

Opportunity for Justice

**A REPORT ON THE JUSTICE OLASUMBO GOODLUCK
JUDICIAL COMMISSION OF INQUIRY
ON THE APO SIX KILLINGS BY THE POLICE IN ABUJA**



**CLEAN
FOUNDATION**
Justice Sector Reform



OPPORTUNITY FOR JUSTICE

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JUDICIAL COMMISSION OF INQUIRY ON THE APO SIX
KILLINGS BY THE POLICE IN ABUJA**



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Many organizations and individuals made this publication possible. First, we thank Macarthur Foundation for providing the funds that facilitated our observation of the work of the Justice Olasumbo Goodluck Judicial Commission of Inquiry¹ into the killing of six traders by officers and men of the Nigeria Police Force, Abuja Command, which precipitated this publication. Without MacArthur's support this publication would not have been possible however desirable it may have been.

We also thank the team assembled by CLEEN Foundation to observe the public sittings of the Commission and monitor newspaper reporting of its proceedings, which was led by Chukwuka Ehighibe and comprised of Emeka Ononamadu, Oluwakemi Asiwaju, Blessing Kadiri and Nkechi Ugwu. Their commitment to the project was commendable. Of particular mention is Chukwuka Ehighibe who filed daily reports of the proceedings of the Commission's published on our website and contributed in the writing of the review of the Commission's work.

The courage displayed by traders in Apo areas of Abuja who firmly resisted the initial efforts of the Abuja Command of the Nigeria Police Force to hoodwink members of the public by tagging the six innocent traders as 'armed robbers killed in police-robbers shootout' has continued to inspire everybody who heard the chilling account of what happened. They are the true heroes and heroines of civil society efforts at ending extra-judicial killing by law enforcement officials and other non state actors in Nigeria.

The Inspector General of Police, Mr. Sunday Ehindero, deserves special mention for his courageous and unprecedented decision to open the activities of the initial internal panel of inquiry he established to look into the killings to the participation of the victims' families, their lawyers and civil society representatives. It should be on record that this particular action of the chief of police led to some startling revelations as to what actually happened in relation to the killing of the Apo Six, which compelled the Federal Government to eventually set up the Commission.

We commend Hauwa Ibrahim, a member of the Commission, whose Minority Report to the Commission's main report assisted us a lot in appreciating the dynamics of the Commission's work and our review of the process they adopted and their recommendations.

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¹ 1 Hereafter referred to as "the Commission" (I think it'll look more professional if we stay consistent in our description of this Commission.)



PREFACE

On June 24, 2005, the Federal government of Nigeria finally decided to do something about the spate of police extra-judicial, summary or arbitrary executions, which ironically appear to have increased² under the present civilian government contrary to popular expectation that the inauguration of an elected government on May 29, 1999, would begin the process of returning the beleaguered country to a dispensation of respect for the rule of law and due process after 15 years of uninterrupted military dictatorship.

This effort was the inauguration of Commission of Inquiry into the killing of six traders in the Apo area of Abuja, the federal capital of Nigeria, between June 7 and 8, 2005, by officers and men of the Nigeria Police Force, Abuja command, who tagged the victims 'armed robbers killed in police-robbers shootouts'. The six- member Commission was broadly speaking intended to accomplish two things:

- Find the facts behind the alleged killing of the six traders and the resultant public riot that led to the burning of Apo Village Police Post;
- Recommend measures that could be implemented to prevent future reoccurrence of the incident.

Given the poor record of the Federal Government of Nigeria in either making public the findings of previous panels and commissions it had set up or implementing their recommendations, not many human rights organizations took the work of the Justice Goodluck Commissions seriously. Many groups had rightly reasoned that if the government could ignore the reports of such important commission as the Oputa Commission on Human Rights Violations, which was established with much fanfare in 1999 when the present government of president Obasanjo was inaugurated, there was no guarantee that it would not treat with levity whatever report the present commission might come up with.

However, The CLEEN Foundation's policy of engagement with government's initiatives that have the potentials of improving public safety, security and justice (our core mandate) did not afford us the luxury of ignoring the work of the Commission. And so we dispatched an observer mission that witnessed the four week public sittings of the Commission. The objectives of the observation mission were threefold:

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² 2 Refer to the report of the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on his country mission to Nigeria in July 2005, reproduced in the fourth section of this publication



- Assist the Commission in the realization of its mandate through submission of memorandum of recommendations.
- Ensure that the report of the Commission is not swept under the carpet like previous ones by publishing it in book form and making the electronic version available on our website.
- Advocate for the implementation of the Commission's recommendations.

This publication is the outcome of the observer mission. It is divided into four sections. Section 1 provides a review of the work of the Justice Goodluck Commission in six major areas: membership of the Commission; the procedure adopted for its work, conduct of lawyers of the parties, the recommendations of the Commission and the delay of the government in making the report of the commission public.

Section II reproduces the main report of the Commission submitted to the Federal Government. This was in fulfillment of one of the objectives of our observer mission which was to make the report of the Commission publicly available in an environment where the reports of previous panels of enquiries established by the Nigerian government had neither been made public nor their recommendations acted upon.

Section III presents the Minority Report on the work of the commission produced by one of its members, Hauwa Ibrahim. The minority report differs significantly from the Majority report. It reviews the Commission's internal processes and presents specific examples where according to the writer "the Commission's internal governance failed to meet important legal or ethical standards."

Section IV contains a reproduction of the report of the United Nations Special Rapporteur on Extra Judicial, Summary or Arbitrary Executions, Prof. Philip Alston, who incidentally was on a country mission to Nigeria at the time the Commission was having its public sittings. The importance of reproducing his report in full was because it provides a wider context of police resort to extrajudicial, summary or arbitrary executions in Nigeria with impunity and the failure of the Nigerian criminal justice system to bring the perpetrators to justice.

We are delighted to note that the Federal government of Nigeria has begun the implementation of some of the recommendations of the Commissions as they relate to the victims of the Apo killings. This includes the decision of the Federal Ministry of Justice to take over the prosecution of the suspects from the Nigeria Police Force;



the appointment of a private senior lawyer to lead the prosecution team; giving the victims of the crime a decent burials in their villages in accordance with their customs and tradition and paying monetary compensations to their families howbeit small amount of money.

However, we are concerned that the government is yet to do anything about addressing the near total lack of capacity for criminal investigation in the Nigeria Police Force without recourse to torture, extra-judicial killing and other forms of third degree policing. It is the hope of CLEEN Foundation that this publication will contribute in reawakening the consciousness of all stakeholders on the need to take the lives of Nigerian citizens seriously by invoking the wheel of justice each time a citizen dies in circumstances that seem unnatural.

Innocent Chukwuma
Executive Director



SECTION I:
REVIEW OF THE WORK OF THE COMMISSION



Introduction

The terms of the Reference of the Justice Goodluck Judicial Commission of Inquiry into the Apo Killings were eight in number. They were to:

- Determine the remote and immediate causes of the eruption of violent clash between the Police and some traders in Apo Village;
- Establish whether or not there was any armed robbery incident at Gana Street, Maitama, Abuja on 7th June 2005;
- Determine the identity of the six persons killed at Gimbiya Street, Abuja on 7th June 2005 and the circumstances surrounding their death;
- Determine whether the six civilians killed at Gimbiya Street, Area 11, Abuja were indeed involved in any armed robbery incident at Gana Street, Maitama, Abuja;
- Identify those behind the killings and destruction of lives and valuable properties at Apo Village;
- Ascertain the extent of damage caused and lives lost during and after the incident;
- Recommend appropriate measures to be taken to avoid the recurrence of similar incidents in future; and
- Make recommendation(s) which is/are incidental to the above terms to the above terms of reference.

However, they could be broadly divided into two major areas:

- Find the facts behind the alleged killing of the six traders and the resultant public riot that led to the burning of Apo Village Police Post;
- Recommend measures that could be implemented to prevent future reoccurrence of the incident.



In discharging this mandate the commission received 50 memoranda and recommendations, and heard testimonies from 48 witnesses. It met for eight weeks in Abuja, the federal capital of Nigeria between June 24, 2005 when it was inaugurated and August 25, 2005, when it submitted its report to the Federal Attorney General/Minister for Justice, who inaugurated it. The eight weeks meetings comprised four weeks of public sittings to enable it elicit the views of parties to the dispute, witnesses and other interested members of the public; and four weeks of private sittings, which enabled it to reflect on submissions made to it and come up with its final report and recommendations. In reviewing the work of the Commission, CLEEN Foundation focused on six major areas, which we considered germane to understanding the work of the Commission and its outcome. These are:

- Membership of the commission
- Procedure adopted by the Commission
- Representation by Counsels
- Recommendations of the panel
- Implementation of the Recommendations
- Delay in release of the report

Membership of the Commission

Section I of the Tribunal of Inquiry Act, 1966, empowers the President of Nigeria to establish a tribunal to inquire into any matter or the conduct or affairs of any person of which in his opinion an inquiry would be for the public welfare. The Act provides no strict requirement as to the composition, expertise or experience of the individual members of the panel with respect to their mandate but simply requires each of them to declare under oath that he or she "will faithfully and impartially and to the best of his (or her) ability discharge the duties devolving upon him under the inquiry."²

In spite of this provision, governments at federal and state levels have developed a tradition of bias for appointing mostly lawyers as members of judicial panel of inquiries. The logic behind this practice, as noted by Hauwa Ibrahim in her Minority Report, may be that since "legal practitioners are in the business of sifting through facts and merging them with the position of the law to ascertain the rights of individuals.³", they are best positioned for the job of fact finding on matters that border on crime and criminality. This tradition was followed in the constitution of the Apo six Commission of Inquiry where the legal profession had four representatives: a sitting Judge (who was the Chairperson), a female lawyer, the secretary to the commission and, the counsel to the commission. Others were a serving army general, a retired senior police officer and a retired journalist. The arrangement had a dual effect: On the one hand, the presence of a serving Judge as its chairperson gave credibility, integrity and a feeling of fairness to the proceedings: Her firmness as a judge helped to limit the number of digressions in the course of the proceedings. It was also helpful in eliciting relevant testimonies from the witnesses. On the other hand, it was quite difficult to resist the urge not to adopt legalistic and court-like approach in the proceedings since the chairperson was a sitting Judge and three other members were lawyers. It will be important to balance the professions of members of future panels by including religious leaders, community leaders, criminologists, psychologists or mediation experts to help in toning down the involuntary proclivity to extreme legalism by lawyers when they dominate membership of panels of Inquiry.

Procedure Adopted by the Commission



The Tribunals of Inquiry Act gives so much flexibility and discretion to members of a panel or commission established under it in the adoption of procedures to regulate its proceedings. Section 4 (1-2) stipulates that "... a tribunal may regulate its own proceedingsSuch regulations may confer on the tribunal power to appoint, at its discretion, suitable persons to assist in the preparation or presentation of evidence for its purposes." Furthermore, the Act also provides that that the tribunal can admit any evidence which ordinarily would have been inadmissible before a conventional court.⁴ One would have expected the Commission to exploit the flexibility it enjoyed under the law by creating a relaxed atmosphere that would be conducive to eliciting relevant facts from the witnesses instead of legalistic court-like posturing.

However, this was not the case as the choice of venue for the Commission's public sittings and particularly the adversarial posture it adopted was not only inimical to its fact finding goals but also made quite a few witnesses apprehensive. All through its public sitting, the commission sat at the Customary Court of Appeal located at Utako area of Abuja. This is undoubtedly a strictly formal environment with an exalted sitting position meant exclusively for the members of the commission, a witness box, front row seats meant for the lawyers and other court paraphernalia. This setting, according to the Minority Report, definitely impacted negatively on the nature of evidence emanating from the witnesses:

They (witnesses) were put in the witness box; guided by their lawyers; made to address the Commission in a particular manner and generally given the impression that there is certain information they could or could not divulge. With that sort of venue and procedure, it was difficult to distinguish between the capacity in which the Commission was sitting and that of the "Customary Court of Appeal."⁵

The adversarial procedure adopted by the Commission was particularly traumatizing for some of the victims' family members and their sympathizers as their hissings and drowned murmurs gave the impression that they felt at some points that the killing of their relatives by the police was being doubted. The feeling may also not have been different for the defendants as the way the victims' lawyers posed pointed and accusing questions and fingers at them must have made them conclude that everybody in the hall believed that everything said about them and their activities were true. According to the Minority Report:

Lawyers drove the proceedings from the "court's" front pews, "examining," "cross examining," and "re-examining" witnesses, tendering evidence and presenting "objections." Both the panel and lawyers called witnesses to take oaths and testify in "witness boxes." The judge delivered "rulings." The public watched but could not speak, unless to utter the deferential courtroom idiom: "as the court pleases."⁶

. This attitude remained the same despite repeated reminders that evidence elicited in the course of a fact finding exercise cannot be used against the witness in any civil or criminal proceedings⁷. It will be appropriate in subsequent Commissions' of Inquiry to exploit opportunities provided in the Tribunals of Inquiry Act by loosening the grip of legality evident in the adversarial process so as not to stifle the elicitation of facts and also to site the venues of their public sittings at less formal and more neutral locations such as a community civic centers and town halls as suggested in the Minority Report.



Representation by counsels

Section 18 of the Tribunal of Inquiry Act entitles legal representation to any person whose conduct or affairs is the subject of inquiry under the Act or who is in any way implicated or concerned in the matter under inquiry. This provision is consistent with the fundamental right to fair hearing guaranteed under section III of the Nigeria Constitution. Consequently, all interested parties at the commission were represented by counsels of choice. This development was beneficial to the fact finding task of the Commission in a number of ways: It helped a lot in eliciting requisite facts through articulate questions to witnesses. The counsels also served as useful intermediaries between their clients, the public and the commission and in many ways assured the public of the transparency of the proceedings⁸.

However, the desire of counsels to defend and protect the interest of their clients generated tension between counsels, which at certain times almost degenerated to fighting. They rose passionately in defense of their clients' interest and with the same zeal sought to destroy their opponent's case. The behavior of some lawyers presented serious challenges to the fact finding mission of the Commission. According to the Minority Report:

The lawyers who drove the Commission's proceedings presented a unique set of problems. For example, some lawyers derailed the commission's proceedings by pursuing irrelevant arguments. In one instance, they quarreled over the admissibility of a piece of evidence for almost an hour, despite the fact that a commission of inquiry has the statutory power to admit "any evidence, written or oral, notwithstanding that such evidence might have been inadmissible in civil or criminal proceedings before a court, and power to act on such evidence."⁹ Some lawyers distracted the commission's proceedings with misbehavior. In the first 585 pages of the proceedings' unedited verbatim report,¹⁰ for example, counsels apologize over 40 times for their inappropriate actions. In sum, each moment the commission spent correcting a lawyer was one less moment the commission had to question a witness and collect a fact. In the future, commissions of inquiry should creatively devise ways to achieve their fact-finding goals, transcending unnecessary dependence on lawyers and the comfort of familiar courtroom formats.

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³ 8. Refer to the Minority Report in Section III of this publication

9. Tribunals of Inquiry Act 4(1)

10. See Verbatim Report, Minority Report Volume II: Supporting Documents.



Recommendations of the Commission

The commission made a total of 33 recommendations for addressing the remote and proximate causes of the Apo six killing by the police and the subsequent violent protests that followed it. The recommendations could be divided into four major headings: Justice to the victims and their families; increasing law enforcement capacity of the police; enhancing police sensitivity to and partnership with its host communities and improving internal control systems in the area of accountability for arms and ammunitions at the end of each tour of duty. The recommendations were in our opinion not far reaching enough to deal with the phenomenon of extrajudicial killing which has permeated and pervaded the Nigeria Police Force. In the words of the United Special Rapporteur on Summary Execution:

If the Apo 6 were an isolated incident it would be a tragedy and a case of a few bad apples within the police force. Unfortunately, many of the ingredients the false labeling of people as armed robbers, the shooting, the fraudulent placement of weapons, the attempted extortion of victims' families, the contempt for post mortem procedures, the falsified death certificates, and the flight of an accused senior police officer are all to familiar occurrences.¹¹

We shall examine the recommendations of the Commission under the four broad subheads.

Justice to the Victims

On justice to the victims, the Commission made four important recommendations. These include directing the inspector General of Police to publicly apologize to the family of the victims that they were not armed robbers as initially claimed by the Abuja Police Command; Releasing the corpses of the victims to their families for proper burial in accordance with their customs and tradition, which the Commission said should be attended by senior government officials; criminal trial of the eight police officers implicated in their death and payment of monetary compensation. The recommendation that the government should pay three million Naira to the families of each of the victims as monetary compensation instead of one hundred million Naira requested by them was in our opinion inadequate considering the status of five of the victims as breadwinners in their families before their untimely deaths. The Commission based its recommendations on the alleged inability of the victims' families to present documentary evidence on the true worth of the victims through bank accounts, stocks and evidence of landed property, forgetting that the trading community in Nigeria as in other parts of Africa are basically a cash and goods community. The commission could have conducted on site visits to the victims' business locations to value their true worth if they are in doubt about presentations before them as they did when they visited the crime scenes where the victims were killed by the police. Furthermore, the commission should have recommended that the compensation be paid from the coffers of the Nigeria Police Force, which would have been exemplary enough to compel them to be proactive and firm in dealing with cases of extra-judicial killing in the police force.

Increasing Policing Capacity

On increasing policing capacity the Commission made several recommendations including modernizing police equipment for riot control; review of policies and procedures on riot management; improvement of logistics, communication, training



environment and quality of trainers and recruits; and use of forensic and ballistic science, which we agree with. However, one vital aspect that ties together police capacity in dealing with situations that threaten law and order, which is missing in the recommendations of the Commission is the urgent need to review the content of police training in Nigeria, which has not change since colonial times and has continued to emphasize brawn instead of brain. Civil society groups in Nigeria have continued to call for the introduction of human rights education in the curriculum of police colleges and training institutions as well as liberal courses such as sociology, psychology and social work, which have the potential of improving police understanding of societal dynamics and the need to be civil in dealing with members of the public. Apart from episodic organization of human rights workshops and training programmes by civil society groups and the International Committee of Red Cross (ICRC) in selected police colleges and training institutions, training on human rights has not been made part and parcel of police training in Nigeria.

Furthermore, the Commission's call for an 'reappraisal of police methods for riot control and strict accountability for arms and ammunitions at the end of each tour of duty' failed to link police excesses in the use of firearms to the wide latitude they enjoy under Police Order 237 on the use of firearms and the urgent need to review it. According to the Special Rapporteur:

...the standing "rules for guidance in use of firearms by the police" are deeply flawed. Police Order No. 237 authorizes the use of firearms if a police officer cannot "by any other means" arrest or re-arrest any person who is suspected (or has already been convicted) of an offence punishable by death or at least seven years' imprisonment. The rules which elaborate upon this provision are even more permissive. According to these rules, any person who seeks to escape from lawful custody commits a felony warranting a seven-year sentence. As a result it would be justified to shoot to kill someone charged with stealing goods of negligible value but alleged to be seeking to escape from custody. These rules practically provide the police carte blanche to shoot and kill at will. Police Order No. 237 should be amended immediately to bring it into conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The resulting emphasis should be on proportionality, on the use of lethal force as an absolute last resort, and only as stated in the Basic Principles, "when strictly unavoidable in order to protect life"¹².

The Commission also overlooked the glaring need to review the police internal disciplinary mechanisms and procedures, which are presently unwieldy, uncoordinated, seriously under-resourced in terms of money and personnel and as a result largely ineffective. This is compounded by the fact that the public in many states is not aware of the existence of any regulation guiding the invocation of the mechanisms. Such a regulation, if it exists, would have provided information as to which of the mechanisms could be complained to for particular offences, in particular areas and at which stage. There is therefore an urgent need to streamline the various internal disciplinary procedures in the Nigeria Police Force into a manageable framework that could easily be used by aggrieved citizens seeking redress for police misconduct as well as using data emanating from such mechanisms in tracking police officials who are subjects of unusually high numbers of citizens' complaints.



Partnership with the Community

The commission observed that one of the remote causes of the violent protest that followed the killing of the Apo six was the strained relationship between traders in Apo Village and police officers at the Apo Police Post, occasioned by alleged police frequent involvement in sexual assault, oppression, unwarranted arrests, intimidation and extortion of the community members.¹³ However, in its recommendations the commission was silent on measures to bring police officers who indulge in these violations to book and ways of rebuilding the shattered relationship between the police in the area and their host communities. It rather focused on call for the expansion of Apo Police Post to a full-fledged police station and relocation of the traders from Apo Village to another 'befitting' location, a rather veiled invitation to the Federal Capital Development Authority (FCDA) to send its bulldozers to come and level the market and destroy the source of livelihood of the hapless and traumatized traders.

In a chilling account of what the Apo traders and their customers go through at the hands of the police officers from Apo Police Post, the Commission's report states:

Policemen at the Apo Police Outpost are in the habit of unleashing terror on the young men and women living at Apo. The situation at Apo had gotten so bad to the extent that residents going out between the hours of 7.30 p.m. and 8.00 p.m. risk arrest by the Police. Composed largely of unmarried persons who usually go out in the evening to eat, the Policemen arrest some of them for wandering around 8.00 p.m. and require the suspects to pay for bail in the sum of N2,000.00 (Two Thousand Naira) each to secure their release, failing which they could be charged for belonging to a gang of thieves. Specifically, a witness recalled that sometime in Year 2002, whilst one Mr. Patrick Shuaib was the DPO of the Outpost, a young boy was reportedly beaten because he failed or refused to pay the bail fee of N2,000.00 (Two Thousand naira).

The ordeal of the young women was much worse. Some of them were arrested and sexually abused by the Policemen when they are taken to the Police Outpost. Where the victim refused to succumb to their overtures, they were falsely charged for offences such as wandering or theft. Those that subject themselves to sexual harassment were escorted back home by the policemen thereafter between the hours of 10.00 p.m. and 11.00 p.m. and absolved of whatever offences they were initially charged with;

Policemen often appear about the time night-buses conveying the trader's merchandize from outside Abuja were arriving and demand to be paid a fee before allowing the vehicles to be offloaded. Similarly, policemen usually intercept within Apo the traders' goods loaded in hired vehicles and label such goods as 'stolen items'. The goods are released only after payment of whatever amount of money the arresting officers demanded.

In sum, there were frequent arrests of young men and women by the policemen at Apo on what the traders believed were spurious grounds. The release of some of the victims was secured with payment of money, otherwise they were charged with trumped-up criminal offences. The amount paid to the police depended on the victim's bargaining power.¹⁴

⁴ 12. See page? of section III of this publication

13. See page? of section II of this publication



We therefore recommend that the Nigeria Police Force, Abuja Command should revive and resource its Public Complaints Bureau (PCB) to deal with citizens complaints such as those of residents of Apo Village on misconducts involving its personnel. Records of decisions on such complaints should also be kept and periodically released to the media and interested members of the public to keep them informed about what the police are doing about officers misconduct. Public awareness should also be created about the existence of the mechanism and how to send complaints to it. Periodic interactive forums on enhancing accountability and partnership between the police and communities within the Federal Capital Territory should also be organized on a monthly or quarterly basis at the divisional and area commander levels. Participants in such forums should include constituencies that come into more regular contacts with the police such as commercial vehicle drivers, traders, Okada riders, market women, students, trade unions and other important stakeholders. The essence of holding this kind of meeting is to provide public safety information, encourage community familiarity with the police and address grievances and conflicts before they are expressed in violence and confrontation with the police and other government agencies.

Delay in release of report

The final report of the Commission of Inquiry on Apo six was submitted to the federal government on the 25th of August, 2005, more than seven months thereafter it is yet to be released to the public apart from excerpts of it that were released to the media by the Minister of Police Affairs. Section 1, subsection 1 of the Act indicates that the primary essence of setting up a tribunal of inquiry is to inquire into any matter, thing or conduct of affairs of any person which in the opinion of the proper authority would be for the public welfare. It presupposes by way of analysis, as argued by the Minority Report, that since the issue being inquired into is for the public welfare, they (the public) are also entitled to be aware of the outcome of the inquiry.¹⁵

It is noteworthy that in other jurisdictions where similar inquiries had been set up, the public is usually kept constantly informed about proceedings and always carried along. A case that comes to mind is the handling of police killing of a Brazilian, Jean Charles de Mendez, in the July 7, 2005, terrorist attack in London. The conduct of the inquiry into the killing by the Nick Hardwick led Independent Complaints Commission of England and Wales and the eventual release of its report, played a very important role

⁵ 15. Refer to Section III of this report.



in assuaging public outrage that followed the death and generating confidence in the oversight abilities of the body.

We therefore agree with the Minority Report where it argues that political authorities in Nigeria need to "cultivate public confidence in its ability to transparently and conclusively handle issues of this nature by ensuring the early release of similar reports to the public. Doing this in the instant case will go a long way in dowsing the perception of the public that the Apo six Commission of Inquiry report will be one of those reports that will be dumped in the archives of government library without any action taken on the recommendations of the commission."¹⁶

Implementation of the Recommendations

In a report on impunity and state sponsored violence in Nigeria published in 2002, CLEEN Foundation then known as Centre for Law Enforcement Education and World Organization Against Torture observed that "panels of enquiries have become a tunnel through which the government escapes from its responsibility of protecting the lives and properties of the citizens¹⁷", because "no matter the amount of human and material resources invested in the investigations, their findings would neither be made public nor their recommendations implemented."¹⁸ It is heart warming however to note that in the case of the Apo 6 since the Commission submitted its report a number of its recommendations have been implemented. This welcome departure from the practice of the past was also noted by the report of the Special Rapporteur who observed:

"...the Apo 6 killings were not an aberration. The Government response, however, was noteworthy in four important respects: the Inspector-General of Police was responsive to protests; the internal police inquiry was public; a judicial inquiry was established; and compensation was paid. These elements need to become routine in the future..."¹⁹

Apart from the compensation of three million Naira paid to the families of each of the six victims, other recommendations of the Commission that have been implemented include:

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⁶ 16. Refer to Section III of this report.

17. Centre for Law Enforcement education and World Organization Against Torture (2002), Hope Betray? A report on impinmity and Satte Sponsored Violence, p.12

18. Ibid

19. Refer to page? of Section 3 of this report.



* Arraignment of the eight police officers implicated in the killing of the Apo 6 before an Abuja high court in fulfillment of the recommendation that they should be charged and tried in accordance with the appropriate law. The officers are: DC Danjuma Ibrahim, DPO Abdulsalam Othman, Inspector Suleiman Audu, Ezekiel Acheneje, PC Sadiq Salami, PC Dennis Asawa, Emmanuel Baba, ASP Nicholas Zachariah.

* The burial of the victims in their villages in Anambra State of Nigeria, in accordance with their community customs and traditions in September 2005 and payment of five hundred thousand Naira for the burial expenses of each of them. This was in fulfillment of the recommendation that their bodies be handed over to their respective families for a befitting burial without further delay. The names of the deceased victims are Chinedu Meniru, Ifeanyi Ozor, Paulinus Ogbonna, Anthony Nwokike, Isaac Ekene, Augustina Arebun.

* Retraction of the allegation of armed robbery levied against the 6 deceased during the press briefing by the former Commissioner of Police, Abuja Command, Emmanuel Adebayo held on the 10th June, 2005. This was carried out by the Minister of Police Affairs, Alawoi Boderick Bozimo, during the burial ceremony of the victims, which he attended in fulfillment of the Commission's recommendation.

* Establishment of a presidential committee on police reform in Nigeria headed by Alhaji Madami, a retired Deputy Inspector General of Police, in partial fulfillment of the recommendation of the Commission for the establishment of a Police Reform Implementation Committee to facilitate the implementation of its recommended reforms.

In spite of the implementation of the above listed recommendations, a number of other important recommendations made by the Apo 6 Commission, with a view to addressing the root causes of the frequent recourse to extrajudicial, summary and arbitrary execution by the personnel of the Nigeria Police Force and breaking the cycle of impunity they have enjoyed are yet to be implemented. These include the recommendations that:

* Proper screening of the background of all prospective recruits should be carried out using police apparatuses and traditional institutions i.e. ward, village and district heads, emirate council, Obas', Obis, Chiefs, and prominent citizens in the country.



- * Police methods for riot management should be reappraised without delay and that Trigger happy and aggressive officers should be debarred from deployment to riot scenes.
- * Government should endeavor to prosecute all known extra judicial killings by the police which are pending in the courts and the public should be informed about the outcome of such cases including punishment awarded to the perpetrators.
- * Government should pay compensation to the families of the victims of previous cases of police extrajudicial killings where appropriate.
- * The Police Trust Fund Bill before the National Assembly requiring companies and financial institutions to pay into a special fund for the police certain percentage of their profits should be passed into law without delay. This should boost Government funding of the police. Budgeted police fund should be dispensed from the consolidated revenue fund and released in full to the police to meet its requirements. The Police Trust Fund is only complimentary to the budgeted fund.
- * The control mechanism of police armory should be modernized to regulate movements and use of arms and ammunition, including recovered ones connected with crimes and ensure that all arms and ammunition issued to those on duty are accounted for at the end of each tour of duty.
- * The Coroners Act, which sets out the procedure to be followed by the Police, government hospitals, doctors, local government councils and environmental protection boards when somebody dies under Suspicious circumstances should be adhered to strictly by the police and other role players.
- * Well equipped police photographic studios manned by competent and proficient photographers should be established in some Departments of the force as may be determined by the Inspector-General of Police.
- * Immediate training of more ballisticians and their deployment to zonal commands of the Police to cater for their needs. The present situation where a police force with about 320, 000 personnel has only one ballistician is unhealthy.
- * There should also be a police forensic Science Laboratory with branches in all the Police zonal Headquarters.

The momentum for positive change created by the implementation of some of the recommendations of the Apo 6 Commission should not be lost. Government should set up the mechanism for implementing the remaining recommendations of the



Commission listed above including those contained in the Minority Report and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions contained in section III and IV of this report. This is an opportunity for justice to victims of Police unlawful killings in Nigeria and for rebuilding the Nigeria Police Force into an effective, efficient and accountable organization. We welcome the establishment of the Presidential Committee on Police Reform in Nigeria and call on the Committee to factor the recommendations of the Apo 6 Commission and the Report of the Special rapporteur in formulating their recommendations to the Federal Government.



SECTION II:

MAIN REPORT OF THE JUDICIAL COMMISSION OF INQUIRY



FEDERAL REPUBLIC OF NIGERIA
THE JUDICIAL COMMISSION OF INQUIRY
ON THE
APO SIX KILLINGS BY THE POLICE
BETWEEN 7TH AND 8TH JUNE 2005
IN ABUJA
VOLUME 1
MAIN REPORT
AUGUST 2005



CHAPTER 1

INTRODUCTION

1. The Police is an indispensable organization in every society that is desirous of peace, order, obedience to the laws of the land, prevention of crimes, management of civilized societal values and conflicts. Thus, all over the modern world, the existence of the Police Organization is indispensable. However, what is of moment is the type of Police Organization needed, the way and manner it applies its powers and weapon vis-a-vis the civil populace and above all the type of relationship, which exists between the police and the people.

2. The Police institution in Nigeria has a long history dating back to 1861 when the Consular Guard was established under British tutelage for the general preservation of law and order. The problems of police/public relations in Nigeria today have their roots in history. The early police were recruited and trained in that light, thereby creating a wedge and strained relations in the chord binding the police and the people. The greatest challenge thrust upon the police today, is managing the dynamics of change with the dawn of a democratic era in the saddle of governance. The unfolding scenario entails that the police must not only re-orientate and re-adjust in order to perform creditably, but must also gear itself towards meeting the challenges posed by this new democracy. The Police would only be able to meet these challenges by being open and responsive, providing improved quality services as well as maintaining high standards and integrity.! It is expected that this would engender public respect and ensure cooperation with the police.

3. However, it becomes worrisome when some policemen derogate from their Constitutional role and resort to extra-judicial killing of defenseless civilians. Many members of the public are scared and felled by the bullets of the police in an inexplicable circumstance, ranging from "accidental discharge" to a deliberate and premeditated killing. Of all the human rights that enjoy global recognition, the right to life is the most sacrosanct. It is in fact the foundation of other rights. The sanctity of human life is underscored by Section 33 of the 1999 Constitution which guarantees the right to life, not only for Nigerians but for every person. The same right is guaranteed under Article 4 of the African Charter on Human and Peoples Rights, as well as Article 3 of Universal Declaration of Human Rights.

4. The incidence of 8th June, 2005 where the professional mis-judgment of some Police Officers led to the extra-judicial killing of six Apo Traders has further reinforced the need for a holistic and comprehensive reform of the police. The killing of the "Apo Six" was greeted with disdain, resentments and condemnation, both at local and international levels. The Apo six would have passed for the usual excuse of "shootout with armed robbers" as indeed the police had through the media labeled them armed robbers and hurriedly buried them but for the vigilance of some citizens who knew that they were not armed robbers. The subsequent violent clash between the police and some Apo Traders which followed the killings led to the setting up of the Okiro Panel by the Acting Inspector General of Police. The national out-cry, that followed the chilling revelation



and the fact that the allegations pointed accusing fingers at the police informed Government's decision to disband the Panel. A more compelling reason was that the police cannot be a Judge in its own cause. Based on the foregoing, the President constituted the Apo Six Commission of Inquiry, "the Commission," with the following terms of reference. To:

- a. Determine the remote and immediate causes of the eruption of the violent clash between the Police and some traders in Apo Village;
- b. Establish whether or not there was any armed robbery incident at Gana Street, Maitama, Abuja on 7th June, 2005;
- c. Determine the identity of the six (6) persons killed at Gimbiya Street, Abuja on 7th June, 2005 and the circumstances surrounding their deaths;
- d. Determine whether the six (6) civilians killed at Gimbiya Street, Area 11, Abuja were indeed involved in any armed robbery incident at Gana Street, Maitama, Abuja.
- e. Identify those behind the killings and destruction of lives and valuable property at Apo Village;
- f. Ascertain the extent of damage caused and lives lost during and after the incident;
- g. Recommend appropriate measures to be taken to avoid the reoccurrence of similar incidents in future; and
- h. Make any recommendation(s) which is/are incidental to the above terms of reference.

5. The Commission which was set up by His Excellency, President Olusegun Obasanjo GCFR was inaugurated on 27th June, 2005 by the Honourable Attorney-General of the Federation and Minister of Justice with the mandate to submit its report in 6 weeks. In the course of the proceedings, it became apparent that the period of six weeks were inadequate for the Commission to complete its assignment. This was as a result of the exhumation of the 6 bodies of the deceased persons and the autopsies carried out to determine among other things, the cause of death. This prompted the request for an extension which was granted, hence this ceremony today.

6. CONDUCT OF THE PROCEEDINGS

At the Commission's first public sitting on 29th June, 2005, the Chairman, Hon. Justice O. O. Goodluck in her address enjoined various interest groups to present facts and or information that would assist the Commission in accomplishing its assignment under its terms of reference. She assured them of the Commission's resolve to be transparent and above all to ensure that justice was done to all the parties. On the whole, the Commission conducted 21 public sittings, examined 48 Witnesses and admitted in evidence Exhibits. All the witnesses were represented by Counsel. The Commission was minded of its terms of reference which was facts findings simpliciter. However, it was guided by the Tribunal of Inquiry Act Cap. 467 Laws of the Federation.

7. The leading Counsel representing the various interest groups include the following.

- a. Amobi Nzelu Esq. - for the The families of the five male deceased.
- b. Chief Mrs. M. I. Obegolu Esq. - The family of the deceased female.
- c. J. O. Odubela Esq. for - The DC Danjuma Ibrahim.
- d. R. O. Yusuf Esq. - The Nigerian Police Force.
- e. Prince Orji Nwafor Orizu Esq.-The Ohaneze Ndigbo.
- f. NBA, Abuja Branch - Amicus Curiae

In response to the Commission's public advertisement, memoranda were received from the public. The commission's proceeding were held in public and widely covered and



reported by the media. The Commission appreciates the public response which was very encouraging and supportive. The level of cooperation and support received by the Commission from the Nigeria Police Force was equally highly appreciated.

8. On 20th July, 2005 members of the Commission in the company of various interest groups and the media visited various places where some of the events relating to its terms of reference were alleged to have taken place for a more accurate and visual perception of what transpired.

At Gimbiya Street, Inspector Suleiman Audu re-enacted the incident at the pin-down-point which conformed with his testimony before the public sitting. The Commission thereafter proceeded to Crown Guest Inn which was repeatedly referred to by many witnesses. At the Garki Police Station, the Commission examined the ill-fated Peugeot 406 Car, driven on that fateful day by the 6 deceased persons. 7 bullet holes were observed on the left hand side of the car. The rear windscreen was shattered as well as the left side glasses. Two perforations and a dent were observed on the passengers side of the ALGON Jeep. Later, the Commission and its entourage visited Apo Police Outpost in Apo Village. There, members were conducted round by the Officer in charge.

9. Following an order of this Commission, bodies of the 6 deceased were exhumed on 29th July, for post mortem examination. An autopsy was also conducted on the body of late PC Anthony Idam, a potential witness who was alleged to have been poisoned. Another expert witness, the Police Ballistician examined the 2 locally made pistols, the cartridges and the personal service pistol of DCP Danjuma. His expert opinion was sought with regards to the holes and perforation on the 406 car and the ALGON JEEP.

10. The Report is divided into volumes, the first is comprised of the terms of reference, each forming a chapter. Volume 2 of the report consists of the memoranda, witness statements exhibits and other relevant documents.



CHAPTER 2

REFERENCE `A`

THE REMOTE AND IMMEDIATE CAUSES OF THE ERUPTION OF THE VIOLENT CLASH BETWEEN THE POLICE AND SOME TRADERS IN APO VILLAGE

This section of the Report is based largely on the information gathered from the testimonies of members of the public and the Divisional Police Officer (DPO) of the Apo Police Outpost, Mr. Yusuf Kolo.

1.1 Prior to 9th June, 2005, the relationship between the Apo Community and Officers of the Nigerian Police Force (hereinafter referred to as the Police) was frosty and uneasy. This situation resulted from a combination of factors, both immediate and remote.

THE REMOTE CAUSES OF THE VIOLENT CLASH

1.2 The remote factors derived from the varied experiences (both personal and formed from stories related by third parties) of Apo Community members anchors on the nationwide public impression of the Nigerian Police Force as an unfriendly organization whose officers are generally high-handed and abrasive, always using their position to take unfair advantage of people in order to extort money from them.

1.3 The remote factors arise from incidents that occurred at the Apo Mechanics' Village itself since 1992 in which Community members accuse the Policemen attached to the Apo Police Outpost of sexual assault, oppression, unwarranted arrests, intimidation, extortion and etcetera. Some of the allegations are instanced as follows:

a. Policemen at the Apo Police Outpost are in the habit of unleashing terror on the young men and women living at Apo. The situation at Apo had gotten so bad to the extent that residents going out between the hours of 7.30 p.m. and 8.00 p.m. risk arrest by the Police. Composed largely of unmarried persons who usually go out in the evening to eat, the Policemen arrest some of them for wandering around 8.00 p.m. and require the suspects to pay for bail in the sum of N2,000.00 (Two Thousand Naira) each to secure their release, failing which they could be



charged for belonging to a gang of thieves. Specifically, a witness recalled that sometime in Year 2002, whilst one Mr. Patrick Shuaib was the DPO of the Outpost, a young boy was reportedly beaten because he failed or refused to pay the bail fee of N2,000.00 (Two Thousand naira).

b. The ordeal of the young women was much worse. Some of them were arrested and sexually abused by the Policemen when they are taken to the Police Outpost. Where the victim refused to succumb to their overtures, they were falsely charged for offences such as wandering or theft. Those that subject themselves to sexual harassment were escorted back home by the policemen thereafter between the hours of 10.00 p.m. and 11.00 p.m. and absolved of whatever offences they were initially charged with;

c. Policemen often appear about the time night-buses conveying the trader's merchandize from outside Abuja were arriving and demand to be paid a fee before allowing the vehicles to be offloaded. Similarly, policemen usually intercept within Apo the traders' goods loaded in hired vehicles and label such goods as 'stolen items'. The goods are released only after payment of whatever amount of money the arresting officers demanded; and

d. At other times Policemen 'surface' when the traders are clearing up their old stocks and usually 'seize' the traders receipts, falsely charging them of being in possession of 'stolen items'. The traders are thus forced to pay the amount demanded by the policemen before their receipts are returned to them;

e. The customers of the Apo Traders fared no better. On 1st April, 2005 a customer who had come to buy car spare parts was arrested along with the Apo trader's apprentice he had patronized. Whilst they were test-driving the customers' car a police patrol team arrested them. They were all taken to the Garki Police Station where the police team presented a gun and cartridges as 'exhibits' recovered from the customer's car. The customer and the apprentice trader he had patronized were detained at Garki Police Station for 31 days whilst the trader's boss, Mr. Bartholomew Ihijerikha (who is the Chairman of the Apo Traders Association), was pressurized by the police into negotiating with the Investigating Police Officer (IPO) to prevent his apprentice from being 'marked'. In the end, to secure the release of his boy Mr. Ihijerikha was constrained to pay ! N50,000.00 (Fifty Thousand Naira) to the IPO, one Shuaib, whilst the owner of the vehicle paid IPO Shuaib the sum of N150,000.00 (One Hundred and Fifty Thousand Naira).

In sum, there were frequent arrests of young men and women by the policemen at Apo on what the traders believed were spurious grounds. The release of some of the victims was secured with payment of money, otherwise they were charged with trumped-up criminal offences. The amount paid to the police depended on the victim's bargaining power.

