly Shell has been implicated in the killing of members of oil producing minority ethnic groups such as Ogoni. During the period of the military repression, from 1993-1998, the Rivers State Internal Security Task Force was involved in the cold murder of over two thousand Ogoni people. (Human Rights Watch, *The Ogoni Crisis: A Case-study of military repression in south east Nigeria*, New York, 1995.)

This murder of its citizens for oil, is still taking place under the current democratic dispensation by the State Security and Law Enforcement agents.

In April 2000, in the wake of a community protest in K.Dere, an Ogoni Community, against the attempt by Shell Petroleum Development Company to commence a road project in the community without consultation with local people, the Police was drafted in which invaded the community and shot dead a young man, **Mr. Barinaadaa Gbaraka**.

Furthermore, in June 2001, the Police in the company of Shell P.D.C Staff shot one **Mr. Friday Nwido**, a youth leader at the Ogoni community of Baen, who later died in Shell Clinic Port Harcourt. The youth of the Community were in dispute with Shell over providing security for the company during the latter's clean up of the Yorla Oil Spill, which occurred earlier in the year. (*Niger Delta Review: Vol 1. No.1 pg 15. Copies can be obtained from MOSOP offices on request*)

In these two separate incidents, the Police and Shell has turned down several requests for the release of the bodies of these Ogonis for burial as required by Ogoni Customs and Traditions.

Employment and Development

Niger Delta Development Commission (NDDC) and the Ogoni People

The Niger Delta Development Commission was formed by an Act of the National Assembly in 2000 with the thrust of physical development of the Niger Delta. It is no doubt that the Commission was established in response to the deepening crisis in Ogoni in particular and the Niger Delta at large which heightened international pressure on Nigeria at the time by western governments, to do something to assuage the growing feelings of Neglect in Ogoni and the Niger Delta

To the Ogoni people, this was a welcome development. However, MOSOP cautioned from the beginning that this was not the end of the matter as the crisis in Ogoni and the Niger Delta in general goes beyond the mandate of the NDDC.

A year after the Commission had begun its work, The Rivers State Representative on the Board of the Commission, Mr. Shadrack Akalokwu, announced to the world that benefiting from the projects of the Commission would be based on the quota of oil production by each of the ethnic groups.

The Representative who was understood to be speaking the voice of the commission was only announcing to the world that the Ogoni people will not be benefiting from the projects of the Commission because oil production ceased in Ogoni in the height of the Ogoni protests against Shell nine years earlier. The Commission with Shell representatives on its board saw an opportunity to strike. They decided that the development of Ogoni had to be based on the resumption of oil operations

This was condemned by the Ogoni people and followed by a peaceful protests on the streets of Port Harcourt on December 4, 2001¹¹.

However five years into operations, the Commission has openly carried out its discriminatory policies against the Ogoni people, which can be analysed as follows:

1.Non-Employment of Ogoni People

In spite of the fact that the struggles of the Ogoni people led to the setting up of the Niger Delta Development Commission, the Commission discriminates against the employment of Ogoni people into management positions.

Out of a nineteen-member board, no Ogoni man sits on the Board

Out of a senior staff position of forty-eight (48) only one (1) is from Ogoni.

Out of seven hundred junior staff strength, Ogoni has just thirty-two (32) persons whose employment bespeaks of the slavish nature of the Ogoni people, as they are only employed in what seem to be positions reserved for the underdogs such as drivers, cleaners and administrative support staff

2.Absence of NDDC Projects in Ogoni

This is the most criminal aspect of the discrimination of NDDC against the Ogoni People.

In its report titled '*NDDC At a glance*', the Commission claimed that it has constructed 59 roads, 33 bridges, 114 water projects, built 47 jetties, undertaken 156 electricity projects, built 332 classroom blocks, over 800 buses for transportation, built 12 health centres and 5000 people trained in the computer literacy programmes¹².

Yet, not up to 0.0005% of these projects are located in Ogoni. NDDC has done only two projects in Ogoni namely a water project in Betem and a six -classroom block in Bodo with about 50 trained in the computer programme. This is a far cry. It is development racism.

Environmental Injustice and Discrimination

One area in which discrimination against the Ogoni people and other oil producing minorities of the Niger Delta is manifest is in the continual denial of their right to a secure, clean and healthy environment.

In spite of the end to military rule, the persistence of poor environmental standards associated with oil mining and refining remains a major problem in the Niger Delta. As a corollary, resource depletion and waste jeopardize the livelihoods of communities and endanger the survival of future generations.

The government has failed to put in any measure to protect the people in the face of the damage to the environment resulting from oil exploitation. There is no coherent policy of the government to tackle the problems of environmental degradation associated with oil

This government's response is based on the fact that oil is located in minority and indigenous peoples' territories who are not in positions to influence government policies.

However, the same government has invested massively in anti-desertification programmes targeted at addressing the problems faced by the Hausa Fulani that are encumbered with the problems of desertification, a natural environmental disaster.

The African Commission had in its decision in communication 155/96 held

that the pollution and environmental degradation in Ogoni was to a level humanly unacceptable and has made living in the Ogoni land a nightmare¹³.

The causal relationship between environmental degradation and poverty becomes that of a vicious circle. While poverty contributes to specific aspects of environmental degradation such as deforestation, degradation itself aggravates poverty by undermining those nature-based income-earning activities¹⁴

This has been the situation in much of Ogoni. The great destruction that has been done to the aquatic system through oil spills has brought about a near collapse of the fishing industry while deforestation, rising population and declining soil quality have engendered a significant decline in agricultural yields.