1.4 To lessen or reduce the incidence of Police harassment, the Apo traders institutionalized a tradition of payment of homage to newly appointed officers In charge (OIC) assigned to Apo Police Outpost. At the visits the (OIC) was 'greeted' with an undisclosed amount of money. The objective of the 'greeting with an undisclosed amount of money is to protect traders and enable them conduct their trade without the nuisance of the police harassments. The homage is paid by a team of high officials of Ohaneze Ndigbo in Abuja, usually led by the Chairman on markets whose duties includes 'liaising with the traders in all the markets in the FCT' including Apo Mechanic Village and 'interceding with the police on behalf of the Ohanaze Ndigbo members'. Even so, the



Traders' leaders have never secured real justice through the 'greeted' senior Police Officers. For! example Mr. Augustine Okorondo Ifedinzi (Deputy Chairman of Ohaneze Ndigbo in Abuja and the Chairman on markets in Abuja since 2004) narrated:

a. How in March 2005 he was confronted by a policeman in Apo Village who accused him of using his car for armed robbery operations. He initially felt that the encounter was a joke until he was taken to the police station where he was referred to DPO Abdusalam Othman, whom he had met on a number of occasions in the course of his intercessions on behalf of his people. After narrating his ordeal with the police, Ifedinezi was 'released' by the DPO with an assurance that the erring policeman would be warned for his conduct; and

b. That he recently accompanied a victim of rape at Apo to the Garki Police Station which is the main station which the Apo Police Outpost is attached. During his visit he met with the DPO Abdusalam Othman over the matter and the DPO said to him that he would discipline the erring officers.

c. No official action was known to have ever been taken against the erring policemen despite these assurances.

1.5 Though the Commission was not furnished with copies thereof, officials of Ohaneze Ndigbo claimed to have written several petitions to the Commissioner of Police, Mr. Emmanuel Adebayo and Acting Inspector General of Police, by both Mr. Mortimer Ohijerikha and Mr. Ifedinzi on the state of affairs at Apo Village without any response. Again, though aware of the existence of the Human Rights Commission, the traders feared that resort to such bodies or legal representation would further compound their problems. In their view, the easier and effective solution to the menace was the short cut of bargaining with the Police and payment of the negotiated sum. Their experience had shown that the policemen were resentful of Legal Practitioners; hence the traders thought it prudent to succumb to the demands of the police. It saved time and stress. In their view, the Igbos are vulnerable to victimization by the police; because the! Igbos 'like money', they were in the habit of 'settling' with the police in 'order to save time which is a precious item' to them.

1.6 The preponderance of evidence adduced before the Commission showed that through intimidations and oppression the Police at Apo had instilled fear into the residents. A common factor in the incidents narrated by the witnesses before the Commission is that none of the traders went through the justice process for seeking legal redress against the 'wrong' done them by the police. Most, if not all of them, were contended with being 'let off the police hook' by bargaining and paying monetary considerations for their freedom or, at best, a promise by a superior police officer that that erring policeman would be reprimanded. In effect victims took the economic decisions of 'settling' the police and moving on with their lives. This was a remote cause of the violent clash at Apo Mechanic Village on 9th June, 2005 because the victims of the regular police! harassments, mainly the traders at Apo Village, were not morally assuaged by the 'settlement' they reached on each occasion, the oppression, injustice and humiliation of the diverse incidents over the years remained ingrained in their psyche.



The point being made here is that the victims of the Police were mostly the traders who had suppressed resentment. Brutalized over the years by the excesses of the Police, the anger of the people of Apo was so palpable; as if the community was sitting on gunpowder waiting to explode. Regrettably, the killing of their kith and kin, whom the same Police labeled as armed robbers, proved enough to ignite the tinder situation at Apo on 9th June, 2005.

IMMEDIATE CAUSES OF THE VIOLENT CLASH

1.7 Shortly before the pick-up van (that was to convey the bodies of the deceased persons for burial) arrived at Apo, rumours of the killings had filtered into Apo Mechanic Village. Thus, the mood of the traders was pensive; the atmosphere was charged and confused. From what we gather at the public sittings, the immediate cause of the violent clash that erupted on 9th June, 2005 appeared to have been twofold.

1.8 Firstly, the members of the Apo community were infuriated when reality finally dawned on them that the six (6) dead bodies being conveyed by the Environmental Protection Board vehicle that morning were those of their kith and kin. Worse still, they considered preposterous the attempted burial of the dead bodies by the officials of the Environmental Board in Apo, having deduced that it was intended to bury them like armed robbers or unknown persons. Not surprisingly, they aborted the burial and took physical control of the bodies. Their relations and associates recognized the bodies of the 5 male deceased since they were all traders within the village. The sixth deceased person, a female was also identified by the traders as Augustina Arebun, a girlfriend of Ifeanyi Ozor.

1.9 The second immediate cause which appears to have fueled the violent clash was the perfunctory manner the former Commissioner of Police, COP, Emmanuel Adebayo treated the case of the 6 killed persons. Ifedinezi, testified that he was mandated by the leaders of the Ohaneze Ndigbo Community in Abuja, the apex body of the Igbo people (whom the 5 persons reportedly belonged) to inform the Commissioner of Police that investigations had been conducted by the Ndigbo and their reports revealed that 5 of the 6 deceased were well known as traders by their peers at Apo Mechanic Village. Notwithstanding his request to the COP to conduct his own independent investigations, the COP dismissively told him that he was not doubted about the reports of the investigation presented to him by DCP Danjuma Ibrahim and the DPO of Garki Police Station, Othman Abdusalam. Within 3 minutes he ended up the meeting by telling them not to teach him his job.

2.0 Equally, contributory to the immediate violence was the press statement subsequently made by the COP later on that day. He declared that the 6 deceased persons were gunned down during a shoot out between the police and the 'armed robbers'. Minded that the 'armed robbers' were the 6 people they had protested against their killings, members of the Apo Community and the Ohaneze Ndigbos considered the press statement very offensive. Virtually, all the witnesses from the Apo Village condemned the announcement explaining that it was a taboo for a member of their family to be referred to as an armed robber. Enraged by the COP's declaration, members of Ohaneze Ndigbo outside the Apo Community joined forces with their rioting kinsmen at the Apo Village.



FINDINGS

- 1) All the victims of the police excesses are blameworthy for their complacency. None of them deemed it fit to resort to the legitimate process of seeking legal redress against the wrongs done to them by police. The 'settlement culture' had become so ingrained in their psyche to the extent that they appeared to have abrogated their legal rights and opted for non legal processes which had more or less become the norm and order of the day at the police stations and out post.
- 2) The reprehensible conduct of the police are not peculiar to the Apo Police Post alone, particularly, the extortion syndrome which seemingly extends to other commercial centers nationwide. Members of the trading community consider it prudent to take a time saving and convenient option by succumbing to police demands and thereafter focus on their business. They remained morally unassuaged and unsettled at the end of their 'negotiations' with the Police. The Civil Community in Apo village seem to have been awaiting for an opportunity to avenge the police injustices whenever an occasion presents itself.
- 3) In the expectation of a peaceful environment devoid of miscreants the Apo Traders funded the renovation of the Apo Police Outpost which had hitherto been an abandoned project of the Environmental Protection Board. In reaction to the alleged killing of the young boy in 2002, they burnt the outpost.

The relationship later improved. The Apo Traders reactivated the Police Van and re-roofed the outpost until the protest of the 9th of June 2005 erupted.

- 4) The timely intervention of the Acting IG of Police, Mr. Sunday Ehindero stopped what could have otherwise have led to a protracted riotous situation. Upon reception of the Ohaneze-Ndigbo leaders, the Acting IG promptly ordered the release of the 54 arrested persons and set up the Mike Okiro Panel to investigate the circumstances that led to the death of the 6 Apo traders, it appears that this directive doused the already charged tensions and disenchantment among the Igbo Community in Abuja.

RECOMMENDATIONS

- 1) Considering that the Traders population at Apo Village is now in excess of 3000 and the present Police work force assigned to the Apo Police Post is now comprised of 57 Officers, it is recommended that the outpost be upgraded to a Divisional Police Post. To this end, the proposed Police station should be fully complimented with modern operational equipments, gadgets and wherewithals that would ensure the effective and efficient Police performance at Apo.
- 2) Efforts should be expedited by the Federal Capital Development Authority to relocate the Mechanical Village to a purposely planned and designated site to serve as model motor spare parts and allied automobile service centre befitting of the Federal Capital Territory.
- 3) The present planless and ghettolike setting at Apo Village makes it vulnerable for harbouring criminals and miscreants. In times of tension such undesirables are likely to aggravate the situation by engaging in violence and disruptive activities.
- 4) The Police should be equipped with modern anti riots vans installed with gadgets such as sophisticated cameras, and video equipments to enable it to take records of rioters and



their activities. This way, only those involved in the destructive activities will be arrested. Events at the scene will ease the records of crimes committed during riot.

5) There is an urgent need for the reappraisal of Police methods for riot management. This should be routinely undertaken. Trigger happy and aggressive officers should be debarred from deployment to riot scenes. The Police should be proactive and not wait until a situation gets out of hands.

6) Accordingly, they should enhance their intelligence gathering mechanisms. Expeditious steps should be taken to nip potential crisis situation in the bud.

7) The operational needs for effective and efficient operation of the Police Force should be provided timeously. The maintenance units responsible for servicing and overhauling of equipments, gadgets vehicles e.t.c. should be well stocked with spare parts. There should be a sufficient maintenance team to take care of polices properties. A situation were members of the Police such as the DPO goes cap in hands to beg for spare parts from members of the public for the operation of official vehicles should be deplored.



REFERENCE `B`

TO ESTABLISH WHETHER OR NOT
THERE WAS ANY ARMED ROBBERY INCIDENT AT GANA STREET,
MAITAMA, ABUJA
ON 7TH JUNE, 2005.

1. The Nigeria Police Force being the main organ upon which responsibility for maintaining public safety and public order is entrusted, is always the first in the line of defence available to the ordinary citizen whenever his life or property is threatened. The greater the ability of the police in efficiently discharging these functions, the greater the chances of creating the psychological feelings of safety among the citizenry and the greater the foundation and attractiveness among Nigerians to the institution.

2. However, there has been occasions when the professional judgment of some of the officers have been called to question, as a result of extra-judicial killings and corruption. The instant case of Apo 6 killings is one of such where the professional judgment of some of the officers in the circumstance was considered inappropriate and therefore blameworthy.

3. One of the Commission's terms of reference was to determine whether or not there was an armed robbery incident at Gana Street, Maitama, Abuja on 7 June, 2005. Evidence before the Commission revealed that there is a Gana Street, Maitama, however, the area contemplated by the convening authority regarding the armed robbery incident is Gimbiya Street. The Commission believes that this was an error and was not meant to represent the true description of the area herein referred to as Gimbiya Street.

4. In arriving at our findings in this regard, the Commission examined the evidence of the following Police officers which were considered relevant to the determination of the issue:

- a. DCP Danjuma Ibrahim.
- b. Inspector Suleiman Audu.
- c. PC Haruna Mamot.
- d. PC Ibrahim Garba.
- e. PC Yakubu Philibus.
- F. 7Inspector Suleiman Audu

5. Inspector Suleiman Audu was the officer incharge of the stop and search team at the Pin Down Point at Gimbiya street. He was on duty on 7 June 2005 with the following police constables under his command:

- a. PC Haruna Mamot.
- b. PC Ibrahim Garba.
- c. Yakubu Philibus.

Inspector Suleiman testified that he reported for duty around 7 pm on 7 June 2005 at Gimbiya Street Area 11 Garki and started his patrol. While on foot patrol within the area, at about 9.30 hrs to 10.30 hours he received a distress call from the Control Room Abuja to the effect that armed robbers had attacked Crown Guest Inn Gimbiya Street. He stated further that he went with his men on foot to the scene. He found out on getting there that the hoodlums had escaped. He continued the patrol until they got to Prudent Bank



Junction where they stopped to conduct their stop and search duty. He said that at about 0130hrs DCP Danjuma Ibrahim in charge of operations came in his BMW car and stopped beside them. The DCP urged them to be on alert, to stop all vehicles and search them thoroughly. At about that time, they saw a Peugeot 406 Car coming. They attempted to stop the vehicle by flagging it down with their torch light but the car showed no intention of stopping. The DC in an attempt to stop it used his car to block it, and in the process hit the rear bumper of the DC's BMW car. He said that the DC ordered him to fire twice, consequent upon his refusal, the DCP snatched the rifle from him and started shooting at the vehicle. He stated further that there were 6 occupants in the car while 4 were "no more shaking", two though, wounded were alive and shouting. The patrol van ALGON Jeep which DC Danjuma had radioed earlier arrived at the scene. The patrol team headed by ASP Nimram Nanpon was asked to convey the suspected armed robbers to Garki Police Station.

6. In the course of cross-examination, Inspector Suleiman disclosed that the alleged armed robbers did not fire and that infact there was no exchange of fire between the police and the occupants of the 406 Peugeot car. He conceded that the car was not searched and he did not see any weapon with any of the deceased persons. The evidence of PC Garba Ibrahim, Huruna Manot and Yakubu Philibus are not substantially different from the testimony of Suleiman. The evidence of Suleiman Audu is thus adopted in this exposition.



MR. BEN AGARI

7. His witness testified that he is the Manager of Crown Guest Inn and that on 7 June 2005 at about 8 pm he heard some gunshots when he was about leaving the hotel. That he also heard people shouting "Area! Area! and he verily believed that they were armed robbers. He stated that he went upstairs to the second and last floor to take a position where he could observe what was happening. While in this position, he saw some men in mufti beating some of his staff, one of the men held his brother down on the ground with a pistol pointed at him and was asking him, where is the money. He was no longer in doubt that they were armed robbers. At that point, he remembered one Mr. Suleiman (OC CID) whom he quickly called to intimate him of the robbery in his Guest Inn. That the police came after the armed robbers had finished their operations. He alluded to the fact that the armed robbers who were 4, males only, broke into the hotel and made away with ! about N250,000 from his office. His guests were dispossessed of about 15 handsets. He said that the robbers escaped through the back door. While on the high way, they attempted to stop an Okada but eventually stopped a car and drove away. He gave the police the description of the car the armed robbers entered and suggested that the car should be traced to Asokoro. While on their way to Asokoro they saw the same car parked with the door opened. Rather than stop to examine the car, they went to Asokoro Police station where they enquired if they received any wireless message in respect of the armed robbery attack in Crown Guest Inn. They confirmed that they had not received such message. On his return to the Guest house, he saw the DPO Garki and some policemen at the Guest Inn perhaps to confirm the incidence. In his evidence, he said he received a text message in his handset from one of his staff who informed him that the armed robbers have been arrested and he was asked to come and identify them. He declined to go on t! he ground that the police had asked him to report the following day. He also said that he did not make any statement nor laid any formal complaint to the police because he had to travel to Kano the following day to keep an appointment. He however, confirmed that he directed his manager to report to the police to make statement. He was positive when asked during cross-examination that what he saw pointed at his brother was a pistol. However, he was not definite about the colour. He was nonetheless convinced that the alleged pistol could easily have been kept in the pocket of a trouser. He further asserted that some of his staff went to Gimbiya Street to identify the alleged armed robbers but he could not say whether they were able to identify any of them.



8. DCP Danjuma Ibrahim is the DC Operations Federal Capital Territory (FCT) Abuja. He averred as follows. That he is the officer incharge of operations in the Federal Capital Territory. His duties amongst others include the provision of security for Very Important Personalities (VIPs) and escorts for the Vice President. He stated that on 7 June 2005, while on his way to the villa to attend to some VIPs he received a distress call from DG NEMA that armed robbers have invaded his house. He disclosed that he directed the DPO Maitama who has the jurisdiction of the area to react to the call. He could not handle it personally because of his engagement at the villa. He said that he was later informed by the DPO that the armed robbers had finished their operations and left by the time they arrived at the DG's house. He claimed that it has been his usual practice to visit the scene of crime, nonetheless, he still rushed down to the DG's house to see things for himself. While there, he was informed that a 406 car and a red starlet car were used as escape vehicles by the hoodlums.

He then went to all the strategic and vulnerable points to ensure that his men were properly deployed and in place. It was while he was doing this, that he received another distress call through his GSM handset around 9.30 10pm that Crown Guest Inn in Area 11 was being attacked by armed robbers. As was his usual practice, he immediately headed towards Gimbiya Street, but was later informed by the DPO Garki and 2 other patrol teams who went there that the hoodlums had escaped. He said he continued with his patrol visiting all points. As he approached Gimbiya Street at about 0130p.m, he noticed 2 people struggling with the driver of a red starlet car. That the starlet car managed to escape while 2 people apparently the assailants rushed to a static Peugeot 406 and sped away. Their conduct raised his suspicion thus he tried to link up with the 406 but lost them along the line. With his personal knowledge of the area, he was able to appreciate their likely exist route.

He returned to Gimbiya Street where he urged the Policemen at the pin down point to be at alert. Whilst directing them, the Peugeot car appeared. It was flagged down, it slowed down but later increased its speed. He then had to move his car forward to create a breaking distance. In spite of his effort to stop the car, it still did not stop. Consequently, the car hit the rear bumper of his BMW car. Even at that, it made a concerted effort to reverse back with speed and eventually climbed a tree in the process.

Almost simultaneously, he heard gun shots which jolted him hence he had to run for cover using his car as a shield. He approached the Peugeot 406 after the shooting had

subsided and the car now stationary. He confirmed that there were 6 occupants in the car, 5 males and one female. He asserted that Inspector Suleiman fired the shots from his AK47 rifle in order to protect his life. Though he had his pistol, because of the confusion he did not realize that it was still on safety. He presumed that one of the occupants was dead while the other 5 sustained various injuries. He directed that the suspects and the vehicle should be taken to Garki Police Station.



SUBSTANTIATION

9. A careful examination of the evidence of DCP Danjuma, and that of Mr Salisu Dahiru, the security guard in DG NEMA's residence revealed sufficient and convincing facts which swayed the mind of the Commission to arrive at the conclusion that there was indeed an armed robbery incident on 7 June 2005 in the DG NEMA's house. This was further substantiated by the Police wireless message DTO: 1138/06/005 attached to the memo of DC Danjuma Ibrahim memo. It is the usual practice of the Police in a circumstance of this nature to send Situation Report (SITREP) to the Appropriate Superior Authority.

10. The Commission however, holds a different view in respect of the alleged robbery incident at Crown Guest Inn, Gimbiya Street, Area 11 Garki. There is no convincing and compelling evidence to support the allegation of armed robbery in Crown Guest Inn on 7 June 2005. The evidence of DC Danjuama Ibrahim that he received a distress call to this effect is not cogent. More importantly, he did not visit Crown Guest Inn to assess the situation contrary to his usual practice of visiting the scene of crime even long after the events have ceased.

The Commission also believes that the mere fact that he was informed that the armed robbers had operated and left would not have been sufficient to dissuade him from visiting the scene of crime in view of his previous practice in matters of this nature. The Commission also holds that his visit was imperative for the compilation of his objective situation reports of occurrences in the Federal Capital Territory on that day.

11. The Commission having reviewed the evidence of Insp. Suleiman, PC Ibrahim, Philibus and Mamot holds that they are tainted witnesses who have an interest to protect. Their evidence should therefore be taken with caution. Though, their evidence is corroborative of each other that there was an armed robbery incident at Crown Guest Inn, their subsequent conduct betrayed the probative value of their testimonies. The action expected of Police officers who visited the scene of crime were visibly lacking. The Commission is of the view and so holds that if indeed there was an armed robbery incident at Crown Guest Inn, the Police could have been able to record statements from the victims, more so when the Manger claimed that he lost

the sum of (N250,000) to the armed robbers. Furthermore, it is not in evidence that the occurrence was incidented in the Garki Police Station nor was it relayed in the form of signal to the Force Headquarters the foll! owing day, a usual routine by the police. The Commission is not persuaded that there was an armed robbery attack as alleged.

12. The evidence of the only eyewitness Mr. Ben Agari is most unreliable. It is fraught with contradictions and inconsistencies. The major defects in the evidence were his equivocation and inexactitude. In one breath, he conceded that he saw vividly the pistol which he said was silver in colour and in another, he said it was black. His inability to say with certainty, the nature and make of the pistol was borne out of the fact that his vision could have been obstructed by some factors in the environment. The Commission concludes that the room from which he observed the events being the last floor of a 2 storey building, the poor lighting and the extended balcony of the first floor were sufficient impediments to good visibility. It is trite that evidence obtained in such circumstance could not be relied upon.



He also asserted that the 4 armed robbers escaped through the back door and attempted to stop an Okada rider. The Commission is not persuaded by this evidence. He also posited that, some of his staff were invited to come and identify the suspected armed robbers when they were arrested. From the preponderance of evidence before the honourable Commission, there was no other witness who corroborated this piece of evidence. It is therefore safe to conclude that there was no such exercise. The pertinent question is, why was the manager who claimed he lost N250,000 not enthusiastic about reporting to the Police? The reason is quite obvious, "you do not put something on nothing", there was no armed robbery and therefore there was no motivation to pursue the case.

13. Assuming, the Commission is persuaded by the evidence of Mr. Ben Agari, how will the following facts which emerged be articulated and a nexus established between the robbery at Crown Guest Inn and the Gimbiya Killings?

- a. The alleged robbery incident at Crown Guest Inn took place between 8.30 pm 9.00pm.
- b. The robbers numbering 4 never came with any car but jumped over the fence to the adjoining road, stopped a red Starlet car, after attempting to stop an Okada rider and the car drove off.
- c. The red car, which allegedly took the armed robbers away, was found parked at Asokoro and this was not reported to the Police Station at Asokoro.

d. The Police failed to make any record of their findings even when the Manager eventually returned to the hotel at about 10.00pm and informed them about this observation.

e. The Police did not make any effort to retrieve the alleged car found parked at Asokoro according to Mr. Ben Agari.

f. The alleged pistol seen by Mr. Ben Agari is quite different in shape, size and colour from the 2 purported locally made pistols recovered from the 406 car purportedly used by the deceased persons.

g. The description of the four alleged armed robbers by Mr. Ben Agari did not fit the six deceased persons who were eventually killed at Gimbiya Street as the ones who went to Crown Guest Inn.

h. It is instructive to note that the killing of the Apo 6 at Gimbiya Street took place between 1.30am 2.00am about four hours after the alleged robbery at Crown Guest Inn. The Commission is unable to establish any nexus between the two events.

14. Mr. Ben Agari further averred that the armed robbers struck at about 8 p.m. The killing of the Apo 6 traders as earlier noted was between 1.30 a.m -2 a.m. The Commission believes that armed robbers operate with speed and urgency. It stands to reason therefore that having successfully operated at Crown Guest Inn, they will not lurk around within Gimbiya Street when they know that the Police would be on their trail. It is therefore preposterous to assume that the same armed robbers were the ones killed at Gimbiya Street four hours later.

FINDINGS

15. From the above exposition, there is no overwhelming evidence to support the allegation of armed robbery at Gimbiya Street on 7 June 2005. The Commission found as facts the following:

- a. That on 7th June 2005, there was an armed robbery incident at DG NEMA's residence.



- b. That none of the robbers were arrested at the scene of crime.
- c. That there was a wireless message DTO 081138/06/005 sent to Force Headquarters in respect of the armed robbers that attacked DG NEMA's house.
- d. That the allegation of armed robbery at Crown Guest Inn at Gimbiya street is unfounded and cannot be supported by evidence.
- e. That there was no wireless message reporting the alleged incident to the Force Headquarters.
- f. That those who claimed to have been robbed did not make statements to the Police.
- g. That the alleged robbers were said to have escaped in a red starlet car and not a 406 car as alleged.
- h. That the strength of the policemen at the Pin Down Point is sufficient, however, one AK47 rifle in the face of the sophistry of weapons used by armed robbers is grossly inadequate.
- i. There was no picket to indicate the presence of Police check point at the Pin Down Point in Gimbiys Street. The presence of such picket is sufficient deterrence to robbers.
- j. That the Police who alleged they visited Crown Guest Inn in response to the distress call did not show any professional skill. They lacked dedication following their perfunctory performance at the scene.

RECOMMENDATIONS

16. It is recommended that:

- a. Every Pin Down Point should have adequate manpower with the commensurate firepower.
- b. All Pin Down Points, stop and Search should have picket with reflective signs to give early warning to commuters.
- c. Policemen should be educated to ensure that they always log every incident in their notebooks which should be carried by every policeman.
- d. The men should always report such incident promptly and accurately to the Appropriate Superior Authority.
- e. The police should provide note books to al policemen as an essential requirement for efficient performance and recording of their daily duties.



REFERENCE 'C'

TO DETERMINE THE IDENTITY OF THE SIX PERSONS KILLED AT GIMBIYA STREET, ABUJA ON 8TH JUNE, 2005 AND THE CIRCUMSTANCES SURROUNDING THEIR DEATHS

In the early hours of the 8th of June 2005 between 1:00 and 3:00 Six Nigerians including a female had an encounter with some police officers in Abuja, Federal Capital Territory, while the police men were on patrol duty. All the six persons now known and referred to as "APO SIX " were killed in very horrendous circumstances. Nigerians, Human Rights organizations, local and international news media were shocked. This action of some members of the Nigeria Police was described by many as brutal, sadistic and a murderous disposition of the Nigeria Police towards the entire citizenry of Nigeria.

2. During the first encounter of the six occupants of a white 406 Peugeot car with the Deputy Commissioner of Police in charge of operation FCT Abuja and four Police men namely:

- a. Inspector Suleimen Audu
- b. PC Haruna Mamot
- c. PC Ibrahim Garuba and
- d. Pc Yakubu Philibus

Who were on duty at the "pin-down-point" at Gimbiya Street, Area 11, Garki, it is in evidence that all the "Apo Six" were not killed there. Two of the occupants initially survived the unprovoked shooting by the Police, but were later taken to a remote part of Abuja and killed. Their profiles are produced here under:

(i) Name: Ifeanyi Ozor (M)

Age: 25 years

Nationality: Nigerian

Tribe: Ibo

State of Origin: Enugu State

(ii) Name: Chinedu Meniru (m)

Age: 21 years

Nationality: Nigerian

Tribe: Ibo

State of Origin: Enugu State

(iii) Name: Isaac Ekene (m)

Age: 22 years

Nationality: Nigerian

Tribe: Ibo

State of Origin: Enugu State

(iv) Name: Paulinus Ogbonna (m)

Age: 23 years

Nationality: Nigerian

Tribe: Ibo

State of Origin: Enugu State

(v) Name: Anthony Nwokike (m)

Age: 23 years



Nationality: Nigerian

Tribe: Ibo

State of Origin Anambra

(VI) Name: Augustina Arebun

Age: 22 years

Nationality: Nigerian

Tribe: Esan

State of Origin: Edo state

All the above named persons except Augustina Arebun, a fiancé to Ifeanyi Ozor were traders in motor spare parts of various types in Apo Mechanic Village, Abuja. Augustina Arebun assisted her mother Monica Arebun in petty trading before her death.

In order to determine the identities of the above named persons and the circumstances surrounding their deaths the commission took oral evidence from the following witnesses;

- i) Chukwudi Chukwu
- ii) Mrs. Monica Arebun
- iii) Elvis Raphael Ozor
- iv) Mrs. Paulina Ugochukwu
- v) Lawrence Ogbonna
- vi) Edwin Meniru
- vii) Inspector Suleiman Audu
- viii) PC Haruna Mamot
- ix) PC Yakubu Philibus
- x) PC Garuba Ibrahim
- xi) Deputy Commissioner Danjuma Ibrahim
- xii) Yakubu Alamba
- xiii) ASP Nimram Nanpon
- xiv) ASP Idrisu Umaru
- xv) ASP Nicholas Zachariah
- xvi) PC Ezekiel Acheneje
- xvii) PC Emmanuel Baba
- xviii) Professor O. S. Ojo Consultant Pathologist, Awolowo University Teaching Hospitals.
- xix) Calistus Ogbuno DSP (Ballistician)

3. Chukwudi Chukwu the 11th witness, a professional photographer in his evidence said that on 8th June, 2005 at about 3 a.m. the DPO Garki Police Division, Abuja, Othman Abdulsalam now on the run sent for him and requested him to take the photographs of some armed robbers who were said to have been killed by the Police. He said he worked for the police in the past as a private photographer.

On arrival at Garki Police Station he saw three corpses on the ground, they were all males. He averred that the DPO instructed him to take group photographs of the three corpses. In spite of the DPO's instruction he took individual photographs of each of the corpses in addition to the group photographs after the DPO left the scene. He said that at about 6.30 a.m. of 8th June, 2005 he was again sent for by the DPO and this time around there were two additional corpses, a male and a female bringing the total number of



corpses to five (four males and one female). Again he said he took the group and individual photographs of the two new corpses. He added that he also took the photograph of the Peugeot 406 car used in the alleged robbery. He posited that he was given a nylon bag containing two locally made guns, two cartridges and a cutlass and was asked to place them on each of the alleged armed robber before taking their photographs. He complied and was further asked to place the said guns, cartridges and the cutlass inside the Peugeot 406 and take the photograph. He said that he also took the photograph of the pick-up van which conveyed the five corpses to the Hospital. He concluded that altogether he took the photographs of five corpses on 8th June, 2005 and that the DPO Othman Abdulsalam collected the photographs and some of the negatives from him.

4. Mrs. Monica Arebun the 18th witness and mother of late Augustina Arebun, the only female among the deceased 'six' gave evidence before the commission. She looked shattered and still appeared to be in a state of shock even about four weeks after the incident. She said that the first deceased person, Ifeanyi Ozor was her late daughter's fiancé and that they were about to get married when the unfortunate incident occurred. She added that any time she came to Abuja from Lagos the late Ifeanyi Ozor used to visit her at Lugbe and give her gifts. She identified the photograph of her late daughter Augustina Arebun which was tendered and admitted in evidence. The photograph was one of those taken by the 11th witness Chukwudi Chukwu at Garki Police Station.

5. Elvis Raphael Ozor the 21st witness in his evidence said that he is a junior brother to the first deceased person Ifeanyi Ozor, he said he was involved in the sale of Peugeot spare parts and repair of Peugeot cars with his deceased brother at Apo Village. He averred that on the 6th of June, 2005 one Hon. Abubakar Abdullahi, of the Adamawa State House of Assembly brought a Peugeot 406 car to his deceased elder brother, Ifeanyi Ozor for repairs. After making a part payment of N150,000.00 (One Hundred and Fifty Thousand Naira), leaving a balance of N87,000.00 (Eighty Seven Thousand Naira) an invoice was issued to him. He added that Hon. Abubakar Abdullahi told his late brother to his hearing not to use the Adamawa State House of Assembly Plate Number for security reasons while effecting repairs on the vehicle. It was this vehicle that his late brother used with his late friends on that fateful day ! after having fixed another plate number on the Peugeot 406 car.

The witness identified the photographs of his deceased brother, Ifeanyi Ozor, Anthony Nwokike, a spare parts dealer at Apo Village, and Augustina Arebun, the fiancé of his late brother, the first, fifth and sixth deceased persons named above respectively. He also identified the photograph of the Peugeot 406 car which was used on that day by the deceased persons. The photographs of late Ifeanyi Ozor, Anthony Nwokike and Augustina Arebun were tendered and admitted in evidence. Also tendered and admitted in evidence was the photograph of the Peugeot 406 which the deceased used before they met their untimely death. All the photographs were taken by the 11th witness Chukwudi Chukwu at Garki Police station on 8th June, 2005.

6. Mrs. Paulina Uzochukwu the 22nd witness and an aunt to Isaac Ekene, the third deceased person said she brought up the deceased and educated him up to primary school level. She posited that when she relocated to Abuja from the north, it was Isaac Ekene that housed her. She added that her late nephew was not an armed robber. Although she



could not identify any of the photographs of the alleged armed robbers taken by the 11th witness, Chukwudi Chukwu, she said that when she heard that some people were about to bury the six deceased persons somewhere in Apo Village, she went there with some of her relations. She said she saw the corpse of her nephew Isaac Ekene, "I touched him and lifted the head up" in addition her relations, Sunday Uzochukwu, Uzo and Okafor also saw the corpse of Isaac Ekene.

7. Witness No. 20, Lawrence Ogbonna, an elder brother to the late Paulinus Ogbonna, the 4th deceased person stated that his brother started his business in Kaduna and relocated to Abuja. Apart from being a dealer in Mercedes spare parts, he did contract jobs. The witness was shown some photographs taken by the 11th witness, Chukwudi Chukwu and he identified one of them as that of his late brother Paulinus Ogbonna. The photograph was tendered and admitted in evidence.

8. The 23rd Witness Edwin Meniru a trader and spare part dealer at Apo Mechanic Village is the elder brother to Chinedu Meniru one of the deceased "Apo Six". He said that on the 8th of June 2005 at about 1 a.m. one Anthony Nwokike now deceased, telephoned him and told him that they were having some problems with the Police. Anthony Nwokike, told him (Edwin Meniru) on the phone that Ifeanyi Ozor had been shot and killed by the Police and that Chinedu Meniru his younger brother was also shot but was still alive. He was further told by Anthony Nwokike that they were being taken to either Garki or Wuse Police Station but he was not sure which of the two stations. As they were both discussing, the phone suddenly went dead.

He said his late brother neither had criminal records nor was he an armed robber. He identified the photograph of Chinedu Meniru as that of his deceased brother. It was tendered and admitted in evidence. The photograph was one of those taken by the 11th witness Chukwudi Chukwu at Garki Police station on 8th June, 2005.

9. A team of medical experts was commissioned to exhume and conduct autopsies and forensic examinations on the bodies of the 'Apo Six' and that of PC Anthony Idam with the following objectives:

- a) Identify the deceased;
- b) Determine the cause of death;
- c) Establish the circumstance of death, store the deceased in the mortuary, pending consideration of the commission's recommendation; and
- d) Permit a representative Pathologist from the deceased's families and the Nigeria Police Force to be present as observers. In order to assist the team in its assignment the commission made available photographs of five of the Apo Six taken when the bodies were fresh before burial. In his evidence the 47th witness Professor O. S. Ojo, Consultant Pathologist, Obafemi Awolowo University, Ile Ife said he carried out the exhumations, autopsies and preservation of the bodies with Professor E. C. J. Nwana a Pathologist at the University of Ilorin, Dr. W. O. Akhiwu, Consultant Pathologist, the Nigeria Police, as observer and Dr. Said Mohammed Aminu Registrar at the National Hospital, Abuja as the assistant to the team.

He testified that Ifeanyi Ozor; Paulinus Ogbonna; and Anthony Nwokeki would most probably have died of cerebral laceration due to high velocity missile injury. He positively identified the five bodies by comparing the clothings on their bodies with those in the photographs. He said that it was easy to identify the only female among them as Augustina Arebun because of the weave-on hair, an oval shaped plastic earring and adult



female genitalia. He opined that death would most probably have been due to the consequences of massive bleeding into the abdominal cavity due to the high velocity missile injury. Under cross examination the witness said that the body was in a state of fairly advanced decomposition and even so, it would still have been possible to determine if the deceased died of strangulation adding that in the instant case she did not.

He went on to say that although they positively identified one of the last two bodies in the same grave as that of Chenedu meniru through the dress found on the body, which was compared with that in the photograph, they were unable to determine the nature and extent of skeletal injury if there were any. He added that they were also unable to determine the anatomical cause of death because of the advanced state of decomposition.

As for the last and the sixth body, the witness said that they were also unable to determine the nature, extent of injuries and therefore the cause of death because of the advanced state of decomposition. He said that the last two bodies decomposed faster than the other four because they were buried in a shallow grave, thus, both were exposed to the adverse effects of tropical weather which accelerated decomposition. The commission was able to arrive at the incontrovertible conclusion that the last and the sixth body was that of Isaac Ekene who was killed by the police near Prince and Princess Estate at about 7 a.m. on 8th June, 2005.

The corpse was not brought to Garki Police Station and this probably accounted for why his photograph was not taken before burial. From the foregoing facts, the commission is able to conclude that the 'Apo Six' have been positively identified and their causes of death established beyond any doubt whatsoever.

10. DSP Calistus Ogbuno, the 46th witness, a ballisticsian, told the commission that at the instance of Force, CID Abuja, he carried out a scientific examination of the underlisted exhibits connected with the 'Apo Six' incident:-

- a. A Peugeot 406;
- b. One Police Algon Jeep;
- c. Two locally made pistols; and
- d. One Brownie pistol The official pistol issued to DC Danjuma Ibrahim)

He said he examined the Peugeot 406 which was used by the Apo six and saw six points of entry of bullets. He said that the bullet marks he saw were on the drivers side of the vehicle around the lower parts of the front and rear doors. He opined that the bullet marks cannot be said to be consistent with those made by rifle ammunition or AK47 i.e. 7.62 mm. He said that the marks which did not have an exit point from were either made by a pistol or by a revolver i.e. 7.65 mm. As for the Algon Jeep he said that the bullet holes on the jeep were neither made by bullets from a rifle nor could such holes have been made by cartridges. He opined that a sharp object was used to make marks on the Algon Jeep adding that a blunt object was also used to dent the driver's side.

The witness averred that he examined the two locally made pistols and said that they have not been fired in recent times, adding that 'recent times' could be six months to one year.

On DC Danjuma Ibrahim's pistol, he said he examined it and concluded that it was fired about three weeks to one month before examination. He added that twenty four hours after firing any arms no one can say exactly when any arms brought for examination was fired. He concluded that Danjuma Ibrahim's pistol had twelve rounds in the magazine and another one tagged to it with a cello-tape when it was brought to him for examination



Circumstance surrounding their deaths

11. The first bloody encounter with the police was at Gimbiya Street Area 11 Garki. The 1st witness Inspector Suleiman Audu testified before the commission. He said that on the 7th of June, 2005 at about 6p.m he was posted to Gimbiya Street on foot patrol with three constables namely; (i) PC Haruna Mamot (ii) PC Yakubu

Philibus and (iii) PC Garuba Ibrahim. He added that before leaving his station for his duty post he signed for one AK 47 rifle and 10 rounds of live ammunition. While on his beat with the three aforementioned constables, he received a distress call from the control room of an armed robbery incident at Crown Guest Inn off Gimbiya Street, Area 11 Garki. He said that before he got to the scene with his men, the armed robbers had escaped and they returned to their duty post by Prudent Bank, Gimbiya Street. Later at about, 1.30 a.m. the Deputy Commissioner of Police! , Operations FCT, Abuja Mr. Ibrahim Danjuma came to their beat at Gimbiya Street in his private BMW car and told them to stop and search all vehicles plying the road. At that juncture, there was a vehicle coming from Area 11 and he flashed his torchlight to flag down the vehicle to stop. The on coming vehicle, a Peugeot 406 did not stop. The DC thereafter used his own vehicle, the BMW car to block the road, consequently, the Peugeot 406 hit the DC's car at the rear. The driver of the 406 Peugeot tried to reverse his car fast and go back to where he was coming from. He added that DC Ibrahim Danjuma ordered him to fire at the vehicle and he refused. Following his refusal to fire at the vehicle the DC snatched his rifle from him and shot at the vehicle. He claimed that all the ten live ammunitions in his magazine were expended by DC Danjuma. He added that the vehicle came to a halt after hitting a plant on the kerb and thereafter the DC radioed an ALGON JEEP to report at the scene at the Pindownpoint at Gimbiya Street.

After the shooting they approached the vehicle and observed that there were six people inside the Peugeot 406 car. Four of them were presumably dead, because they were not moving, adding that the male and the female were still alive. When the ALGON JEEP arrived the DC ordered that the dead and the injured should be taken to Garki Police Station, while he ordered him to enter his vehicle and they both went to Garki Police Station leaving the three constables behind at the scene of incident. At the station, the DPO Garki Division, CSP Othman Abdusalam asked him what happened and he narrated everything to him. He added that the DPO asked him out of his office. The DC and Danjuma locked themselves in the DPO's office.

Later on that day, 8th June, 2005 the DPO called him and told him how he should write his statement about the incident. Under cross examination, the witness said that there was no exchange of fire between the police and the occupants of the Peugeot 406 who were alleged to be armed robbers at Gimbiya Street. When asked if he and members of his team searched the 406 car, he said they did not. The evidence of Inspector Suleiman as stated above was corroborated by police constables Haruna Mamot, Yakubu Philibus and Ibrahim Garuba, the 3rd, 4th and 5th witnesses. They were all on duty with witness No. 1, Inspector Suleiman Audu.

10. In his evidence before the commission the 36th Witness DC Danjuma Ibrahim said he was the officer in charge operations at the FCT Abuja and his duties among others include the formulation of crime prevention strategies in FCT. On the 7th June, 2005 at about 7 p.m he went to the Villa in his personal BMW car because he had no fuel in his official vehicle. He averred that on his way to the Villa he received a call from the DG



NEMA that armed robbers invaded his house at Plot 417 Lake Chad Crescent Maitama. He said that he informed the DPO Maitama who immediately rushed to the scene of crime, only to be told that the armed robbers had finished their operation and escaped in an ash coloured Peugeot 406 and a Red Starlet Car. He added that he took necessary precautions to alert the men at the roadblocks, pin-down-points, patrol vehicles within the FCT and environs to be on the look out for the aforementioned vehicles. He said he later went to Plot 417 Lake Chad Crescent where he was told by two people outside the house that the vehicle used by the robbers was an ash coloured Peugeot car. While on this incident, he received yet another distress call through the control room that there was another robbery incident at Crown Guest Inn off Gimbiya Street between 9.30 p.m. and 10 p.m. He was later told through his GSM that the robbers had operated and left Crown Guest Inn. He averred that he continued with his visiting rounds to other areas within FCT and later came to Gimbiya Street at about 1.30a.m. At Gimbiya Street, he noticed two people struggling with some people in a Red Starlet Car which sped off while two other persons, went inside a Peugeot 406 car and drove off in a suspicious manner.