Government has failed to provide any comprehensive policy of environmental rejuvenation. This is in all manners discriminatory.

Right to Housing

Though there is no official housing discrimination, the practice of government in its housing policy seem to undercut vulnerable groups such as the Ogoni people and other minorities who because of their unequal access to income and resources in comparison with members of the dominant group reside in low income areas of towns and cities.

A case in point is the situation of most Ogoni people who had faced the dual problems of environmental degradation and poverty, which forced them into the cities especially Port Harcourt. In the cities, because of low income, they take residence in shanties and watersides. Thus becoming environmental refugees.

The National Housing Policy launched by the Government in 1991 was designed to ensure that all Nigerian have access to affordable and decent housing by the year 2000.

However, the government failed to state in its policy how vulnerable groups and low-income earners will meet up with the 2000 target.

The National Housing Policy, which is plagued by the non-justiciability of Chapter II of the 1999 Constitution, has been faced by problems of forced evictions and displacements, expensive cost of housing accommodation and bad conditions of housing.

Another area in which government has failed in providing effective measures for the protection of Ogoni People is in the area of housing. In 1993, the then Rivers State Government embarked on the demolition of houses in waterfronts in Port Harcourt, which were largely owned by the Ogoni People. Mr. Samson Ngerebara, an Andoni and Ogoni neighbour that has been used to fight the Ogoni people, led this demolition. This is in spite of the fact that Ogoni people acquired Temporary Occupation Licences (TOL)¹⁵ from the Ministry of Lands before committing themselves to reclaiming the marshland on which they built these houses.

In the period between 1993 -1998, the government through the activities of the Internal Security Task Force, which was set up for the so-called pacification of Ogoni embarked on the destruction of Ogoni homes which implicated on their right to housing. Apart from destruction of homes, fourteen Ogoni communities were completely sacked. The African Commission in its decision on communication 155/96 stated in paragraph 55 that:

To exacerbate the situation, the security forces of the government engaged in conducts in violation of the rights of the Ogonis by attacking, burning and destroying several Ogoni villages and homes¹⁶.

Stating further, in paragraph 60, the Commission held that:

Although the right to housing or shelter is not explicitly provided for under the African Charter, the corollary of the combination of the provisions protecting the Right to enjoy the best attainable state of mental and physical health, cited under Article 16 of the charter, the right to property, and the protection accorded to the family forbids the wanton destruction of shelter because when housing is destroyed, property, health, and family life are adversely affected. It is thus noted that the combined effect of Articles 14, 16 and 18(1) reads into the Charter a right to shelter or housing which the Nigerian Government has apparently violated.

In a move similar to that of 1993, the Rivers State Government led by the Commissioner for Lands and Urban Development, Mr. Tele Ikuru of Andoni Extraction had on the 22nd December, 2004 embarked on the demolition of houses in an area of Port Harcourt called Eagle Island¹⁷. Of the three hundred houses that were demolished, two hundred belonged to Ogoni people.

In this case as in others, the government did not inform the people and no notice was served on them¹⁸. The people only came back from the Christmas holidays to find their homes destroyed.

Recommendations

- 1) *That the government decentralizes the operations of the Niger Delta Development Commission (NDDC) to the various oil bearing communities*
- 2) *That the NDDC be prosecuted for its incitement and promotion of discrimination against the Ogoni People*
- 3) *That the government take steps to make the judicial enforcement of the provisions of Article 5 in relation to Economic, Social and Cultural Rights possible within the judicial system*
- 4) *That the government pays compensations to all the victims of the various demolition and eviction exercises as this has left people in a state of physical and psychological torment.*
- 5) *That MOSOP endorse the appeal of the African Commission to the government of Nigeria to ensure that all future development be based on the conduction of environmental and social impact assessment.*

Article 6

The National Human Rights Commission

While we welcome the setting up of the National Human Rights Commission which came as a result of the grave human rights abuses that took place in Ogoni in 1995, we hasten to add that the commission has failed to be an effective mechanism for the protection of minority rights in Nigeria, as there is no elaboration of minority rights or group rights in its mandate.

National Revenue Allocation System

From the position of the state report, the government claimed that the National Revenue Allocation Formula used by the government ensures that resources are evenly distributed all over the country. This is patently false.

The 1999 Constitution violates the principles of Federalism as applied to revenue allocation. The Principles of Fiscal Federalism requires that the respective tiers of government should not only be autonomous in their resources, but that such resources should be enough for them to be able to carry out their autonomous functions¹⁹.

The revenue allocation formula remains one of the most explosive issues in the country today on which there is no agreement and is one area in which the Niger Delta ethnic minorities led by the Ogoni People had claimed one of the highest level of official discrimination and injustice. To the ethnic minorities of the oil producing areas of the Niger Delta especially Ogoni, the revenue allocation formula presently in use is a gross injustice, which amounts to discrimination by

the majority tribes. Before oil, which is produced in the minority territories of the Niger Delta ascended to become the mainstay of the Nigeria economy, the production and exportation of cash crops was the mainstay of the Nigeria economy. The Yorubas of the West, the Hausas of the North and the Igbos of the Eastern Region produced these cash crops principally cocoa, groundnut and palm oil amongst others in large quantities.

To sum up these feelings of frustrations, we quote the words of Louis Okoh in *The Pointer Newspaper* of 6th August 2001 who captured this feeling succinctly when he said that

*“Then the North had their groundnut pyramid in Kano, the West Cocoa and Timber in Ondo, the East Coal and palm oil in Enugu. And each of these regions control their resources independently of the federal government and proceeds were used for the well-being of their people. But the Minority groups were left with nothing, no development and everything good was denied them”*²⁰.

The Revenue Allocation formula within this period of cash crop dominated economy starting from the Phillipson Commission of 1946 through the Hicks Phillipson Commission of 1951 and Chicks Commission of 1953 recommended the Derivation Principle as the cardinal criterion for the revenue allocation system. This favoured the majority tribes, which were largely producers of the cash crops that were the mainstay of the economy.

However, by 1956 and at Independence in 1960, when oil was discovered amongst ethnic minority territories of the Niger Delta in Ogoni, Ijaw and its ascension to become the major income earner for the state, strangely enough, the revenue allocation formula was radically changed and by the time of the Binn Commission of 1964²¹ which designed a new revenue allocation formula for the country, the Principle of Derivation and Need was completely expunged from the fiscal arrangements of the country. By the time of the second Republic in 1979-82, 100% proceeds from petroleum went into the coffers of the Federal Government.

This has become one of the points of discords between the Nigeria State and the Ogoni with other oil producing minorities who had questioned why the formula for oil should be different from the formula for other products such as marble produced in the Yoruba areas of Nigeria and the previous cash crops. The whole struggle about resource control, which has become the battle cry of Niger Delta minorities, is set against this background. The measure adopted in the present revenue allocation system rather reinforces discrimination and manifest injustice and intolerance against the Ogoni people and other Niger Delta minorities. *The Ogoni people and their allies demand more access and participation in the exploitation and control of the economic resources that come from the belly of their land.*

Table 1: Federal State-State Percentage Share in Petroleum Proceeds

Years	Producing State(%)	Federal Government %	Distributable Pool (%)
1960-67	50	20	30
1967-69	50	50	-
1969-71	45	55	-
1971-75	45 minus off-shore proceeds	55 plus off-shore proceeds	-
1975-79	20 minus off-shore proceeds	80 plus off-shore proceeds	-
1979-81	-	100	-
1982-92	1.5	98.5	-
1992-99	3	97	-
1999-	13	87	

Source: Sagay, 2001²²

It can be seen from the above statistics that, even a superficial political analysis of the situation will reveal that the fate of mineral resources of the Niger Delta minorities, particularly the trend from derivation to federal government absolutism, is in itself a function of majority control of the federal government apparatus²³. In 1960, there were no petroleum resources of any significance. The main income earning exports were cocoa (Yoruba West) groundnuts, cotton and hides and skin (Hausa/Fulani) and palm oil (Ibo East). Therefore, it was convenient for these majority groups usually in control of the federal government to emphasise derivation, hence its strong showing in the 1960/63 constitutions. Section 134 (1) and (6) of 1960 Independence Constitution which is the same with Section 140(1) and (6) of the 1963 Republican Constitution states that:

- 134-(1) There shall be paid by the Federation to each region a sum equal to fifty percent of –
- (a) The proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region; and
 - (b) Any mining rents derived by the Federation during that year from within that Region²⁴.

The above position of the constitution is interestingly different in the 1999 Constitution. Section 162 subsection 2 states that:

The President upon the receipt of the advice from the Revenue Mobilisation Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account, the allocation principles especially those of population,

equality of states, internal revenue generation, landmass, terrain as well as population density:

Provided that the principle of derivation shall be constantly reflected in any approved as being not less than thirteen per cent of the revenue accruing to the Federation Account directly from any natural resources.

Recommendations

- 1) *That the government develops a comprehensive policy, which is geared towards the protection and promotion of the rights of minorities*
- 2) *That the government expands the access of minority ethnic groups to remedial measures such as judicial reviews*
- 3) *That the government adopts a revenue allocation formula that is just and fair to all groups in the country*

Article 5(e)(v) and Article 7 Education

According to Chapter 2 Section 18 subsection 3 of the 1999 Nigerian Constitution, the Government shall provide free education at levels from primary to university.

Reality

The reality is that education in Nigeria is not free at all levels and for some members of economically disempowered minorities like Ogoni, acquisition of education is such an uphill task.

Had provisions of Chapter 2 of the constitution been implemented, perhaps the acquisition of education by Ogoni people would have been promoted. At present, the provisions of the chapter are non-justiciable, therefore not mandatory for the state to enforce them.

The measures that the government has adopted in the field of teaching, education, culture and information with a view to combating prejudice which leads to discrimination on the grounds of ethnic origin, is not comprehensive enough to take care of the special and differential situation which minority groups like Ogoni face daily in their pursuit of education.

By the last national census of 1991, Nigeria has an average national literacy rate of 65.7%. However, this literacy is not evenly distributed²⁵. Indigenous and Minority groups in the Delta are disadvantaged.

While the western part of the country occupied mainly by the Yoruba under its regional government enjoyed free primary education in the 1950s, which was also followed by the adoption of free primary education in the Eastern Region controlled largely by the majority Igbo, it was not until the 1970s that the federal government adopted universal primary education for the entire country. The scheme collapsed after about a decade of its operations. The government only reintroduced free but non-compulsory primary education in 2000 under the

Universal Basic Education. Secondary and Tertiary Education remain fee-paying²⁶.

However, this early start in the free primary education project placed the Yoruba and Igbo far ahead of most other groups in educational opportunities.

Government's failure in putting in special measures to provide a level playing field for the acquisition of education by the Ogoni people and other minorities is in itself contributory to discrimination.

The Government presents the launching of the Universal Basic Education Scheme as an indication of its promotion of understanding and tolerance amongst the different groups. But it would have been apt if the government had provided data to show a reflection of the distribution of projects/programmes under this scheme according to ethnic/state percentage so that its commitment can be statistically appreciated.