He stated that he tried to follow the Peugeot 406 car but could not keep pace with it hence he used his knowledge of the area and decided to go to the pin-down-point, thinking that that could have been the Peugeot 406 used by the armed robbers at the DG NEMA's house. He said he raised a distress call to the control room and at that point the Peugeot 406 car approached the pin-down-point and was flagged down but the driver accelerated. He added that he used his BMW car to block the 406 giving it braking distance, in spite of this the 406 hit the back bumper of his car and the driver engaged his reverse gear and hit a tree at the kerb. He said he heard gun shots and was jostled. He went on to say that he took cover beside his car and the Inspector (Suleiman Audu) fired some shots adding that he got his pistol and approached the 406 Peugeot car which was then stationary. He averred that the occupants were six in number and he believed that one of them was presumably died while the remaining five were injured. He said that he did not even realize that as he approached the 406 car the safety catch of his pistol was on (meaning that with the safety catch on it would have been impossible to fire it unless the safety catch was disengaged). He said he ordered that the presumably dead person and the five injured ones and their vehicle should be taken to Garki police Station. The five injured persons entered the car themselves while the dead one was carried into the ALGON JEEP. They were handed over to the DPO Othman Abdulsalam. He said that when he was leaving the station for Gimbiya Street he ordered the DPO to search the vehicle and on his return to the station he was told by the DPO that the following items were recovered from the Peugeot 406 car:

- a. Two locally made Pistols
- b. One Dagger
- c. One Cutlass
- d. Two live cartridges

He said he told the DPO to further investigate the incident, adding that he read later in the signal that related the incident at Gimbiya Street to the appropriate authorities- CP and IGP, that four people died in the first instance and two people died while being taken to the hospital. He said his pistol had 12 rounds of ammunition.



He denied ordering Inspector Suleiman Audu to fire adding that in his earlier statement to the Police Inspector Audu said he did not wait for the order of a superior officer to fire and that by firing on his own he relied on force order dealing on self defence.

11. Yakubu Alamba, Witness No. 28, a securityman attached to Nwaora group of companies', works and lives at Syndicate plaza, Area 11 Garki by Pin-down-point at Gimbiya Street. He said that on 8th June, 2005 at about 1.30 a.m. he heard the policemen on duty at the pin-down-point, Gimbiya Street telling some people stop! Stop! Stop!. When he went he went nearer the policemen to see what was going on he heard gun shots and took cover somewhere. He said that after the gun shots he did not hear anything again. He averred that about 3 minutes later, he heard the policemen say, come down! Come down!. Some people came down from the car, and they were all asked to lie down on the main road. He said the people obeyed. Some of them were with injuries. About 10 minutes later, an Algon Jeep arrived at the scene and the policemen asked the people lying on the ground to get inside the Algon Jeep. All of them ente! red the jeep on their own except one who was helped to get inside the vehicle. He added that there was a lady among them. He said that there was a BMW Car by the road and someone who was not in uniform was standing by. He averred that after the people entered the Algon Jeep it was driven away. The Peugeot 406 Car he said was also driven away by the police. He added that after their departure one of the policemen who was left behind asked for water and he gave him in his plastic container. The policemen used the water to wash off the blood stain on the road. The witness said that from where he stood to the point where the incident occurred was about 23 feet. However, when members of the commission visited the scene, the distance was estimated to be about 12 feet. He said that the Peugeot 406 car hit one of the flowers on the kerb. He added that there were five males and one female in the Peugeot 406. He stated that he was awake throughout the incident and he did not at anytime hear the police say fire! Fire!

12. ASP Nimram Nanpon the 10th witness said that on 8th June, 2005 he was in charge of ALGON JEEP Registration No. NPF 2562B attached to Garki Police Station. At about 1.30a.m., while on Patrol duty he was directed by the control room to get in touch with DC Danjuma Ibrahim at Gimbiya Street. He said that at the pin-down-point he met the DC, inspector Audu and 3 constables. He explained that a Peugeot 406 car, DC Danjuma's BMW car were also there. Four men, presumably dead and two injured persons were in the 406 Peugeot car. On Inquiry he averred that Inspector Suleiman Audu told him that DC Danjuma collected his AK47 riffle and shot the victims. The DC, he said, ordered him to convey the men and the vehicle to Garki Police Station. He added that the injured girl and a man entered the ALGON JEEP while the four presumably dead person were inside the 406 Peugeot car which was towed to the station and handed over to the DPO CSP Othman Abdusalam.

13. Asp Idrisu Umaru the 44th Witness gave evidence before the commission. He said he was recently transferred from Abaji to Garki Police Division and because he has no accommodation he sleeps in the office. He said that on 8th June, 2005 at about 2 a.m. he was sleeping in his office when CSP Othman Abdulsalam, the DPO Garki Division woke him up and told him that there was a case of suspected armed robbery. He said that he went outside the station and saw DC Danjuma Ibrahim standing by. He also saw four corpses on the ground. The DPO he added called PC Dennis Asawa the 11th witness to



search the 406 Peugeot Car. He said that PC Asawa searched the passenger's side of the vehicle and brought out two locally made pistols and two live cartridges.

He added that the DPO said that the two people alive, one male and a female should be eliminated. He asked the DPO if the authority was aware of the elimination plan and he replied in the affirmative and the DPO thereafter called for an Ambush Squad while DC Danjuma Ibrahim and the DPO Othman Abdusalam went into the office to discuss adding that he did not know what they discussed. Zachariah the leader of the ambush squad he said later came out of the office and put the injured man and the lady in the car. Witness said he went to his office and later the DC, DPO and the leader of the Ambush Squad ASP Zachariah came back to the office with the lady. ASP Zachariah reported that the man escaped and when the DC heard that the man escaped he was furious. He added that the time the lady was brought to the office she was still alive and moving but was lying in the vehicle. He said that DC Danjuma went near the vehicle, held the lady's head ! and strangulated her. He added that he saw PC Acheneje outside the police station at about 3 a.m. on 8th June, 2005 and although he was without Arms, at that time, later in the morning between 4 a.m. and 5 a.m. he saw him with AK47 riffle when he entered the Ambush Van.

14. In the evidence before the commission, ASP Zachariah, PC Ezekiel Acheneje, PC Emmanuel Baba who were all members of the ambush squad headed by ASP Zachariah denied their earlier statements to the police that they killed any of the male and female persons they allegedly took out to the hospital at Legislative quarters Apo at the instance of DC Danjuma and DPO Othman Abdulsalam. PC Ezekiel Acheneje denied that he was on duty on 8th June, 2005.

15. PC Ezekiel Acheneje the 37th Witness in his evidence before the Commission said that although he is a member of the ambush squad headed by ASP Zachariah he was not on duty on 8th June, 2005. He deposed that Zachariah heads, both teams 'A' and 'B' and he was a member of team 'B'. Under cross examination by Amobi Nzelu, Counsel to the deceased five males he denied his confessional statement to the Police in which he admitted that the suspect who escaped was handed over to his team by members of the public and since the DPO had already ordered them to kill the suspected armed robbers, he, Emmanuel Acheneje wasted no time in firing the last suspect. He said that he made this statement under duress, adding that he was forced to write what he did not know anything about. He added that ASP Zachariah was the leader of the team that went for the execution of t! he suspected armed robbers. Because of this denial, the commission ordered that a certified true copy of the confessional statement of Ezekiel Acheneje be tendered, through witness No. 41, Deputy Commissioner of Police Amusa Bello attached to Force CID, Abuja. In his evidence the witness said that PC Emmanuel Acheneje was brought to his office on 29th June, 2005 by CSP E. Ayuba after he Acheneje made the confessional statement under caution and he as a superior police officer had to attest the statement.

DC Amusa Bello said, he read the confessional statement to PC Acheneje and he agreed that he made it voluntarily without threats, duress and promise of any advantage whatsoever after which he counter signed the statement.

From the foregoing the Commission believes that the denial of the confessional statement by PC Acheneje is an after thought and a deliberate design of an inveterate liar to pervert the cause of justice. We strongly believe and hold that he shot and killed this defenseless



man in spite of the effort the alleged suspect made to live. In order to cover up his dastardly act which went against his training as a police officer he even denied that he was on duty on the day of the incident. His very weak alibi was easily punctured by the 44th witness ASP Idrisu Umaru who deposed before the commission that not only was he seen at the station on 8th June, 2005 at about 4 a.m. he said he saw him enter the ambush van with an AK47 rifle.

16. Witness No. 38, PC Emmanuel Baba in his evidence before the commission deposed that he belongs to Alpha 3 patrol team attached to Garki Police Division and that on the 8th of June, 2005 at about 1.30 a.m. the DPO called his team to the station. He added that on arrival at the station he saw four people lying on the ground and two others were seriously injured. He said that the DPO ordered his team to put the injured persons in their patrol van and on their way to Apo the injured boy jumped down and ran into the bush, while the girl collapsed inside the car. He averred that they looked for the escapee till 5 a.m. but could not find him and later they took the girl back to Garki Police Station.

This witness under cross examination by Amobi Nzelu Esq., Counsel to the five deceased males denied the statement he made to the police, in which he admitted that on 8th of June, 2005 their team was called to Garki Police station and there, they were ordered to take two boys and one girl who were alleged to be armed robbers to Prince and Princess Estate. He said that ASP Zachariah ordered them to shoot the two people because they were armed robbers. He said that he Emmanuel Baba shot the girl, PC Sadiq shot one while the late Tony Idam shot another one. The commission called for a certified true copy of his confessional statement and was tendered by DC Amusa Bello who deposed that he attested the confessional statement and that it was made voluntarily, without duress and not under any threat and promise of any advantage whatsoever.

The contradiction in his testimony before the commission and his confessional statement which he denied is a deliberate attempt to create doubt in his own favour. In his evidence before the commission he deposed that when they were called to the police station on 8th of June, 2005 he saw four people lying on the ground and two people seriously injured and in his earlier confessional statement to the police, which he made under caution, he said "we were later called back to the station and directed to take one girl and two boys alleged to be armed robbers to Prince and Princess Housing Estate". Supol Zachariah ordered them (meaning his team) to shoot the two people because they were armed robbers. He went further to say that he Emmanuel Baba shot the girl, Sadiq shot one while Tony shot another one making three instead of two persons he had earlier mentioned. The commission believes that the totality of the evidence ! given by the witness contains partial truth as to the number of bodies on the ground and the injured boy and the girl the DPO ordered them to take to non-existent Hospital in the Legislative quarters Apo. The commission holds the view that PC Emmanuel Baba shot the girl after the boy jumped down from the moving vehicle.

SUMMARY OF EVIDENCE

17. The uncompleted statement of DC Danjuma the original copy of which was alleged to have been destroyed by him unknown to him that photo-copy had been made was tendered and admitted in evidence. In the said statement he said that as the Peugeot 406 approached the pin-down-point at Gimbiya Street, the Policemen tried to stop it, it slowed down and tried to escape "but I used my car to block it". He said it hit the bumper of his car, and reversed at high speed and climbed a tree while still on the reverse. He



added that some of the patrol teams arrived at the scene and a police Patrol Jeep blocked the other side of the dualcarriage way to make the escape of the 406 Peugeot difficult. He said that he heard "two gun shots from the hoodloom and "our men responded and then he ran out of his car, took cover, brought out his pistol and fired two shots". He added that there were four patrol teams and could not specifically say who fired or who did not fire. He said that he relayed the message about the incident to the control room and could not confirm if it was lodged adding that the two shots he fired were from about ten meters and could not say whether it hit any of the suspects or not.

Throughout his evidence before the commission, DC Danjuma, perhaps still thinking that he had succeeded in destroying the uncompleted statement neither made any averment to its existence nor to its contents which were substantially at variance with his oral evidence before the commission.

Members of the commission and Counsel who appeared for the various interest groups visited the pin-down-point at Gimbiya Street, Garki Police Station to inspect the car used by the Apo six in the morning of the incident. We saw the Peugeot 406 and very strangely, we observed that only the left side of the vehicle around the front and rear doors had seven bullet marks despite the fact that it was moving on the reverse when it was shot at, and besides no bullet hit the front windscreen, and the bonnet but rather the rear screen was completely shattered. This is suggestive of the fact that the damage to the rear screen may not have been caused by bullets because assuming the rear screen was the point of ingress there were neither bullet marks inside the Peugeot 406 nor points of outlet. This was corroborated by the police ballisticians who gave evidence after inspecting the car that the bullets did not exit from it. The evidence that two locally made pistols, two live! cartridges, one dagger and a cutlass were planted in the vehicle and on the persons of the alleged armed robbery suspects to justify the claim by DC Danjuma that the Apo six were armed robbers who first fired at the police at Gimbiya Street before the police responded has been totally disproved by the expert evidence of the ballisticians who said that the two locally made pistol had not been fired in recent times and also the evidence of PC Dennis Asawa the 8th witness and the armourer Inspector Ishaya Nyaiwak the 6th witness who said that those exhibits were planted in the vehicle at the instance of the DPO. Besides, the evidence of Inspector Suleiman Audu that DC Danjuma Ibrahim snatched his AK47 rifle and fired at the Peugeot 406 appeared to the commission to have been concocted even with the corroborative evidence of the three Constables who were on duty with him, namely: PC Harunna Mamot, PC Yakubu Philibus and PC Garba Ibrahim. ! It is quite obvious that they have not yet come out with the truth because the expert evidence of the police ballisticians is to the effect that the bullet marks on the 406 could neither have been inflicted either by a rifle or an AK47 rifle but rather by a pistol or a revolver. The DC Ibrahim Danjuma by his own admission said he fired two shots from his own pistol and probably as a cover up, it was he alone who said he could not specifically say who fired or who did not fire. He also said he heard two gun shots from the hoodlums. On the contrary all the other witnesses, i.e. Inspector Suleiman and his team, Yakubu Alamba saw only the 406 and Danjuma's BMW car at the scene at the time of shooting.

It is also in evidence that when the 406 came to a halt, the policemen ordered the occupants to come down and they obeyed. This commission believes that this was the time one of the 'Apo 6' was probably shot dead and three others injured but between



Gimbiya and Garki Police Station three of them had died leaving Augustina Arebun and Isaac Ekene who were later shot near Prince and Princess Estate at Gaduwa Area. In addition to this, members of the commission also saw the police patrol van which was allegedly fired at by the suspects. We saw what looked like pellets marks which the ballistician has since confirmed not to be bullet marks. The commission believes the evidence of the ballistician that the marks were made with sharp and blunt objects.

DC Danjuma told the commission that two days before this incident he fired two rounds from his pistol in front of Benue Plaza and arrested two armed robbers but for his uncompleted statement, the commission would never have known that he fired two shots at Gimbiya Street. We believe that the two shots he allegedly fired in front of Benue Plaza was a ruse and a premeditated cover-up of the two shots he fired at Gimbiya Street. As to the question of issuance of ammunition to him by the armourer, he claimed he had twenty five rounds. He testified that although he did not fire any shots at Gimbiya Street he had twelve rounds of ammunition left in his magazine but when the pistol was recovered from his house by the police in his absence, twelve rounds were in the magazine and one round in the chambers of his pistol. The question which remains to be answered is why did he need to have snatched the AK47 rifle from Inspector Suleiman when he already fired two rounds with his pistol from a distance of ten meters, and the target Peugeot 406 was already successfully blocked from escaping while according to him his men, meaning the policemen had already started firing, since his duties as he ably defined to the commission did not include killing of armed robbers, whether real or suspected? We believe that at this point there was no further need for him to have snatched the AK47 rifle. This raises the question, who fired Inspector Suleiman Audu's AK47 rifle on the day in question, DC Danjuma or Inspector Suleiman Audu himself? All the five witnesses in this sordid episode i.e. witnesses Nos. 1, 3, 4, 5 and 36 have not yet spoken the truth about who used the AK47 rifle. At this stage we can only presume and our presumption is rebuttable, as it affects Inspector Suleiman Audu that he and DC Danjuma both fired their arms at Gimbiya Street on the 8th of June, 2005 and resultantly at least four people ! must have died between Gimbiya Street and Garki Police Station. This assertion was confirmed by the evidence of PC Dennis Asawa and ASP Idrisu Umaru. There is also a preponderance of evidence that a male, Isaac Ekene and Augustina Arebun, the only female among the Apo Six survived the shooting incident at Gimbiya Street before they were finally eliminated at Gaduwa Estate by the ambush Squad at the instance of DC Danjuma Ibrahim and CSP Othman Abdusalam. Having regards to the weight of evidence adduced so far in relation to the term of reference `C' the commission believes that the Apo six did not all die at Gimbiya Street rather one died there while three died between Gimbiya Street and Garki Police Station and the other two were killed near Prince and Princess Estate in Gaduwa Area, of Abuja.



FINDINGS

The commission has arrived at the following findings:

1. That on 7th June, 2005 at about 0130 hours, DC Danjuma came to the pin-down-point at Gimbiya Street, blocked the road with his BMW car as a white Peugeot 406 car approached the point.
2. The 406 hit DC Danjuma's car and engaged his reverse gear, climbed the kerb and hit a small tree.
3. That DC Danjuma, fired two shots with his pistol but no one could say if the suspects were hit or not.
4. That after the ten rounds of ammunition in the magazine were alleged to have been fired by the police and DC Danjuma fired two shots at the 406 Peugeot, at least one of the six occupants presumably died on the spot while three others died between Gimbiya Street and Garki Police Station. Augustina Arebun and Isaac Ekene survived.
5. That ASP N. Nanpon in charge of an Algon Patrol Jeep was sent for and on arrival at the scene he was told what happened by Inspector Suleiman and thereafter the DC ordered him to take the dead and the injured to Garki Police Station.
6. That at the Police Station the DC and DPO sent for ASP Zachariah and ordered him and members of his team to take the injured male and female suspects i.e. Augustina Arebun and Isaac Ekene out of Garki police Station for elimination.
7. That later the ambush squad returned with the girl to the station after she had been shot by PC Emmanuel Baba and reported that the other male suspect jumped down from a moving vehicle and escaped.
8. That DC Danjuma was furious and told members of the ambush squad to look for the escapee or loose their jobs.
9. That somewhere around Prince and Princess Estate at about 7 a.m. of 8th June, 2005 a good Samaritan, one Goddy Eze saw the escapee in the bush where he went to ease himself and the man requested that he be taken to Force Headquarters, and that the man had what appeared to be bullet wound with blood all over his body.
10. That Godwin Eze took him to PC Hassan Wajiga who later handed him over to Police Patrol in an Algon Jeep.
11. That while he PC Hassan Wajiga was a few meters away from the Algon Jeep the policemen shot the man dead. The dead man was physically identified later by her aunt Mrs. Paulina Uzochukwu at Apo Village as Isaac Ekene.
12. That five males and one female lost their lives in very gruesome circumstances.
13. That all the six victims are Nigerians and have all been identified, through photographs and physically by friends, relatives of the deceased and the pathologists who did the exhumations autopsies, forensic examinations and the report.
14. That
 - (a) Ifeanyi Ozor (M)
 - (b) Paulinus Ogbonna (M)
 - (c) Anthony Nwokike (M), and
 - (d) Augustina Arebun (F)Were said to have probably died from injuries related to high velocity missiles.
15. That Isaac Ekene was the alleged suspect who jumped down from a moving vehicle and was later killed by the police at about 7 a.m. near Prince and Princess Estate. That



because of the advanced state of decomposition of the 5th corpse and the absence of photograph of the corpses before burial, the Pathologists were neither able to identify him nor determine the cause of death. The commission however identified the corpse through the process of elimination.

16. That because of the advanced state of decomposition of the 6th corpse the anatomical cause of death could not be determined although the corpse was identified as that of Chinedu Meniru.

17. That those witnesses who testified at Gimbiya Street DC Danjuma Ibrahim, Inspector Suleiman Audu, PC Haruna Mamot, PC Yakubu Philibus, PC Garuba Ibrahim and ASP Nimram Napon did not tell the truth having regards to the ballistics report that the bullet marks on the Peugeot 406 ought to have been on the right side of the vehicle and not on the left side as it was physically found.

18. That there was no objective for taking the survivors Isaac Ekene and Augustina Arebun to Garki Police Station because neither treatment was given to them nor statement taken from them. The police had ulterior motive and this was why Isaac Ekene jumped down from a moving vehicle and escaped because he knew he was going to be killed by the police.

19. That the following morning he expressed the same fear to Godwin Eze the 12th Witness and PC Hassan Wajiga the 2nd Witness that they should take him to Force Headquarters adding that if they took him to Garki or Wuse Police station he would be killed by the policemen there.

RECOMMENDATIONS:

The commission recommends that the Nigeria Police should:

- i) Update, and rebuild their armouries and modernise its control mechanism to regulate movements and use of arms and ammunition, inclusive of recovered ones and those connected with crimes.
- ii) Ensure all arms and ammunition issued to those on duty are accounted for at the end of each tour of duty
- iii) The stipulates of the Coroners Ordinance which sets out the procedure to be followed by the Police, Government Hospitals, Doctors, local government councils and environmental protection boards are still in existence in this country, but unfortunately they are not being followed strictly due to a number of factors, namely dearth of law books in police training institutions and police stations and posts which are now about seven thousand throughout the country.

Accordingly, the commission recommends that Coroners Ordinance should be taught at Training Institutions, Refresher Course Schools etc. In addition, the roles of interacting agencies in the duty of body disposal should be well streamlined, and proper records of disposals kept.

- iv) As done in the past, well equipped police photographic studios manned by competent and proficient photographers should be established in some Departments of the force as may be determined by the Inspector-General of Police. Photography is now a sine qua non in the application of natural Sciences in medical/legal aspects of criminal investigation.



v) The commission notes that the Nigeria police with a strength of about 320,000 personnel covering the entire country has only one ballisticsian. We recommend the immediate training of more ballisticsians and establishment of zonal offices to cater for the needs of defined catchments areas. This also should include police Pathologists, hand writing analysts etc.

vi) There should also be a police forensic Science Laboratory with branches in all the Police zonal Headquarters.



REFERENCE 'D'

TO DETERMINE WHETHER THE SIX CIVILIANS KILLED AT GIMBIYA STREET, AREA 11, ABUJA WERE INDEED INVOLVED IN ANY ARMED ROBBERY INCIDENT AT GANA STREET, MAITAMA ABUJA.

1. The events which eventually culminated in the killing of the Six Civilians now commonly referred to as the Apo six (6) started at Gimbiya Street about 01.30 hours on 8th June, 2005.

Mr. Salisu Dahiru (witness 14), a security man at Plot 417 Lake Chad Crescent Maitama established the armed robbery there in his testimony. He gave a vivid account of what transpired on the day. According to him, the armed robbers took advantage of the arrival of the brother of the DG NEMA's wife to gain access into the compound. As he opened the gate to allow the visitor to come in, he noticed the presence of a red Honda Hala with some passengers inside. When they requested to see his boss, he told them that he was still in the office and advised that they should go and see him there.

One of them jerked up his shirt and pressed him against a pillar. As he attempted to fight back, he was hit on the head with a pistol. It was then it dawned on him that they were armed robbers. Salisu testified that he noticed that they were four men all together. While one remained in the car, three of them entered the compound. They robbed the people in the house of some valuables. The police eventually arrived about 15 minutes after the armed robbery. During cross-examination, Salisu confirmed that the only car he saw was the Honda Hala and no female was among them.

2. The evidence of this armed robbery was corroborated by DCP Danjuma who testified that, while on his way to the Villa to keep an appointment, he received a distress call from the DG NEMA's house indicating that armed robbers had attacked the house. According to him, he directed, the DPO Maitama who has jurisdiction over the area to handle the situation. The DPO later reported the incident and confirmed that the armed robbers escaped before his men got there. Notwithstanding, he Danjuma Ibrahim still visited the scene to see things for himself. This is the only concurrence between the evidence of Salisu and DC Danjuma. While, the former maintained that he saw only a Red Honda Hala Car, DCP Danjuma was emphatic that he was informed by 2 people he met outside the house that, a metallic ash coloured Peugeot 406 and a Red Car were used as escape vehicle by the robbers. The discrepancies in the evidence of both witnesses regarding vehicles used ! by the armed robbers notwithstanding, the occurrence of an armed robbery incident at Plot 417 Lake Chad Crescent Maitama, Abuja on 7th June, 2005, was established.

3. DCP Danjuma testified further that he received another distress call that Crown Guest Inn was attacked by armed robbers at about 8.30 p.m.-9.30 p.m. that same day. According to him, as he approached, the scene, he was later informed by the DPO Garki who also visited the Guest Inn accompanied by other patrol teams that the armed robbers had also escaped before they got there.

Danjuma said he continued his patrol and eventually came to Gimbiya Street where he noticed two people struggling with a Red Starlet Car. The car, he recounted, managed to zoom off while 2 people ran back to a nearby Peugeot 406 Car and drove away. Danjuma further stated that their conduct raised suspicion thus he tried to link up with them but lost



them along the line. He explained that the same Peugeot 406 car appeared while he was briefing the patrol team at the pin down point on Gimbiya Street. The subsequent behaviour of the persons in the Peugeot 406 further reinforced Danjuma's conviction that they were armed robbers considering their attempt to escape inspite of all efforts to stop them. In the course of this, Danjuma said that he heard gun shots which prompted Inspector Audu Suleiman to respond. By the time he got out of his BMW vehicle the firing had stopped.

4. The evidence of Inspector Audu Suleiman and the members of the patrol team at the scene are on all fours with that of DCP Danjuma, except that he asserted that Inspector Suleiman fired all the ten rounds in his AK47 at the occupants of the 406 Peugeot. Suleiman and his team are agreed that Danjuma snatched the rifle from Suleiman after the latter refused to fire as ordered by Danjuma. However, in an uncompleted statement which was admitted in evidence, Danjuma accepted that he fired two shots from his personal pistol about 10 metres from the 406 car, but denied knowing whether both shots fired by him hit any of the deceased persons. This account appears more likely, since Danjuma was in possession of his personal pistol. The Commission views with disbelief, Inspector Suleiman's testimony. At a time of distress and emergency, a person would more likely opt to fire with his personal pistol than with a strange weapon. This Commission believe! s that Danjuma used his personal pistol, which is more convenient than the AK47 he purportedly opted to use.



SUMMARY OF EVIDENCE

5. A review of the totality of the evidence of DCP Danjuma and Salisu, the DG NEMA security guard confirmed that the armed robbery incident indeed took place at DG NEMA's residence. This was further corroborated by the wireless message DTP: 1138/06/005. The point in doubt is the type of escape vehicle used by the said robbers.

6. The Commission is more inclined to believe the evidence of Salisu who testified that he saw the vehicle used and the number of people involved. Besides, the testimony of DCP Danjuma is predicated on hearsay thus it lacks evidential value because the undisclosed two people he claims to have given him the information about the cars were not called to give evidence. This omission is fatal and detrimental to his assertion. The Commission also noted that the distance between Lake Chad Crescent Maitama and Gimbiya Street where the Apo six met with Police attack was about 6 kilometres which is rather far from the scene of the initial armed robbery.

7. The evidence of Mr. Ben Agari, the Manager of Crown Guest Inn, has been reviewed extensively under term 'B', hence it is superfluous to consider it under this term of reference. Suffice it to emphasize that, the Commission is not persuaded that there was an armed robbery at Crown Guest Inn for the reasons earlier adduced. Even if it is conceded that the alleged armed robbery occurred, it reportedly took place between 8.30 p.m. 9.00 p.m., almost simultaneously with the operation at DG NEMA's house. It would require lightening speed for the same set of armed robbers to be at both places almost at the same time. Furthermore, the killing at Gimbiya Street took place at about 0130 hours, so four hours elapsed between the two events.

Mr. Ben Agari in his evidence further said that the robbers escaped through the back door, to the pathway leading to the road where they attempted to stop Okada riders. They eventually escaped in a Red Starlet Car. In both robberies, a Peugeot 406 Car was never used as deduced from the evidence of Mr. Salisu and Mr. Ben Agari. The Commission is of the view, and so holds, that DCP Danjuma was being economical with the truth and his evidence should not be relied on.

8. The Commission also holds the view that the Apo Six were harmless when they met their untimely death. The statements of Inspector Suleiman and the 3 members of his patrol team, are to the effect that there was no shooting from the Peugeot 406 Car. The Commission believes that the Police attack on the car was unprovoked, in the light of the preponderance of evidence before it. The statement of Inspector Ishaya Nyaiwak the armourer at Garki Police Station, that the 2 locally made pistols planted in the 406, were those recovered from the Rita/Lori robbery incident 2 weeks earlier, was never controverted.

Furthermore, the evidence of P.C. Dennis Asawa to the effect that the DPO, CSP Othman specifically directed him on where to search the Peugeot 406 Car, conclusively shows that the two locally made pistols were planted by the police. Also, the evidence of DCP Danjuma that the Peugeot 406 car was not searched at Gimbiya Street lends credence to the fact that he knew that the deceased persons were not armed. In effect, the 6 deceased persons posed no threat to Danjuma Ibrahim and the Policemen at the Gimbiya Street Pin-Down-Point.

9. The ballisticsian's report on the two locally made pistols recovered from the 406 car is pertinent as it lends support to the evidence that no such weapons were shot at Gimbiya nor were they recovered from the 6 deceased. It would be absurd to hold otherwise. With



regard to the evidence of Mr. Ben Agari, what stands out distinctly was his equivocation about the description of the pistol allegedly used by the armed robbers. There is no nexus between the said pistol and the two locally made pistols allegedly used by the six deceased persons. The Commission also holds that the weapons ascribed to the robbers that attacked DG NEMA's residence did not bear any resemblance to the locally made pistols.

10. The individual culpability of members of the Pin-Down-Point patrol team with respect to the deaths of the Apo six, does not fall within the purview of this term of reference. Suffice it to reiterate that from the statement and evidence before this Commission, it is clear that four of the 6 persons were killed between Gimbiya Street, Area 11 Garki, Abuja and the Garki Police Station, while the remaining two were subsequently killed near Prince and Princess Estate, Gadau, Abuja. The common denominator flowing from both written memoranda and oral testimonies of witnesses is that all the deceased were killed by the police in a continuous single exercise of elimination to conceal facts. The Commission holds that the culpability of each of the officers is a matter for the trial Court to determine. What is of moment is that the complicity of Inspector Suleiman and DC Danjuma Ibrahim in the killing of at least four of the six deceased between the Gimbiya Pin-Down-Point and the Garki Police Station is not in doubt.



FINDINGS

11. The Commission found as facts the following:

- a) That there was an armed robbery incident at the DG NEMA's house around 8.30 p.m. on 7th June, 2005.
- b) That the car used by the said armed robbers numbering four males only at Lake Chad Crescent Maitama, Abuja was a Red Honda Hala.
- c) In the case of Crown Guest Inn the alleged armed robbers operated between 8.309 p.m. and escaped in a Red Starlet Car.
- d) The Peugeot 406 car driven by the six deceased was never used in the robbery operations at Gimbiya Street and the DG NEMA's residence.
- e) The 6 occupants of the Peugeot 406, namely; Paulinus Ogbonna, Chinedu Meniru, Isaac Ekene, Anthony Nwokike, Ifeanyi Ozor and Augustina Arebun were unarmed from the time of interception at Gimbiya Street to the time of their elimination by the police.
- f) The two locally made pistol allegedly recovered from the Peugeot car were planted in the 406 by the police at Garki Police Station at the instance of the DPO, CSP Abdulsalam Othman. The statements of Inspector Ishaya Nyaiwak the armourer and P.C. Asawa bear this out.
- g) There was no threat to the lives of the policemen that warranted the shooting and killing of the six deceased persons at Gimbiya Street and thereafter.
- h) The Commission is not persuaded by the evidence of DCP Danjuma and the members of the patrol team at Gimbiya Street that the Peugeot 406 was speeding at the time it was halted at the Pin-Down-Point.
- i) Whilst one person died at Gimbiya Street, 3 others would most probably have died between the Pin-Down-Point at Gimbiya Street and the Garki Police Station.
- j) The four (4) bodies, Ifeanyi Ozor, Paulinus Ogbonna, Chinedu Meniru and Anthony Nwokike were found lying dead around 3 a.m. at Garki Police Station as confirmed by ASP Idrisu Umaru and P.C. Asawa.
- k) Miss Augustina Arebun and Isaac Ekene were taken alive to Garki Police Station and subsequently killed by the Police between 4 a.m. and 7 a.m. on 8th June, 2005.



REFERENCE `E`

IDENTIFY THOSE BEHIND THE KILLING AND DESTRUCTION OF LIVES AND VALUABLE PROPERTIES AT APO VILLAGE

The facts relating to this term of reference appears to be the most obscure having regard to the scanty information garnered by the Commission of Inquiry.

Going through the gamut of the testimonies of the 48 persons at the public sitting as well as the memoranda received, only one witness Bartholomew Patrick Ihejirika stated that two persons were killed at Apo Village during the violent clash of the 9th June, 2005. Even so, he was unable to state, specifically, the particular person(s) behind the killing other than to state that they were members of the Police anti riot team dispatched to the scene.

According to Bartholomew, the two persons were killed whilst the police were firing bullet shots in the air in a bid to disperse the demonstrators. It was in the ensuing stampede, according to him, that both persons whose sex is undisclosed were killed. He further informed the Commission that both bodies were carried away by the police and presumably buried along with the six deceased.

Aside from his testimony no one came forward during the commission's 21 days public sitting either to report the killings or persons missing during the Apo Village clash. It will be recalled that the Public Sitting was widely publicized by media coverage. Besides, prior to the sitting, public adverts were placed in national and local dailies inviting members of the public to come forward and provide information relating to the incident. Notwithstanding these efforts it yielded no response from the relations of the two supposedly killed persons.

It will be recalled that Mr. Haruna Suleiman, an official of the Environmental Protection Board testified that only the bodies of the 6 deceased persons killed on the 8th June, 2005 were presented to the Board by the police for burial. He further stated that the two burial sites at Utako contains the bodies of the six persons only. He it was, who subsequently acted as a pointer to the burial sites which were subsequently exhumed on the 29th July, 2005 in the full glare of the public and the media.

Subsequently, at the presentation of the post mortem report by Professor Olusegun Ojo, leader of the Pathologist team that conducted the examination unequivocally stated that 6 bodies were found at the burial sites. He identified the bodies as that of Chinedu Meniru, Paulinus Ogbonna, Isaac Ekene, Ifeanyi Ozor and Augustina Arebun. In effect, his evidence clearly debunks Batholomew's testimony that the unknown persons were buried along with the bodies of the aforestated.

Yusuf Kolo, the officer in charge of the Apo Police Outpost in his evidence before this commission refuted both killings by the police. He explained that his station is the appropriate place where the report of their deaths ought have been lodged. He further asserted that the Outpost was neither informed of the killings nor were cases of missing persons received at that time.

In the light of the foregoing facts this commission is of the view and will so hold that there were no killings, at least, to date at the Apo Village during the violent clash.

Concerning the persons behind the destruction of properties on that day, both the civilian community at Apo Village and the police at the Outpost appears to be passing the buck between each other.



Describing the protests by the civil community of Apo Village on the 9th July, 2005 as a peaceful demonstration, Bartholomew vehemently refuted the allegation that the destruction of properties that took place during the riot was effected by the members of the community. He went on to add without pin-pointing to any officer in particular that the policemen at Apo Village were engaged in damaging their properties by setting them on fire.

On the contrary-Yusuf Kolo testified that when the protesters numbering about 300 appeared at the police post with jerry cans of fuel his men ran out of the station and watched from a sighting distance, the demonstrators as they set ablaze parts of the police station police vehicles, exhibits e.t.c.

Yusuf Kolo claims to have been informed about the deplorable activities of the demonstrators by PC Blessing and PC Mohammed who happened to be on duty at that time. From a close and safe distance they were able to see how the demonstrators set fire on the vehicles with fuel.

Though there were reports of 54 arrests made by the police at Apo Village following the violent clash none of them appeared before the commission. We are also told that the charges were not exhaustively pursued through the legal process following the order of the Inspector General of Police, Mr. Sunday Ehindero who directed that all 54 persons be released by the police. In effect, the commission discountenanced the statements reportedly made by the suspects, minded that they were not summoned before the commission to testify to their involvement or otherwise on the destruction of properties nor have they been convicted for related offence(s). During the physical inspection of the Apo Police Outpost on the 28th July, 2005 members of the commission were able to verify the extent of the damages involved during the clash. Some of the damaged and burnt down vehicles were seen at the station on that day. The door of the cell that was forcibly opened was also identified by Yusuf Kolo together with other damaged items at the police station. Other than a private Peugeot 306 which was reportedly burnt on the 9th June, 2005, there were no reports of damages suffered by the members of the Apo community. No evidence was led as to the persons involved in the burning of the Peugeot 306.

It is pertinent to note that Bartholomew testified that he was not physically present at the centrestage of the demonstration. As one of the prominent leaders of the Apo Traders Association, he was with other leaders, deliberating on how to deal with the situation on hand, thus, he was unable to give an accurate account of what transpired at the peak of the clash.

The commission does not believe that the police were responsible for the destruction of properties moreso Bartholomew Ihejirika claims to have left the demonstrator whilst the protest was ongoing. The commission is inclined to believe the testimonies of Yusuf Kolo moreso as the police cannot be reasonably expected to set their properties on fire. It is recalled that Yusuf disclosed the source of his informants whom he explained were on official duty on that day. Bartholomew's conclusions appears to have been informed by his imagination having said that he was not in attendance to witness all that happened.

FINDINGS

1. In the absence of any evidence before this commission confirming the killing of any persons(s) the Commission of Inquiry presumes that no lives were lost during the violent clash of the 9th June, 2005.



2. The Commission is not persuaded by the testimony of Bartholomew Ihejirinka regarding the killings at Apo Village and burial of both bodies. The Commission's doubt is further reinforced by the report made by Professor Ojo at the public sitting on the 5th August, 2005 that only 6 bodies whose identification has been confirmed were found upon exhumation at the burial site.

3. Flowing from the evidence before this Commission and the physical inspection at Apo Village we are of the view that:

(i) there was no loss of lives; and (ii) the Civil Community at Apo were involved in the destruction of properties at Apo Mechanic Outpost on the 9th June, 2005.

4. 54 persons were arrested by the police during the violent clash at Apo Village. The Commission is unable to link the arrested persons with the destruction in so far as the charges against them have not been proven in a court of Law.

Besides, they were all released at the instance of the Acting Inspector General of Police.

5. Aside from the loss of 4 mobile sets by the some of the persons arrested the Police have no report of any loss of lives and or destruction of valuable properties by the Civil Society.



REFERENCE 'F'

ASCERTAIN THE EXTENT OF DAMAGE CAUSED AND LIVES LOST DURING AND AFTER THE INCIDENT

Aside from the opprobrium and resentment generated against the members of the Nigerian Police Force amongst the cross section of the society, it is not surprising that beyond the Nigerian shores the news of the killings was received with disgust and condemnation.

The Commission notes that the terms of reference under (F) refers to damages caused and lives lost during and after the incident. It is unclear whether the incident under reference here is that of Gimbiya Street on the 8th or the clash of the 9th June, 2005. In the absence of a clear and specific reference to either of the two, damages of both incidents have been extensively considered by the Commission hereunder.

Clearly, the incidents left the public perception of the Nigerian Police Force substantially dented or worst still damaged. It is rather relieving that during the rampage at Apo, two lives were reportedly lost, both remains unconfirmed to date. In addition, a seeming aftermath of the clash is the sudden death of the late PC Anthony Idam on the 18th June, 2005 under mysterious circumstances. Reports at the public sitting are that the late PC Anthony Idam was suspected to have died of poison ostensibly through a drink he took whilst on an outing in the company of two of the persons suspected to be behind the killings of the 6 deceased, DPO Abdusalam Othman and ASP Nicholas Zachariah on the eve of his death.

Going by the reports narrated by witnesses before this Commission, Anthony Idam was said to have seen and known the circumstances leading to the death of some of the 6 deceased persons. It was he who indicated his readiness to spill the beans before the Mike Okiro Panel.

Fearing that his revelations would incriminate the Police Officers involved in the killings, witnesses expressed the fear that he was eliminated in a bid to suppress his indicting evidence. The conduct of some policemen before and after his death was also found suspicious by this Commission.

Following an application brought by Ogbonna Ifeanyi Idam, Late Anthony Idam's brother before this Commission an autopsy examination was ordered to be conducted on his body. In the light of the surrounding circumstance of his death, Anthony Idam's inclusion or otherwise amongst the death toll of lost lives is subject to the autopsy examination report. Still on the ensuing damages following both incidents, the Commission received claims from persons who were directly and indirectly affected. Reports reflect that the age range of the 6 deceased persons are between 21 and 25. We are told that they were all unmarried and without issue(s). The Commission was however inundated with claims by their relations, particularly the dependants of the deceased. Each family of the respective deceased persons are claiming recompense in the sum of N100,000,000.00 (One Hundred Million Naira), from the Federal Government of Nigeria, altogether an aggregate sum of N700,000,000.00 (Seven Hundred Million Naira) is being claimed in damages by the six (6) deceased persons and Anthony Idam's family. The witnesses gave startling accounts of the financial status of the deceased as well as the responsibilities assumed by them in their lifetime. Neither the witnesses nor the facts contained in the memoranda received on behalf of the deceased family availed this Commission with documents in support of their claim for compensation. For instance, statements of Bank Accounts, records of



stock in trade, documents relating to their business transactions certificate(s) of occupancy or proof of ownership of any of their belongings were not presented before the Commission.

The point being made here is that aside from Augustina Arebun, all others were reported to have substantial businesses here in Abuja, thus the Commission expects that documents which would have substantiated their claims ought to have been presented to assist the Commission if indeed they exist. More importantly, none of the witnesses testified on the amount spent on them by the deceased this would have helped in the verification of the dependants claim.

Aside from the N100,000,000.00 (One Hundred Million Naira), they severally demanded for the release of the 6 corpses for burial in their home town. Other requests commonly made by the witnesses was for the burial to be funded by the Federal Government, such burial they added, is to be in accordance with the cultural norms and religious practice of the victims.

All witnesses for and on behalf of the 6 deceased family demanded for a letter from the Nigerian Police Force, absolving the victims of being armed robbers, contrary to the declaration by the Commissioner of Police, Emmanuel Adebayo at a press briefing. Contending that it was a social stigma and taboo for any member of their family to be branded as "armed robber", they maintained that a written clarification from the Police is imperative, to serve as a reference point whenever aspersions are casted on their departed souls. They all expressed a desire for Gimbiya Street to be renamed "Apo Six". The rationale for the claim for damages other than those hitherto stated are summarized as follows: Celestine Okeke testified that the late Paulinus Ogbonna, aged 25 was the 3rd in the line of the eight children of his parents. Upon the death of his father after the Kaduna riot, late Paulinus assumed the role of the family's bread winner. He had a shop at the Apo Mechanic Village where he engaged in the sales of Mercedes spare parts. Another Brother, Lawrence Ogbonna informed the Commission that late Paulinus parents are alive, he stated that their father is 60 years old whilst their mother is 50 years. Both of them according to him are unemployed. Though he is the senior brother to the late Paulinus and Manager of his Kaduna shop, his N20,000,000 assessment of both shops was not guided by a professional valuation report nor records of the stocks in trade of both shops.

In his life time, Paulinus sponsored the education of 9 undisclosed persons some of whom are in the University, secondary and primary school.

Born 22 years ago, Augustina Arebun is the first of the four children of her parents. She assisted her mother in the sales of second hand clothing in Lagos. Her Father is 60 years old, due to his ailing health he has since packed up his business. Her mother, is 46 years old. Augustina came to Abuja to meet her fiancé, Ifeanyi Ozor and sell some of her mother's stocks of second hand clothings worth N500,000.00 (Five Hundred Thousand Naira). The life expectancy of people from their Uromi Village, in Edo State according to her Mother, is about 80 years. Augustina is reported to have been helping her mother in raising her siblings through her involvement in her mother's trade.

Anthony Nwokike died at 21 years. He was the eldest son in a line of 4 children. He served Cyril Okoli as an apprentice. 6 years ago, Cyril helped Anthony in setting up his business. He gave him a cash gift of N500,000.00 (Five Hundred Thousand Naira), and paid for shop space where he installed a shop full of merchandise worth N1,650,000.00



(One Million Six Hundred and Fifty Thousand Naira). At the time of his death, Anthony had two shops, known as Tobez International, one is in Apo Village and the second is at Sharfa Plaza in Area 3. Cyril Okoli testified that the value of both shops are N20,000,000.00 (Twenty Million Naira). Many members of his family depended on him for their livelihood. Late Anthony's Father is 66 year old and his mother is in her forties. Both are alive.

Another deceased relative, Lawrence Ogbonna stated that Paulinus Ogbonna was born in 1981. His parents are still alive as well as his siblings. He was also the bread winner of his family. His two shops, one in Abuja and another in Kaduna was managed by his brother Lawrence who valued both at N20,000,000.00 (Twenty Million Naira). Paulinus completed his house in kaduna whilst the construction of the one in the village was about to take off. He informed the commission that his financial evaluation of both shops was informed by his personel value of the goods in stock and not from the records of the stocks in trade books. In addition to his spare parts trade Paulinus was also a contractor.

The Commission gathered that Ifeanyi Ozor's motor spare parts business is worth 7-8 Million Naira. His brother, Elvis Raphael Ozor told the Commission that Ifeanyi also had two shops.

Elvis further informed the Commission that of the N150,000.00 (One Hundred and Fifty Thousand Naira) given to Ifeanyi Ozor by Abubakar Abdullahi for the repairs of the Peugeot 406, N70,000.00 (Seventy Thousand Naira) was physically with the late Ifeanyi on the day of the incident. The acknowledgement receipt for the said sum of N150,000.00 (One Hundred and Fifty Thousand Naira) together with the invoice reflecting the spare parts that were to be purchased by Ifeanyi were admitted by the Commission as Exhibit 21A, Exhibit W21B, Exhibit W21C. The late Ifeanyi Ozor was the 3rd amongst the 6 children of his parents who are still alive. The shop originally belonged to Ifeanyi's father, until he took over management in 2001/2002. Ifeanyi is reported to have two shops one in Apo village and the other at Garki. Both shops were valued at N 7 - 8 Million.

Elvis Ozor wants the PEUGEOT 406 driven by his late brother to be retrieved from the Police; he further demanded that the Police Force should be made to pay for the damages done to the vehicle on the day of the incident. He reasoned that the shattered rear windscreen and the broken windows on the left side of the car was not there when his brother drove the car out on the 7th June, 2005.

Ekene Isaac's aunt, Mrs. Pauline Uzochukwu who is married to a bricklayer told the Commission that she is a petty trader. She fostered Ekene Isaac from childhood. He was trained as a crown shaft repairer and blacksmith in Minna. As a crown shaft repairer and motor dealer, he set up his shop 5 or 6 years ago. She said that Ekene who was 22years at the time of his death is the eldest of the seven children of his parents who are in the village. By her assessment Ekene's business known as Kennedy Automobiles is worth N5 Million Naira. In his lifetime he was responsible for the education of all her 4 children whom he pledged to educate up to graduate level. In addition, he funded the education of his 4 siblings in the University whilst 2 are now in secondary school. In compliance with the customs and traditions of Ekene's ethnic group, she wants Ekene's murderer to marry a wife for him. According to her, it is the cultural tradition amongst the indigenes of Achi, Oji Local Government Area of Enugu State where the deceased belonged; that a marriage must be contracted between a woman donated by Ekene's murderer and any



male member of Ekene's family. Such marriage must be sponsored by Ekene Isaac's murderer as penalty for killing him. The offspring of the marriage is believed to be a compensation for the loss of their son. It was further explained that the uncompleted life of Ekene will be relived through such off springs.

Chinedu Meniru, reportedly 21 years, is the first out of a family of six children, both his parents are still alive. Chinedu was trained for 6 years by his brother, Edwin Meniru who brought him to Abuja. He subsequently set him up in business after he completed his 6 years training. Chinedu Meniru specialized in Japanese motor spare parts line of automobile business. His shop is now worth about N4,000,000.00 (Four Million Naira). Edwin who is married with children was being financed by Chinedu until he died on the 8th June, 2005. He explained that Chinedu supported him ever since his business dwindled. In addition, Chinedu was also responsible for the education of his other siblings, three of whom are in secondary school whilst one is about to enter University.

Other financial plights occasioned by the death of their benefactors on that fateful 8th June, 2005 is also being experienced by the families of the late Anthony Idam who died on the 18th June, 2005. They are also claiming damages for the loss of their own. Late Anthony was survived by his parents and seven siblings. He was sustaining them all, financially, inclusive of his graduate elder brother, Ogbonna Ifeanyi Idam who is presently jobless. Ogbonna is being threatened and harassed by some members of the police particularly, Victor Pam and DSP Achike of the Garki Police Station to collect his late brother's corpse for burial. He has no financial means of conveying the body home nor can he fund the funeral expenses.

Finally, on the death of the persons killed during and after the incident, we were informed by Mortimer Patrick Ihejirinka that two unknown persons were killed by the Police during the violent outbreak at Apo Village on the 9th June, 2005. He claimed that they were carried away by the Police on that day. Ihejirinka further suggested that the bodies were buried along with the 6 deceased persons killed in the early hours of the 8th June.

When asked to say what he knew about the reportedly killed persons at Apo village on the 9th June during the violent clash, Yusuf Kolo the 2nd officer in command at the Apo Police Outpost was unable to shed any light on this point. Explaining that his station was the appropriate place for the reports of killings to have been made if at all there was any, he refuted the killing of any persons. Kolo maintained there was no reported killing.

Besides, Suleiman Haruna an official of the Environmental Protection Board, Abuja informed the Commission that other than the 6 deceased corpse no other bodies were presented by the police for burial.

Two persons also appeared before the Commission, alleging that they sustained bullet wounds from the police during the rampage. Pointing at the injury sustained on his left leg, Osita Obi explained that the bullet went through one side of his leg and exited through the other. The bullet shot according to him was fired by the police. Osita is demanding the sum of N300,000.00 (Three Hundred Thousand Naira) as damages from the Federal Government for the bodily harm done to his body. He lamented over his difficulty in obtaining medical treatment. Upon realization that his wound was sustained from a bullet shot he was declined further treatment everywhere he sought to obtain medical treatment. The injury has caused him great pain, incessant feverish conditions and bleeding. His shop where he makes a profit of N5,000 N10,000 daily has been locked up due to his ill health. His Nokia 1100 also got missing during the stampede. A ! receipt



of purchase of a Nokia Handset issued in favour of a Micheal whom he described as his brother was admitted in evidence by the Commission as Exhibit W 31 B.

A bullet shot victim Ikechukwu Ene, a shop owner at the Apo Mechanic Village also gave his testimony. Shortly before he sustained the bullet shot he said he saw people running helter skelter, soon after bullets were being fired into the air by the police. Suddenly, he felt a sudden warmth on the left side of his chest. He then fell down after running for a while, only to realize that the warmth was caused by a bullet that pierced through the front left side of his chest and exited through the back. Without a police report clarifying the circumstance he sustained the bullet injury, Ikechukwu has been denied medical treatment by one hospital or the other. To date he has incurred a medical bill of N120,000.00 (One hundred and twenty thousand naira). He undertook to present the receipt to the Commission. He also lost his handset and tendered a Nokia Handset receipt. He is demanding compensation in the sum of N500,000.00 (Five Hundred Thousand Naira) for the injury.

DAMAGED PROPERTIES

One Edwin Uzor testified that he was accosted by the police. He said that the police physically assaulted him but gave up on him when he suddenly exclaimed in Idoma Language he exclaimed Ugekuo! Ugekuo!. The policeman apologized to him explaining that he mistook him for an Igbo man but not without searching his body and helping themselves to the N2,000.00 kept in his pocket. He testified that he expended the sum of N9,000.00 for receiving local orthopedic treatment from his reportedly broken arm. He demanded compensation for the sustained injury in the sum of N200,000.00 (two hundred thousand naira).

One Basil Inegbedion also narrated how he was maltreated by the police, he said a Policeman and a mobile Police Officer broke his leg and slapped him. He had to treat himself at the cost of N11,500.00 (Eleven thousand five hundred). Though he enrolled for NECO at the cost of N22,050, he was unable to sit for the exams in Benin due to the injuries. He was just getting back on his feet at the time of the public sitting. A Motorola handset, which he purchased on the 5th July, 2005 together with a N10 note were forcefully taken by the police who ordered him to run when he refuted the policeman's allegation that he was not Igbo. He was warned that he will be killed if he is caught the second time.

EXTENT OF DAMAGE PROPERTIES

Concerning the damaged properties during and after the incident, the major victim was the Nigerian Police Force. Though the civil community in Apo denied involvement in the violent demonstration and the attendant destruction of properties, the wanton destruction observed by members of the Commission of Inquiry on the 28 June, 2005 at the Apo Mechanic Village belies their testimonies from what members of the Commission saw. The Commission undoubted that the clash was violent.

Whilst inspecting the wreckage at the Apo Police Outpost, the officer in charge at the outpost, Yusuf Kolo showed members of the Commission the police pick up vehicle No. MPF 1286B that burnt up till 9 a.m. that day. A Mazda pick-up van, Honda Accord registration number BR 962 ABC were also amongst the vehicle that were set ablaze. A 306 Peugeot was torched with fire on the way to the station. The police cell was forcefully broken and 16 suspects in custody were let loose, some of whom were remanded from the CID Command. The exhibit room was also forced open and various



items valued at N600,000 were burnt or looted. Records were not spared from being set ablaze. Other vehicles damaged included a Ssayong Jeep, a BMW Car, 1 Mercedes Benz, 2 Buses, 1 Datsun Laurel, 1 Volvo and a 240 and a Volvo 240 Model. Some of these vehicles were not physically present at the time members visited the station because their owners opted to take them away. 9 (nine) motorcycles were also stolen from the outpost on that day, only 3 have so far been retrieved by the police. Parts of the station were also burnt. 54 persons were arrested and handed over to the Police they were all later released to Mr. Amobi Nzelu upon the instruction of the Acting Inspector General of Police.

Kolo was unable to quantify the total monetary value of the damaged properties occasioned by the violent clash, however he informed the commission that he forwarded a schedule of damages to the IPO, CID who is presently conducting investigations on his report.

This Commission is also minded to include amongst the damage properties, the PEUGEOT 406 driven by Chinedu Ozor on the day he met his death with 5 others. At our visit to the Garki Police Station we were able to confirm the testimony of Edwin Meniru, pertaining to the damage done to the car. The rear windscreen had been totally shattered whilst the side glasses, front and back of its left side were also broken. Damages arising from the bullets fired at the Peugeot 406 was equally glaring. The vehicle was also stained in a blood like colour.

FINDINGS

1. The evidence of the witnesses who testified for and on behalf of 6 deceased regarding the financial status of the 6 deceased appears to be too exaggerated and incredible. The failure of the witness to present documents in support of their testimonies lends credence to the Commission's doubt that the witnesses were not being truthful. When asked by the Commission for bank statement of accounts, record books of the victim's trading e.t.c. none of them could present any valid document in verification of their statements. We are however inclined to believe that the 5 male victims were legitimately engaged in trading or employment for their livelihood.

2. The evidence of the witnesses regarding the claim for compensation by the dependants of the deceased was generally unhelpful to the Commission. Witnesses showed so much over zealotry in the presentation of the financial status of the 6 victims. None of the supposed dependants came forward to state how much was expended on them by any of the deceased. For instance, none of the siblings of the victims appeared before the Commission to state the amount spent on his or her education and the intervals such funds were given. The duration their respective schooling or university education course is to take was also untold to the Commission. Such salient information would have aided the Commission in its assessment of the award, taking into cognizance the cost of completion of school/university education of the respective dependants. Besides, none of the parents gave evidence on the amount received from the victim for their maintenance! and upkeep and the intervals such allowances were paid.

3. At the instance of an application by Ikechukwu Ene and Osita Obi, this Commission directed both of them were to submit themselves for medical examination at the National Hospital for the verification or otherwise, of their injury allegedly sustained from bullet wounds. They were also requested to present receipts for the medical bills expended for the treatment of the wounds. None of them have to date presented reports of the examination and receipts. We are thus unable to confirm their allegation that they were



actually shot by the Police. In the absence of these pertinent documents therefore, this Commission is unable to make any recommendation in respect of their claims for compensation.

4. The Commission is not persuaded that the late Ifeanyi Ozor had the sum of N70,000.00 (Seventy Thousand Naira) in his pocket on the day he met his death. It is noted that the aforesaid sum forms part of the funds for the purchase of spare parts for the 406 Peugeot given to him for repairs by the owner. His outing in the company of other 5 deceased at night on the 7th June, 2005 makes Elvis story unconvincing. The Commission is minded that he cannot be reasonably expected to purchase motor spare parts whilst on a frolic with friends at that time of the day.

5. Edwin Ukpaba appears to have exaggerated his fractured arm having regard to the manner he freely gesticulated with both arms whilst narrating his experience before the public sitting. He raised up the supposedly damaged arm in describing the height of the policeman who assaulted him and lowered it to his pocket level in his attempt to show where the N2,000.00 (Two Thousand Naira) was taken. This commission is not persuaded that Ukpaba was truthful in his alleged ordeal with police. His claim for damages is accordingly discountenanced by the Commission.

6. The Commission is in doubt about Basil Inegbedion's narration of his experience during the violent clash at Apo Village. His demeanor and testimony lacked condour, he did not appear profound when he told the Commission that he was unable to sit for his exams. Basil was unable to tell the Commission the dates he was supposed to have taken the exams he missed. He could not present any document in proof of his testimony that he paid for the NECO he allegedly missed. We however believe that he lost his Motorola Handset on that day.

7. Though 2 Police Officers were subpoenaed by the Commission to testify in respect of the violent clash neither of them sought compensation for damages for and on behalf of the Nigerian Police Force. The commission is persuaded that 54 persons were arrested and subsequently released at the instance of the Inspector General of Police. The Commission verified from the inventory of damages in the Police case file and the IPO, CID, Command Headquarters, CSP Alfa Alhaji that properties worth N7,943,109.00 (Seven Million Nine Hundred and Forty Three Thousand One Hundred and Nine Naira) were damaged during the crisis.

S/N MAKE OF THE REG. NO. ITEMS DESTROYED VALUE VEHICLE

1. 94 Model Honda BR 962 Totally Burnt off N900,000.00
- Accord 2. Mazda Pick-up NPF 1286B Totally Burnt off N3,459,275.00
3. Mercedes 230 AA 137KRV Complete Glasses N150,000.00
4. Korando Jeep HB 749RBC Complete Glasses ALL
5. BMW BX 69 ABJ Complete Glasses Side N42,000.00
mirror Car Stereo &
Speakers & Amplifier Car CAR CD N16,000.00
6. Toyota Hiace XB 683 GWA A Rim/Tyre N8,000.00
7. Datsun Laurel Car AW 12 Complete Glasses two side
Mirrors Car Radio & Speakers
Head Lamp N42,000.00
8. Toyota Hiace Bus Yet Unknown Complete Glasses N40,000.00
9. Volvo 460 GL Yet Unknown Complete Glasses N90,000.00



10 Complete Light N35,000.00

11. Honda Accord 86

Model " " " " N110,000.00

12. 4 Jincheng

Motorcycle " " N256,000.00

13. 306 Peugeot Car NPF 5348B Complete burnt N1,947,659.00

Grand total of the properties damage

N7,943,109.00 (Seven Million, Nine Hundred and Forty Three Thousand, One Hundred and Nine Naira Only.)



RECOMMENDATIONS

1. The claim for compensation for damages in the sum of N100,000,000.00 (One Hundred Million Naira) by the families of the 6 deceased has been exhaustively considered. Appropriate recommendations has been made under term `H'. Accordingly, the Commission decided that same needn't be replicated under this head.
2. The Commission is persuaded that the custom amongst the people of Achi Oji Local Government Area entitling the family of murdered victims to be compensated with a bride by the murderer does exist. However, we are of the view that the claim for compensation should be made to whoever is found to have murdered Isaac Ekene. Mrs. Paulinus Uzochukwu's request for this aspect of her compensation will have to await the decision of the High Court in the murder trial. Besides, it is not within the mandate of this Commission to try anyone. Thus, we are unable to make any recommendation in this regard.
3. Notwithstanding, the outcome of the autopsy report conducted on the body of the late P.C. Anthony Idam we are of the view and recommend that his benefits should be treated expidiously by the Nigerian Police Force. The circumstances of his death has not shown that he died in the course of the discharge of his official duty. Though, it appears that the facts allegedly accounting for his elimination was known to him in the course of his official duty. On this compassionate consideration the Commission has recommended an award of N500,000.00 (Five Hundred Thousand Naira).



REFERENCE `G`

(GENERAL RECOMMENDATIONS)

REFORMING THE NIGERIA POLICE FORCE

(APPROPRIATE MEASURES TO BE TAKEN TO AVOID THE REOCCURRENCE OF SIMILAR INCIDENTS IN FUTURE)

1. Police Service in this country requires a complete overhaul and refurbishment. The police authorities comprising the governing bodies as well as the management appreciate this imperative, just as the general public. The government of the nation, of which the police is an organ, is no less concerned with the need. Quite inexplicably successive governments have toyed and tinkered with police reforms to the extent that the Nigeria Police has got to a stage where it can no longer perform its constitutional responsibility of maintaining law and order to the satisfaction of Nigerians. This is because the police service requires a holistic and comprehensive reform. There is no facet or aspect of the organization that has not yet been affected or infected to a worrisome extent. The decadence has had a tremendous toll on its discipline, the bed rock on which its efficiency is based; its organization and administration; its operational strategies and methods; its basic tools, equipment and logistics; its image and perception; its interaction and relationship with the very people it is meant to serve; its knowledge content and professionalism; its vision and even its motivation and welfare.

2. For the purpose of brevity and relevance, preambles like historical development may only be referred to where they are directly relevant to the issue at hand. For instance, the seeming inability of the Nigeria Police to measure up to the standard of efficiency and attitude expected by the people it serves might not be unconnected with its historical origin as a colonial creation meant for the subjugation of the people, which, at independence, metamorphosed into a convenient instrument of the indigenous government for the sustenance of power. It did not immediately transform into a people's police as it needed to be re-orientated and refocused to shed its garb of colonial mentality to become people-oriented and people-friendly without losing its effectiveness and efficiency. The military intervention in governance so soon after independence, spanning over 27 years, did not help matters. Having eventually returned to sustainable democracy therefore, it is now time to commence a deliberate programme to restructure, reform and refocus the Nigeria Police service delivery to accord with the tenets of democracy and the expectations of the people.

3. Any organization responsible for the internal security of a nation which include the protection of their lives and property as well as the creation of a peaceful and conducive environment for social and economic activities, must develop in tandem with the society itself. Any break in such connectational development, permitting a gap between the two, is bound to result in disastrous consequences akin to unequal expansion in two parts of an object. That is, an obvious destruction of that object by explosion or break-up. What seems to have happened to the police is that while the Nigerian society was developing, expanding and increasing in population, the nature of governance notwithstanding, the Nigeria Police was left stagnant at a point in time, specifically during the period of military intervention in Nigerian political history. The fact remains that the military,



erroneously believing that their duties were rather similar to those of the police, substituted their man! power rather than increase police strength when necessary. The regime inadequately funded the police and starved it of much needed equipment and logistic requirements. As a result, the sudden withdrawal of the military from civil responsibilities in consonance with the advent of the current democratic dispensation in the country, exposed to full glare the consequent weaknesses and inadequacies of the Nigeria Police Force in coping with its statutory responsibilities of maintaining law and order in the country. The cumulative effect of the neglect of this organ of Government during the 27 years of successive military administrations eroded every aspect of the Force, sparing neither the structure, discipline, professionalism, morale and spirit of the men nor the materials needed for performance, as well as infra-structure, logistics and supplies. This situation left behind a Force in despair, unable to cope with its legal and social duties of protecting the lives and property of the people of this nation-a situation which expectedly gave room and rise to an upsurge of violent crimes against the people's unprotected lives and property. Armed robberies and wanton assassinations hitherto unknown to the culture of this country became common place, to the hue and cry of a nation that was expecting the harvest and dividends of democracy with its freedoms and painless developments.

4. It was obvious from all indications that only an immediate remedy to the situation would guarantee faith in the new democratic dispensation. Therefore, an expeditious and incisive diagnosis of the ailment of the police, followed by an equally urgent execution of a rehabilitation programme, could stem the tide that was bound for disaster. Therefore, in the exercise of restructuring, revitalizing, refurbishing, rejuvenating and re-engineering, (the totality of which is the reforming of the police force), it is wise to take a hard look at the basics the fundamentals, the foundations, of the structures, organization and operation of the Nigeria Police Force.

The organization, like any other, is made up of the following elements/components: the men who do the job; the materials with which the job is done; the environment in which the job is done etc.

The proper situation of each of these elements and their correct interplay brings about a successful and sustainable operation of the system. The problem of the police is now one that requires an analytical consideration and a review of all these aspects. If it were feasible, this review would have entailed a complete dismantling of the organization and a re-assembling of it from the scratch. For, so much has gone fundamentally wrong with the police service that the injection of new blood into the old system only serves to pollute the new rather than reform the old.

5. Relating this phenomenon to the police, it is therefore, not difficult to see why there has been no visible improvement in the efficiency and attitude of police personnel inspite of the stupendous increase of its numerical strength by more than 100% within the past four years. Old and bad habits die-hard; hence, despite all the threats of punishment, the manifest corruption in the Police, evidenced by the collection of "tolls" on all public highways by PMF and other road check personnel in the full glare of the public, continues unabated.

The making of a good policeman begins from his recruitment. He has to qualify both mentally, physically, educationally, and attitudinally for the job. It is only in this setting



that he can easily be molded and orientated to perform ideally for the benefit of the beneficiaries of his service. It is unfortunate that in the rush to recruit 40,000 policemen in one year as permitted by Mr. President, the police without due care and adequate screening, gathered into their fold young men with questionable backgrounds, some of whom have been discovered to be known criminals; some with little or no education but parading forged certificates; some with defective physical qualifications. In the absence of an operative and efficient finger print system, it is difficult for the police to now identify the young criminals who have joined its ranks and flush them out en mass without the facilities for such.

Correct recruitment is one thing, but adequate training in terms of knowledge content including skills, attitude and orientation which together culminate in proficiency is another. This other bit cannot be achieved without adequate training facilities in terms of the right training environment, training materials and competent trainers. Unfortunately, this training setting is not available in the Nigeria Police Force even at today. A reformation of the police force therefore must start here-the cradle of the force itself.

6. An adequately trained individual still needs good working conditions, conducive environment and effective motivation to put out his best. This is where the issue of working tools, equipment including accoutrement, logistics by way of transport and accommodation, personal Insurance against occupational hazards, remuneration by way of adequate salaries, allowances and benefits paid as at when due, come into consideration. His recognition as relevant to the society is of no less importance. Even though he is a servant of the public, he should not be subjected to despise, humiliation, neglect or disrespect.

TRAINING ENVIRONMENT

7. Specifically, the infrastructure in police training institutions as well as the trainers themselves must be right. Where the police colleges and other institutions for basic training lack adequate and conducive structures, e.g. good classrooms, students' accommodation, etc., not much can be expected of the trainees who are likely to be handicapped in their learning process in such institutions. Added to these is the lack of training facilities which are imperative. For example, multi-media overhead projectors, transparencies, video cameras, CCTVs, simulation devices and other related equipment which accelerate the understanding of trainees are now normal training gargets everywhere. These are almost non-existent in these police institutions where a good number of the students are already adjudged substandard materials.

THE TRAINERS

8. Where trainers are themselves lacking in professionalism and fail to undergo special courses, as at when due, lack the skills and knowledge required to impart professional know-how to the recruits. Under this situation the end product of basic police training could easily be the production of sub-standard police officers discharged into the already decaying system, thus compounding an already bad situation. This is what seems to have happened in the course of applying the "fire brigade approach" of the massive recruitment of 40,000 policemen per annum adopted recently, purportedly to cure the problem of acute shortage of manpower in the Nigeria Police Force. Selection of recruits should be competitive, bringing out the very best in the community concerned and spreading them geographically all through the catchments areas.



9. In view of the identified handicaps in police recruitment as highlighted above, not only should substantial financial provision to procure the wherewithal for police training be made, but also, an adeptly designed training programme to adequately prepare the recruited young men and women for their statutory and other duties. The Commission is aware that bribery and corruption have eaten deep into the fabric of police recruitment process particularly at the constable level, to the extent that even in the midst of well educated applicants, some recruitment officers pick dregs who have neither the physical nor the mental qualifications for entry into the force as long as the monetary demands were met. An end to this obnoxious practice is a pre condition for obtaining the right caliber of human materials for the service.

A detailed training programme for the police must contain a re-training programme where knowledge and skills will be updated, since the police must move with the tide of societal changes. In developed countries, particularly in Britain, it is a policy that every police officer must, beside ad-hoc and on-the job training, undergo a formal course within every four years of his service career. The Commission is of the view that this policy should be adopted in Nigeria.

Furthermore, renowned and still competent retired police officers may be deployed on contract basis to head police training institutions as Commandants. This is necessary in the immediate, to return the standard of training to the status quo. While this is going on, suitable intelligent serving officers should understudy them with a view to sustaining and subsequently enhancing the standards as time goes on. Other senior suitable retired officers may also be engaged full time (on contract) to help out with the actual teaching in these institutions.

RECRUITMENT OF GRADUATES INTO THE FORCE

10. Having regard to the nature of police work and the need for experience in the officer cadre, the Commission is of the view that the continuation of the cadet ASP scheme which is based only on consideration of educational qualification should be revisited. In accordance with the scheme, all graduate entrants into the Force begin their career as Assistant Superintendents of Police (ASPs). It has however been observed that no matter the amount of basic training given, they lack the experience to command their subordinates effectively and handle delicate police problems at the level of Assistant Superintendent. The scheme was necessary when the Force lacked educated personnel, but now that there is a proliferation of graduates within the Force, and many more outside, who are unemployed and desirous of joining the Force at a lower level, graduates may come in as Cadet Inspectors, so that they would have acquired some reasonable experience before becoming ASPs.



EQUIPMENT-TOOLS FOR THE JOB AND LOGISTIC BACK-UP

11. Most Nigerians have expressed dismay at the seeming unending dearth of the much needed equipment for police duties. It has become common knowledge that this inadequacy permeates the entire spectrum of requirements. In administration, there is insufficiency even of stationery. Operationally, not enough guns are available to anti-robbery patrol teams and even the quality of available ones is nothing to write home about in comparison with those found in possession of the robbers themselves. Time was in the service when every member of the rank and file was issued with a personal rifle for his maintenance and use when necessary throughout his career in the junior ranks, while inspectors and officers were issued with personal pistols and revolvers. The scenario is very different today as a police station hardly has enough guns for one quarter (1/4) of its personnel even while engaged in anti-robbery operations. Where there are guns ! at all, ammunition is in such short supply that they are rationed. The result is that when a police officer runs out of his allotted ammunition during actual operation, good luck to him! The point being made here is not that police officers should visibly carry fire-arms when moving about. Visible arms are only necessary during operations requiring their use.

LOGISTIC SUPPORT

12. An immobile police force, no matter its state of preparedness, is like a lame duck. The importance of mobility to the police service by way of the right type of vehicles to move about, cannot be over emphasized. Not much can be said about sufficiency of transport in this regard as it is obvious to all and sundry that hardly can every police station in this country boast of just one operational vehicle. A police patrol car seen here and there in strategic places in townships does not give a correct impression of the state of vehicular transport in the police all over the country, as there is hardly any on ground outside state headquarters. This is not to play down the effort of the present administration in increasing the supply of patrol vehicles to the force. But it is still a far cry from the optimum. Little wonder therefore that the response time of the police to distress calls is not particularly impressive.

COMMUNICATION

13. The first noticeable gadget on a police officer everywhere in the civilized world is his communication equipment. This is because he has to be in contact with his headquarters or base to relay information about his whereabouts or happenings around him. With the equipment (perhaps a walkie talkie), he easily summons assistance or backup in time of need. This implies that a police officer on duty (and he is on duty at all times) is not necessarily alone and therefore not as vulnerable as people may think. He virtually carries the aura of the entire Force with him. This is more so with any unit or team of police officers on duty. Unfortunately, this is not the case in Nigeria today; not for non-realization of the need and the importance of communication gadgets, but for lack of funds to purchase them. A modernized, comprehensive and sustainable communication



network for the police is now overdue for these reasons. The funding of this project should not be compromised.

MOTIVATION

14. One of the imperative factors in good human management is that human beings must be conditioned to offer the best of their services. In this regard, their welfare and comfort become absolutely imperative. The necessities of life are known as food, shelter, health and a good environment. To enable police officers afford them, adequate remuneration by way of salaries and other emoluments is hereby canvassed. The benefits should be sufficient to cushion the effect of the risk, hazards and inconveniences of their job. It has been established, in fact, that the Nigerian policeman is about the most poorly paid policeman in the world. His allowances and other benefits are of such meagre content that they are far from being commensurate with the domestic and societal responsibilities that he has to contend with. Worse still is the fact that these allowances are hardly ever paid due to insufficiency of fund, to meet these overheads.

ACCOMMODATION

15. Eighty per cent of police officers have no official accommodation; the few rank and file members who are lucky to be accommodated in the barracks live in dilapidated structures described as an "eye sore" in decent circles. Some Divisional Police Officers (DPO) now live inside their offices, while many newly transferred lower ranks squat in town halls, corridors of police buildings, broken down vehicles in barrack premises or with relatives with poorer living conditions. The problem of ameliorating this hostile and most unattractive living condition is also traceable to lack of necessary government funds. More than half of police officers do not live a normal family life as they have to "station" their families elsewhere, because of frequent movements from station to station on transfers and special duties. They are thus compelled to maintain two homes, further pressurizing their meagre resources. In view of the enormity of the accommodation problem in the Police Force, it is hereby suggested that despite the apparent failure of an earlier policy of posting police rank and file to their places of origin, a repeat of this policy with more orientation and closer monitoring should be made, to locate policemen and women in their places of origin, thereby enabling them live amongst their own people. By so doing, the envisaged new concept and strategy of community policing would easily gain root with quicker understanding between the police and the communities in which they work. Accommodation for the predominantly indigenous lower ranks would then be easier to have. Only those police officers forming striking forces like the Police Mobile Force and the non-natives of the place would require formal or officially provided accommodation. This should serve to reduce the accommodation problem of the police to a substantial extent.

A PEOPLE - FRIENDLY POLICE

16. A new philosophy which is fast gaining acceptance the world over is Community Policing. It entails a cooperative arrangement almost bordering on integration between



the police and the community which it serves. Police are expected under this system to be part of its community, assisting in finding solutions to societal problems of the area, while members of the community work so closely together with the police as to make them ubiquitous in the society. This is in fact what is required to prevent the occurrence of crime and to facilitate its detection when it does occur. To prove that it is not a fantasy, the introduction of community policing has brought drastic positive changes to police performance in the following cities where it is practiced: Massachusetts, Pennsylvania, Dallas, Chicago, etc. In these cities crime wave dropped by up to 50% within two years of the practice of community policing. Other countries have their own various versions of this concept as dictated by local conditions. Nigeria has in a subtle way introduced this new system but needs to seriously and vigorously pursue it as the ultimate solution to its law and order problem.

STRATEGY FOR REFORMING POLICE SYSTEM

17. Major reforms in police services of some developing countries were carried out through wide consultations with stakeholders including various interest groups, experts on police-matters, public-spirited individuals, media practitioners and relevant government agencies. Thereafter, public forums attended by these stakeholders were convened to examine every aspect of police administration and operation for the purpose of updating and modernizing the strategies. The result of these exercises have been extremely worthwhile and have succeeded in revolutionizing the police systems in the interest of more efficient performance. It is recommended that this country takes a cue from these experiences. Mexico is a glaring example.

In its recruitment exercise, the police organization has already allowed itself to be infiltrated by many bad eggs including hardened criminals which records for lack of facilities were not kept by the police at the time of their convictions. The already recruited bad elements must be identified quickly and flushed out of the system if the police are to make any measure of progress. A policy whereby such undesirable elements are purged as the recruitment of well-screened and vetted suitable materials goes on, is of utmost priority in the reformation of the police service.

IMPLEMENTATION OF REFORMS

18. All reforms approved to be out in the Nigeria Police Force should be undertaken by a task force made up of professional experts including renowned retired police officers. It is immaterial whether or not these experts are Nigerian citizens. At the end of implementation, a body, independent of the Nigeria Police, should exercise oversight responsibilities over the police both administratively and operationally to ensure that standards are not lowered. It is therefore suggested that one of the governing bodies of the force e.g. the Police Council with responsibility for the policy, supervision and administration of the force should employ a body of experts to carry out inspections, monitoring and evaluation of the Force to ensure an acceptable standard of efficiency.

A step in this direction had actually been initiated by Mr. President, who summoned a stake-holders forum in Aso Rock on October, 1999. The subject of discussion was



"POLICE AND CRIME CONTROL" and the FORUM was attended by heads of relevant ministries including the Armed Forces, the Police, Ministry of Internal Affairs, National Intelligence Agencies, the Attorney-General of the Federation, the Secretary to Government, the Head of Service, representatives of governmental and non-governmental organizations, the Civil Society, the Nigerian Bar Association, concerned private individuals knowledgeable in the subject matter of the Forum, representatives of the Immigration, Prisons and Customs Services and even some ex-convicts who disclosed graphic revelations of happenings in the underworld. During the discussion a great deal of information which could transform the police into a modern and efficient out-fit were collated however this initiative should be reviewed and sustained.

FUNDING

19. Since poor funding has been identified as the bane of the inadequacies associated with the Nigeria Police of today, the Commission suggests that a minimum acceptable standard in respect of training and operational equipment be set for the force and adequate funds provided in the Budget. Since it has become obvious that the Federal Government is yet to exclusively finance the entire requirements of the Force for optimum efficiency, the establishment of a Police Trust Fund, as already proposed in a Bill before the National Assembly should be accelerated to enable Government effectively harness the financial collaboration of other stakeholders in the exercise. This move may further elicit the support of the State Governors and the Organized Private Sector in bringing about a more effective Nigeria Police Force.

CONCLUSION

20. Indeed, the very fact that Nigeria Police Personnel have easily excelled in various international assignments clearly demonstrates the fact that if appropriately enabled as suggested above, its officers and men could be effectively re-orientated, re-organized and re-positioned to meet emerging tendencies in public safety and democratic governance at all levels of our national life.

RECOMMENDATIONS

21. It is recommended that:

- a) The present centralized Police Structure should remain but be reformed to make it more effective and representative of the federal character of the country.
- b) Government should rehabilitate, expand and equip the existing police institutions to enable them meet the training needs of the police.
- c) Train the trainers to bring them up to acceptable standards while appropriate incentives should be introduced for trainers to attract some of the best in the Service.
- d) After (2 and 3) have been completed, re-screen the existing manpower, weed out the bad and the untrainable ones and commence the retraining of the retained ones.
- e) Commence degree awarding courses at the Police Academy, and discontinue the Cadet Assistant Superintendent of Police schemes and review the entire salary structure of the police.
- f) Ensure proper screening of the background of all prospective recruits using police apparatuses and traditional institutions i.e. ward, village and district heads, emirate



council, Obas', Obis, Chiefs Ovies and prominent citizens in the country. g) A modern communication network is a Sina qua non to the operation of an efficient and result oriented police force. With regard to communication, the integrated radio satellite communication introduced in 1992 should be revisited.

h) Adequate funds should be provided by the Federal Government to meet the logistic requirements of the Force in terms of uniforms and accoutrement, vehicles, spare parts, riot equipment, books and forms and other stationery, as well as housing, barracks, offices and police stations across the States Capitals including Abuja, and all the Local Government Headquarters, district and village posts.

i) On funding, the Police Trust Fund Bill before the National Assembly requiring companies and financial institutions to pay into a special fund for the police certain percentage of their profits should be passed into law without delay. This should boost Government funding of the police. Budgeted police fund should be dispensed from the consolidated revenue fund and released in full to the police to meet its requirements. The Police Trust Fund is only complimentary to the budgeted fund.

j) An Inspectorate Department headed by a retired officer not below the rank of DIG should be established under the Ministry of Police Affairs to undertake inspections with a view to maintaining standards of performance of police functions throughout the country including the protection of human rights, keeping records of arms and ammunition and other police station records, as well as general cleanliness of Police Stations and barracks.

k) Police Service Commission should continue to be responsible for appointment, promotion and discipline of all officers below the I.G.P., except the operational control of the Force which is vested in the IGP. It should be independent enough to guard against nepotism in recruitment, discipline and promotion and the dominance of the service by a single ethnic group. In other words, it should implement the requirement of the Constitution to reflect Federal Character in recruitment. Membership of the Commission should be apolitical and should comprise men and women of proven integrity.

l) The Inspector-General of Police should be made accountable to the Police Council for the effectiveness and efficiency of the force.

m) A Police Reform Implementation Committee should be put in place to facilitate the implementation of the recommended reforms.

n) There should be a Constitutional amendment to the composition of the Police Council to include the Minister responsible for Police Affairs.

o) The Police High Command should tender public apology through the electronic and print media, to the families of the Apo Six and Nigerians for their inappropriate and reprehensible actions.

p) The Government should direct the police to be present at the funeral of the Apo six and a formal letter exonerating them of armed robbery stigma should be addressed to the families of the deceased.

q) Government should decide on the propriety or otherwise of re-naming Gimbiya Street as Apo Six Street.

r) The Nigeria Police Force should ceased to be para-military organization, both in structure and function. It should be complete civil police fully involved in crime fighting and community service. Once this is done, the word "Force" should also be removed.

s) Government should endeavour to prosecute all known extra judicial killings by the police which are pending in the courts.



- t) The government should inform the public of the result and punishment awarded to the perpetrators of such extra judicial killings.
- u) Government should compensate the families of the victims of previous extra judicial killings by the police where appropriate.

FINDINGS ON REMOTE AND IMMEDIATE CAUSES

22. The Commission found as facts the following that:

- 1) The relationship between the inhabitants of Apo mechanic village and the police has been strained over a considerable period of time.
- 2) There is allegation of consistent and unfavorable disposition of the police towards a particular tribe.
- 3) There is allegation of wanton arrest of citizens by the police over trumped of charges.
- 4) There is an indiscriminate extortion of money from the citizens by certain members of the police force over threats of detention.
- 5) There is the killing of persons by the police over armed robbery allegation.
- 6) There are other several human right violations by the Nigeria Police Force in the federal capital territory.