MOSOP inconclusive findings at the moment show a disproportionate allocation of projects/facilities under this programme, which fit well to the advantage of the majority tribes.

Case study 1

In the Ogoni area, the scheme has recorded one of its lowest impacts. In Nyokuru, a community in the Ogoni Kingdom of Nyokana, what happened under the UBE Scheme was the separation of pupils of the same one old primary school that was built in the early sixties into two sets divided into Primary School I and II under the same old roof. There is no building of additional primary school in the town. One set of the separated pupils attends school in the morning and the other in the afternoon. There is limited number of teachers, classrooms, furniture and textbooks. This school boasts of about two thousand pupils but has only ten teachers.

In the Special Education Programme for special occupation groups, while the system of nomadic education which favours the Hausa/Fulani nomads is deeply encouraged and supported by the Nigerian State, migrants who are largely from

the riverine communities of the Niger Delta has hardly been aware of the existence of such programme for migrant fishermen. The state report failed to provide any data on this.

Our experiences and findings indicate that while government presents this as its measure to provide education, the scheme only exists in theory. The Special Education Programme for migrant fishermen is barely non-existent in practice. The committee members of CERD should request from the state statistics of migrant fishermen showing their spread across the states to indicate where they are and who they are.

Discriminatory National Policy on Language and Education

The Federal Language Policy of the government is an area of underlying and continuing discrimination against all ethnic minorities of Nigeria and amounts to cultural genocide where the government has failed to provide effective measures against discrimination of minority language development.

This is despite Article 5(1)(c) of the 1960 UNESCO Convention against Discrimination in Education, which states:

(c) It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and depending on the educational policy of each state, the use or teaching of their own language, provided however

- (i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as whole and from participating in its activities, or which prejudices national sovereignty*
- (ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities*
- (iii) That attendance at such schools is optional.*

In those states in which ethnic, religious or linguistic minorities or persons of Indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

The National Language Policy discriminates against ethnic minorities' languages to the point that it confers special status on the development and study of the languages of the three ethnic majority languages.

This is a carryover of the actions of the three regional governments during the pre-Independence period and early years of Independence where the majority groups elevated their languages to become regional languages. In the Northern part of the country, the Hausa language was used as the administrative lingua franca while

the other two majority tribes of Yoruba and Igbo introduced theirs unofficially and informally in their respective regions, as the ability to speak Igbo and Yoruba confer on the non member of the ethnic groups certain advantages and privileges in their respective regions.

While the government has taken adequate measures for the development of majority languages of Yoruba, Hausa, and Igbo by making them part of the national curriculum and providing facilities and teachers for it to be taught from primary through universities, the same cannot be said of minority languages like Ogoni.

The National Policy on Education in 1977 stipulated that the initial language in primary schools must be the mother tongue of the child, or the language of the immediate community. The official language, English was to follow later [Akannaso 1991]²⁷.

Beyond this, the same National Policy undercuts the stipulation above by stating in another section that:

*Apart from preserving the peoples' culture, the Government considers it to be in the interest of national unity that each child should be encouraged to learn one of the three majority languages other than his own mother tongue. The government considers the three major languages in Nigeria to be Hausa, Igbo and Yoruba*²⁸.

The constitutionalization of this act of discrimination, is shown in Section 55 of the 1999 Nigeria Constitution when it stated that:

The business of the National Assembly shall be conducted in English, and in Hausa, Ibo and Yoruba when adequate arrangements have been made therefor.

As a corollary to this is, the fact that the three majority languages are the only languages taught and used on the national television and the three languages also benefit from state sponsored language development

This goes against the provision of the United Nations Declaration in Minorities and against the spirit and letters of the International Convention on the Elimination of All Forms of Racial Discrimination.

The Quota System and Admission into Schools

The government has repeatedly presented its adoption of a quota system as an attempt aimed at redressing the imbalance in certain areas of our national life.

It is however facile to believe this to be an effective strategy for redressing discrimination because the very Federal Character Principle in which quota system is an operational method base its quota allocation on the basis of State created by successive military regimes which rather than allaying minority fears had furthered their discrimination²⁹. The military regimes dominated by members of the majority ethnic groups used state creation exercises as a means of transferring resources of the Niger Delta and other benefits to their homelands as State became the platform for sharing resources belonging to the commonwealth. Thus, the origin of the word, *State Quota*. The majority used State Creation Exercises for the multiplicity of States for themselves while corralling several minorities into single states. This does not in any way take into account the situation of minorities and cannot amount to protective measures for the elimination of discrimination against ethnic minorities.

For instance, the National Policy on Education in 1981 which was revised in 1998 stipulated that student places in all federal-owned universities must be shared according to a prescribed quota system which is as follows:

45% based on merit, 35% for applicants coming from the catchment area in which the university is situated, 20% for educationally disadvantaged States³⁰.

Distribution of Federal Universities, Universities of Agriculture and Federal Universities of Technology According to Ethnic Groupings

Table. 2

Name of groups	Hausa/Fulani/Kanuri	Yoruba	Igbo	Southern Minorities	Northern Minorities
No. of Fed. Universities	3	4	2	4	1
Univ. of Agric		1	1		1
Univ of Tech	2	1	1		1
Total	5	6	4	4	3

Source: Data is extrapolated from information provided in the Joint Admissions Matriculation Board Universities Matriculation Examination/Direct Entry Brochure 2003/2004

From the above, it can be seen that while the three majority ethnic groups have a combined total of fifteen federally owned universities, the minorities of both north and south of about 250 fifty ethnic groups have only seven universities.

In terms of using the *catchment* area criterion, it means that the majority groups still have a higher access to admission into universities than their minority counterparts who had to compete amongst themselves to gain admissions into the remaining universities.

Besides, out of the nineteen (19) state owned universities and universities of technology, thirteen(13) are located in Majority territories of Hausa/Fulani, Yoruba and Ibo while the remaining six(6) are located in minority territories.

Human Rights Education

Nigeria is yet to promote the study of human rights in its educational policy. Human Rights Education is not included in the National Education Curriculum especially at the primary and secondary education levels.

Mention must however be made of the fact that there is a general introduction to fundamental human rights which is only taught in Senior School level as an aspect of the study of Government and this is learnt by students studying Government as a subject.

Health and Medical Services

In Nigeria, it is difficult to get data on health and especially uphill in Ogoni. Where there is any data, it is haphazard and unreliable.

The social crisis facing Nigeria is most demonstrable in the area of health care delivery, which is one of the least developed amongst the countries of the world.

The Ogoni people and other indigenous minorities even face far greater odds than the rest. Owing to their minority status and their consequent lack of access to power as well as the presence of widespread poverty in the area, the dearth of social services has become the ultimate result.

Ogoni, with a total population of about 700,000 has only five government hospitals namely General Hospital Bori, General Hospital Bodo, General Hospital Eleme, General Hospital Taabaa and General Hospital Terabor

The first three of these hospitals are the ones that are operating full services while the rest are only outpatients. These hospitals and clinics are merely glorified as

they offer little or no services to the people. They are without drugs and personnel. There is no specialist hospital or medical center in the Ogoni area. Generally, the lack of reliable public health care programme in the area has led to the proliferation of private health care facilities, which are mostly substandard and unsupervised by the government.

A large proportion of the Ogoni population continues to rely on traditional or native health practice or even quacks for their health.

Poverty is at the root of much of the untenable burden of disease in Ogoni. It is pertinent to note that inequity in terms of justice, and distribution of national resources among the various ethnic communities in Nigeria has over the years generated intense debates. And this has widened the health gap due to social inequity.

Healthcare delivery represents a monumental challenge in Nigeria. There is the persistence of poor nutrition and hygiene, limited access to safe water and poor environmental conditions. Health statistics on Nigeria has shown deterioration. While there have been modest gains in some areas in recent years such as the rate of immunization, which rose to 74.6 per cent in 2001, there evidently has been stagnation or even deterioration in the other areas. Official record shows that population per physician, population per hospital bed, and population per nursing staff rose from 4,524, 1, 617, 920 in the preceding years to 4,568, 1,650 and 932 respectively in 2001³¹.

As a matter of fact, minority and Indigenous peoples have never been winners in any modern state in which they co-exist with dominant groups. This is the unfortunate fate of Ogoni.

Recommendations

- 1) *That the government supports multi-cultural education in schools*
- 2) *That the government sets up a national policy for the development and promotion of all languages irrespective of the size of the ethnic or language group.*
- 3) *That the government abolishes the principle of quota system and federal character principle.*
- 4) *That government integrates Human Rights Education in the National School Curriculum including civic education.*
- 5) *That the government designs an education policy that responds to the specific needs of minority and Indigenous peoples.*
- 6) *That government promotes effective community-based health services and provides resources for easy access to quality medicare.*

CONCLUSION AND FINAL COMMENTS

Statement of acknowledgement from Nigeria of her commitment under the International Convention on the Elimination of All Forms of Racial Discrimination is not enough. She must ensure implementation of all her international, national and local commitments to all citizens of Nigeria regardless of whether they are from majority or minority tribe.

Nigeria should as a matter of urgency initiate a comprehensive reform system in the country whereby all the issues raised by the people of Nigeria, particularly minorities should be addressed.

It is MOSOP's view that Nigeria should return to practicing true federalism and respect for rule of law, if minorities of the Niger Delta and the Ogoni people will have any faith in the country's system of governance.

The Ogoni people have not seen the benefits of NDDC, and if the government and Shell oil company are committed to development in Ogoni, the NDDC should be restructured to reflect the aspirations of the Ogoni people.

As a final note, MOSOP urges CERD to appeal to the Nigeria government to heed to the recommendations of the United Nations Secretary-General's Fact Finding Team to Nigeria in April, 1996 amongst which were the environmental audit of Ogoni and constitution of a committee for the development of Ogoni and the Niger Delta.

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NIGERIA'S PERIODIC REPORTS TO THE COMMITTEE

**UNITED
NATIONS**

CERD

**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Eighteenth periodic reports of States parties due in 2004

Addendum

NIGERIA*

[23 March 2004]

* This document contains the fourteenth, fifteenth, sixteenth, seventeenth and eighteenth periodic reports of Nigeria, due on 4 January 1996, 1998, 2000, 2002 and 2004, respectively, submitted in one document. For the thirteenth periodic report and the summary records of the meetings at which the Committee considered this report, see document CERD/C/263/Add.3, CERD/C/283, CERD/C/SR.1114 and 1116.

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Introduction

1. The State of Nigeria has been submitting its reports as a signatory and party to the International Convention on the Elimination of All Forms of Racial Discrimination since its inception in 1963.

2. The thirteenth periodic report of Nigeria was considered by the Committee on the Elimination of Racial Discrimination at its forty-seventh session held at the Palais des Nations, Geneva, on 31 July 1995. The report included the general features of the country, such as demography, ethnic make-up and the multicultural nature of the Nigerian society. The report was prepared in accordance with the guidelines in the *United Nations Manual on Human Rights Reporting*.