FINDINGS ON WHETHER OR NOT THERE WAS AN ARMED ROBBERY INCIDENT AT GIMBIYA STREET, MAITAMA, ABUJA

23. The Commission found as facts the following:

- (a) That on 7 June 2005 there was an armed robbery incident at DG NEMA's residence.
- (b) That none of the robbers was arrested at the scene of crime.
- (c) That there was a wireless message DTO 081138/06/005 sent to Force Headquarters in respect of the armed robbers that attacked DG NEMA's house.
- (d) That the allegation of armed robbery at Crown Guest Inn at Gimbiya Street is unfounded and cannot be supported by evidence.
- (e) That there was no wireless message reporting the alleged incident to the Force Headquarters.
- (f) That those who claimed to have been robbed did not make statements to the Police.
- (g) That the alleged robbers escaped in a red starlet car and not a 406 car as alleged.
- (h) That the strength of the policemen at the Pin Down Point is sufficient, however, one AK47 rifle in the face of the sophistry of weapons used by armed robbers is grossly inadequate.
- (i) There was no picket to indicate the presence of Police check point at the Pin Down Point. The presence of such picket is sufficient deterrence to robbers.
- (j) That the Police who alleged they visited Crown Guest Inn in response of the distress call did not show any professional skill. They lacked dedication following their perfunctory performance at the scene.



RECOMMENDATIONS

24. It is recommended that:

- (1) Every Pin Down Point should have adequate manpower with the commensurate firepower.
- (2) All Pin Down Points, Check and Search should have picket with reflective signs to give early warning to commuters.
- (3) The men should be educated to ensure that they always log every incident in their logbooks which should be carried by every policeman.
- (4) The men should always report such incident promptly and accurately to the Appropriate Superior Authority.



CHAPTER 5

REFERENCE 'H'

INCIDENTAL RECOMMENDATIONS TO THE TERMS OF REFERENCE

The devastating effect of the gruesome death of the 6 deceased persons did not end with their passage to the greater beyond. Diverse claims have emerged following their death. Also arising from the violent clash at Apo Village was the wanton destruction of properties.

The Commission is of the view that this term of reference is appropriate for the consideration of all claims and matters incidental to all the terms of reference. We say this, noting that by this term the Commission is enjoined to "...make recommendations incidental to the above terms of reference..." the word 'above' is presumed to mean terms a, b, c, d, e and f.

CLAIMS BY FAMILIES AND DEPENDANTS OF THE DECEASED

The most significant claim calling for consideration under this term is for the sum of N100,000,000.00 (One Hundred Million Naira) by each of the family of the 6 deceased persons as well as the family of the late P.C. Anthony Idam. Each family is respectively seeking recompense in the said sum as damages for the loss of lives of the 7 deceased.

It is noteworthy that the facts and rationale informing the claim by the representatives of the deceased families are substantially similar. Their testimonies and the findings of the Commission are already noted in term (f). Unlike the 5 male traders who were supposedly running thriving businesses in their lifetime, Augustina Arebun's living is dependent on profits earned from selling some of her mother's, witness (W) 18 second hand clothings. Thus, she is expected to supplement the maintenance and upkeep of her siblings.

This being a Commission of Inquiry, we are minded that strict adherence to the procedural rules and legal technicalities of a regular Law Court is needless in the conduct of matters before it. Nonetheless, members are of the view that legal principles and considerations should inform our decisions in so far as it relates to recommendation(s) on the compensatory award for damages arising under our terms of reference. The Commission finds this posture more compelling having regard to the magnitude of the amount claimed. Recourse has therefore been sought to relevant statutes, judicial precedents and legal principles in the assessment of the award recommended by this Commission.

To this end, the Commission considers the application of the 1999 Constitution of the Federal Republic of Nigeria crucial and indeed supportive of the right of the deceased persons right to life. The right is unequivocally expressed in Section 33 of the Constitution which entitles every citizen to "...a right to life and no one shall be deprived intentionally of his life, save in execution of the sentence of a Court in respect of a criminal offence of which he has been found guilty in Nigeria". So sacrosanct is life that this provision is embodied in perhaps the most coveted and only guaranteed provisions in the Constitution, that is, Chapter 4 dealing with Fundamental Human



Rights. Undoubtedly, the cold blooded killings of these 6 citizens was in brazen violation of their constitutional right to life. The Commission is of the view and so holds that the killing of the 6 Nigerians who were in the prime of their lives, premature! y and needlessly, denied them of their right to life as guaranteed by the 1999 Constitution. Accordingly, their killing by the Policemen was illegal and unconstitutional.

The claim for compensation for damages now being sought by their families for the unlawful killings is accorded statutory recognition under the Torts (Reform) Law and the Fatal Accidents Law. These statutes are applicable in the Federal Capital Territory by virtue of Section 13, Federal Capital Territory Act, Chapter 503, Laws of the Federation of Nigeria.

Though with qualifications which shall be stated anon, Section 78 of the Penal Code also confers on the family of the deceased, the right to compensation either in addition to or in substitution for punishment.

The common factor amongst these statutes is that the right to sue for injury resulting to death by accident, wrongful or illegal, survives the death itself. Putting this in relation to the killing of the 6 persons, it can be said, that, assuming the 6 deceased persons survived the injury from the bullets shot at them by the Policemen, they would be entitled to a right of action for damages for the injury occasioned by the shooting. In effect, the Federal Government of Nigeria would be vicariously liable for the conduct of its police officers. Notwithstanding their deaths, the right of action of the six (6) deceased persons survives them by virtue of these statutes. Similarly, the claim by members of their family for damages arising from the wrongful killing is actionable, subject of course to the provisions of the aforesaid statutes.

It must be noted that under the Common Law, compensation or damages cannot be recovered for causing the death of a person by negligence of another person hence such claims is only recoverable under the Torts Law or the Fatal Accident Law. Thus, our consideration for compensation by the families of the deceased persons are significantly predicated on the relevant statutory provisions, specifically, Sections 2 and 3 of the Torts Law Reforms Law and the Sections 3 and 4 of the Fatal Accidents Law.

Section 78 of the Penal Code was excluded by the Commission in the course of our consideration of the award because a person who is "...convicted of an offence under..." the Penal Code may be adjudged to make compensation to any person injured by his offence. Whereas, our mandate is restricted to recommendations incidental to the terms of reference. No one is on trial before us nor are we empowered to convict any person(s) for any offence, consequently the Commission cannot order an award under section 78 of the Penal Code.

Section 3 of the Torts Law provides that any death caused by the tortious or criminal act of a person is actionable under the Torts Law. It further provides that the right of action survives the death of the victim i.e. the deceased would have had his right to maintain an action for damages had he survived the injury. Aside from the victims, the families of the deceased persons are by the same token entitled to sue if the deceased would have a right of action against the wrongdoer.

The Supreme Court decision in the celebrated case of BELLO AND OTHERS VS. ATTORNEY-GENERAL OYO STATE (1986) NIGERIA SUPREME COURT CASES page 1257 is rather instructive to the claim by the deceased families, hence, it impacted on the Commission's consideration for compensation.



In that case, one Nasiru Bello was charged and convicted for armed robbery at the High Court of Oyo State. On the day his appeal was to be heard, the Court of Appeal was astonished by the information that Bello had been executed, upon recommendation by the Attorney-General of Oyo State. His execution warrant was approved and signed by the Oyo State Governor. The deceased's wife, children and dependants consequently, instituted an action at the High Court challenging his killing on the grounds that it was an unlawful and premature death. Damages in the sum of N100,000.00 (One Hundred Thousand Naira) was also claimed for the illegal killing and loss of their family's breadwinner.

Relying on the rule in Baker Vs. Bolton that damages are not recoverable at common law for wrongly causing the death of a person except such claim is brought under the provisions of the Torts Law, the trial Court dismissed the suit on the grounds that it disclosed no cause of action. The decision was ultimately challenged up to the Supreme Court.

Each, of his dependant. The trial Court noted that there was a paucity of evidence on how much the deceased spent on each dependant. The Supreme Court on appeal enunciated 5 essential ingredients for establishing liability for damages under the Torts Law. The ingredients were distilled from the interfusion of Sections 2 and 3 of the Torts Law to the effect that in a claim for damages, the following must be proved:

- i) the deceased died ;
- ii) the Respondent caused the death;
- iii) the Respondent was inter alia negligent or in breach of a statutory duty;
- iv) the deceased suffered injury which would have entitled him to sue for damages if he had not died; and
- v) facts must be available from which damages may be assessed.

The Commission has thoroughly considered the claim of the deceased family going by the testimonies of the 9 witnesses appearing before us namely, Celestine Okeke, (witness 15), Aloysius Chukwu (witness 16), Mrs. Monica Arebun (witness 18), Cyril Okoli (witness 19) Lawrence Ogbonna (witness 20), Elvis Raphael Ozo (witness 21), Mrs. Paulinus Uzochukwu (witness 22) and Edwin Meniru (witness 23). Taking cognizance of their testimonies along with the 5 ingredients enunciated in Bello's case, we are persuaded by the preponderance of evidence before this Commission that in consonance with the first ingredient, 6 persons died, in fact, it is conceded in our terms of reference that the 6 deceased were "killed", secondly, the Federal Government of Nigeria are vicariously liable for the conduct of the Police Officers who snuffed life out of the 6 persons through bullet shots. Relying on the post mortem reports we can! safely conclude that at least 4 of the 6 persons died from grievous bodily injury. There is also substantial evidence in proof of the killing of the two others. All the 6 would have had right of action had they sustained the injury. Their dependants are thus entitled to maintain an action in damages. Thirdly, the Policemen acted in violation of Section 33 of the 1999 Constitution. Hence, their death is unlawful and unconstitutional. It was held in Bello's case that the illegal killing as in the instant case constituted a wrongful injury. Fourthly, the injuries sustained by the bullet shots entitled them to sue for damages had they survived the incident of the 8th June, 2005. The fifth and final ingredient has however generated much concern to the Commission as there appears to be no scintilla of evidence



that could have assisted this Commission in the assessment of an award for the dependants of the deceased persons.

None of the witnesses specified the amount spent on them by any of the deceased. Such facts would have guided the Commission in the evaluation of their claim. For instance it is essentially necessary for the siblings of the deceased to state the amount expended by their benefactor on their education, annually or over a specific period, and the stage they have reached in the pursuit of their educational endeavours. Such facts would have provided a basis for multiplying the amount spent by the deceased with the number of years required to reach graduate level. In a similar vein, the Commission would have been able to recommend awards for those in the university taking into account the residue of years it would take to complete their respective course. Such formula would likewise have been adopted for those in secondary schools.

In spite of the sparse evidence in Bello's case the Supreme Court up held the trial Courts award on compensation, though it was conceded by Mohammed Bello JSC, of blessed memory that the only evidence on the amount spent by the deceased on the Appellant was meagre.

Unlike in Bello's case, the Commission was not availed with the minutest evidence on what the deceased persons spent on any of their dependants in their life time.

Let it be known, that it is not within the jurisdiction of his Commission to conjecture facts for anyone where there is none. To do otherwise will be injudicious of this Judicial Commission of Inquiry. In the absence of any evidence in support of the 5th ingredient, their claim for damages under the Torts Law cannot hold.

We have also considered the provisions of the Fatal Accidents Law, regretfully it has not availed the deceased family members, again there is a need to be guided by the amount expended by their benefactors in their lifetime. Besides, the provisions of the Fatal Accidents Law is more stringent hence their claims would also have failed had it been applied. See also the case of ATTORNEY GENERAL KADUNA STATE VS. HASSAN (1985) N.W.L.R. (PART 8) page 483.

Notwithstanding, the inability of the claim for compensation to succeed on the Torts Law and Fatal Accidents Law it seems that all is not lost on the compensation for damages. At the least, their claim for compensation may as well call for the invocation of the doctrine of "Ubi jus ibi remedium" which literally means that where there is a right there is a remedy. It could also mean that there is no wrong without a remedy Though the Commission holds that the death of the 6 deceased persons was a constitutional wrong, the remedy under the Constitution enures to the 6 deceased alone. This right to sue for compensate, in our minds, is not constitutionally conferred on their families and dependants. Here, the dependants right to sue is without a remedy.

We are of the view and so hold, that the wrong done to the families of the 6 deceased is remediable through an award in general damages for the loss, pain and trauma of loosing their loved ones. The Commission is not unminded that the extended family structure and cultural obligation to assist both the immediate and extended family members is ingrained in the psyche of our people. We cannot deny the fact that our social and cultural systems have thrived on the virtues of being our brothers keepers. Indeed, the principle of justice dictates that those who have lost their loved ones ought to be compensated to assuage their grief and console them with whatever benefits they might



have enjoyed in the lifetime of the 6 deceased whose death has put their sustenance on hold. The incidents, has no doubt put the Nation into global focus.

It is now settled that a claim for general damages can be made at large even though the quantum is not proved. The award is qualified by what in the opinion of a reasonable person is considered adequate for the loss or inconvenience which flow naturally from the act of the defendant. Its quantum need not be pleaded or proved as it is generally presumed by the law. They are presumed to flow from the negligence complained of see *UBN LTD. VS. ODUSOTE BOOK STORES* (1995) 9 N.W.L.R. (PART 421) 558, *UBA PLC. VS. BTL IND. LTD.* 2004 18 N.W.L.R. (PART 904) page 180 at pages 237. In the light of the foregoing considerations, the Commission recommends that the families of the 6 deceased be paid the sum of N3 million each as general damages for the loss of life of each victim of the Apo six (6) killings, namely, Chinedu Meniru, Ifeanyi Ozor, Paulinus Ogbonna, Isaac Ekene, Anthony Nwokike and Augustina Arebun.

It should be added that members of the Commission made an interim recommendation to its appointing authority. This was prompted by the advice given by Professor Segun Ojo, head of the Pathological Team that conducted the autopsy examination on the bodies of the 6 deceased. He opined that the exhumed bodies which are presently lying at the mortuary in the Garki Hospital must be interred within four weeks of the post-mortem examination. Realizing that the time frame for the interment would lapse before the terminal date for the submission of this Committee's report, members promptly presented an interim report, wherein it was recommended that the bodies be buried without delay. It was further recommended that the bodies of the 6 deceased persons namely; Chinedu Meniru, Ifeanyi Ozor, Isaac Ekene, Anthony Nwokike, Paulinus Ogbonna, Augustina Arebun as well as the body of the late P.C. Anthony Idam be released to their families for burial, minded that there was no further use of the bodies upon conclusion of the autopsy.

In accordance with the wishes of the families of the 7 deceased it was also recommended that they should be given a dignifying burial in conformity with the cultural norms and religious beliefs of the respective victim. After all, they all took their last breath under the constitutional presumption that they were innocent citizen. In their wordly absence, that presumption was unrebutted and uncontroverted throughout the public sitting that heard 48 witnesses. Their innocent souls must be allowed eternal rest. Nay, they must be rested in a befitting and dignifying manner.

We shall pause here, to reflect on a rather intriguing request made by one Mrs. Paulina Uzochukwu on behalf of the families of late Ekene Isaac. She sought compensation amongst other things requested for Ekene's murderer to present a bride's hand in marriage to a male member of late Ekene Isaac's family. The marriage, she demanded, is to be sponsored at the murderer's expense in conformity with the tradition of the people of Achi Local Government Area of Enugu State. The Commission thus had to embark on a jurisprudential and legal research for the consideration of her unusual claim. Through the commendable scholarship of Wole Aina Esq., Learned Counsel for the Commission we were referred to the case of *Attorney GENERAL OF KADUNA VS. HASSAN* at page 525. There, the acclaimed jurist, Oputa J.S.C. (as he then was). Held that the tradition was practiced in the premodial Igbo society. It served as compensation for the family of the deceased member who had been killed. The murderer is culturally obligated to pay recompense by presenting a female member of his family into a forced marriage to a



member of the victim's family. The compensation, the distinguished Justice of the Supreme Court went on to add, could also be in form of a grant in perpetuity of a land or a fish pond.

In his trenchant manner Oputa J.S.C. went on to state that "...the whole idea was to restore a balance, the social equilibrium caused by the homicide..." Much as the claim is recognizable in the context of our traditional norms and practice, it suffices to state that the Commission is not an appropriate forum for canvassing this kind of claim having regard to our terms of reference. There is no murderer before us neither is it our duty to try anyone for culpable homicide. We shall be crossing our judicial threshold by alluding to Paulina Uzochukwu's wish. It is hereby discountenanced for the reasons so stated.

In line with the request commonly made by the families of the deceased an interim award of N500,000.00 (Five Hundred Thousand Naira) was recommended for funding the funeral expenses by the Government. This brings the total sum of the award recommended by the Commission to N3,500,000.00 (Three Million Five Hundred Thousand Naira).

COMPENSATION CLAIM BY LATE PC ANTHONY IDAM'S FAMILY:

The Commission is however of the view that the late PC Anthony Idam's case ought to be treated differently from the 6 deceased persons. The circumstances leading to his death is quite different from the other six. The Commission is minded that he was allegedly poisoned.

The Nigerian Police Force should conduct further investigation that would lead to identifying the persons(s) responsible for the unnatural death of PC Anthony Idam whose autopsy reports have now confirmed that he died from food poisoning. In the event that such person(s) are identified they are to be tried in a law Court under the appropriate Law.

We are of the view that notwithstanding the autopsy report, the Federal Government is not vicariously liable for his death. The Commission however recommends that efforts be expedited by the Nigerian Police Force to ensure that all his benefits and welfare allowances are promptly paid to members of his family.

CLAIM BY VICTIMS OF THE VIOLENT CLASH AT APO:

Two persons, Osita Obi (witness 13) and Ikechukwu Ene (witness 34) claimed to have sustained gun shot wounds during the violent clashes at Apo Village on the 9th June, 2005. Both of them were directed by the Commission to submit themselves for medical examination at the National Hospital for verification or otherwise of the supposed gun shot injury. To date, the report of their medical examination and bills were not forwarded to the Commission. In the absence of proof that they were actually shot on that day, we are of the view that their respective claims for damages in the sum of N300,000.00 (Three Hundred Thousand Naira) and N500,000.00 (Five Hundred Thousand Naira) as compensation for the bullet wounds should be discountenanced. No award is therefore recommended.

Three witnesses claimed that their handsets were stolen during the rampage at Apo Village on the 9th June, 2005. Osita Obi's receipt for his lost Nokia 1100 Handset,



(Exhibit W.31B) was admitted in evidence. One Jonah Ochi witness 29, also claims that his Nokia 2600 Handset got missing during the violent clash on that day. Basil Inegbedion (witness 27) claims to have been accosted by the Police who demanded for his Motorola Handset valued at N18,500.00 (Eighteen Thousand Five Hundred Naira). His receipt, (Exhibit W.27A) was admitted in evidence. The Commission is of the view that the three of them should be compensated in the sum of N10,000.00 (Ten Thousand Naira) for the loss of each Handset.

Mr. Elvis Raphael Ozor (witness 21), late Ifeanyi Ozor's brother, is also seeking for the assistance of the Commission for the release of the Peugeot 406 driven by his late brother on the day of the incident to enable members of his family effect repairs, preparatory, to handing it back to its owner, Hon. Abubakar Abdullahi. The Commission recommends that the damaged rear windscreen, side window glasses (left side) as well as the drivers door be replaced. The cost of restoring the vehicle back to its former state prior to the Gimbiya Street incident should be borne by the Nigerian Police Force.

Upon restoration the Peugeot 406 should be handed over to its registered owner Abdullahi Abubakar together with the invoices, Exhibits W21 "A", W21 "B", W21 "C" and its particulars of ownership in the presence of Mr. Elvis Raphael Ozor. This recommendation is subject to the approval by the High Court trying the criminal cases.

The request by the members of the deceased family that Gimbiya Street, Area 11 be renamed Apo Six (6) Street in honour of the 6 deceased persons was not favoured by members of the Commission. Considering that the reason(s) informing the naming of the Street, Gimbiya is unknown, members were weary of distorting the historical considerations behind renaming the street. This is not to say that the Commission was not inclined to the deceased relations yearnings to immortalize their departed souls. Members are of the view that the major road in Apo Mechanic Village would have served as a symbolic gesture in honour of the 6 victims. Nevertheless, the Commission was not particularly disposed to renaming a Street at the Apo Village, minded that the present use of the village as a mechanic centre is not officially designated to serve its present purpose, it is envisaged that the Apo Traders will be eventually relocated to a permanent site. Minded by the eventual relocation, the Commission recommends that the main street in the official site, proposed by the FCDA as the spare parts and automobile service center should be named "Apo 6 Street" in mortalising the 6 deceased persons.

In the light of the exhaustive fact finding exercise under this term of reference, we are of the view that the deceased were not armed robbers.

The Commission recommends that a letter of apology should be written by the Inspector General of Police to the family of the deceased persons for the needless loss of life of the 6 deceased. The letter should also retract the allegation of armed robbery levied against the 6 deceased by the former Commissioner of Police, Emmanuel Adebayo during the press briefing of the 10th June, 2005.



CONCLUSIONS:

1. Flowing from the preponderance of uncontrovertible evidence adduced before this Commission, we are not left in doubt about the complicity of the underlisted persons in the unlawful killings of the 6 deceased, namely:

- (1) DC Danjuma Ibrahim
- (2) DPO Abdulsalam Othman
- (3) Inspector Suleiman Audu
- (4) Ezekiel Acheneje
- (5) PC Sadiq Salami
- (6) PC Dennis Asawa
- (7) Emmanuel Baba
- (8) ASP Nicholas Zachariah

They should all be charged and tried in accordance with the appropriate law.

2. The bodies of the 6 deceased persons, Chinedu Meniru, Ifeanyi Ozor, Paulinus Ogbonna, Anthony Nwokike, Isaac Ekene, Augustina Arebun and that of the late PC Anthony Idam should without further delay, be handed over to their respective families for a befitting burial. An interim recommendation has already been forwarded to the Commission's authorizing body for the payment of N500,000.00 (Five Hundred Thousand Naira) as funeral expenses for each of the 7 deceased persons, the late PC Anthony Idam inclusive.

3. Compensation in the sum of N3,000,000.00 (Three Million Naira) is recommended by the Commission for payment to each family of the deceased as an award for general damages arising from the killings of the 6 deceased persons.

4. By a report dated the 16th August, 2005, from the National Hospital, Abuja we were informed by the Head of the Pathological Team, Professor Segun Ojo, that conducted the autopsy on the body of the Late PC Anthony Idam that from their forensic examination they are able to conclude that Anthony Idam's death was:

- (i) Not due to natural cause, (ii) Through toxic effects resulting to "generalized muscle spasms leading to the arrest of respiration"

Reinforced by the report, the Commission holds that Anthony Idam's sudden death would most probably have resulted from poisoning. In the light of the expert evidence we are persuaded by the testimonies of witnesses that late Anthony Idam was poisoned. However, we have insufficient evidence to establish the person(s) responsible for administering the poison in whatever he must have consumed prior to his death.

5. The Nigerian Police Force should take immediate steps to pay the family of Anthony Idam his insurance scheme benefits and all other payment, due and payable to him. The Commission recommends that such payment should be without prejudice to the funeral expenses of N500,000.00 (Five Hundred Thousand Naira) already recommended in the interim report.

6. The main road in the FCDA proposed site for the mechanic village should be named 'Apo 6 Street' in honour of the 6 deceased.

7 (i) The Peugeot 406 should be restored to its condition prior to the Gimbiya Street incident.

(ii) Upon restoration it should be handed over to the owner Hon. Abdullahi



Abubakar in the presence of Elvis Raphael Ozor.

8. The sum of N10,000.00 (Ten Thousand Naira) be paid as compensation to Osita Obi , Basil Inegbedion and Jonah Ochi for the loss of their handsets during the violent clash.

9. The Acting Inspector General of Police, Mr. Sunday Ehindero should write a:

(i) letter of apology to the families of the 6 deceased,
and

(ii) Retract the allegation of armed robbery levied against the 6 deceased during the press briefing by his former Commissioner of Police, Emmanuel Adebayo held on the 10th June, 2005.



REFERENCES

1. Records of Proceedings of the Commission's Public Sitings.
 2. Memoranda received from members of the public.
 3. Affidavit submitted by the Counsels
 4. Map of FCT showing the crime points by Abuja Geographic Information systems, Abuja.
 5. FCT Commissioner of Police's Press briefing dated 10/06/2005.
 6. Exhibits (W. 11 A1 & A2 - W. 48 "BB")
 7. Constitution of the Federal Republic of Nigeria of 1999.
 8. Chapter 503, Laws of the Federation of Nigeria).
 9. Torts (Reforms) Law and the Fatal Accidents Law.
 10. Penal Code
 11. BELLO AND OTHERS VS. ATTORNEY-GENERAL OF OYO STATE (1986) NIGERIA SUPREME COURT CASES page 1257.
 12. ATTORNEY-GENERAL OF KADUNA STATE VS. HASSAN (1985) N.W.L.R. (PART 8) pages 483.
 13. UBN LTD. VS. ODUSOTE BOOK STORES (1995) 9 N.W.L.R. (PART 421) 558.
 14. UBA PLC. VS. BTL IND. LTD. 2004 18 N.W.L.R. (PART 904) page 180 at page 3s 237.
 15. Forensic/Pathology Report on Late PC Anthony Idam.
 16. Compact Disc recording of the Exhumation of the 6 bodies and Autopsy Examination.
- Hon. Justice Olasumbo O. Goodluck
Chairman
Brig. Gen. J. A. Okunbor Chief Osita Okeke
Member Member
Barr. Hauwa Ibrahim Mr. Parry B. O. Osayande, CFR
Member Member
Barr. Isaac J. Idu
Secretary



SECTION III
MINORITY REPORT ON THE APO SIX
BY
HAUWA IBRAHIM



EXECUTIVE SUMMARY

The Judicial Commission of Inquiry [Commission] intended to find the facts of two alleged incidences—the Nigerian Police Force's [NPF] extrajudicial killing of six civilians in Abuja on June 8th, 2005, and a consequent riot at the NPF's Apo Village outpost on June 9th—and, based on these facts, recommend measures that could be taken to prevent similar incidents from recurring in the future. During its six-week tenure, the Commission heard forty-eight testimonies regarding the killings and riots. These testimonies were materially contradictory and irreconcilable. Consequently, I was largely unable to "find the facts," but could only generalize from the available evidence to produce recommendations that held relevance no matter which specifics were true. Accordingly, this report addresses primarily the systemic—not individual—culpability of the NPF and Nigerian society at large regarding the aforementioned incidences.

The Commission itself lacked appropriate identity, transparency and accountability, and consequently impeded its own ability to find facts and satisfy its terms of reference. This report presents the Commission's shortcomings before the "facts" because one cannot properly contextualize the "facts" without first understanding the flawed process through which they were "found." To the extent that the Commission's shortcomings exemplify those of the Nigerian Government in general, this critical analysis of the Commission also serves as a critical analysis of our new, developing democracy.

The report concludes with a description of the process through which I, apart from the Commission, analyzed and narrated the "facts." I include this description for two reasons. First, I want the public to understand how I arrived at my conclusions. Second, I want to provide future tribunals with a methodology to criticize or adopt.

I.



INTRODUCTION

The purposes of the Judicial Commission of Inquiry [Commission],²⁰ stated broadly, were to discover truth and advocate for justice.²¹ Specifically, the Commission intended to find the facts of two alleged incidences—the Nigerian Police Force's [NPF] extrajudicial killing of six civilians in Abuja on June 8th, 2005, and a consequent riot at the NPF's Apo Village Police Station on June 9th—and, based on these facts, recommend measures that could be taken to prevent similar incidents from recurring in the future.

Two forces, however, militated against the Commission's ability to fulfill its mandate. First, the Commission lacked the structure necessary to most proficiently execute its fact-finding duties. Second, the facts presented to the Commission were too conflicting and insufficient to constitute a single story or theory in which the Commission could place substantial confidence.

Ultimately, though, an analysis of both the Commission and the facts yields significant realities. Where the Commission and facts operate coherently, glints of truth are discernable. Where the Commission and facts operate incoherently, potential exists for better future tribunals: incoherence invites criticism, and criticism engenders improvement. Insofar as the Commission exemplifies aspects of the Nigerian government and governance in general, a critical analysis of the Commission serves also as a critical analysis of our new, growing democracy.

The first section of this report explores the Commission itself. It analyzes the commission's shortcomings, in particular, and the ways these shortcomings impeded the Commission's fact-finding process. Pursuant to the Terms of Reference [TR] Section H, it subsequently makes recommendations regarding these shortcomings in sight of making future government bodies optimally productive.

Pursuant to TR Sections A through F, the second section of the report addresses the facts of the two incidences that triggered the Commission's creation: first, the NPF's killing of six Nigerian citizens on June 8th, 2005; second, a consequent riot at the NPF's Apo Village Police Station on June 9th. Pursuant to TR Sections G and H, the report then offers recommendations based on these facts, hopeful that recommendations will help prevent the recurrence of such incidents in the future.

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⁷ 20. See List of commission Members, Appendix, A.

²¹ See Terms of Reference, appendix, B



The report closes with a description of the process through which I, apart from the Commission, analyzed and narrated the "facts." I include this description for two reasons. First, I want the public to understand how I arrived at my conclusions. Second, I want to provide future tribunals with a methodology to criticize or adopt.

Finally, Volume Two of this report includes relevant supplemental materials: memorandums and affidavits submitted to the Commission, communications between the Commission and the public, the autopsy report, a ballistics report, and, among other things, the verbatim records of the Commission's proceedings.

II. THE COMMISSION

From its inception, the Commission lacked appropriate (A) identity, (B) transparency and (C) accountability. For these reasons, it had difficulty idyllically executing its duties. These points and attendant recommendations, pursuant to TR Section H, are explored below.

A. Identity

1. Identity: Commission or Court?

The Tribunals of Inquiry Act²² [TIA] determines the contours of any tribunal's identity. According to this Act, the President may institute a commission of inquiry "whenever he deems it desirable" when "an inquiry would be for the public welfare."²³ The sole and ultimate function of a commission must be "to inquire."²⁴ The Act states that a commission's inquiries may be held publicly or privately;²⁵ that a commission may have a chairman but does not necessitate a judge;²⁶ that a commission has power to regulate its own proceedings;²⁷ and that a commission has power to admit "any evidence, written or oral, notwithstanding that such evidence might have been inadmissible in civil or criminal proceedings before a court, and power to act on such evidence."²⁸ Ultimately, a commission has no power to generate legally binding demands. Under the Tribunals Act, at the end of its sitting a commission shall simply and maximally produce a report of its proceedings, findings, recommendations, and the reasons supporting them.

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⁸ 22. Laws of the Federation of Nigeria, 1990, Vol. iv

23 Tribunals of Inquiry Act 1 (1)

24 Tribunals of Inquiry Act 1 (1)

25 Tribunals of Inquiry Act 1 (2) (d)

26 Tribunals of Inquiry Act 1 (2) (b)

27 Tribunals of Inquiry Act 4 (1)

28 Tribunals of Inquiry Act 5 (e)



Despite the flexibility available to any commission established under the Tribunals Act, this Commission reflected and elected to employ a court-like format. The Commission sat at the Customary Court of Appeals. A judge headed the panel. Lawyers drove the proceedings from the "court's" front pews, "examining," "cross examining," and "re-examining" witnesses,²⁹ tendering evidence and presenting "objections." Both the panel and lawyers called witnesses to take oaths and testify in "witness boxes." The judge delivered "rulings." The public watched but could not speak, unless to utter the deferential courtroom idiom: "as the court pleases."

In light of the fact that the Commission's statutory purpose was not to try and convict individuals but simply to "inquire"—to find facts—the question must be raised: was a court format best equipped to facilitate fact-finding?

The court format certainly had some benefits, in terms of fact finding. First, the Commission's use of lawyers' often proved useful. Lawyers served as advocates for the concerned parties. They constructively challenged the commission's course and decisions. They helped ensure that witnesses were treated fairly, and acted as interpreters between the Commission and public, translating unclear questions and answers. Second, the examination/cross-examination system succeeded in drawing many "facts" from witnesses and highlighting and addressing factual discrepancies. Third, the Commission benefited from decentralizing its responsibility to question witnesses. By allowing the lawyers to question witnesses, theoretically more questions were asked and, consequently, more facts gathered. Finally, the Commission's proceedings secured integrity in being as public as those of a court. Where fact-finding is transparent, the public is more likely to view the fact-finding process as legitimate. Despite these benefits, however, the court format had several shortcomings that undermined the commission's ability to best execute its duties. Primary among the court format's shortcomings was its adversarial structure, which stifled the commission's fact collection in two ways.

First, the adversarial format stirred unnecessary sentiment and prejudice into the lawyers' questioning of the witnesses. The lawyers represent opposing parties, both of whom seek vindication. Because each lawyer is trying to win, each lawyer advocates passionately for 'his or her client' and passionately against 'his or her opponent's client'. In the Commission's proceedings, although the Commission's duty was not to vindicate any party a commission of inquiry, by statute, is unable to vindicate a party and likewise

although there was no argument, at the Commission, that any party could win or lose, the Commission allowed lawyers who represented interested parties to question witnesses. Inevitably, many lawyers sought to vindicate their client's interests, arguing that one specific theory of facts was correct or incorrect, triggering "opposing" lawyers to do the same. Behind these lawyers, the passionate audience cheered or scowled depending on whether the lawyer's questions and witnesses' answers aligned with their beliefs. The pressure and poignancy of the audience's sentiment, coupled with the media's presence, increased the lawyers' own passions. Ultimately, too many of the lawyer's queries were merely the sour condensation of a biased air. For example:

COUNSEL: The four police men at the pin down point in Gimbiya, each and every one of them gave evidence in this matter and the totality of the evidence is that [the Apo Six] were taken to Garki police station, the girl and the boy were still alive as stated and I am



putting it to you that you personally took that girl to the caravan in front of Garki Police Station. Is it true or not?

WITNESS: I did not.

COUNSEL: I am putting it to you that when you took that girl to that caravan that early morning you raped her there?

WITNESS: I did not take anyone to where.

COUNSEL: And that while you raped her she shouted and people heard her voice. There are people who are coming to testify to that.

WITNESS: I do not know anything about that.

COUNSEL: I am again putting it to you that after you raped the girl you were afraid she was going to squirreled and you then strangled her there. True or false?

WITNESS: I do not know anything about that. It is false.

COUNSEL: You said it is false, in case you did not understand me, after raping her she shouted and you thought people will know and then you strangle her there and that was why when the photographer took her picture she was already dead and there was no gun shot on her body. No motion because you strangled her.³⁰

⁹The questions posed to witnesses should have come from neutral origins. As the Commission's mission was to find facts—not kill them to spite their source—the layers of antagonism and prejudice inherent in the adversarial process were unnecessary. In the future, a similar commission must ensure that the questioners and their questions are meant to extract facts, not vindicate or undermine individuals. Even questions posed to address contradictory statements can and should be asked civilly. In the future, perhaps only commission members or people independent from the interested parties should be permitted to formally question the witnesses.

The second major shortcoming of the adversarial court-format was its tendency to oppress witnesses, decreasing the likelihood they would ultimately offer facts. As recently implied, in courtroom advocacy a lawyer often tries to characterize his or her client as good, right and trustworthy, the opposing party as bad, wrong and unreliable. Consequently, as previously mentioned, in court each party and each party's witnesses receive antagonism. While antagonism may test the integrity of a proposed defense, it also may deplete the public image and personal morale of the individual toward whom it is targeted. A person who receives too much antagonism especially undue embarrassment may shut down and simply withdraw his or her input from the judicial or fact-finding process.

Although all commissions should treat their witnesses with respect—both to honour the principle of neutrality and to create an environment conducive to fact finding—during this Commission's proceedings, lawyers engrossed in the adversarial process often battered witnesses with sarcasm, condescension and disdain: "I put it to you that you are a very bad liar";³¹ "say the truth for the first time in your life";³² "say you are sorry";³³ and, sarcastically, "what language do you speak?"³⁴ Again, the intensity and effect of the lawyer's attacks were compounded by the media's presence and the audience's jeers.

A testifying witness feels uncomfortable providing facts in such circumstances, especially where these facts may negatively implicate him or somebody close to him. In

⁹ 30 Commission Verbatim Report, p. 279



fact, a potential witness is unlikely to volunteer his vulnerability to such an acerbic environment in the first place. The reassurances that (1) a commission's duty is only fact-finding and that (2) evidence presented to the commission can not be used in a court of law are understandably moot to a person who inevitably faces intense public persecution. In the future, a commission should operate a system of fact collection that treats witnesses with respect and encourages fact sharing. As implied here, commissions should avoid or at least amend the court-like adversarial system in order to prevent driving public witnesses into distrust or defensiveness against the same process that is ultimately meant to help them and the society in which they live.

At first glance, the Tribunals of Inquiry Act would seem unlikely to facilitate a progression away from the use of party-interested lawyers in commissions' proceedings. In fact, Section 18 of the Act states: "any person whose conduct or affairs are the subject of inquiry under this Act or who is in any way implicated or concerned in the matter under inquiry shall be entitled to be represented by counsel at the whole of the inquiry..." The language of this provision is vulnerable to liberal interpretation. Many people's "affairs" or "concern[s]" could relate to any commission's subject of inquiry. Therefore, many parties not just ones called to testify not just ones in a "defensive" role could ultimately appoint themselves counsel-mouthpieces. As potentially "offensive" and "defensive" lawyers may represent their clients at the "whole" of the proceedings, Section 18 seems to lay a permanent foundation for the problematic adversarial system.

But Section 18 competes with TIA Section 4(1), which allows a tribunal of inquiry to "regulate its own proceedings." In the future, a commission of inquiry could employ Section 4(1) to limit the negative externalities of Section 18. For example, a commission could determine via Section 4(1) that only commission members—not counsels—could question witnesses. In this case, each witness would remain wholly and rightly protected by his or her counsel, yet unexposed to the unnecessary adversarial elements of "trial." If future commissions again invite party-interested lawyers into their proceedings, they should at least assert stern control over both the tone and substance of the lawyers' questioning to ensure a neutral and productive fact-finding environment.

2. Identity: Who Were the Lawyers?

Separate from the adversarial system in which they participated, and aside from their previously mentioned contributions to the Commission, the lawyers who drove the Commission's proceedings presented a unique set of problems. For example, some lawyers derailed the commission's proceedings by pursuing irrelevant arguments. In one instance, they quarreled over the admissibility of a piece of evidence for almost an hour, despite the fact that a commission of inquiry has the statutory power to admit "any evidence, written or oral, notwithstanding that such evidence might have been inadmissible in civil or criminal proceedings before a court, and power to act on

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¹⁰ 31 Commission Verbatim Report p. 281

32 Commission Verbatim Report p. 32

33 Commission Verbatim Report p. 192

34 Commission Verbatim Report p. 35-36



such evidence."³⁵ Some lawyers distracted the commission's proceedings with misbehavior. In the first 585 pages of the proceedings' unedited verbatim report,³⁶ for example, counsels apologize over 40 times for their inappropriate actions.

In sum, each moment the commission spent correcting a lawyer was one less moment the commission had to question a witness and collect a fact. In the future, commissions of inquiry should creatively devise ways to achieve their fact-finding goals, transcending unnecessary dependence on lawyers and the comfort of familiar courtroom formats.

3. Identity: Who was the Public?

In a typical court proceeding, the public has no chance to speak. Of course, the goals of a court proceeding are meant to be achieved without public input because, one may argue, they are best achieved without public input. Legal claims are for individuals to make, lawyers are best trained to articulate them, and judges are best trained to adjudicate them. But a fact-finding commission, theoretically, best achieves its goals by opening its ears to the public. In fact, an inquiring commission must open its ears to the public if it wishes to comprehensively achieve its goal here, Terms of Reference A, C, and E, in particular.³⁷ Simply put, barriers between a commission and the public are barriers between the commission and facts they seek to find.

Despite this reality, this Commission, clinging to a court-like identity, excluded the public from its "public sittings." Although this exclusion was legal,³⁸ it was unnecessary and unproductive. In the future, an inquiring commission should dedicate time at the end of each proceeding to a "public stand" from which members of the public could propose ideas they feel the commission should consider: potential witnesses, questions for future witnesses, ways the Commission could improve itself and its proceedings, or testimony in light of their own experiences. In such a setting, the public could essentially say whatever they wanted to say, and the individual and cumulative length and number of their comments would be limited by the commission chairperson's discretion. In this case, the "public" sitting would truly be public, and no filter would keep facts from coming forward.

A future commission could also productively engage the public by sitting in the town where the event of its origin occurred, security considerations permitting. From this¹¹ town, a commission could most efficiently encourage testimony: its advertisements would appeal to an optimal proportion of the public and its placement would minimize the extent to which the economic costs of traveling would prohibit potential witnesses from coming forward. If a commission does not permanently sit in such a town, it may at least periodically rotate to it.

However a commission involves the public in its proceedings, the commission must maintain focus on its original purposes and enforce against its own derailment. From the start, this Commission too often failed to correct a disruptively noisy audience. Consequently, it conditioned this audience to believe that its cheers, jeers, sighs, and guffaws were acceptable—or at least not punishable. The noises then became the norm, interrupting proceedings and intimidating or otherwise influencing witnesses. While the

¹¹ 35 Tribunals of Inquiry Act 4(1)

³⁶ See Verbatim Report, Minority Report Volume II: Supporting Documents.