3. The report has been divided into five parts. Section I contains the general update and appraisal of the Nigerian indigenous population and a description of government policies for the elimination of all forms of racial discrimination as well as the activities that have been carried out to implement those in accordance with provisions of the Convention. Section II contains an analysis of some of the articles of the Convention and information on the steps taken as well as efforts made by the State to implement them. Details of other government actions taken to strengthen the existing policies for the elimination of racial discrimination are also given. Section III contains information on specific actions taken by the Nigerian Government through social activities, especially in relation to health and education, for the indigenous population. Other topics such as indigenous participation in political and social affairs, access by indigenous people to the system of justice and legal protection, and support programmes for the voluntary repatriation of Nigerians abroad are also highlighted in accordance with the objectives of the Convention, which include the identification and enforcement of the rights of indigenous people towards the elimination of all forms of racial discrimination. Section IV provides general information on the current position of the Government in ensuring further protection of the rights of its citizens. Section V contains comments providing a brief summary of the existing situation in Nigeria regarding compliance with the provisions of the Convention and general matters on racial discrimination.

I. GENERAL ASPECT OF RACIAL DISCRIMINATION AND THE INDIGENOUS POPULATION OF NIGERIA

A. Discrimination

4. Nigeria is the most populous black country in the world with a population of over 100 million people made up of over 250 different ethnic groups. The predominant ethnic groups are the Hausa/Fulani, Yoruba and Ibo, while other ethnic groups include the Edo, Ibibio, Isoko, Urhobo, Itsekiri, Kanuri, Nupe, Effik, Ijaw, Ebira, Idoma, Tiv, Ogoni, Chambe, Gwari, and Ekoto, to mention only a few. Despite the numerous ethnic groups with their diverse culture, language and tradition, Nigerians still exhibit a cohesiveness that is a product of

centuries of trade, intermarriage as well as economic contacts amongst the various groups.

Consequently, problems relating to ethnic, religious, cultural and/or indigenous populations or population of mixed descent rarely manifest themselves within the country.

5. The civil, political, economic and social rights of all Nigerians, regardless of their race, culture or religion, are ensured and well protected by many institutions established by Government and non-governmental organizations to ensure a society free from all forms of racial discrimination. Some of these institutions are:

- (a) The National Human Rights Commission;
- (b) The Public Complaints Commission;
- (c) The law courts;
- (d) The Code of Conduct Bureau;
- (e) The Legal Aid Council;
- (f) The Law Reform Commission and others;
- (g) The Independent Corrupt Practices and Other Offences Commission.

6. Nigeria is not experiencing any syndrome of contemporary (or any other form of) racial discrimination or of discrimination against ethnic, religious or cultural minorities. However, there have been inter- and intra-ethnic clashes between various groups in Nigeria mainly involving commercial interests and resource control, but definitely not for the reason of being a member of a particular ethnic minority or religious group.

B. General commitment of the State of Nigeria as a party to the Convention

7. In addition to the provisions for guaranteeing human rights entrenched in chapter IV of the Constitution of the Federal Republic of Nigeria (1999), there is also the Fundamental Rights (Enforcement Procedure) Rules which provide for the enforcement of these rights in the High Court.

8. Furthermore Nigeria is a State party to:

- (a) The African Charter on Human and Peoples' Rights, whose status she has consequently translated into domestic law to ensure the enforcement of its provisions in Nigeria;
- (b) The Universal Declaration of Human Rights;

(c) The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment;

(d) The International Covenant on Civil and Political Rights;

(e) The International Covenant on Economic, Social and Cultural Rights;

(f) The Convention on the Rights of the Child;

(g) The Convention on the Elimination of All Forms of Discrimination against Women.

9. Towards achieving this goal, the most recent step taken by Government was the establishment of the Human Rights Violation Investigation Commission whose function is to investigate and conduct public hearings on allegations of human rights violations with a view to reconciling (and possibly compensating) the aggrieved parties.

10. Nigeria has also put in place certain policies to prevent demonstrations of xenophobia, intolerance and violence as well as the exclusion of foreigners or minority or vulnerable groups from protection against discrimination through the following measures:

(a) Enforcement of the fundamental rights entrenched in the Constitution by the appropriate courts;

(b) Accessibility of foreigners to national visas either for residence or for work;

(c) Conclusion and implementation of various bilateral agreements to enhance economic, social, political and cultural cooperation between Nigeria and other countries;

(d) Freedom of residence and employment to both nationals and foreigners in the private and public sectors;

(e) Liberalization of tourism amongst Nigerians and other nationals;

(f) Establishment of the Niger Delta Development Commission to develop the Niger Delta and oil-producing areas aimed at diffusing ethnic tension, especially in the Ogoni area;

(g) Use of mass media and inter-State/ethnic visits by opinion leaders in Nigeria to promote national unity and cohesion.

II. COMPARATIVE SUMMARY OF GOVERNMENT EFFORTS TO IMPLEMENT THE PROVISIONS OF THE CONVENTION

Article 2

11. The State of Nigeria has continued to fulfil its obligations under article 2 of the Convention by not engaging in any act or practice of racial discrimination against persons or institutions and by upholding the enforcement of fundamental human rights entrenched in the Constitution. These fundamental human rights are uniform and apply to all citizens of Nigeria. Respect for equality is recognized and promoted.