³⁷ See Terms of Reference, Appendix, B

³⁸ Tribunals of Inquiry Act 1(2)(d).



public should be involved in any fact finding exercise, this involvement should obviously not undermine the maintenance of the neutral environment necessary for fact finding.

4. Identity: Who Were We?

President Obasanjo appointed seven individuals to this Judicial Commission of Inquiry: two from Nigeria's southwest, two from the south-south, one from the southeast, one from the northeast, and one from the middle belt. Six Commission members were retired or active government employees, including a serving Army General, retired Police Officer, retired journalist, and sitting Judge.

Fortunately, the Commission was large and diverse enough to (theoretically) transcend geographic and ethnic biases. However, where a commission's focus is a government entity, at least the majority of that commission should be private citizens. A commission of inquiry must be independent from the issue it analyzes so that it may operate most objectively.

This Commission contained experts and stakeholders in its issue of focus. For example, it contained a former Inspector General of Police, serving Army General, and journalist. Perhaps a commission-creator should not construct a commission that contains experts and stakeholders of its issue. Instead, a commission of inquiry should be comprised only of people who have the ability to effectively inquire. In this case, inquirers interview all relevant witnesses and, to the extent desired, various industry experts or issue stakeholders.

The latter commission model has three primary and unique benefits. First, it does not attempt the impossible feat of including in its panel all relevant "experts" and "stakeholders." It allows a panel of fact-finders to question more individuals than it could logistically contain. The model therefore allocates kinds of individuals (i.e. fact-finders, experts, etc.) to where they can contribute most. Second, this model structurally rejects the assumption that any expert or industry-specific commission member embodies the complete and accurate perspective of his or her field. It makes commissions totally dependent on external expert testimony, motivating them to gain subject matter authority by seeking an array of perspectives on any given topic (instead of assuming they have authority through the mind of only one member). Third, this model is efficient, as its membership—expert inquirers—intrinsically pursues its purpose to find facts.

In this model, judges and private lawyers who are (ethnically, geographically, and personally) independent of all parties would serve as excellent inquirers. As noted earlier, lawyers were sometimes problematic to this Commission primarily in the context of the adversarial system in which they operated. A lawyer removed from this adversarial system is merely a trained questioner with a valuable knowledge of law, a proclivity for fair procedure, and no motive to be prejudiced or oppressive. It was also previously suggested that even outside the adversarial system, lawyers could be distracting in their occasional behavior and pursuit of irrelevant arguments. But the lawyers then referenced were not those on the commission, but those who chose to speak before it. The tribunal appointment process would ensure that a commission's members were fit for their positions.

The primary shortcoming of such a commission model is its inherent lack of subject-matter expertise. Experts are useful on panels, even if they cannot possess all knowledge of their respective fields, for at least two reasons. First, an expert can suggest a useful line of questioning, regarding her field, which a non-expert could not think to suggest.



Second, once in a dialogue regarding her field, an expert is more likely than a non-expert to recognize inconsistencies and impossibilities in her interviewees' speech. In order, therefore, to retain the benefits of using experts without sacrificing a healthy independence from them, a commission of non-experts could be appointed a small advisory panel of experts. This advisory panel would not question witnesses, but would advise their parent-commission's question-writing and subsequent deliberations.

Finally and specifically, no matter a commission's composition, a commission's chairperson and counsel should not be from the same geographic location as long as individuals from similar geographic locations are likely to feel unique, mutual, personal loyalties. A commission's chairperson and counsel both inhabit powerful positions and together could create a lopsided decision-making dynamic. At least, a sensitive public could perceive them to have created such a dynamic. Real or perceived, this dynamic must be avoided.

5. Identity: Colonial Legacies in Our System?

Besides its thorny adversarial system and insufficiently public nature, the court format was fundamentally problematic because it engaged and reaffirmed a master-servant relationship that was inappropriate and irrelevant to fact finding. In the Commissions' court format, the panel was the 'master' and the public was the 'servant'. The panel sat in majestic chairs on a floor-plane higher than the public. The public was told to rise (with reverence) when the panel entered and exited the room. The lawyers and witnesses referred to the panel members as "my lord" and "your lordship." Panel members had microphones while the general public had none.

Instead of implying that some people are more worthy than others, the commission's setting should have reflected the egalitarian ideals that underlay its purpose. Here, the Commission existed because both citizens and the government objected to extrajudicial killings. Presumably, these objections were premised on the notion that each human being was equally worthy and equally subject to the rule of law. But the commission's appearance and proceedings belied this premise. In physical structure, language, and ceremony, the commission-space, commission, and proceedings symbolically polarized the panel and the public.

In the future, a commission should exist in a setting that makes the public feel that they are being served, not serving. For example, a commission should only sit higher than the public to the extent that this seating arrangement is necessary to enable the public to view the proceedings. Additionally, the public should not be asked to refer to commission members as "my lord" and "your lordship," nor should they need to stand when the commission enters the room. Commission members do not need to be worshipped.

Defenders of the master-servant government-civilian relationship may argue that such structural hierarchies are necessary to preserve order. However, a government commission can cast aside superficial symbols of authority without losing authority itself. A commission may secure authority through the legitimacy of its political origin or the integrity of its example. A commission—as any government body—should prove that it deserves respect, and therefore earn it, by employing just procedures, maintaining a transparent budget, and, among other things, holding itself accountable to the public it represents and the rule of law under which it operates. Ultimately, the public should be



inspired to rise—not asked to rise—when a government commission enters the room before it.

As Nigeria consolidates its democracy, it must reconsider the master-servant relationship, a legacy of colonialism. It should study the legacies of colonialism in sight of shirking them. Ultimately, it must strive to create government institutions which reflect the reality that all Nigerians are equal under law.

B. Transparency

1. Budget Transparency: What Were the Figures?

One would expect that Commission members either knew or could have known the Commission's budget, including their personal financial entitlements. In fact, the opposite was true: Commission members had no knowledge of their budget and, moreover, could not access it.

I, for example, several times verbally requested to the Commission's Secretariat that the Commission's budget and my personal financial entitlements be delineated in writing. I made these requests pursuant to the democratic principle that government entities and government employees must be fiscally transparent. The Secretariat refused my requests. Only after I explained to the Secretariat, at the end of the Commission's tenure, that I planned to appeal to the President regarding the Secretariat's transparency, did the Secretariat finally delineate my specific entitlement in writing.

The full "budget" that ultimately existed—a budget yet to be seen in writing—is purportedly as follows. The three members who lived outside Abuja received 15,000 naira per day for six six-day weeks. The three members who lived inside Abuja received 20,000 naira per month for two months. One member was to receive 10,000 naira per day for the six week period. All members supposedly received a fuel allowance for car travels within Abuja and the two members who lived farthest from Abuja received roundtrip flights to their homes. It is also possible, however, as one recent letter from the Secretariat to a Commission member implied, that no Commission members received "entitlements" except for those whose homes were outside Abuja, and who therefore had unique travel and lodging expenses. This latter entitlement structure would be consistent with the Secretariat's initial claim—before it announced the member's daily and monthly allowances—that Commission members would receive no sitting salary. Ultimately, no one but the Secretariat itself knows who was ultimately paid what.

The Secretariat's general opacity was intrinsically conspicuous and totally unacceptable in a democratic setting. Beyond distracting the Commission members from addressing their terms of reference, this opacity created the potential for favor seeking, financial corruption and the petty politicking that attends these excesses. Concerns regarding transparency must not be taken lightly. Transparency is a precondition for good governance. The fact that the Secretariat did not divulge the Commission's budget to me must be examined, therefore, not as an insignificant slip in the context of an otherwise healthy democratic setting. Rather, the Secretariat's behavior must be understood as an indicator that our democracy in fact is not healthy: the importance of the principle of transparency has not yet saturated our government. Given this, opacity anywhere must be viewed as a threat to transparency everywhere.³⁹ Consequently, in all public settings, Nigerians must vigilantly maintain transparency and must not acquiesce to government leaders who shroud public information in secrecy.



Regarding the budget's particulars: in the future, the government should pay each commission member the same sitting allowance (as long as each member's responsibilities and time commitments are similar). Aside from this expense, the government should also pay each member his or her unique and necessary travel and lodging costs, and no more. More importantly, in the future the budget of a government commission—or any government body—should be transparent from the instance of its creation. Transparent, in this case, means created openly, recorded, and available to the public. Additionally, the budget and its changes should be justifiable, and these justifications should be as publicly available as the numbers they support.

2. Verbatim Records Transparency: What Was Said?

The Commission also had difficulty fulfilling its functional potential because the verbatim records of public proceedings were too often unavailable to it or directly withheld from it.⁴⁰ The Commission sat six times before it was given any verbatim records to review. After its sixteenth sitting, it received records of only its first four proceedings. By August 1st, the start of the Commission's deliberations and report writing (over one month after its first sitting), Commission members had verbatim records of only twelve of their twenty public sessions. Without verbatim records to examine, the Commission faced two significant problems.

First, the Commission members' notes became the focus of their analyses and deliberations. Where members' notes conflicted (subtly or drastically) or were simply insufficient, no verbatim record existed to resolve the conflicts or fill the gaps. A verbatim record should always be the standard from which commission members find facts, not personal notes, which are more likely insufficient, biased or flawed.

¹²Second, because the Commission did not receive verbatim proceeding records promptly it ultimately lacked the time to properly analyze the "facts" it had gathered. On its first day of final deliberations the Commission lacked at least 40% of its proceedings' verbatim records. A commission cannot write a report that maximally satisfies its terms of reference with anything less than 100% of pertinent evidence. (Again, personal notes are inevitably flawed and therefore insufficient.) In the future, every commission's secretariat must highly prioritize the efficient production of verbatim reports so that commissions can best execute their duties.

C. Accountability

1. Withholding the Verbatim Reports: Accountability to Law?

On August 4th, 2005, I wrote to the Commission's Secretariat to officially request all available verbatim records of the Commission's proceedings. My previous verbal requests for these documents had been largely refused. The Secretariat had first stated that the records were not ready; that they were to be handed out as one document once it finished transcribing them. The Secretariat later stated that I should not need all of the records to execute my duties to the commission. It believed the Commission had assigned me only one term of reference to analyze (of eight) and concluded I should therefore only be

¹² 39 "Injustice anywhere is a threat to justice everywhere," Martin Luther King, Jr., Letter from Birmingham Jail, April 16, 1963.

⁴⁰ The extent to which the Secretariat's withholding of public verbatim reports reflected a lack of accountability to law is discussed in II(C) (1), "Withholding Verbatim Reports: Accountability to Law?"



granted access to the testimonies it deemed relevant to that single term. On August 3rd, the day before I wrote the official request for all available verbatim reports, the Secretariat had used this latter justification to withhold from me the vast majority of available (public) records I then sought.

The Secretariat's determinations and actions stifled me, as, in reality, I was oath-bound and morally committed to comprehensively address all eight terms of reference. In fact, I officially requested all verbatim records from the Secretariat on August 4th because I felt I could not adequately fulfill my extensive duty to the Commission without them. After extensive and scrupulous analysis of my notes, I had developed too many questions (unanswerable by my notes or the notes of other Commission members) to simply stop thinking and conclude. Consequently, I wanted to exhaustively re-examine every single piece of evidence to find answers to the questions in me they had inspired. Additionally, I wanted to force the Secretariat to make his decision regarding my request public. I refused to let it continue to intimidate and mistreat me privately.

On August 5th, 2005, the Secretariat replied, as following, to my August 4th official request for all available verbatim records:

"We regret to inform you that we do not have new sets of complete tapes to release to you apart from the ones given to you the previous day being Wednesday 3rd August, 2005. It is hoped that by early next week the entire tapes would be ready.

"As at today, a total of 36 transcribed tapes and additional 70 pages of verbatim report had been released to facilitate your report writing so far.

"It is pertinent to state that the verbatim report is ideally meant to serve as back up to our main report and for members to cross-check details when in doubt of their personal notes. Hence, your claim that you are unable to finish writing your report because you do not have the remaining verbatim records is not acceptable since you participated all through the sittings and kept personal notes of the proceedings.

"It is also on record that you are the only member given this volume of tapes and verbatim report from the Secretariat, notwithstanding this present demand.

"In light of the above, the volume of secretariat documents sent to and received by you is indeed large considering the security implications. Consequently, should you require additional documents for use for the purposes of report writing, the Secretariat will oblige you only on the condition that the use for them will be restricted within the Commission's Secretariat.

Best regards."⁴¹

One must not view the Secretariat's autocratic letter as an insignificant instance of undemocratic behavior. Rather, like the Secretariat's refusal to divulge the Commission's budget, the Secretariat's unwillingness to provide public documents in a public manner must be viewed both as an affront to democracy and as a symptom of the deeper problem that mindsets constrained to the psychological mores of military dictatorship still permeate Nigerian governance. The Secretariat's letter illustrates that legal and moral regression in Nigeria is possible as long as anachronistic authoritarians remain in democratic positions of power. It therefore reminds us that Nigerian people must continue to daily fight for the rights they already have, exposing and overcoming threats to their democratic development. Hence, regarding the Secretariat's letter to me, I publicly respond¹³ in this report as follows:

¹³ 41 Letter from Isaac J. Idu, Secretary to the Commission, August 5th, 2005



First, it is not pertinent to state, as the Secretariat claims it is, that verbatim records are "ideally meant to serve as a back up to [the] main report and for members to cross-check [against] when in doubt of their personal notes." This Commission of Inquiry's Secretariat does not have the power to decide what the purpose of public documents should be. I, like each Nigerian, have the right to use a public document however I may choose to use it. Therefore, the Secretariat's rejection of my claim that I need the remaining verbatim records to complete my report is totally moot.

Second, it is irrelevant that I, as the Secretariat writes, am the "only member given this volume of tapes and verbatim report from the Secretariat, notwithstanding the present demand." Again, I have the right to request any number of public documents, and the Secretariat's musings regarding my employment of this right are immaterial and, moreover, cannot support its already illegitimate decision to restrict my use of what is public. That I choose to read comprehensively before I judge is fortunately a choice that the Secretariat may not violate.

Third, the Secretariat's claim that "the volume of secretariat documents sent to and received by [me] is indeed large considering the security implications" is ipso facto incorrect and devoid of all democratic character. Nigeria no longer lives under a military dictatorship. Public documents do not have "security implications." In this democracy, what is public is public, for better or worse.

Finally, the Secretariat's determination that it will "oblige [my requests for verbatim reports] only on the condition that the use for [the verbatim reports] will be restricted within the Commission's Secretariat" reeks as the undemocratic nadir of its utterances. Again, the Secretariat lacks the right to restrict my use of public documents. The Secretariat's capacity does not entail the sort of discretion that can undermine decades of growth toward democratic freedom. As a public servant, the Secretariat—as all secretariats in Nigeria's future—must simply serve the public. Accordingly, it must respond to my hereby maintained request for all verbatim records of the Commission's proceedings.

2. Selecting the Secretariat: Accountability to Principle?

By its first public sitting, the Commission had not been assigned a secretarial staff [staff]. This negatively impacted the Commission in two ways. First, it detracted from the Commission's ability to focus on the events that caused its creation. When the Commission should have been discussing the NPF's killing of six Nigerians, it was busy buying itself plates, trays, cups, spoons, etc. (all of which were unnecessary for a six week assignment). Second and more significantly, because the government did not assign a staff to the Commission, the Commission's chairperson [chairperson] had the opportunity to do so. Incidentally and presumably trying to aid the Commission, the chairperson chose to employ a staff whom she personally knew.

A commission's staff, however, like the Commission it supports, must be a constellation of independent minds. Personal preferences and personal relationships should play no role in public decision-making, especially where such decision-making entails high stakes, widespread relevance, or the allocation of public funds. Once a chair incorporates his or her personal staff into a public commission, he or she loses the moral authority to demand that this staff refrain from making decisions based on personal allegiances. This loss of ethical control may become the loss of real control. In the future, to avoid jeopardizing judicial independence, the government should not allow any individual



commission member to create or budget the commission's staff. Instead, the body that creates the Commission should also employ the personnel the Commission needs to support it (i.e. a registrar, secretary, stenographer, verbatim reporter, etc.).

3. Selecting the Autopsy Doctor: Accountability to Law?

On a significant Friday, the Commission determined that an autopsy should be performed on the bodies of the deceased. The following Monday, without warning, the Commission's Chairperson announced to the Commission specifically which doctor would perform this autopsy. As the Tribunals of Inquiry Act commands that the chairperson's vote is only determinative where it breaks a commission vote that has resulted in a tie, and as the Commission had not yet voted on an autopsy doctor, the chairperson's attempt to appoint a doctor was premature and inappropriate.

Surprisingly, another Commission member supported the Chairperson's proclamation. It seemed he had been briefed by the chair about this doctor during the previous weekend. While the two members presumably acted toward what they believed were the best interests of the commission, the victims, and the public as a whole, their efforts were as conspicuous as they were undemocratic. It was unclear—and ultimately remains unclear—why they wanted the doctor they sought; why they had not discussed this doctor with the rest of the Commission; or why the Commission was entitled, at all, to select a doctor the public should employ when no Commission member was a medical expert.

In the end, the doctor the Chairperson had wanted to perform the autopsy did not perform it. However, for two reasons this detail is irrelevant to the purpose of this analysis. First, had the Chair remained unchecked in her efforts, a decision would have been made that defied respect for law and principles of fair procedure. Second and more significantly, it is noteworthy and disturbing that this undemocratic attempt occurred at all—especially in a government commission purportedly dedicated to fairly discovering truth and advocating for justice. Our government and society must internalize that law is not fair until no one supersedes it. The rule of law must rule, no matter the circumstances.

III. THE FACTS

The "facts found" delineated below are deductions based on the often conflicting testimonies of the witnesses who stood before the Commission. In many instances—where deduction does not resolve a factual conflict—conflicting facts are presented. The letters (A-F) assigned to the following sections correspond directly to the terms of reference each section addresses.

A. The Causes of the Apo Village Riot

1. Remote Causes

The Apo Mechanic Village riot on July 9th, 2005, seems to have had two remote and intertwining causes: first, the villagers' frustration with being the targets of their local police's persistent abuses of power; second, the villager's frustration with being the targets of their local police's ethnic prejudices. Although the Apo Mechanic Village police testify that their relationship with the Apo Mechanic Villagers has historically been sound, ultimately the weight of evidence seems to rest against their claims.

Several witnesses testified that the Apo Mechanic Village Police frequently abused their power to extort money from the Apo villagers. Bartholemew Nwangwu [Bartholomew] stated that the police typically detain villagers—without cause or with artificial cause—solely to extract money from them. Bartholomew stated that when people are detained



they are asked to pay between three and five thousand naira—depending on their purchasing power—in exchange for their release.

Patrick Mortimer [Mortimer] and Chukwu's testimony buttressed that of Bartholemew. Mortimer claimed that Apo Mechanic Villagers were slaves to the police. He stated that when villagers go out to eat between 7pm and 8pm, they are vulnerable to being arrested for "wandering." Once they are arrested, he claims, they must pay 2,000 Naira to earn freedom and to prevent being charged as belonging to a gang of thieves. Chukwu stated that recently, when he went to the Apo Police outpost while looking for his missing brother—one of the "Apo six" the NPF killed—the Police forced him to pay 4,000 to bail himself from their detention. Okeke said that he did not want to enter the Apo Police outpost because he feared he would be robbed.

Mortimer claimed that the arbitrary actions of the Apo Mechanic Village Police reach the villagers' personal possessions. He stated that the Police typically intercept vehicles carrying goods to the village, call the goods stolen property, and withhold them until the traders pay for their release. At payment, "stolen" goods become "genuine" goods. Mortimer claims that such harassment is so frequent he budgets money for it each month. Bartholemew claimed that police plant evidence in homes and cars, framing people in order to justify arrests and, ultimately, bail demands.

The police abuse of power the villagers face seems to be more than just economically motivated. According to testimony, many Apo Mechanic Village Policemen use their power to satisfy any of their lusts. Mortimer claimed, for example, that the Police sometimes arrest young girls for "wandering" the village at night, take them to the police station, detain them, and rape them in exchange for "freedom."

The villagers also testified that an ethnic tension underlies the Police's efforts to persecute them. They claim that the Police harass specifically Igbo people. Mortimer, Imibedion Basil [Basil], Augustine Korondo [Korondo] and Edwin Okaba [Okaba] all stated that this ethnic tension was evident even in the Apo Village riot. Mortimer claimed that during the riot, police were identifying people by tribe, singling out Igbos for arrest. Basil claimed that during the riot one policeman asked him what tribe he was; slapped him; questioned his ethnicity and language; then apologized to him for the harassment when he discovered Basil was not Igbo. Basil said that had he been an Igbo man he would have been arrested. Korondo also testified that during the riot the Police were asking people to state their ethnicities and languages and ultimately persecuting specifically the Igbos. Okaba also claimed that in AMV only the Igbo's are the victims of police brutality. He said that during the riot, police revealed their discriminatory purpose when they allowed him freedom because he was not Igbo but brutalized his Igbo friend, nonetheless.

Contrary to the testimonies of Bartholemew, Mortimer, Basil, Korondo, and Okaba, the Officer in Charge of Apo Police Station, Yusuf Kolo [Kolo], testified that the police in AMV do not harass the community's Igbo people. He stated that the AMV Police and the primarily Igbo Apo community have had a positive relationship since at least March, 2005, when he arrived at the Apo outpost. He denied the allegations against the police of bribery and corruption. He said that no report of bribery or corruption had ever been made to him; that the police did not extort money from village traders; and that he was not aware of rape occurring within his police station.

He also claimed that historically the Apo community has contributed significantly to the police suggesting, perhaps, that the community appreciates their work. He stated that the



Apo Mechanic Village Traders Association has frequently donated tyres and repairs to police vehicles despite the fact that the NPF is supposed to be responsible for such maintenance. He also stated that individual community members have donated furniture (including chairs and desks) to the station.

Despite the testimony of the Officer in Charge, the testimonies of Bartholemew, Mortimer, Basil, Okorondo, and Okaba seem credible. First, they are consistent. Each testimony complains of similar problems, providing parallel but unique historical examples. Second, because a few members of AMV have contributed to the AMV Police Station does not necessarily mean that the community, in general, appreciates their local NPF outpost. Additionally, gifts do not necessarily reflect appreciation. They may reflect an effort to improve unstable relations. Third, despite the public, televised nature of the accusations of extortion, rape, and general corruption against the AMV's NPF before the Commission, the NPF provided only one witness to the Commission to attempt to counter them, and the NPF's lawyer made little effort before the Commission to vindicate the NPF's Apo outpost.

Finally, it is worth noting that although the testifying Apo community members perceived the harassment against them to be ethnically charged, it is possible that any "ethnic conflict" between the police and the villagers is a coincidental by-product of the police's efforts to extort money from those whom they believe have the most of it. That is, the police may perceive the Igbo traders in AMV to have the most money in AMV, and therefore harass the Igbo traders in sight of profit. If this is the case, the AMV police may be considered not to have a fundamental aversion toward the Igbo community. They would be just as likely to harass any other tribe, as long as they believed that this harassment would be optimally lucrative. This note is significant because it provides a window to potential solutions to the problem of perceived ethnic conflict in AMV. That is, if the economic welfare of the NPF is addressed, perhaps indirectly "ethnic tensions" between certain police and certain civilians would eventually subside.

2. Immediate Causes

The Apo Mechanic Village riot on July 9th, 2005, seems to have had five immediate causes: first, the villagers' initial sighting of the six corpses; second, the news or rumor that the six corpses would be buried as armed robbers; third, a television and radio broadcast in which the Commissioner of Police Adebayo identified the six deceased as armed robbers; fourth, the violence of police against community members during the riot; and fifth, the riot itself. (That is, the riot inspired its own increase, as people who otherwise would not have initiated disorder took the anarchic opportunity to loot and destroy.)

The villagers' initial sighting of the six corpses in an Environmental Protection Agency truck seemed to have initially triggered the "riot." According to Korondo and Suleiman Haruna [Haruna], when the AMV traders saw the truck carrying the corpses, they seized and hijacked it. According to Mortimer, once they controlled the vehicle, they drove it to the NPF's Apo outpost. Kolo testified that this was the first time (at least since March) that corpses had been brought to the station. He said that people outside the station were chanting, "we no go gree!!!" Bartholomew stated that the demonstration began here, with the community's collective discovery of the six corpses.

Mortimer also testified that the demonstration increased when rumors spread that the deceased would be buried. He said that AMV community members told the EPA not to



bury the deceased because the deceased were not armed robbers, but that the community members' weaponless demonstration remained peaceful.

Ikechukwu Ene [Ene] and Mortimer both testified that the police transformed the demonstration into a violent affair. Mortimer claimed that the police started rioting themselves, shooting bullets—killing two and wounding many—in an attempt to enforce peace and take the corpses back. Osita Obi [Obi] stated he was shot in the left leg and Ene claimed he was shot in the chest. Mortimer further stated that the police connived among themselves to set their properties on fire, and were the primary perpetrators of violence and destruction at the scene.

Kolo testified that he heard through his police, who had been stationed at the outpost when the "demonstration" began, that the AMV community had started the riot, and had armed themselves with sticks, bottles and stones. Korondo and Bartholomew both claimed that the Commissioner of Police, Adebayo, had fueled the crisis by stating on television and radio that the six deceased were armed robbers.

Kolo stated that the police did not burn or destroy their own station or cars. He noted that the police had nothing to conceal by burning the station and nothing to achieve by destroying the cars, which the police had just repaired. Kolo said that when he arrived at the scene, he met a roadblock of burning tyres and was advised to turn around. When he entered despite this warning, he saw about 300 people, 54 of whom were ultimately arrested in relation to their participation in the riot. Unlike Mortimer, Kolo stated that no one died at the riot.

Finally, testimonies imply that the riot perpetuated itself. That is, once the riot began, people who otherwise would not have initiated it joined it. Kolo testified that he saw the police station burning, three cars burning, and seven cars damaged; that as a result of the riot, several items were removed from the station's exhibit room and nine motorcycles were removed from the station itself. Additionally, Kolo claimed that rioters destroyed a cell, freeing sixteen suspects. Presumably, this damaging, looting, and general chaos would not have been perpetrated by only the people who initiated it. Therefore, to some extent the riot can be seen as its own immediate cause.

B. The Question of the Armed Robberies

1. Armed Robbery at DG NEMA's

Evidence affirms that there was an armed robbery on the night of June 7th at the DG NEMA's residence. Dahiru Salisu [Salisu], a security guard at DG NEMA's residence, made statements to both the police and the Commission that at approximately 8pm on June 7th, 5 armed robbers came to DG NEMA's residence. He said that four robbers entered the DG's residence while one stayed outside in what he believed to be a red Honda Accord. Salisu stated that each of the four robbers who entered the residence carried a gun. Three carried pistols and one carried what he identified to be a long rifle with a long cartridge. Salisu stated that there was no lady among the robbers. According to Salisu, victims were robbed of hand sets and 69,000 naira cumulatively. He said that one of the robbers, who hit him with a pistol, spoke to him in Hausa.

Several members of the NPF reaffirmed that there was, in fact, an armed robbery at DG NEMA's residence. Deputy Commissioner Danjuma [DCD], for example, testified that he received a distress call regarding the robbery directly from DG NEMA, and that he went to the scene to explore the complaint. DCD stated that the Divisional Police Officer



Maitama, among other officers, visited DG NEMA's. A police signal regarding the robbery at DG NEMA's was presented to the commission.

Because no testimony disputes the claim that this armed robbery occurred, the claim is assumed to be true.

2. Armed Robbery at The Crown Guest Inn

Evidence also indicates that there was an armed robbery at the Crown Guest Inn [CGI] on the night of June 7th. Ben Agari [Agari], Manager of the CGI, testified that at approximately 8pm on June 7th, as he was exiting his hotel, he heard gunshots and saw people in mufti clothes shouting, "Area! Area!" Agari stated that he immediately went to the 2nd floor window of the CGI to watch the scene outside. He testified he saw four males beating two members of his staff and demanding money from them. According to Agari, one of the robbers pointed a gun at one of his staff.

Agari testified that in response to the robbery, he called a policeman he knew, OC CID Suleiman. According to Agari, as he waited for the OC and other police to arrive at the scene, the robbers came into his hotel, picked doors, and stole money and various valuables from the downstairs rooms. Agari said that the robbers stole, in sum, 15 to 20 hand sets and some money.

Agari further stated that he watched the robbers leave through the hotel's back exit. He said that they unsuccessfully attempted to stop Okada riders and finally entered a red Toyota hatchback vehicle. Agari stated that police arrived at his hotel, then, after the robbers had left. He stated that the next morning, the police called him to come to the Garki station to identify the bodies of some alleged armed robbers. Agari made a formal statement regarding the robbery to the OC Legal one week before his testimony at the Commission, a few weeks after the robbery occurred.

Several members of the NPF affirmed Agari's testimony that the CGI had been robbed. Inspector Suleiman Audu [Audu], DCD, and PC Haruna Mamot [Mamot] all testified that between 9:30pm and 10:00pm on June 7th they received distress calls from the Control Room that there had been an armed robbery at the Crown Guest Inn. PCs Ibrahim Garba [Garba] and Emmanuel Baba [Baba] also testified to having received distress calls. Mamot stated that when he first arrived at the CGI, no police were there, but he met occupants who had sustained injuries during the robbery. He also stated that Alpha Two Patrol team and the Divisional Police Officer Abdusalam Othman [DPO] eventually came to the site to take inventory, and that the DPO ultimately ordered him to return to patrol. Audu stated that when he arrived at the CGI, police were already there, so he returned to his duty at Gimbiya Street. ASP Nicholas Zakaria [Zakaria] testified that DCD had called his patrol team to visit the scene, but when they arrived there, everybody had gone. Finally, weeks after the incident, the Commission of Inquiry visited the Crown Guest Inn, where they met people who claimed to have been victims in the robbery.

No evidence undermines the notion that there was a robbery at the Crown Guest Inn on June 7th.

C. The Identities and Final Circumstances of the Six Deceased

1. The Identities of the Six

The National Hospital's July 14 autopsy report concluded that the identities of the six persons killed by the Nigerian Police Force on June 7th and 8th, 2005, and subsequently



buried by the Environmental Protection Agency of Abuja on June 9th, 2005, are as follows¹⁴:

4. Paulinus Ogbonna [Ogbonna], age 23
5. Anthony Nwokike [Nwokike], age 23
6. Augustina Arebun [Arebun], age 22

The pathologists who performed the autopsies identified the victims primarily by comparing the corpses they exhumed to pictures taken of the individuals at the times of their deaths.⁴² With the assistance of the deceased's family members, the pathologists also identified the individuals by their unique clothing, rings, bracelets, shoes, etc.

During the Commission's proceedings, members of the Nigerian Police Force and family members of the deceased also identified each victim as the victims' photographs were entered into evidence. DC Danjuma [DCD], Nnamdi Kama [Kama] and Isaac Ozor [Isaac] identified Ozor. Edwin Meniru [Edwin] identified Meniru and Ekene. Chukwudi Chukwu [Chudy] identified Ozor, Meniru, Ogbonna and Arebun. PC Emmanuel Baba [Baba] identified Ekene. Cyril Okoli [Okoli] identified Nwokike. Pauline Uzochukwu [Pauline], Edwin, Baba and Chudy identified Ekene. Lawrence Okechukwu [Lawrence] identified Ogbonna. Arebun, ASP Nimron Nimpon [Nimpon] and Baba identified Arebun.

2. The Circumstances Surrounding Their Deaths

On June 7th, 2005, DC Danjuma Ibrahim [DCD], according to his testimony, developed a suspicion regarding the passengers of one ash colored Peugeot 406. DCD testified that his suspicion was originally piqued during his investigation that evening of an armed robbery that had occurred at the residence of the Director General of the National Emergency Management Agency [DG NEMA]. According to DCD, two unidentified passers-by at the scene of the crime had told him that a red car and an ash colored Peugeot 406 had been used by five armed robbers as escape vehicles. No eyewitness to the armed robbery at DG NEMA's reaffirmed in testimony that a 406 had been used as an escape vehicle. Salisu, DG NEMA's security guard, claimed that the armed robbers came and left in only one red Honda Accord.

On June 7th between 9:00pm and 9:30pm, another armed robbery occurred at the Crown Guest Inn, a hotel within the perimeter of DCD's "beat." According to Ben Agari [Agari], manager of the Crown Guest Inn, four males with pistols had robbed his patrons of handsets and cash before fleeing toward Osokoro in a red Toyota. By 1:00am on June 8th, DCD still patrolled his beat, stopping at pin-down-points to encourage his men to remain alert. He patrolled in his BMW, he testified, as his official car had lacked fuel when he had rushed to duty that night.

DCD further testified that while driving down Gimbiya Street between 1:00am and 1:30am, he witnessed two men on foot arguing with the driver of a red Toyota Starlet. DCD stated that the Starlet then sped away from the conflict, and the two men rushed to an ash colored Peugeot 406 and sped away, too, presumably to follow the Toyota. DCD testified that this interaction raised his suspicions, so he decided to trace the 406. He stated that soon after he began to trace the car, however, he lost it. Consequently,

¹⁴ 1. Ifeayi Ozor [Ozor], age 25
2. Chinedu Meniru [Meniru], age 21
3. Isaac Ekene [Ekene], age 22



according to his testimony, he initiated a distress call regarding the 406 and the conflict that had captured his attention. (No record of this distress call was submitted to the Commission.) Additionally, remembering that Gimbiya Street was a crescent with only one entrance, he strategically positioned himself at this entrance, a pin down point where four other police already stood on alert. DCD testified that soon after his arrival at the pin-down-point, still sitting in his BMW discussing with his men the need to be vigilant, a vehicle came speeding down Gimbiya Street toward their position.

Nnamdi Kama [Kama] testified that DCD suspected an ash colored 406 on June 7th not because he believed that this car contained suspicious passengers, but because he had clashed with the members of a 406 earlier that night. Kama testified that on the evening of June 7th he had called his business friend, Ifeayi Ozor [Ozor], the driver of an ash colored Peugeot 406, and that Ozor had told him about his brush with a BMW earlier that night. According to Kama, Ozor had somehow collided with the BMW, and after this event, Ozor and the driver of the BMW had engaged in an argument. According to Kama, the argument ended in the exchange of slaps. Nothing but Kama's testimony affirms the veracity of this story.

Whatever the original source of DCD's suspicions regarding a 406, the four other men at his pin-down-point Insp. Suleiman Audu [Audu], PC Yabubu Philibus [Philibus], PC Ibrahim Garba [Garba], and PC Haruna Mamot [Mamot]—testified that as the car sped toward their position, they now, too, became apprehensive. DCD, Audu and the three police constables all testified that DCD backed his BMW toward the speeding car to create a breaking distance; that the car, an ash colored Peugeot 406, refused to stop but steered toward space beside DCD's vehicle through which it might have passed; that the DCD backed his car into the adjusted line of the 406; and that the 406, in a failed attempt to evade the DCD's vehicle by again swerving around it, hit the back of DCD's BMW. According to DCD, Audu and the three constables, the 406 then attempted a U-turn, reversing into a small tree and accelerating forward toward the direction from which it came. According again to DCD, Audu and the three constables, at the moment the 406 began its forward turn, one of the police at the pin-down-point unloaded bullets across its side, bringing the car finally to a halt.

DCD, Audu and the three constables all testified that the 406 had contained six occupants: five males and one female. Audu and the three constables stated that after the shooting, four of the six lay motionless in the vehicle. They stated that two of the six moved and screamed, and that they did not then know whether the motionless were dead. DCD testified that he immediately presumed that one of the six was dead and that five others were seriously injured. Yakubu Alamba [Alamba], a security guard who claims to have witness the event, stated that after the car was disabled, four or five of its occupants were well enough to walk from it. DCD, Audu, Garba and Mamot testified that the 406 was not searched at the scene. Philibus testified that no gun was found in the car at Gimbiya Street.

While Audu and the three constables agreed that none of the occupants of the 406 had ever shot at them, they and DCD disagreed over which of them had shot at the 406. DCD, who testified he did not know who was shooting at whom (and consequently took cover behind his vehicle), stated that Audu shot at the 406. Audu and the three constables stated that DCD shot at the 406. They claimed that DCD exited his vehicle and ordered Audu



twice to fire his AK-47 rifle at the escaping car, but because Audu refused to fire, DCD had to take the rifle from Audu's hands and shoot the 406 himself. DCD testified that if he had wanted to shoot the 406, he would have used the service pistol he carried. DCD insisted that under Force Order 237, Audu had shot at the 406 to protect DCD. Audu acknowledged in his testimony that the speeding 406 had made him feel that both his and DCD's lives were in danger.

When re-enacting the incident several weeks after it occurred,⁴³ Audu testified that he was standing on the median when DCD took his rifle from him to shoot at the 406. However, Audu's purported positioning was logistically problematic. As the 406 progressed down Gimbiya Street, the median where Audu said he and DCD had stood would have been parallel and left of the car's driver's side. When the 406 stopped to attempt a U-turn, its driver allegedly turned his steering wheel clockwise, reversing back to his right, away from the median and into a tree by the side of the road. By the time the 406 hit the tree, only its front and passenger side would have been exposed to the position on the median where Audu said he and DCD stood. By the time the 406 accelerated forward and turned left, crossing the road perpendicular to its intended direction, still only the car's front and passenger side would have been

exposed to Audu or DCD's fire. Audu said that it was at this time, when the car accelerated forward and away from the tree, when DCD shot. However, if DCD had shot at this time from the position on the median where Audu said he was, only the passenger's side of the car could have been hit by bullets. In fact, the 406 is peppered with bullet holes only on its driver's side. A ballistics report substantiates this, and additionally states that the diameters of the perforations on the 406 could not have been created from bullets shot by an AK-47 rifle. He posited that the perforations could have been created from a pistol or a revolver, but not from a Browning, the kind of gun the DCD carried.

Whoever shot at the 406, Garba, Philibus, PC Nimron Nimpon [Nimpon] and IPO Dennis Asawa [Asawa] all agreed that an Association of Local Government of Nigeria [ALGON] Jeep came to tow the 406 to Garki Police Station [GPS], and that two living "suspects"—one male and one female—were carried to the station in the jeep, while the remaining four were towed, as they lay, in the 406.

PC Emmanuel Baba [Baba], ASP Nicholas Zakaria [Zakaria], and PC Sadiq Salami [Salami] all testified that when they arrived at the station's parking lot they saw four of the victims' bodies lying on the ground. Zakaria also testified that he saw two people, seriously injured, sitting "by the side." Chudy Best [Chudy], a photographer, said he had seen three of the victims offloaded from the 406 to the ground.

DCD testified that at GPS he handed over one seemingly dead person and five seemingly alive people to DPO Abdulsalam Othman [DPO]. Nimpon testified that, after DCD's arrival at the station, he saw DCD and DPO enter a room and close the door behind them. GPS' Armorer, Inspector Ishaya Nyalwat [Nyalwat], also testified to seeing DCD and DPO conversing at the station. Chudy testified that DCD and DPO ultimately gave instructions as to what would happen with the six. DCD testified that when he left GPS to return to Gimbiya Street to search for his mobile phone he had earlier lost, he left the DPO trying to phone CP.



Idrisu Umaru [Umaru] testified that DPO ultimately ordered that the male and female—the only of the six visibly alive—should be executed. Haruna Saleh [Saleh] testified that the DPO ordered that they should be "escorted." He also stated that DCD, supported by DPO, said they should be "executed." Nimpon stated that Nathaniel Isaac [Isaac], driver of Alpha Patrol Team 3, telephoned him to tell him that DCD and DPO had ordered the male and female to be executed. Isaac testified that DCD and DPO asked him to reverse his vehicle into the station; that he overheard DPO telling Zakaria to bring the boy and girl; and that Zakaria, after entering the vehicle, told him to drive to Gadua Estate Road. While the 406 may not have been searched at Gimbiya street, according to Saleh, Nyalwat and Asawa it was unquestionably "searched" at GPS. Nyalwat testified that DPO called him at 2:30am to produce two pistols and two cartridges from the Armory. Nyalwat stated that the pistols he produced had been recovered from the scene of an armed robbery at the Rita Lori hotel a week earlier, and that he was shocked to see them being "reused." Haruna testified that DPO gave him one cutlass and two knives and that the Armorer gave him two locally made pistols and two cartridges all to place in the 406. Asawa testified that the DPO then ordered him to search the vehicle, specifying where he should look to find weapons. Asawa testified that he found in the 406 two locally made pistols, live and expended cartridges, two knives and one cutlass. According to DCD, when he finally returned to GPS after having found his mobile phone at Gimbiya street, DPO informed him that the car had been searched and explained to him what weapons had been "found."

According to Baba, once the Alpha 3 Patrol Team was set to drive the male and female away, DPO came and ordered them to follow him in his car. They left GPS together and began driving toward what Nimpon, Umaru, and Isaac believed was the "suspects'" place of final execution. Although Zakaria, Salami, Baba and Isaac agreed, in their testimonies, that the male and female were the only two "suspects" in their pickup, they disagreed over whom in their team was present during this drive. Zakaria claimed that he, Baba, Salami, Musa, late PC Anthony Idam [Idam], and Isaac were in the vehicle. Salami stated that just he, Zakaria, Musa, and Idam were present. Baba stated that he, Zakaria, Salami, Idam and Musa were present. Finally, Isaac testified that although he may not have known exactly who was in the vehicle because (as a driver) he could not always see those who entered through the back, he believed the pickup contained him, Zakaria, Musa, Baba, Salami, Idam and Acheneje. Acheneje testified he was not on duty that night. Zakaria confirmed this testimony.

According to Zakaria, Baba, Salami and Isaac, at one point along Kabusa Road on the way to Gadua Estate, "the boy" jumped down from the vehicle, attempting to escape. Isaac testified that he stopped the vehicle and heard "shooting everywhere." Salami stated that he, Musa, Idam and Zakaria pursued the boy, and that Isaac and Baba stayed behind with the girl. Baba testified that Salami, Idam, Zakaria, and DPO pursued the boy, and affirmed that he and Isaac stayed behind with the girl. Isaac testified that both DPO, who reversed to the place they had stopped, and DCD, who came later when called, also pursued the boy, and that he, Baba and Acheneje stayed behind with the girl. Zakaria, Nimpon, and most other PCs at the scene testified that the DPO and DCD told them that they would be dismissed if they did not find the boy. Isaac also testified that during the moments after the boy escaped, the girl was brought down from the vehicle and shot. He said that although he did not see anyone shoot her, he heard the shooting and saw his



colleagues pick her up from off the ground and return her to the back of the pickup. Baba, Salami and Zakaria stated that the girl eventually collapsed in the car and died.

According to Godwin Eze [Eze], early in the morning of June 8th he went to ease himself in the bush when he saw a boy (the escapee) on the ground bleeding and asking for help. Eze stopped PC Hassan Wajiga [Wajiga] and, according to Wajiga, asked him to assist this boy. Wajiga testified that he accompanied the boy toward Prince and Princess Road. Wajiga stated that the boy wanted to stop an okada or taxi, but that no taxis were around at that time, and no okada would stop for him because of "the blood he was carrying." According to Wajiga, the boy asked him to stop any motor and carry him to Force Headquarters. Wajiga testified that when he suggested to the boy that they go to the nearest police station, GPS, the boy refused, stating that if the police there saw him they would "finish him." The boy explained to Wajiga that the GPS police had already shot two of his brothers, one named Paul. Wajiga testified that at this point in their conversation, an ALGON jeep appeared and "collected" the boy from him. Wajiga stated that as he turned to walk away from the jeep, he heard one gunshot. As he turned back toward the source of the noise, he heard a second gunshot and saw the boy "down." Salami stated that he did not shoot the boy. Zakaria testified that none of his team shot the boy. In fact, Zakaria testified that the DPO had never ordered him to execute anyone, and that he, like Salami, believed they had originally left GPS to take the boy and the girl to a hospital.

According to Isaac's testimony, after the DPO searched for the boy, he returned to the vehicle and asked him to drive the "dead girl" back to the station. Isaac stated that he followed the order. Asawa and Baba both stated that between 5:30am and 6:00am, the girl was returned to the station. Asawa stated that when she was returned to the station she was still alive. Idirisu stated that DCD strangled the girl at the station and Chudy stated that Asawa strangled her there and that he had to wait for the girl to die before he could take her picture. Asawa testified that DCD and DPO ordered him to take what were then five corpses to the hospital. Asawa stated he took the five corpses to Asokoro hospital, where, unexamined, they were registered as unknown persons. When Asawa called DCO Victor Pam [Pam] to brief him about his progress at the hospital, Pam told him to return to the station, as there was one more corpse for him to register. (The corpse of the escaped boy had finally returned to GPS. According to Haruna, this corpse was ultimately never taken to a hospital.)

Haruna, of the Abuja Environmental Protection Board [AEPB], testified that at 2:30pm on June 8th he received a phone call from police in Area 3 that police were waiting in his office to discuss with him the burial of six individuals. He could not attend to the police immediately, and testified that he later discovered the bodies had been deposited at the Garki General Hospital Mortuary, where they were to be preserved until their burial. On June 9th at 9:00am, ten AEPB officials took the six corpses in a pickup 504 and proceeded to Apo burial grounds, where they were to inter the bodies. According to Haruna, that morning he received a call from one of these officials that people in AMV had disallowed them to bury the corpses. Haruna stated that he immediately reported the issue to GPS, and that GPS' DPO went to AMV to assess the situation. According to Haruna, later that day, he met with the DPO and the corpses in what he identified to be an Area 3 police station. He stated that the AEPB vehicle had been vandalized and that the DPO asked him to change the burial site to Utako for security reasons. Consequently,



according to Haruna, at 1:00pm on June 9th, DPO, he and his staff went to the burial site in Utako, dug two graves, and finally deposited the six corpses into the earth.

D. The Question of the Six as Armed Robbers

1. The Characteristics of the Armed Robbers

a. The Robbers at DG NEMA's

Dahiru Salisu [Salisu], a security guard at DG NEMA's residence, made statements to both the NPF and the Commission of Inquiry that at approximately 8pm on June 7th; four male armed robbers penetrated the DG NEMA's residence while one accomplice-driver waited outside in a red Honda Accord. According to Salisu, three of the four who entered DG NEMA's residence each had one pistol while one of the four had a long rifle with a long cartridge. Salisu said that he saw four guns in total. The victims at DG NEMA's were robbed of hand sets and a total of 67,000 Naira.

Salisu reaffirmed that there were no ladies among the robbers, and stated that one and only one robber spoke to him in Hausa. DC Danjuma [DCD] stated he was told by two passersby at the scene, whom he could not name or represent with written statements, that the robbers used an Ash Colored 406 and a red car as escape-vehicles.

b. The Robbers at the Crown Guest Inn

Ben Agari [Agari], Manager of the Crown Guest Inn, stated that four males robbed his hotel at 8pm on June 7th. He said that one of the males carried a "dark ash" colored pistol. He implied that at least two of the other three also carried guns, and

stated that none of them carried a cutlass. Mr. Agari said the four robbers ransacked the first floor of his hotel then left through a back exit. Mr. Agari testified that as he watched the four robbers trek away from his hotel, he noticed that one of them had dressed himself in two items from Ben Agari's room: a cap and striped suit. Mr. Agari said that the four men had not come to the hotel in a car and that they left in a red Toyota which they flagged down (after failing to stop okada riders). Mr. Agari said he believed that the robbers then went to Asokoro. He attempted to follow the car toward Asokoro and later believed he saw it parked at Asokoro junction.

Agari also testified that he received a text message at approximately 11:45pm that the individuals who had robbed his hotel had been arrested at Gimbiya Junction and that some of them had been shot. He stated that several people who worked for him went to Garki Police Station on the morning of June 8th to identify the bodies of suspected armed robbers. According to Agari, none of his staff were able to identify any of the displayed corpses.

2. The Characteristics of the Six Compared

a. The Characteristics of the Six

The deceased are five males and one female who, around 1:30am on June 8th, drove an ash colored Peugeot 406. Members of the NPF testified that this 406 was speeding down Gimbiya Street and attempted to evade a police pin down point when it drew their fire. The police conceded that the passengers in the 406 never shot at them. The police further stated that they did not search the 406 while it sat disabled at Gimbiya Street. Therefore any items which were inside the car before its being shot, transported, and placed at Garki Police Station [GPS] are necessarily unknown.

Ultimately, the police "searched" the 406 at GPS and discovered the following weapons: two locally made pistols, a couple cartridges, two daggers, and one cutlass. However, evidence suggests that the discovery of weapons in the 406 was staged. For example,



GPS's Armorer Ishaya Nyalwat [Nyalwat] testified that the DPO called him at 2:30am to produce two pistols and two cartridges to place in the 406. Nyalwat stated that these pistols had been recovered from the scene of a robbery at the Rita Lori Hotel one week earlier, and that he had been shocked to see them "reused." He said the pistols had not been registered when they were first recovered from the Rita Lori Hotel.

PC Haruna Saleh [Saleh] testified that Nyalwat gave him the two locally made pistols and two cartridges to take to the 406. Additionally, he testified that the DPO brought one cutlass and two knives to the scene. PC Dennis Asawa [Asawa] stated that the DPO gave him empty cartridges purportedly from the 406 then asked him to "search" the vehicle. Asawa stated that the DPO told him where to look to find the weapons.

Chudy, a photographer whom GPS employed during the early morning of June 8th, 2005, stated that the DPO asked him to arrange the weapons around the vehicle for the photographs he took. Chudy testified that he put the guns on the ground and that the IPO put guns inside the car. Chudy testified that when he noticed the guns that they planted were the ones recovered at Rita Lori hotel, he commented about this to the IPO, who responded: "it's none of your business." Finally, a ballistics report revealed that the 2 locally made pistols "discovered" in the car had not been used recently.

Regarding the victims, Patrick Mortimer [Mortimer] claimed that none of the boys had criminal records or were armed robbers. Augustine Korondo [Korondo] confirmed in his testimony that the individuals shot by the police were not armed robbers but legitimate traders. Godwin Eze [Eze] stated that the boy he handed over to police one of the "Apo Six" was unarmed and had declared that he was not a thief.

b. Compared with the Robbers at DG NEMA's

According to eye-witness testimony, the five individuals who robbed DG NEMA's residence on June 7th drove in a red Honda Accord, not a Peugeot 406. DC Danjuma's [DCD] statement that passersby linked an ash colored Peugeot 406 to the robbery is suspect for several reasons. First, no eyewitnesses corroborated this statement. Second, DCD could not recall the names of the people who had given him this information. Third, DCD did not take from passersby or offer to the Commission statements to confirm this point. Fourth, it seems unlikely that two cars would have risked waiting at the scene of an on-going armed robbery while only one was necessary as the transport and escape vehicle.

Also according to eye-witness testimony, the robbers at DG NEMA's carried three pistols and a rifle, whereas the victims in the 406 seemed to have carried no weapons. Even if the police had found and not planted the weapons in the 406—which seems unlikely—three pistols and a rifle constitute a markedly different set of weapons than two locally made pistols, two daggers and a cutlass. Additionally, the robbers at DG NEMA's left that scene with handsets and cash, none of which the Garki police claim to have found in the 406. Finally, that one robber at DG NEMA's spoke some Hausa is not determinative. Any person may speak some Hausa.

In sum, the robbers who attacked DG NEMA's residence seem to have been different people than the six who drove in the 406. Although both groups of people entailed at least five men, the evidence that suggests the NPF retroactively framed the individuals in the 406 outweighs the evidence that suggests they did not.

c. Compared with the Robbers at Crown Guest Inn



According to eyewitness testimony, there were four not six individuals who robbed the Crown Guest Inn. They arrived on foot and left in a red Toyota, not an ash colored Peugeot 406. While these robbers had a few guns, the individuals in the 406 seem to have had no weapons. Even if the weapons "found" in the 406 had not been planted, they still differ from the weapons used against the Crown Guest Inn. Police stated the 406 yielded two pistols, two knives, a cutlass, and some expended and unexpended cartridges while, according to Agari, the robbers at the Crown Guest Inn used only (and at least three) pistols.

Additionally, one of the men who robbed the Crown Guest Inn left the scene in a suit and cap, attire which none of the deceased in the 406 were wearing when shot. Also, robbers from the Crown Guest Inn allegedly stole 15-20 handsets and cash, none of which the police claimed to have found in the 406. Finally, Agari testified that no one (of the many who visited GPS) from his hotel could identify the bodies of the deceased from the 406 as the armed robbers who had earlier struck the Crown Guest Inn.

In sum, it would seem unreasonable to conclude that the individuals who robbed the Crown Guest Inn were the same as the individuals, now deceased, from the 406. The fact that both groups contain at least four males is outweighed by the groups' significant differences.

E. The People Behind the Riot's Killings, Injuries and Property Damage

1. The Riot's Killings?

Term of Reference E presumes there was a killing during the June 9th Apo Mechanic Village riots. However, the claim that a killing occurred then remains questionable. For example, one witness said that the people who were killed in the riot were buried with the "Apo Six," so would be discovered when the "Apo Six" were exhumed. However, on Friday, July 29, 2005, the bodies of the "Apo Six" were exhumed, and no more corpses than those of the six were discovered. Additionally, although Imibedion Basil [Basil] and Osita Obi [Obi] testified to having heard gunshots at the riot; although Edwin Okaba [Okaba] testified to being hit with a stick, Obi testified to having been shot in the leg, and Ikechukwu Ene [Ene] testified to having been shot in the chest during the disturbance; and although Patrick Mortimer [Mortimer] claimed that the police killed at least two rioters and absconded with their corpses, the Garki Police Station's OC testified that no civilian has reported to Apo Mechanic Village Police Station—or to any other station he knew of—any riot-related killings.

As it is unclear whether there were actually killings in the Apo Mechanic Village riots, it is also unclear who was behind any purported killings.

2. Behind the Riot's Injuries

While it is unclear whether any person killed or died during the riot, evidence reveals that people there committed violence against each other. In short, the Police testified that the villagers were violent and the villagers testified that the police were violent. For example, Basil, Obi, Bartholomew Nwangwu [Nwangwu] and Ene testified that the police shot their guns at the rioters. As mentioned earlier, Obi and Ene both testified to having wounds from this gunfire. Jona Ochi [Ochi] testified to having been pushed down by the police. Okaba stated the police hit him with a stick and beat up one of his friends. Mortimer stated that the police, in fact, started the riot when they began shooting their guns at the peacefully demonstrating villagers.



However, Yusuf Kolo [Kolo] testifies that several of his eleven officers who were at the AMV Police Station during the riot told him that the villagers, not the police, initiated the riot's physical violence. Augustine Korondo [Korondo] and Haruna affirmed this notion when they testified that one of the "riot's" first events was the villagers' hijacking of the government vehicle which carried the six deceased into Apo. Presumably a hijacking could not occur unless the hijackers used force or the threat of force to physically dominate the hijacked. Once the truck arrived at the police outpost, re-centering the disturbance, Kolo stated that the rioters ultimately used sticks, stones, and bottles to commit violence.

It seems unlikely that the police would have opened fire on the kind of totally peaceful "demonstration" Mortimer described. Testimony and common sense suggest that the villagers turned violent in reaction to either the arrival of the corpses of their community members or to police actions (gunfire, etc.) presumably initially intended for crowd dispersal. Of course, once the riot turned violent, testimony and common sense also suggest that the police used force possibly excessive and discriminatory force to attempt to quell the unrest. It is notable that by the riot's end, only villagers not police had injuries about which they complained to the Commission. In order to clarify the confusion regarding the source of the riot's human-against-human violence, more statements should be taken from the villagers, the 54 arrested "rioters," and the police who were at the scene.

3. Behind the Riot's Property Damage

The Apo villagers and the Apo police also point fingers at each other in attributing culpability for the damage done to property during the riots. Some villagers claimed that the police heaped the damage upon themselves. Mortimer, for example, stated that the police started the rioting and connived among themselves, in general, to bring about the destruction of their own property (for which they would later blame the villagers). He stated that the police set fire to their own station, burned their own cars, etc. Korondo stated that after the riot, police broke down the doors of the homes of the rioters they arrested.

Kolo, however, testified that according to his police and his own experience, the villagers not the police caused the destruction in Apo Mechanic Village that day. He stated that the villagers burned and battered the cars, burned the station, broke down one of the station's cell doors (freeing 16), broke into the police station's exhibit room (removing exhibits), and stole 9 motorcycles (3 of which were later returned). Kolo straightforwardly denied that the police had destroyed their own property.

The weight of the evidence suggests that some villagers, not the police, destroyed the police property. First, although common sense does not always prevail, common sense commands that a person does not act to destroy the means of his own livelihood. Without a functional police station to inhabit, a policeman cannot be employed. Therefore it seems unlikely a policeman would disable his police station by burning it down. Second, only one of several villagers who testified claimed that the police connived against themselves to frame the villagers. Third, the police took decisions, during and after the riot, which could be interpreted to mean that they did not want their property destroyed and they did not intend to frame the villagers as the property-destroyers. For example, according to Kolo, during the riot his police called for backup. The police would not have



called for backup if they wanted to destroy and loot their own station. They would have been inviting their own arrest.

Finally, 54 people were arrested during and after the riot by both HQ and MP police. As these 54 could have been either framed or legitimately indicted, their statements to the police should be reviewed so that further light can be shed on the question of who, individually and generally, caused the destruction in AMV that day.

F. The Extent of the Riot Damage

Apo Mechanic Village Police Station DSP O/C Yusuf Kolo [Kolo] stated that from what he what he was told, from what he witnessed, and from statements he received regarding the June 9th AMV riots, no person died in them. However, he stated that the following objects were burned:

- * The AMV Police Station (in part)
- * 1 Police Mazda pick up
- * 1 Honda Accord
- * 1 Police Peugeot 306
- * 1 VCD (3 loader)
- * 3 VCDs (single loader)

Kolo stated that the following items were damaged or destroyed (by methods other than burning):

- * 1 Jeep
- * 1 BMW
- * 1 Mercedes Benz
- * 2 buses
- * 1 Datsun Laurel
- * 1 Volvo 240
- * 1 door (to exhibit room)
- * 1 police cell

Kolo also stated that the following items were looted from the station:

- * 9 motorcycles (6 were subsequently recovered)
- * 2 locally made pistols (earlier found in an abandoned vehicle)

Kolo estimated that the extent of damage equaled 600,000 naira and denied that the Police had connived against themselves to cause any of the aforementioned destruction.

Patrick Mortimer [Mortimer] stated that Police set their properties on fire. Further, he testified that the Police killed two civilians at the riot and absconded with the corpses. (He testified that if the graves of the deceased six were dug, more than six corpses would be found. This testimony was defeated by the exhumation, which revealed only six persons in the two graves.)

Ikechukwu Ene [Ene] stated that the Police shot him in the chest. Edwin Okaba [Okaba] claimed that the police hit him with a stick and took 2,000 naira from him. He also stated he saw the police beat, wound, and rob one of his peers. CSP Alfa Alhaji testified that of the 54 people arrested in relation to the riot, four persons—

Emmanuel Ogbonna, Dennis Tofa [Tofa], Uche Godwin, and Felix Obiora—reported that the Police took (and never returned) their handsets. Tofa stated that the Police took his watch. Batholomew Nwangwu stated that no Police vehicle was burned or destroyed at the riots, in general.



In conclusion, the testimony that the Police shot and killed two people during demonstration remains unsubstantiated, and the total extent of the riot damage is unknown. In order to precisely calculate the extent of the damage caused during the riot, one would at least need to read the IPO's damage estimates and the statements of the 54 "rioters" arrested none of which were given to me despite repeated demand to the secretariat.

IV. CONCLUSION OF THE FACTS

In its limited human capacity, the Commission cannot know what facts are true. But the following "facts" seem best substantiated by the evidence.

Ø Members of the Nigerian Police Force killed six individuals, the subjects of this inquiry: Ifeayi Ozor, Chinedu Meniru, Isaac Ekene, Paulinus Ogbonna, Anthony Nwokike, and Augustina Arebun.

Ø The six individuals in the Peugeot 406 did not rob DG NEMA's or the Crown Guest Inn.

Ø Weapons that were "found" in their car were planted by police persons at Garki Police Station.

Ø DC Danjuma Ibrahim, Insp. Suleiman Audu or some other persons initially shot at the 406, fatally wounding several of the car's occupants.

Ø Either DC Danjuma or DPO Othman or both of them ordered that Isaac Ekene and Augustina Arebun, who survived the shooting at Gimbiya Street, were to be executed. ASP Zakaria led the 'execution team'.

Ø A policeman executed Isaac Ekene at Gadua Street.

Ø On June 9th, there was a riot in Apo Mechanic Village. The villagers—not the police—damaged the NPF's AMV outpost and property inside and outside of it.



V. RECOMMENDATIONS (G&H)

The recommendations listed below are a compilation of my own and those submitted to the Commission in memoranda.⁴⁴

I. The Nigerian Police Force [NPF] Must be Reformed

a. The Nigerian Police Force needs reform—perhaps a total dismantling and reassembling.

b. A Presidential Commission should work with the NPF towards reviewing and revising the NPF.

c. In restructuring the Force, there is need to consider at least (1) the men and women who do job, (2) the materials with which the job is done, and (3) the environment in which the job is done.

d. The NPF should consider community policing. Historically, crime rates of countries that institute community policing drop 50% within two years of this institution.

e. Reforms should address the culture of killing that exists in the police force today. Too many policemen kill people in instances when they should not. Systems must be introduced within the police force to curb this violent culture. For example: all police who, on or off duty, witness another policeperson kill anyone under any circumstances must report this killing to a body independent of the NPF whose primary purpose is then to investigate this killing. This body, after investigating the killing, should recommend further action to the appropriate authorities. (It will suggest excusal for defensible killings and court action for indefensible killings.) If a policeperson witnesses another policeperson kill anyone and fails to report it within a reasonable time period, he or she is dismissed from the force. Such a system will ultimately motivate policepersons to encourage each other not to kill where killing is indefensible. Its long term benefits will far outweigh its short term costs (i.e. some dismissals and corruption to avoid them).

f. The NPF must establish mechanisms through which any policeperson may report the crimes of his junior or senior colleagues. For example, each command could host a commission responsible for addressing internal complaints regarding professional misconduct. Additionally, the NPF in Abuja could establish a telephone hotline that (exclusively) policepersons could call to give anonymous tips regarding the crimes of their colleagues. The telephone hotline could be linked to an investigative or internal affairs committee.

g. Police must establish procedures to minimize their injuries to civilians. For example, the police must coordinate communication systems with government hospitals so police cars and ambulances may be called to violent crime scenes simultaneously.

h. Police reform must address the police's tendency to apply duress internally to manipulate each other's incident-statements. Harsh punishments must accompany the application and acceptance of duress. If one under duress faces no penalty for accepting duress, he has no motivation to refuse it.

i. Police reform must address the phenomena of irrational orders. Too many police officers give irrational¹⁵ orders and too many police follow them. Mechanisms must exist (such as commissions or telephone hotlines, as previously mentioned) through which any

¹⁵ 44 See Memoranda, Minority Report, Volume II: Supporting Documents.



policeperson can complain about having received irrational orders. Police training should also address the issue of irrational orders.

j. Police must destroy contraband weapons they collect so that these weapons are not recycled into the system.

k. A new police uniform should symbolically accompany the reform of the system. Police should appear friendly in uniform, not sinister.

l. The word "Force" should be removed from "Nigerian Police Force."

II. Funding Reform

a. The NPF must be given the funding it has been allocated, preferably, independent funding appropriated from legislation.

b. The Nigerian Policeman is about the most poorly paid policeman in the world. His allowances are not commensurate with his financial responsibilities. It is no surprise policepersons demand bribes (and therefore become enemies of the public) given their meager salaries.

c. A police constable should be paid a minimum salary of between #25,000 and #30,000.

d. Reform of the NPF must address the relationship between the force's lack of funding and its consequent predisposition to extort money from civilians.

e. The NPF must guarantee its force accommodations, even in the form of local barracks. 80% of Nigerian police officers have no official accommodation. The NPF should not be sleeping on its station floors and living in its offices, as it does.

f. The government must invest heavily on security in budgetary allocation, in general.

III. Recruitment Reform

a. The police recruitment process must be reviewed and revised.

b. The police recruitment process must be competitive. Police should be accepted into the force on merit, not bribes or nepotism.

c. The backgrounds of all prospective police recruits should be screened.

d. Police should undergo psychological tests at the point of entry and periodic psychological tests while in service.

e. Already recruited bad elements should be identified and flushed from the system.

f. The NPF should recruit more lawyers to head divisions. Lawyers will enhance the NPF's performance and accountability to the rule of law.

IV. Training Reform

a. The methods through which police are currently trained need to be reviewed and revised.

b. Police training must embrace respect for human rights, international humanitarian laws, and life, in particular.

c. Competent retired police officers, qualified civilians and NGO workers should aid in police training.

d. The curriculum through which police are trained should include sociology, psychology, rudiments of political science, civics and some aspects of the Nigerian Constitution and Federal Law.

e. Police training must occur in an environment conducive to training and learning. The environment must motivate, not demoralize. Training facilities should strive to include classrooms, multi-media overhead projectors, video cameras, CCTVs, simulation devices, and accommodations for students.



f. Police must be properly trained in weapons handling. A policeperson trained to handle a weapon is least likely to accidentally discharge it.

g. Police should be taught the following:

i. To fire at the tyres of a car, not the doors or windows of a car, in situations where no alternative exists but to stop a car by shooting at it.

ii. Not to use live bullets in riots or demonstrations. In such situations, police should use alternative methods of deterrence, such as tear gas or rubber bullets, if necessary.

V. Promotion Reform

a. Police should not to be celebrated or promoted for killing armed robbers. They should be celebrated and promoted for diffusing conflicts with minimal force.

b. Postings and deployments should not be used as means of punishment

c. Graduate entrants into the Force should begin their career as ASPs.

d. "Federal character" should be a criterion only at the point of entry. Thereafter, merit, integrity, honesty, and similar positive attitudinal traits should be used in determining promotions.

VI. Periodic Check-ups

a. A body of experts must carry out periodic inspections and evaluations of the Force to ensure an acceptable standard of behavior and efficiency.

b. In Benjamin Oyakhire Vs The State, the C.A said: "The police authorities must go the extra mile to ensure that constant checks are carried out on policemen who carry guns, and these checks should include constant examination by a psychiatrist."

c. An Inspectorate Division should be set up at the Ministry of Police Affairs to inspect bi-annually all the commands; enforce compliance and detect non-compliance with performance standards set by the office of the Inspector General of police.

VII. The Public's Role

a. Civilians must stop at police check points to avoid putting themselves at risk of being considered criminals or suspicious by the police.

b. Civil Society should feel it is its responsibility to ensure that lives and properties are protected and that no one is above the law.

c. Members of the public need to be properly informed of their rights and duties.

d. People should be encouraged to report injustices they witness, or punished for not doing so.

e. The public must be enlightened on the need to protect and preserve public properties.

f. Money should be de-emphasized in our national life and replaced with service, academic prowess, honesty, integrity, courage and all the contributions that bring honor and glory to the fatherland.

VIII. The Government's Role

a. Government agency must operate in accordance with the Constitution and the laws of the land.

b. Every citizen must be equal under the rule of law and equally accountable to the rule of law.

c. Government should prioritize her responsibilities to place security beyond any other interest as provided in Section 14(2b) of the 1999 Constitution, which states that the security and welfare of the people shall be the primary purpose of Government.

d. Government must build a new democracy fully conscious of domestic, regional and international human rights obligations.



- e. The government should view crime as a symptom of bad governance.
- f. The government should view crime as a symptom of poverty. The government should therefore focus on poverty reduction as a means to decreasing violent crime in Nigeria. Both the international community and Nigeria have a role to play in increasing Nigerians' average standards of living. The international community, for example, should lower its barriers to trade with Nigeria. The Nigerian government, for example, should develop and invest in its tax enforcement mechanisms so that it can collect the money it needs to support its law enforcement. The government must also actually deliver money to where it allocates it, focusing on providing Nigerians with adequate shelter, food, water, and health care.
- g. A corrupt leader does not sanitize his or her subordinates. Government corruption must be aggressively rooted out, top down. Nigeria needs focused, democratic leaders, not corrupt tribal cabals and chieftains.
- h. The Police Council and Police Service Commission must stand up to their responsibilities.
- i. The President should constitute a commission of inquiry to examine the past activities of the Police with respect to extrajudicial killings. Much evidence of such killings was raised during this commission's tenure and should be addressed.
- j. State governors who constitute the majority of Police Council must use this Forum to correct the inadequacies of Nigerian Police instead of agitating for State Police.
- k. Government should declare all roads and highways in Nigeria to be in a state of national emergency.
- l. Government must immediately organize a commission to reform the Nigerian Police Force.
- m. The government should reintroduce high way codes and road signs.
- n. The government must ensure street lights are working. Lit grounds tend to be used more legally (by police and citizens) than unlit grounds.
- o. That government must provide adequate compensation to the families of the deceased, where appropriate.
- p. The government must return the corpses of the deceased to their respective families for proper burial.
- q. In the future, the government must not bury people in shallow graves. Such burials disrespect the dead and form health hazards.

IX. The Victims Families

- a. The government should compensate the victims' families in accordance with appropriate compensation law.
- b. The bodies of the deceased must be returned to their respective families for proper burial.

X. The Perpetrators

- a. All police implicated in the killings or riots should be charged to court and punished, where appropriate, in accordance with the laws of Federal Republic of Nigeria.

VI. THE FACT-WRITING PROCESS

My task was to write a report that applied forty-eight testimonies, seven affidavits, one autopsy report, one ballistics reports, and twenty-five memorandums to the Commission's eight terms of reference. The question of how this was to be most efficiently done had—and still has—no obvious answer. I have two goals, though, in sharing how I ultimately



chose to approach this task. First, I want the public to understand how I arrived at my conclusions. Second, I want future tribunals to have at least one analytical methodology to criticize or adopt.

My first decision regarding this task was to produce my own report. In short, I had disagreed with many of the Commission's (internal and external) processes and many of its conclusions, so I decided to speak for myself. I did not want to endorse a collective document I did not believe in its due process findings.

Second, I decided to think backwards from my goal to conceptualize the steps I would take to achieve it. My goal was to produce a report that addressed each term of reference in turn, or consecutive sections. I wanted each section to address every piece of evidence that was germane to it. To do this, I would need to know which peoples' testimonies were relevant to each term of reference.

Of course, I did not want the report's sections to be mere lists of relevant evidence, but critical analyses of relevant evidence. Before I could analyze the evidence, I would first need to find the points from each testimony that deserved to be analyzed. To find the salient points from each testimony, I would have to study the testimonies with the terms of reference at the forefront of my mind.

Thinking forwards, then, I saw the steps I should take. First, I needed to re-read the testimonies to determine their "salient points." Knowing I would ultimately need to compare these points, I decided to develop a way to "determine" them that produced a tool I could later use in my comparative analysis of the testimonies. This way and tool I developed was the "consolidated testimony":⁴⁵ I would join my notes of the witnesses' testimonies with the verbatim records of the witnesses' testimonies then cut away the irrelevant shards, leaving only significant statements behind. Consequently, I would have achieved two things—(1) created lists of significant facts that were (2) ready for comparison—in one body.

As mentioned earlier, I would discover the significant statements by reading the testimonies through the lens of the terms of reference. This task was difficult, and almost proved useless. Wary not to exclude important details—or details that seemed unimportant but may ultimately prove pivotal—and without more self-guidance than the plan to draw out "salient points," I retained a significant amount of every testimony.

After I "consolidated" the testimonies, I moved forward to the next necessary step: group the testimonies by terms of reference to prepare to analyze them. First, I created a chart in which I divided the testimonies (by witness name) among their appropriate terms of reference. Under "A," I listed all witnesses whose testimonies were relevant to term of reference A. Under "B," I listed all the witnesses whose

¹⁷ 45 See Testimony Summaries, Minority Report, Volume II: Supporting Documents.



testimonies were relevant to term or reference B—and so on, all the way to H, the final term. (I felt comfortable dividing the testimonies by subject matter because I felt familiar with each one. I had heard each once and read each at least twice—once when I first received the verbatim record and once when I consolidated it. One who is not familiar with testimonies would not find this methodology useful.)

After dividing the testimonies (by witness name) into their appropriate terms of reference, the next thing to do was to somehow create the comparative analysis. With over ten testimonies to address in many of the reports' eight sections, I knew I should not succumb to the temptation to simply dump the lists of salient points in their relevant sections and stare at them until noteworthy comparisons emerged. I realized I should develop a tool that could filter the salient statements into the relevant sections in such a way that grouped the statements that needed to be compared.

With this realization, I saw the flaw in having consolidated the testimonies. As I consolidated the testimonies, I had inevitably determined what the "salient points" were. In doing so, I had inevitably determined why these points were salient. For example, I found it significant that one policeman said that the six individuals who had been killed did not shoot at the police. But in finding this point important, I was also finding that the question of whether the individuals shot at the police was important. By simply consolidating each testimony, I overlooked the questions I actually wanted answered. I was listing these questions as I worked. Such a list created a framework for the final analysis, as each question could have answered each testimony, thus grouping the specific statements that would inevitably need to be compared.

Moving forward, I developed the tool that could filter the salient statements into the relevant sections in such a way that grouped the statements that needed to be compared, thus doing what I realized I should have been doing before. I called the tool "Guiding Questions."⁴⁶ "Guiding Questions" was a guide of the questions regarding the facts that I wanted answered. The questions were grouped into the terms of reference to which they applied. "Guiding Questions" section "A," for example, contained all of the questions I wanted answered in order to comprehensively address term of reference A. I ordered the questions such that their answers would form the appropriate structure of the narrative I would write. My plan was to read through each testimony, plucking out the answers I needed—the "salient points"—and placing them in the "Guiding Questions" document under their respective questions. At the end of the

¹⁸exercise, the residue heaped under each question would contain all of the pertinent statements that needed to be compared.

The exercise was successful. At its end, I had a document in which each important question was answered by every testimony and in which each answer was positioned to interconnect logically with those before and after it. The skeleton of narrative was complete. I just had to put flesh on its bones, comparing, contrasting, and analyzing the statements collected.

Here is a sample of some "Guiding Questions" regarding Term of Reference "C," the "circumstances" surrounding [the victim's] death. This sample addresses the fatal encounter between the police and the 406 at Gimbiya Street.

a. "406 encounter at Gimbiya St.

1. Who was in the 406?

¹⁸ 46 See Guiding Questions, Minority Report, Volume II: Supporting Documents



2. Which police were at the pin down point?
3. Did the 406 speed toward the pin down point [pdp]?
4. Did the 406 stop at the pdp?
5. Did the 406 try to escape the pdp?
6. Did passengers in the 406 shoot at the police?
7. Who shot at the 406?
8. From which position, in relation to the 406, did they shoot?
9. Why did the shooter shoot?
 - a. Defensive action?
 - b. Order?
 - c. Aggression?
10. How many in the 406 died at the scene?
11. Was the 406 searched at the scene?
12. Did a victim make a phone call on the way to GPS?"

After filtering the testimonies through the questions, they looked like this:

b. 406 encounter at Gimbiya St.

1. Who was in the 406?
2. [Names of witnesses:] Audu, DCD, Marmot, Philibus, Audu, Garba, Alamba: [Answer to question:] 6 people: 5 male, 1 female.
3. Which police were at the pin down point?
All: Insp. Audu a 3 PCs, DCD, Alamba
4. Did the 406 speed toward the pin down point [pdp]?:
 - a. DCD Audu and 3 PCs: yes.
5. Did the 406 stop at the pdp?
6. DCD Audu 3 PCs: No. Slowed down, didn't stop. DCD: tried to block, but car didn't stop. Garba: it only stopped after it was shot at.
7. Did the 406 try to escape the pdp?
8. Yes according to DCD, Insp, and 3 PCs. Refused to stop, tried to escape, reversed into pavement and tree, then started to turn forward to U-turn until it was shot
9. Did passengers in the 406 shoot at the police?
10. Insp. Audu: did not exchange fire w 406. Garba, Marmot, Philibus: No one shot from 406. Alamba: doesn't know, just heard a lot of gunfire. DCD: didn't know where it coming from, just took cover.
11. Who shot at the 406?
12. DCD: Audu shot at 406; All else said DCD did. DCD: I could have used my service pistol if I had wanted to.
13. From which position, in relation to the 406, did they shoot?
14. Re-enactment by Audu: Audu said he was standing at median; DCD came to him at median. Suspicious: logistics. Bullets should have hit opposite side.
15. Why did the shooter shoot?
 - a. Defensive action?
 - i. DCD said under force order 237 that Audu shot to protect senior officer DCD.
 - ii. Audu: both life of him and DCD were in danger from the speeding 406
 - b. Order?
 - i. Audu and 3 PCs: DCD ordered Audu to fire, fire, but Audu wouldn't so DCD took gun and shot



c. Aggression?

i. Motives discussed earlier

16. How many in the 406 died at the scene?

a. Audu and 3 PCs: 4 not moving, 2 moving. Couldn't tell whether dead or not.

b. Alamba: saw 4 persons walk to ALGON jeep; saw 4 persons walk while 1 assisted. Discrepancy not clarified in testimony.

c. DCD: 1 presumed dead, 5 injured

17. Was the 406 searched at the scene?

a. DCD, Audu, Garba, Mamot: no

b. Philibus: no gun found at scene

18. Did a victim make a phone call on the way to GPS?

a. Nimron: no.

Ultimately, this section of questions and answers was transformed into the following narrative:

"Whatever the original source of DCD's suspicions regarding a 406, the four other men at his pin-down-point Insp. Suleiman Audu [Audu], PC Yabubu Philibus [Philibus], PC Ibrahim Garba [Garba], and PC Haruna Mamot [Mamot]—testified that as the car sped toward their position, they now, too, became apprehensive. DCD, Audu and the three police constables all testified that DCD backed his BMW toward the speeding car to create a breaking distance; that the car, an ash colored Peugeot 406, refused to stop but steered toward space beside DCD's vehicle through which it might have passed; that the DCD backed his car into the adjusted line of the 406; and that the 406, in a failed attempt to evade the DCD's vehicle by again swerving around it, hit the back of DCD's BMW. According to DCD, Audu and the three constables, the 406 then attempted a U-turn, reversing into a small tree and accelerating forward toward the direction from which it came. According again to DCD, Audu and the three constables, at the moment the 406 began its forward turn, one of the police at the pin-down-point unloaded bullets across its side, bringing the car finally to a halt.

DCD, Audu and the three constables all testified that the 406 had contained six occupants: five males and one female. Audu and the three constables stated that after the shooting, four of the six lay motionless in the vehicle. They stated that two of the six moved and screamed, and that they did not then know whether the motionless were dead. DCD testified that he immediately presumed that one of the six was dead and that five others were seriously injured. Yakubu Alamba [Alamba], a security guard who claims to have witness the event, stated that after the car was disabled, four or five of its occupants were well enough to walk from it. DCD, Audu, Garba and Mamot testified that the 406 was not searched at the scene. Philibus testified that no gun was found in the car at Gimbiya Street.

While Audu and the three constables agreed that none of the occupants of the 406 had ever shot at them, they and DCD disagreed over which of them had shot at the 406. DCD, who testified he did not know who was shooting at whom (and consequently took cover behind his vehicle), stated that Audu shot at the 406. Audu and the three constables stated that DCD shot at the 406. They claimed that DCD exited his vehicle and ordered Audu twice to fire his AK-47 rifle at the escaping car, but because Audu refused to fire, DCD had to take the rifle from Audu's hands and shoot the 406 himself. DCD testified that if



he had wanted to shoot the 406, he would have used the service pistol he carried. DCD insisted that under Force Order

237, Audu had shot at the 406 to protect DCD. Audu acknowledged in his testimony that the speeding 406 had made him feel that both his and DCD's lives were in danger.

When re-enacting the incident several weeks after it occurred,⁴⁷ Audu testified that he was standing on the median when DCD took his rifle from him to shoot at the 406. However, Audu's purported positioning was logistically problematic. As the 406 progressed down Gimbiya Street, the median where Audu said he and DCD had stood would have been parallel and left of the car's driver's side. When the 406 stopped to attempt a U-turn, its driver allegedly turned his steering wheel clockwise, reversing back to his right, away from the median and into a tree by the side of the road. By the time the 406 hit the tree, only its front and passenger side would have been exposed to the position on the median where Audu said he and DCD stood. By the time the 406 accelerated forward and turned left, crossing the road perpendicular to its intended direction, still only the car's front and passenger side would have been exposed to Audu or DCD's fire. Audu said that it was at this time, when the car accelerated forward and away from the tree, when DCD shot. However, if DCD had shot at this time from the position on the median where Audu said he was, bullets could have hit only the passenger's side of the car. In fact, the 406 is peppered with bullet holes only on its driver's side. A ballistics report substantiates this, and additionally states that the diameters of the perforations on the 406 could not have been created from bullets shot by an AK-47 rifle. He posited that the perforations could have been created from a pistol or a revolver, but not from a Browning, the kind of gun the DCD carried."⁴⁸

In retrospect, I probably should have skipped the step in which I "consolidated" the testimonies. While it was aesthetically appealing to have documents dense with important facts, the efficiency the consolidation process meant to achieve was ultimately made obsolete by future realizations of better strategies. The only benefit to the consolidation process was the way it forced me to re-read every testimony, thus increasing my familiarity with the "facts." The more familiar I was with the facts, the more pertinent "guiding questions" I could conceptualize.

In the future, I recommend that commissioners tasked with similar responsibilities approach their fact-writing as follows. First, they should familiarize themselves with all of the testimonies by reading and re-reading them. Once they are familiar with the nature of the testimonies, they should couple this knowledge with their terms of

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⁴⁷ July 20th, 2005: Commission members visit Gimbiya Street
⁴⁸ Minority Report, Section III (C) (2), pp. 40-43



reference to produce a grid of "guiding questions" or "guiding points." In essence, they should list every point that their report needs to address. If possible, the list should reflect a structure that could ultimately be transformed into a narrative. They should then filter all of their testimonies through this list, dividing similar points into their smaller groupings and greater report structure. Finally, the narrative should be written, the facts analyzed, and conclusions drawn, if possible.