12. Various measures have been taken by Government, both at the political and socio-economic levels, to ensure equal access to education and employment and the Civil Service by ethnic groups of different geographical and cultural origins. Some of these measures are:

(a) Establishment of the Federal Character Commission and the Federal Civil Service Commission for equitable employment of all Nigerians in the Federal Civil Service. The composition of Government or any of its agencies and the conduct of its affairs are carried out in such a manner as to reflect the federal character of Nigeria, promote national unity, and de-emphasize and diffuse ethnic tension through ethnic integration and harmony;

(b) The National Youth Service Corps (NYSC) is open to all graduates of tertiary Institutions to serve Nigeria for a year to promote integration, cultural understanding and respect for all Nigerian communities;

(c) The Poverty Alleviation Programme is a nationwide effort by Government to reduce poverty without discrimination on the basis of ethnic, religious or cultural affiliation;

(d) The National Directorate of Employment (NDE) is a national body set up by the Nigerian Government to promote skill acquisition, training and provision of opportunities for self-employment to all Nigerians without any form of discrimination;

(e) Introduction and implementation of the Universal Basic Education Programme to ensure equal access to basic education by all Nigerians, irrespective of their ethnic, cultural, or geographical origin or religious inclination.

Article 3

13. The Nigerian Constitution and the various legislation on it prescribe equality for all the citizens in the application of legal protection. All citizens of Nigeria are recognized as having equal rights and obligations. This is to erase racial

segregation (apartheid) and also to prevent, prohibit and eradicate all practices of racial discrimination in its territory.

14. The 1999 Constitution guarantees human rights protection for all Nigerians and residents alike as ensured by the provisions of the Fundamental Rights Enforcement Procedure Rules being implemented by the courts. The various rights contained in sections 33-44 of the 1999 Constitution remain protected, and the Nigerian courts have continued to play their expected role as an independent judiciary in the dispensation of justice. These rights are:

Section 33 - Right to life;

Section 34 - Right to dignity of the human person;

Section 35 - Right to personal liberty;

Section 36 - Right to a fair hearing;

Section 37 - Right to private and family life;

Section 38 - Right to freedom of thought, conscience and religion;

Section 39 - Right to freedom of expression and the press;

Section 40 - Right to peaceful assembly and association;

Section 41 - Right to freedom of movement;

Section 42 - Right to freedom from discrimination;

Section 43 - Right to acquire and own immovable property anywhere in Nigeria;

Section 44 - Right to compensation where landed property is compulsorily acquired.

15. To ensure effective protection of these rights, Nigeria established the National Human Rights Commission which is statutorily charged with the responsibility of preventing human rights violation. Nigeria also established the Public Complaints Commission whose function is to entertain complaints of violation of any of the above-listed rights by any member of the public.

16. Special jurisdiction is conferred by the Constitution on the States' High Courts to provide redress for human rights violation by virtue of the provisions of section 46 of the 1999 Constitution which states as follows:

“Any person who alleges that any of the provisions of this Chapter has been or is likely to be contravened in any State in relation to him may apply to a High Court in that State for redress.”

17. The recently constituted Justice Oputa Panel of Inquiry into Human Rights Violations is also another landmark in Government’s efforts to curb all forms of racial, ethnic, cultural or religious discrimination.

Article 6

18. With regard to protection and effective remedies for aggrieved individuals in the competent courts, Nigeria has put in place the appropriate machinery to effect and ensure remedy where any case of discrimination is reported. The Public Complaints Commission and the National Human Rights Commission together ensure the protection of human rights as guaranteed by the Constitution and other international conventions.

19. The National Human Rights Commission also monitors and investigates alleged cases of human rights violation and, where necessary, recommends appropriate reconciliatory measures to Government.

20. Further studies are undertaken by Government in the formulation of better policies to guarantee human rights.

21. The National Revenue Allocation System introduced by the Government also ensures that resources are evenly distributed all over the country.

Article 7

22. In the discharge of its obligation under the Convention to adopt immediate and effective measures, particularly in the field of teaching, education, culture and information, with a view to combating prejudice which leads to racial discrimination, the Government of Nigeria has channelled its efforts through various government agencies which have carried out specific activities to promote understanding, tolerance and friendship among nations and their racial and/or ethnic groups. Some of these activities include the following:

(a) The launching of the Universal Basic Education Programme to increase the literacy rate amongst its citizens regardless of ethnic or religious grouping;

(b) The improvement of infrastructural facilities to ease movement and integration amongst the various ethnic groups;

(c) The appointment of officers to positions in Government with due consideration for geopolitical zones whenever vacancies are available in such a way that appointment of junior officers is mandated to be made in catchment

areas where such offices are located, and such exercise must take cognizance of the local government areas within the zone.

Education

23. According to the National Policy on Education, education is the right of all citizens at all levels, i.e. primary, secondary and tertiary. This, in essence, is to say that there is no discrimination by the federal and State governments in the delivery of education in the country.

24. Measures adopted by the Federal Government to ensure access to education include the following:

(a) Establishment of the Universal Basic Education Programme (UBE). This programme is essentially for ensuring that basic education gets to all pupils of primary school age in all parts of the country. Basic amenities such as classrooms, furniture, textbooks, teaching aids and an adequate number of qualified teachers in the primary schools are provided in the UBE programme to ensure good quality education in the primary schools. Three additional schools per local government will be built under the programme;

(b) At the secondary level, both the federal and State governments have established two secondary schools in order to ensure access to education right from the Local Government Areas. In addition to the State secondary schools, the Federal Government established Unity Colleges in every state of the Federation and the FCT and there are 74 of them at present. The colleges are models of excellence in education which the states are supposed to emulate;

(c) The Federal Government runs many institutions of higher learning - universities, polytechnics and colleges of education. There are 40 federal and State universities, 62 federal and State colleges of education and 17 polytechnics. Despite these numerous institutions, the Federal Government still encourages the establishment of private universities in order to satisfy all interests, boost higher education and make it accessible to all;

(d) Government has also put in place a special education programme for special occupation groups such as the nomads and migrant fishermen. Education for the physically disabled is also supported by Government through award of bursaries and scholarships to them and also to the able-bodied students in higher institutions;

(e) The building of several neighborhood schools by Government to ensure that pupils do not have to travel long distances to their school.

25. In addition to the above, and in order to satisfy the educational yearnings of all segments of the Nigerian society, the Government of Nigeria (through the Federal

Ministry of Education) has adopted the following criteria for admission to Unity Colleges and tertiary institutions:

(a) Admission into Nigerian federal universities is based on the following percentages:

(i) Merit 45 per cent

(ii) Catchment area 35 per cent

(iii) Educationally disadvantaged States 20 per cent

(b) Admission into the Federal Government Unity Colleges are based on the following percentages:

(i) State quota - 40 per cent (40 per cent of the admission is reserved for equal State quotas)

(ii) Merit - 30 per cent (30 per cent of the admission is reserved for students who have performed excellently in the National Common Entrance Examination into the Unity Colleges)

(iii) Environmental quota - 30 per cent (30 per cent of the admission is reserved for the indigenous of the locality where the institution is situated).

26. On the whole, there is no form of discrimination against any group in access to education in Nigeria; rather, Government has put in place numerous programmes that would enhance the equality of educational facilities and make education accessible to all its citizens.

Health

27. Article 8 of the Convention on the Rights of the Child, to which Nigeria is a party, states that every child is entitled to enjoy good health, protection from diseases and proper medical care for survival, personal growth and development, and that no child should be deprived of his or her right to health-care services. In compliance with these provisions of the Convention, Nigeria has introduced a health policy aimed at enabling all Nigerians (especially children) to achieve socially and economically productive lives. This National Health System is based on the Primary Health Care System which is protective, preventive, restorative and rehabilitative of every Nigerian citizen. Through the activities of the federal and State Ministries of Health, the rights of children under the Convention on the Rights of the Child and the World Summit goals 1-25 on child health are promoted and protected. The reproductive health rights of women and adolescents are also protected within the country.

28. In the last few years, the existence of a social awareness of the indigenous population within a democratic and constitutional framework has contributed greatly in encouraging the organized and unorganized indigenous groups to participate more fully in activities leading to the development of the society. Government has strengthened its policies to empower local authorities by increasing participation by the indigenous population in deciding their own destiny.

III. ACCESS OF INDIGENOUS PEOPLE TO THE SYSTEM OF JUSTICE AND LEGAL PROTECTION

29. The 1999 Constitution provides for the guarantee of several human rights in sections 33-44. Of particular importance is section 34 which provides that no Nigerian may be subjected to servitude or any other condition which impairs his dignity. Every citizen or resident is entitled to free access to the national system of justice and legal protection. Men and women alike, whatever their civil status, have equal rights and responsibilities.

30. With regard to criminal responsibility for human rights violations, the courts have continued to play their expected role as an independent arbiter in upholding the rights of any citizen. In matters of human rights, provisions of treaties and conventions ratified by Nigeria are taken judicial notice of.

31. The Legal Aid Council is also established to assist in providing legal assistance to impecunious accused persons. In addition, a Legal Aid Centre for Women and Social Services was set up by Government to fight the ills of discrimination and domestic violence against women and children.

32. Government has recently set up the Human Rights Investigation Panel which is headed by a retired Justice of the Supreme Court of Nigeria. Citizens whose rights have been violated at one time or another in the past now have free access to public hearing of their grievances and may claim compensation for damages occasioned by such violation.

33. Nigerians in self-exile are now being encouraged to come back home while their safety is guaranteed by Government.

34. With regard to the *Gideon Akaluka* case in which Mr. Akaluka was allegedly murdered in prison custody at Kano on the ground of religious misunderstanding, the Kano State government, upon further investigation as directed by the Federal Government, confirmed that the incident was not an act of religious or tribal discrimination as alleged. The matter is, however, being further investigated by the Justice Oputa Panel of Inquiry into Human Rights Violations which was set up by the Federal Government.

35. The Nigerian Court has ruled that the Panel lacked jurisdiction as it was not properly constituted by the National Assembly.

IV. CURRENT OUTLOOK

36. With the coming into operation of the democratic administration in 1999, Nigerians have exercised their rights as citizens in electing a national government by universal suffrage. Government has subsequently focused on strengthening the democratic system in the context of social stability and respect for human rights. This has registered remarkable progress in the development of the country. Government will not relent in its efforts to discourage privileges, discrimination and poverty, and it will encourage development in peace-building and guaranteeing the rights of its citizens.

37. Further programmes are being introduced to educate and create awareness of the need for the eradication of acts of violence and other social vices which breed violent crimes generally and against women in particular.

38. The Government has put in place policies to solve many problems caused by years of military rule which led to division, fragmentation and confrontation. People or groups who were most vulnerable and were greatly affected by the violence of the military regime can now seek redress in the law courts.

V. CONCLUSION AND FINAL COMMENTS

39. Nigeria acknowledges its commitment under the International Convention on the Elimination of All Forms of Racial Discrimination and is further committed to promoting all measures necessary to ensure its full implementation.

40. Nigeria does not operate any State policy that promotes, encourages or tolerates any type of discrimination. Although there are upheavals which tend to have an ethnic or religious colouration, the nation does not really have a religious crisis as Nigeria is a secular or multireligious society.

41. The country has never witnessed any cultural interference from any federal or State government nor been dominated by any ethnic group as a matter of policy.