SECTION IV

MAIN REPORT OF THE UNITED NATIONS SPECIAL RAPPORTUER
OF EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS
ON HIS MISSION TO NIGERIA IN JUNE/JULY 2005



Summary

In spite of all the efforts made by the Government of Nigeria to combat corruption and consolidate the restoration of democracy, there remain serious problems in relation to extrajudicial executions. These were recently acknowledged by the President, and this report identifies measures required to improve the situation. The problems are illustrated by four case studies: (i) the framing and killing of six innocent civilians by the Police in Apo in June 2005; (ii) the extrajudicial execution in police custody of alleged armed robbers in Enugu in January 2005; (iii) the killing by security forces of an innocent bystander who witnessed their conduct during communal violence in Kano in May 2004; and (iv) the death penalty by stoning under sharia law for private sexual acts such as adultery and homosexuality.

In relation to the death penalty there are three major concerns: widespread procedural irregularities, including the use of torture by the police to extract confessions, the lack of legal representation in capital cases, and death sentences handed down by military tribunals under the former regime; atrocious death row conditions and an unacceptable average twenty-year stay on death row; and the imposition of death by stoning for adultery or sodomy in 12 states, in contravention of Nigerian and international law. The Federal Government should reiterate that the imposition of the death penalty for offences such as adultery and sodomy is unconstitutional. All persons sentenced to death or life imprisonment under martial law should have their convictions reviewed in recognition of the highly unsatisfactory due process protections applied at the time.

The Nigerian police force is at the same time seriously under-resourced and confronted with a high rate of violent crime. As a result, abuses including corruption, arbitrariness, torture, excessive use of force and executions are common. There are no systematic statistics recording such executions. An annual register should therefore be published to report fully, promptly and accurately on all deaths at the hands of police.

Police put forth various pretexts to justify extrajudicial executions. When a victim is killed in custody, an attempted escape may be cited. When the victim is killed before being taken into custody, his status as an armed robber may be cited. Resort to these pretexts is facilitated by the domestic legal framework. First, the elevation of armed robbery to the level of a capital offence has perverse consequences. While armed robbery does plague much of Nigeria, the label of "armed robber" is very often used to justify the jailing and/or extrajudicial execution of innocent individuals who have come to the attention of the police for reasons ranging from a refusal to pay a bribe to insulting or inconveniencing the police. There is reason to doubt that the 2,402 armed robbers killed since 2000 were in reality all armed robbers, much less that they were all killed in shoot-outs. Armed robbery as such should be removed as a capital offence.

Second, the standing "rules for guidance in use of firearms by the police" are deeply flawed. Police Order No. 237 authorizes the use of firearms if a police officer cannot "by any other means" arrest or re-arrest any person who is suspected (or has already been convicted) of an offence punishable by death or at least seven years' imprisonment. The rules which elaborate upon this provision are even more permissive. According to these rules, any person who seeks to escape from lawful custody commits a felony warranting a seven-year sentence. As a result it would be justified to shoot to kill someone charged with stealing goods of negligible value but alleged to be seeking to escape from custody.



These rules practically provide the police carte blanche to shoot and kill at will. Police Order No. 237 should be amended immediately to bring it into conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The resulting emphasis should be on proportionality, on the use of lethal force as an absolute last resort, and only as stated in the Basic Principles, "when strictly unavoidable in order to protect life".

Extrajudicial executions are also facilitated by the impunity the police force enjoys. The system for investigating police misconduct requires significant reforms, and it is encouraging that the Government shares this view. The report proposes reforms and canvasses current initiatives under the rubrics of internal accountability, governmental accountability, and societal accountability. Despite the many obstacles, a systematic reform effort is both necessary and possible.

The police force must be reformed rather than marginalized. There are a number of practices that attempt to maintain public order without relying on the police force: the use of the military for policing, the "supernumerary" hiring of police by oil companies, and the open and covert support of vigilante groups by State officials. The military regularly supplement or even replace the police in establishing law and order in civilian disturbances. This has sometimes involved massive abuses, such as the revenge killing of over 200 civilians in Benue State in 2001. In that incident, and others, the reports of the inquiries have been kept confidential, and no measures have ever been taken against those responsible. The proliferation of vigilante groups also poses problems of abuse and accountability. While there is a benign traditional concept of vigilantism in Nigeria, many groups have moved far beyond the appropriate

limits. The Government must ensure accountability and lawful conduct by all groups and must improve the performance of the police to fill the vacuum in local law enforcement.

The problem of extrajudicial executions in Nigeria is closely linked to the remarkable inadequacies of almost all levels of the Nigerian criminal justice system, as exemplified by the following:

- Investigation: there is no tradition of systematic forensic investigation in Nigeria, only one ballistics expert in the entire country, only one police laboratory, and no fingerprint database. According to one estimate, confessions are the basis for 60 percent of prosecutions;
- Coroner's inquiries: coroners are an endangered species and inquiries a rarity; it is commonplace for pathologists to sign reports without even examining the body;
- Prosecution: public prosecutors have no control over police investigations, nor can they demand that individuals be produced in court;
- Judiciary: adjournments are handed out with reckless abandon, resulting in thousands charged with capital offences being left to rot in prison;
- Detention: police routinely obtain a "holding charge" that permits suspects to be held more or less indefinitely in a legal limbo based on little more than a suspicion of criminal activity.

There is no single starting point for reform. A necessary first step is that each institution accepts its share of responsibility.

While this report focuses on major problems, there are also many encouraging developments. In particular, the fight against corruption at all levels is closely linked to issues of extrajudicial executions, and recent initiatives have succeeded in targeting some



of the most prominent cases. In August 2005, President Obasanjo acknowledged that extrajudicial executions are widespread and made a clear commitment to rooting out this practice and punishing those responsible. Earlier in 2005, the acting Inspector-General of Police announced that "the days of extrajudiciary killings" must end. Fortunately, there are elements within the police and the armed forces committed to promoting reforms. Much will rest on their shoulders. To further this process of reform, the present report identifies measures required to improve the situation.



Introduction

1. This report describes the situation in Nigeria in relation to extrajudicial executions.¹ It is based upon in situ visits and extensive interviews undertaken in four States and in the Federal Territory of Abuja. The cooperation provided by the Government of Nigeria at all levels is acknowledged with gratitude. The appendix provides complete details of the visit.
2. Nigeria is the most populous and one of the most resource-rich countries in Africa. It gained independence in 1960, and civilian rule was restored in 1999. The population is 130 million, of whom three-quarters live on less than one dollar a day. In October 2005 it negotiated debt relief worth \$18 billion, which could lead to the elimination of its outstanding debt by early 2006. Oil accounts for 98 per cent of Nigeria's exports and 80 per cent of government revenues.
3. It is customary in reports of this nature to provide a detailed overview of the country and of its constitutional structure and legal and administrative institutions. Since this information is available to the Commission on Human Rights from other up to date sources it will not be replicated here.²
4. Shortly after the completion of the Special Rapporteur's mission to Nigeria, President Obasanjo acknowledged, in August 2005, that extrajudicial executions and killings of suspects and innocent citizens by the police were widespread. The President made a clear commitment to rooting out and punishing those responsible.³ This report provides an indication of what needs to be done.
5. The applicable legal framework is straightforward. Nigeria is a party to the six principal human rights treaties, and its 1999 Constitution contains extensive human rights provisions. As far as possible the Special Rapporteur sought to establish, to a standard beyond that of reasonable doubt, the accuracy of the allegations referred to

¹ Throughout this report the term "extrajudicial executions" is used to refer to executions other than those carried out by the State in conformity with the law. As noted elsewhere "[t]he terms of reference of this mandate are not best understood through efforts to define individually the terms "extrajudicial", "summary" or "arbitrary", or to seek to categorize any given incident accordingly." Rather, "the most productive focus is on the mandate itself, as it has evolved over the years through the various resolution.

² See the report of the Special Rapporteur on Freedom of Religion or Belief on her visit in 2005, E/CN.4/2006/5/Add.2. It should also be noted that Nigeria has reported to both the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination in the course of 2005. For the respective concluding observations adopted by each committee see CERD/C/NGA/CO/18 and CRC/C/15/Add.257.

³ "Nigeria: Obasanjo admits extrajudicial killings by police, pledges action", available at <http://allafrica.com/stories/200508190726.html> and also at <http://www.reliefweb.int/rw/RWB.NSF/db900SID/KKEE-6FEP6X?OpenDocument>.

in this report. In terms of domestic remedies, they are plentiful in theory, but very often unavailable in practice. Many sources are first-hand and have been backed up by appropriate documentation whenever available. While newspaper reports are never relied upon exclusively, they are cited to contextualize various issues.



I. FOUR REPRESENTATIVE CASE STUDIES

6. A leading Nigerian NGO, the Legal Defence and Assistance Project, recorded 997 cases of extrajudicial killing in 2003, of which 19 resulted in a prosecution. For 2004 there were 2,987 cases and not a single prosecution.⁴

7. But statistical data recording systemic pathologies are no substitute for the vivid details of reasonably typical cases. Thus this report begins by illustrating the major current concerns through four recent case studies. Each is indicative of a much broader problem.

A. Case study 1: the "Apo 6": the framing and killing of innocent civilians

8. The Abuja Police reported that on 8 June 2005 in the Apo district of Abuja five young male traders and a female student⁵ were arrested on suspicion of armed robbery, taken to the Garki police station, and subsequently killed while trying to escape. The dead robbers were photographed with their weapons, a post-mortem was conducted as required, death certificates were issued after examination by a doctor, and the bodies were buried. When challenges to this story first emerged the Federal Capital Territory Police Commissioner, Emmanuel Adebayo, publicly affirmed these details. The case looked very typical of many reported by the police in Nigeria.

9. Unfortunately for the police, however, one of the "robbers" had managed to phone a relative from the police station and reported that the six had been involved in an altercation in a pub with a police officer. Their car had subsequently been ambushed by other police who were called in, they had all been badly beaten, and they were taken to the police station. Family members immediately sought their release but were unable to pay the bribe of 5000 Nairas (\$40) demanded by the police. Several of them were executed a few hours later. Another managed to escape but was recaptured and brutally killed by the police. In fact, no post-mortems were carried out, death certificates were not completed by a medical officer, and the bodies were hastily buried in a common grave.

4 "Extra-Judicial Killings on the Increase in Nigeria", This Day (Lagos), 31 Oct. 2005, available at <http://allafrica.com/stories/200511010208.html>.

5 The victims were: Anthony Nwokike, Chinedu Meniru, Ifeanyi Ozor, Ozor, Issac Ekene, Paul Ogbonna and Augustina Arebu. Their ages ranged between 20 and 28.

10. The news of the killings spread rapidly. Rioters ransacked the Apo police station and demanded an investigation. The relatively new Acting Inspector-General of Police convened an internal investigation. But he also took the unprecedented and commendable step of making its proceedings public. Two further elements compounded the horror story that was to emerge. One police officer who took part in the killings allegedly provided the victims' relatives with information on what really happened. He died of "tonsillitis" the day before he was supposed to give evidence to the inquiry. He was subsequently deemed to have been poisoned by two of his colleagues. Meanwhile, the Divisional Police Office in charge of the Garki police station on the fateful night "escaped" from detention.⁶

11. In the course of the inquiry one police officer and the photographer on duty that night confirmed that the youths had been killed in cold blood. It was subsequently revealed that the "robbers" alleged weapons had been in police storage until they were removed by a police officer shortly before the incident. As a result of the inquiry ten police officers were arrested.



12. On 27 June 2005, one day after the Special Rapporteur arrived in Abuja, the President unprecedentedly appointed a Federal judicial commission of enquiry. 7 In December 2005 the Government paid compensation of 3 million Naira to the relatives of each of the six.

13. If the Apo 6 were an isolated incident it would be a tragedy and a case of a few bad apples within the police force. Unfortunately, many of the ingredients - the false labelling of people as armed robbers, the shooting, the fraudulent placement of weapons, the attempted extortion of the victims' families, the contempt for post mortem procedures, the falsified death certificates, and the flight of an accused senior police officer - are all too familiar occurrences.

14. Thus the Apo 6 killings were not an aberration. The Government response, however, was noteworthy in four important respects: the Inspector-General of Police was responsive to protests; the internal police inquiry was public; a judicial inquiry was established; and compensation was paid. These elements need to become routine in the future.

6 "Blood chilling tales", Newswatch, July 11, 2005.

7 A leading NGO, Access to Justice, implied that the inquiry had been set up partly because of the Special Rapporteur's visit in order to show the Government in a good light ("to launder the ... Government's very disappointing record" in response to executions). Apo Police Killings: Federal Government's Indulgent Attitude to Extrajudicial Killings Produced the Apo Killings, available at http://www.humanrightsnigeria.org/sitenews/news/news_item.asp?NewsID=22.

B. Case study 2: the "Enugu 6": the extrajudicial execution of alleged armed robbers

15. A bank was robbed in Enugu on January 27, 2005. Six accused,⁸ mostly university students, were arrested from various locations during March and April and were transferred to the Ogui Area Command in Enugu. On April 27, 2005 they were paraded before journalists at the Enugu State CID (Criminal Investigation Division) to publicize police success in fighting crime. Photographs of the six in handcuffs were widely published in the press.⁹

16. Local human rights groups feared that this public parade signified the prelude to a "traditional" execution by the police. Accordingly, the Nigerian Civil Liberties Organisation called upon all the relevant authorities to ensure that the accused were taken before a judge and protected from "imminent execution".¹⁰ Just a few days later, and after some had been in police custody for more than a month rather than being arraigned before a judge, all six accused were killed while allegedly attempting to escape. Not one of the "escapees" was merely wounded, and not one received medical attention. No autopsy was carried out, the bodies were never seen by the families, and it is unknown where they were buried. No serious inquiry appears to have been undertaken, no police officers have been investigated, and none charged. Nor have the police responded to any inquiries from human rights groups or the victims' families.

17. A later press report quoted "an insider at the police headquarters" who indicated that all of the accused had asked to go to the toilet at virtually the same time. According to the source, "soon afterward they began to make funny movements which suggested that the boys were ready to escape from jail. For a sensible policeman under such predicament



and who had his rifle loaded, the next option available would be to gun the suspect down and that was exactly what may have happened".¹¹

18. This scenario is utterly implausible. Even if it were true, it would represent an entirely disproportionate use of force to subdue individuals who were unarmed, still within police custody, and had not escaped. Once again, this case study represents a

8 The men were: Murphy Opara, Emeka Madubosa, Uchenna Asogwa, Ikechukwu Asogwa, Chimezie Ugwu and Kelechi Chukwu. The Special Rapporteur heard evidence and received documents from the families and legal representative of the deceased.

9 "Millionaire Robbers; Police Smash gang which stole N28m from bank," The Sun, May 12, 2005.

10 Letters were sent to the State Police Commissioner on 31 March, to the Federal Attorney-General on 5 May, and to the National Human Rights Commission on 6 May.

11 "Police Shoot Suspected Equity Bank Robbers?", The Starlite, Monday, June 27, 2005. common practice within the Nigeria Police and it is unsurprising that their own figures list 2,402 armed robbers killed since 2000. In 2004, for example, 3,184 armed robberies were reported which led to the killing of 569 robbers and 111 police.¹² Moreover, according to civil society groups, these figures do not capture the real magnitude of the phenomenon of extrajudicial killings of alleged robbers.

C. Case study 3: the killing of Lawan Rafa'i Rogo: executions in the course of responding to communal violence

19. On 11 May 2004, violent clashes broke out in the city of Kano. Estimates of the number killed within a two day period range from the Police figure of 84 to a more commonly cited 200-250.¹³ The response of the security forces involved disproportionate force, aided by an order to shoot on sight, and dozens of people appear to have been killed by police and soldiers.

The killing of Lawan Rafa'i Rogo, a civil servant in the State Ministry of Commerce, is emblematic. Rogo expressed concern to a neighbour who was being militarily escorted to her house that the sight of the soldiers could raise tensions in the area due to the prior killing of a neighbourhood child by the military. The soldiers left the area, but soon returned in larger numbers. They broke into the house where those in mourning for the child had assembled, firing indiscriminately. Rogo appears to have been singled out and was shot in the chest, thigh and legs. He died several hours later.

20. A subsequent State Government commission of inquiry effectively confirmed the impunity of the military which had refused to cooperate in any way.

D. Case study 4: the sharia courts and stoning to death for homosexuality

21. In 2000 the jurisdiction of the sharia courts,¹⁴ which exist in twelve states, was extended from civil and personal matters to criminal cases. Concerns have long been expressed that the sharia judges lacked the training necessary to deal with criminal matters, that a confession alone was sufficient to convict, that defendants were unrepresented or poorly represented, and that some penalties violated human rights standards.¹⁵ After considerable publicity and lengthy legal proceedings, the widely-publicized convictions of several women sentenced to death by stoning for adultery

¹² Figures provided by the Inspector-General of Police, 2 July 2005. While the police would suggest that all of the deceased were killed in "shootouts", the figures provided did not reflect the actual circumstances of the various shootings.



13 See Human Rights Watch, *Revenge in the Name of Religion: The Cycle of Violence in Plateau and Kano States*, p. 62.

14 Jurisdiction applies to "[e]very person who is a Muslim and/or every other person who voluntarily consents to the exercise of the jurisdiction of the Shari'ah Courts ...". See e.g. Kaduna State, *The Shari'ah Penal and Criminal Procedures Codes, 2002*, Section. 3(1).

15 See Human Rights Watch, *Political Shari'a? Human Rights and Islamic Law in Northern Nigeria* (September, 2004). were overturned. In a lengthy discussion of these issues, several judges of the Appeals Court of the Grand Khadi of Kano sought to allay the concerns of the Special Rapporteur by recalling the injunction attributed to the Prophet to "[p]ut off the hudud (prescribed) penalties in cases of uncertainty".

22. The day after meeting the judges the Special Rapporteur asked to meet with all death row prisoners in Kano prison. One of them was a 50 year old man awaiting death by stoning after being convicted of sodomy. A neighbour had reported him to the local Hisbah Committee¹⁶ which carried out a citizen arrest and handed him to the police. He claimed to have been comprehensively beaten by both groups. The official court records show that he admitted to the offence, but sought the court's forgiveness. He had no legal representation and failed to appeal within the time provided. The Special Rapporteur subsequently took steps so that a late appeal could be lodged and the case is now under review.

23. In December 2005 the Katsina Sharia Court acquitted two other men charged with the capital offence of sodomy, because there were no witnesses. They had nevertheless spent six months in prison on remand which the judge reportedly said should remind them "to be of firm character and desist from any form of immorality".¹⁷

24. Regardless of the circumstances of the individual case, however, the incident serves to highlight several major problems. They are the use of stoning to death as a punishment, and the prescription of the death penalty for private sexual conduct.

E. The approach adopted in the report

25. These four case studies are illustrative of the types of issues that demand particular attention from the Nigerian Government in order that the systems for maintaining law and order and providing criminal justice do not violate applicable standards of human rights. In the remainder of this report further details are given in relation to each of the major problem areas.

16 Hisbah Committees are groups of mostly young men who patrol neighbourhoods with the aim of preventing crime and arresting individuals suspected of committing crimes against the Shari'a. The committees are largely unregulated and untrained, although they are often provided with E/CN.4/2006/53/Add.4 page 29

vehicles, uniforms and an office by the local or state government. Although they are not authorized to carry out punishments, there have been numerous reports of Hisbah Committees flogging and beating suspected criminals. The role of the Hisbah Committees is discussed below under the heading "Vigilantes".

17 Reported in Online Nigeria, 9 Dec 2005, available at <http://nm.onlinenigeria.com/templates/?a=6318&z=12>.

Consideration is then given to the deep pathologies pervading most aspects of the criminal justice system. Finally, specific recommendations for immediate measures to alleviate the situation are identified.

II. THE MAJOR PROBLEMS



A. The right to life and the death penalty

26. Several aspects of the death penalty in Nigeria are of particular concern: (a) widespread procedural irregularities; (b) conditions on death row; and (c) the operation of sharia law, especially in relation to adultery and sodomy.

(a) Procedural irregularities

27. During the military era the death penalty was liberally prescribed for a range of offences including economic crimes such as setting fire to public buildings, ships or aircraft, tampering with oil pipelines or electric and telephone cables, and the selling of cocaine. Today Nigerian Federal law prescribes the death penalty only for treason, homicide and armed robbery.

28. In 2004 there were 530 condemned convicts on death row in Nigeria. In the course of the Special Rapporteur's visit to several prisons he spoke on an individual basis with more than 20 per cent of this number. It became clear from individual testimony, supported by convincing civil society studies, that torture is consistently used by the Nigeria Police to extract confessions and that these confessions have often been critical to the conviction of persons charged with capital offences. Moreover many defendants in capital trials have effectively had no legal representation and legal aid is not available for appeals.

29. In addition, many of the individuals with whom he met on death row were tried when Nigeria was governed by a military regime, when various constitutional rights were suspended and capital trials were sometimes conducted by military tribunals. The procedural probity of such trials was almost certainly deeply flawed. Another problem is the imposition of the death penalty for crimes committed as a minor.

(b) Conditions on death row

30. The average period spent on death row is 20 years.¹⁸ From the observations of the Special Rapporteur the resulting health risks to these prisoners are immense. Prisons are overcrowded and unsanitary and many prisoners develop serious illnesses that often go untreated.¹⁹ In addition, and partly as a result of these conditions, a significant number of these "condemned convicts" suffer from serious mental illnesses for which they receive no treatment or care.

¹⁸ At least one prisoner has been on death row in Lagos since 1981.

¹⁹ Further discussion of prison conditions can be found below under the heading "The prison system and deaths in custody".

31. Because of the abusive use of the death penalty by Nigerian military governments most of today's civilian Governors are extremely reluctant to sign execution warrants. For the reasons discussed above, signing such warrants would seriously risk the execution of an innocent person.

This does not, however, justify the standard alternative: 20 years on death row, in life threatening health circumstances and in constant fear of the possibility of execution. In order to avoid the result that a death sentence is replaced by a life sentence plus the cruel and inhuman treatment of the uncertainty of remaining formally on death row, the sentences of all death row inmates whose appeals have been completed should be commuted to life imprisonment.²⁰

(c) Sharia law in Nigeria

32. Under the Sharia Penal Codes in force in twelve northern states, capital offences include sodomy, "adultery (zina), apostasy (rida), rebellion (bag'yi), and Hiraba,



translated as highway robbery ...".²¹ The issue of punishment for zina (adultery) has attracted extensive media attention because of cases in which the sharia courts prescribed death by stoning for women found guilty of zina. In the Special Rapporteur's discussions with them, judges of the Appeals Court of the Grand Khadi of Kano emphasized the extent to which the version of the sharia which they applied (following the Maliki School)²² contains provisions which ensure that only very few cases will ever satisfy the requirements for the imposition of the death penalty.²³

²⁰ I thus fully endorse the recommendation to this effect contained in The Report of the National Study Group on Death Penalty, Abuja, August 2004, p. 81. In terms of the legal practicalities of such a measure see *Sibiya and Others v DPP*, Constitutional Court of South Africa, Case CCT 45/04, 7 Oct. 2005.

²¹ *Ibid.*, para. 3.4.1.1.

²² It is noteworthy that some Nigerian Islamic legal scholars have been strongly critical of the

official entrenchment of the approach of one particular school of interpretation. According to one commentator it has the effect of "unduly restricting the scope and regenerative mechanism of Islamic law". Abdulmumini Adebayo Oba, "The Sharia Court of Appeal in Northern Nigeria: The Continuing Crises of Jurisdiction", 52 *American Journal of Comparative Law* 859, at 879 (2004).

²³ These were recited in a 2004 report of a National Study Group which observed, in relation to charges of adultery, the accused will not be stoned to death:

- Where there are not up to 4 male witnesses;
- Where the witnesses are not eligible witnesses;
- Where the witnesses contradict themselves;
- Where even one witness (out of four) is not certain as to the act committed;
- Where the suspect(s) did the act because of some mistake as to the identity of the partner or under the supposition that the partner was lawful to him/her;
- Where the woman was given "consideration" for the act because, as some jurists argue, that represents a type of "marriage";
- Where the suspect is unable to defend his case by advancing a justification/excuse for his act because he is dumb; E/CN.4/2006/53/Add.4 page 30
- Where the judge does not cross-examine the witnesses thoroughly as to details of the act committed;
- Where the suspect is not given the opportunity to defend his case. In all such cases, a lesser penalty (ta'zir) is to be prescribed at the discretion of the court.

See The Report of the National Study Group on Death Penalty, Abuja, August 2004, p. 69.

³³ In March 2002 a Sharia Court in Katsina State sentenced Ms. Amina Lawal to death by stoning for zina. A higher court upheld the judgment in August 2002.²⁴ On appeal in September 2003 the Katsina State Sharia Court of Appeal (by a 4-1 majority) overturned the conviction. Several grounds were cited: (i) the evidence against her should have been presented not just by the police but by four witnesses as required by the Koran; (ii) her initial conviction should have been rendered by a three judge panel, rather than only a single judge; (iii) under Islamic law she should have been permitted to withdraw her confession at any point prior to execution; and (iv) the child of a divorced woman is presumed to have been fathered by her ex-husband, a presumption which only he could



refute.²⁵ The alleged father of the baby denied paternity and had been discharged at an early stage on the grounds that the required four witnesses could not be found to testify against him.

34. In late 2004 two women, Hajara Ibrahim and Daso Adamu, were sentenced to death for zina by Sharia Courts in Bauchi State. Both convictions were later overturned by Upper Sharia Courts. Ms. Ibrahim was acquitted on the basis that her marriage had never been consummated so she could not be guilty of adultery and Ms. Adamu was acquitted on the basis of the principle that a pregnancy can reasonably be attributed to the ex-husband up to five years after a divorce.²⁶

35. Fortunately, the accused in all of these cases were ultimately acquitted. But reason for continuing concern remains. Firstly, characterizing adultery and sodomy as capital offences leading to death by stoning is contrary to applicable Nigerian and international law. Neither can be considered to be one of the most serious crimes for which the death penalty may be prescribed.²⁷ Secondly, even if the sentence is never carried out, the mere possibility that it can threaten the accused for years until overturned or commuted constitutes a form of cruel, inhuman or degrading treatment or punishment. Assurances that an offence which continues to be recognized by the law will never be applied in practice are neither justified nor convincing. The very existence of such laws invites abuse by individuals. This is all the more so in a context in which sharia vigilante groups have been formed with strong Government support. The maintenance of such laws on the books is an invitation to arbitrariness and in the case of zina to a campaign of persecution of women.

24 For a lengthy analysis see Vanessa von Struensee, "Stoning, Sharia and Human Rights".

25 This approach is based on the Maliki.

26 This Day, Shari'a Convict Gets Reprieve (November 11, 2004) (reporting the acquittal of Ms. Ibrahim); Vanguard, Sharia Court Nullifies Death Penalty on Woman (December 11, 2004) (reporting the acquittal of Ms. Adamu).

27 See Article 6(2) of the International Covenant on Civil and Political Rights, the relevant jurisprudence of the Human Rights Committee, and the 1984 Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty. The latter provide that "capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes, with lethal or other extremely grave consequences".

36. The operation of the zina laws is also discriminatory in terms of Nigerian and international law. The theory is that both the man and the woman in such allegedly adulterous situations are protected by the requirement of four witnesses, which will in almost all circumstances be impossible to obtain. But the woman alone remains very vulnerable because her pregnancy alone can be considered sufficient evidence to warrant conviction.²⁸ In terms of gender equality this outcome is entirely unbalanced because the rules of evidence operate so as to exculpate almost every male and inculpate almost every female in such situations. Similarly, DNA testing seems never to have been considered, most likely because it would lead to a more gender neutral outcome in which the child could be linked to a specific father as well as mother.

37. In relation to sodomy, the imposition of the death sentence for a private sexual practice is clearly incompatible with Nigeria's international obligations. Moral sanction is



a matter for the consciences of individuals and the beliefs of religious groups. Criminal sanctions are an entirely different matter and when the threat of execution is involved the State cannot stand idly by and permit the two types of sanctions to be conflated in a way that violates international law.

38. The constitutionality of sharia criminal law has been widely challenged for violating the principle of non-discrimination, the federal-state division of powers, freedom of religion and the prohibitions against a state religion. Indeed the Federal Government has itself asserted that the northern states are acting unconstitutionally. Yet it has so far failed to take legal action to uphold the Constitution.²⁹

B. The right to life and the Nigerian Police

39. The Nigeria Police have grown significantly under civilian rule to 325,000 in 2005. But the numbers are still inadequate, their level of training and funding insufficient, and their morale low. Although Nigeria suffers from high violent crime rates, the force is chronically under-resourced. All too often new recruits pay for their own uniforms, salaries are delayed for many months, equipment required in an emergency needs to be borrowed from other agencies,³⁰ and complainants (even those alleging murder) are asked to cover the costs of the police investigation including travel and

28 One of the curious aspects of both the Lawal and Ibrahim cases was the fact that the alleged father was released on the basis of his own denial (and the absence of four witnesses) while the mother was initially found guilty primarily on the grounds of pregnancy.

29 See Vincent O. Nmehielle, "Sharia Law in the Northern States of Nigeria: To Implement or not to Implement, the Constitutionality is the Question", 26 Human Rights Quarterly 730 (2004) at 754-57.

30 In responding to communal violence in Kano, for example, the police were loaned unmarked vehicles from the Governor's office, without which they would have been unable to respond. The use of unmarked vehicles makes it very difficult to identify alleged wrongdoers in any subsequent investigation of human rights violations.

accommodation. Where they cannot afford to do so, the investigation fizzles. In addition, corruption is widespread among police officers, in part due to very low salaries.³¹

40. For these reasons, and because police tactics are often marked by the arbitrary and unnecessary use of force, including high rates of extrajudicial killings, there is little public confidence in the police. Indeed, they are criticized by virtually all sectors of civil society.³²

41. Common complaints include the carrying of firearms in public by un-uniformed police, the wearing of uniforms by police when they are off-duty,³³ and the widespread practice of police requiring payment to ensure the safe delivery of goods. As a result, the overriding public attitude towards the police is one of fear and mistrust.

42. The focus of this analysis, however, is on extrajudicial killings by the Nigeria Police. These can be broadly grouped into three main types: (1) extrajudicial executions of suspected criminals; (2) the excessive and arbitrary use of force; and (3) deaths in custody.

Armed robbers

43. Despite the fact that the scourge of armed robbery plagues much of Nigeria, the label of "armed robber" is very often used to justify the jailing and/or extrajudicial execution of innocent individuals who have come to the attention of the police for reasons ranging



from a refusal to pay a bribe to insulting or inconveniencing the police. The problem lies in part in the elevation of armed robbery to the level of a capital offence. This seems to have at least two perverse consequences: (1) criminals interrupted in an armed robbery have no disincentive to use arms (either way it will

31 Information provided to me by the Inspector-General of Police indicated that the entry level salary for a Nigerian Police officer is 65,700 Naira (approximately \$500 USD) per year. This figure, however, is misleading in that it does not include standard allowances that take the annual salary to around 100,000 Naira (\$760) per year.

32 The lead editorial in a security-focused magazine observed that the "[o]peratives of Nigeria Police are dreaded agents of death who decimate human lives at will." The editorial continued: "Looking scruffy and ferocious in different shades of gear, operatives of Nigeria Police would storm the roads armed with guns, horsewhips and batons It is business time. And the road E/CN.4/2006/53/Add.4page 31

and its users no longer know peace. From [the police] standpoint, everybody is a criminal and every crime has a price." W.A. Johnson, "A Memo to Mr Ehindero", Security and Safety, Issue 65, 2005, p.3.

33 "Hordes of policemen are seen engaged in illegal activities, using their uniforms and other official paraphernalia to confer legitimacy on their criminal pursuits". W.A. Johnson, "A Memo to Mr Ehindero", Security and Safety, Issue 65, 2005, p.3.

be a capital offence); (2) the police are given a justification to shoot to kill any person who has committed a capital offence and is seeking to flee.³⁴

44. The case of the Enugu Six³⁵ is telling in that the Nigerian Civil Liberties Organisation was able to predict, with chilling accuracy, the execution of six alleged armed robbers. Tragically, the practice of summarily executing suspected criminals by the Nigeria Police is widespread and systematic. This is both illegal and counter-productive. There are no circumstances under which summary executions are legally permissible let alone justifiable. The practice is counter-productive for several reasons. Summary executions of suspects, many of whom are innocent of the crime of which they have been accused, does nothing to stem the high rate of armed robbery in Nigeria. For all the killings at the hands of the police, this rate has shown no diminution. The practice also confirms the public sense of the police as being out of control, brutal, and relatively unconcerned with protecting the public and upholding the law. Fundamentally different police tactics are thus required by law and for pragmatic reasons.

45. The key challenge is to determine when deadly force can legitimately be used against criminals. Most approaches to date seem to be inconsistent with human rights requirements. For example, in "operation fire-for-fire", a 2002 campaign against crime, the Inspector-General of Police pre-authorized police officers to fire in "very difficult situations". The result, revealed in police statistics, was that in the first 100 days, 225 suspected criminals were killed, along with 41 innocent by-standers.³⁶ Fortunately, this operation was terminated.

46. But the standing "rules for guidance in use of firearms by the police" are equally flawed. Police Order No. 237 provides for the use of firearms in situations where it is essential in order to protect the life of the police officer or of another person, or where necessary to prevent "serious offences against life and property" by rioters. These provisions are unexceptionable but the rules which effectively relate to "armed robbers" are formulated very differently. They authorize the use of firearms if a police officer



cannot "by any other means" arrest or re-arrest any person who is suspected (or has already been convicted) of an offence punishable by death or at least seven years imprisonment. The rules which elaborate upon this provision are 34 In order to fit this approach anyone arrested with a gun seems to be automatically classified as an armed robbery suspect. "Police Recover 35,979 Ammunitions, 1,082 Firearms",

This Day, 2 Jan. 2006, available at <http://www.thisdayonline.com/nview.php?id=37147>

35 See notes 8-11 above.

36 Amnesty International, Security Forces in Nigeria: Serving to protect and respect human even more permissive. They note that any person who seeks to escape from lawful custody commits a felony warranting a seven year sentence. As a result shooting to kill someone charged with stealing goods of negligible value but alleged to be seeking to escape from custody would be justified. The only qualification contained in the rules is "firearms should only be used if there are no other means of effecting his arrest, and the circumstances are such that his subsequent arrest is unlikely". These rules are deeply flawed. They provide close to a carte blanche to the police to shoot and kill at will.

47. Police Order No. 237 should be amended immediately to bring it into conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The resulting emphasis should be on proportionality, on the use of lethal force as an absolute last resort, and only "when strictly unavoidable in order to protect life".³⁷ Thus, the possible escape of an alleged robber who presents no direct threat to the lives of others, cannot justify shooting to kill.

Checkpoints

48. No person can feel safe driving at night in Nigeria and there are regular reports of horrendous attacks by bandits on cars, buses and trucks on roads throughout the country, even in daylight. The result is strong public support for a significant police presence on the roads. The paradox is that the major highway "service" provided by the police consists of the erection of roadblocks or checkpoints, euphemistically known as "nipping points". In fact, these are used primarily for the purposes of extorting money from motorists and some even see them as a necessary means by which police officers can ensure a subsistence income. But to dismiss the widespread abuse of checkpoints as a minor inconvenience or fact of life, as many of the Special

Rapporteur's interlocutors suggested, is to ignore three deeply corrosive effects: (i) checkpoints provide the occasion for a large number of extra-judicial executions by police;³⁸ (ii) checkpoint abuses have deeply alienated the general public; and (iii) the economic consequences are enormous.³⁹

37 It is appropriate to quote the full text of Paragraph 9 of the Basic Principles:

Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.



38 The Centre for Law Enforcement Education estimates that the police kill one in 20 motorists who ²⁰refuse to pay a bribe at a checkpoint. A communication submitted to the African Commission on Human and Peoples' Rights by Access to Justice, provides details of various such cases.

39 Thus one traditional leader has characterized checkpoints as a major impediment to commerce with neighbouring states and a phenomenon which "portrays us as a nation at war". Oba Akran of Badagry, "Too Many Checkpoints Portray us as a Nation at War", Security and Safety, Issue 65, 2005, p. 13 at p.15. According to another commentator, the practice is "killing the commercial psyche and energy of the people". W.A. Johnson, "A Memo to Mr Ehindero", Security and Safety, Issue 65, 2005, p.3. 49. Despite orders by the President, the Inspector-General of Police, and other authorities the practice continues largely unabated. Police figures undermine claims made by some that checkpoints are needed to catch armed robbers, or stem the flow of illegal arms.⁴⁰

Deaths in custody

50. Numerous prisoners reported being systematically tortured by the police to extract a confession. Techniques include hanging from the ceiling⁴¹ and severe beatings, followed by the denial of food, water and medical care, and being left to die in the cells. The State Intelligence and Investigation Bureaux (SIIBs) and local CIDs were consistently named as places where such events are commonplace. Prison medical staff also confirmed regularly receiving prisoners who had been badly beaten by the police.

51. Police have systematically encouraged a practice whereby medical personnel will not treat individuals reporting with bullet or knife wounds before receiving police authorization. Since permission is often delayed or withheld, many casualties occur.⁴²

Investigating complaints

52. On paper, the system for investigating police misconduct is impressive. In practice, it is too often a charade. The outcome of investigations usually seems to justify inaction or to ensure that complaints are dealt with internally through "orderly-room hearings" or the like.⁴³ While police officers are certainly disciplined and some dismissed, the system has rarely worked in cases in which police are accused of extrajudicial executions. In these instances genuine investigations are rare and referral to the DPP for prosecution are even rarer. It is also not uncommon for the primary accused police officer to escape, for charges to be brought against others, and for the latter to be acquitted on the grounds either of insufficient evidence or of prosecution of the wrong officers. The result gives the appearance of a functioning investigative system, while in fact promoting the goal of de facto police impunity. ⁴⁰ Between 2000-2004, in a country awash with arms, only 3,180 weapons were recovered at checkpoints, and no armed robbers seem to have been captured in this way. See note 12 above (police letter of 2 July).

⁴¹ A much favoured technique is to tie the individual's hands behind his back or under his knees and then to hang his entire body from the ceiling for a significant period of time, while at the same time beating him. After several such sessions, confessions miraculously emerge. E/CN.4/2006/53/Add.4 page 32

⁴² One State Police Commissioner strenuously denied that any such rule existed but virtually confirmed the practice by adding that it would be only prudent for a doctor first to seek police advice rather than giving treatment and risk being an accomplice to crime.

²⁰ rights? (December 2002) at p. 14.



43 For a detailed analysis of these issues see Human Rights Watch, "Rest in Pieces": Police Torture and Deaths in Custody in Nigeria, July 2005, Chapter X. 53. This scenario is illustrated in two, apparently all too typical, cases. In the first, two boys⁴⁴ were arrested by police in Nsukka, Enugu state. They were bundled into the trunk of a car by Police Superintendent Gambo Sarki, and taken to the police station. Their presence was not recorded, they were denied bail, and their parents were told they were not at the station. Their mutilated bodies were subsequently found dumped in a nearby town.⁴⁵ Following public protests an inquiry was held which concluded that Sarki had ordered junior officers to shoot the boys. When they refused, he did it himself.⁴⁶ Sarki "escaped" before he could be tried, as a result of which all other prosecutions were suspended. Most of the other accused officers continue to serve and be promoted.⁴⁷

54. In the second case, the grandmother of Nnamdi Francis Ekwuyasi told the Special Rapporteur of how he was shot and killed at a checkpoint only 200 meters from his home. The accused was a drug and alcohol intoxicated policeman whose name was well known to the community. He promptly absconded. Charges were proposed against two other policemen but the DPP concluded that they were not responsible. The accused has never been "found".

Police accountability

55. In 2005 the acting Inspector-General of Police (IGP) announced that "the days of extra-judiciary killings" and of "corruption in the service" must end.⁴⁸ The question for Nigeria is how to introduce some notion of accountability. While no single country can provide a model, efforts to promote democratic policing⁴⁹ in South Africa are of major relevance.⁵⁰ It is generally accepted that three different levels of control are needed: internal, governmental, and societal. 44 Nnaemeka Ugwuoke and Izuchukwu Ayogu.

45 In addition to meeting with the fathers of the boys and hearing evidence from their legal representative, the Special Rapporteur was provided with a copy of the official Police Report into the incident entitled, "Detailed Police Investigation Report, Re: Case of Suspected Murder", signed by the Deputy Commissioner of Police, Enugu State Command, 9 April 2002. The case has also been widely reported on in the press and by civil society. See e.g. Civil Liberties Organization, *I Can Kill You and Nothing will Happen: A Report of Extra-Judicial Killings and Impunity by Law Enforcement Agencies in Nigeria between May 1999 - June 2005*, pp. 12-13; and "Nsukka Killings - Recurring Cry for Justice", *Vanguard*, 6 August 2003, and "Justice Delayed", *The News*, 22 March 2004.

46 The inquiry also indicted a range of other police for complicity in various aspects of the incident. Enugu State Police Command report entitled, "Detailed Police Investigation Report re.case of suspected murder. Complaints: 1. Chief Nicholas Ugwoke 2. Chief Reuben Ayogu. Suspects: 1. Mr. Gambo Sarki (SP) and others. Deceased: 1. Nnaemeka Ugwoke (m) 2. Izuchukwu Ayogu (m)."

47 See also, "Nsukka Killings - Recurring Cry for Justice," *Vanguard*, August 6, 2003 and "Justice Delayed", *The News*, March 22, 2004.

48 Quoted in W.A. Johnson, "A Memo to Mr Ehindero", *Security and Safety*, Issue 65, 2005, p.3.

49 Democratic policing is characterized by: respectful conduct, effective performance and transparency and accountability to the different clients or consumers of policing.



D.H. Bayley, *Democratising the Police Abroad: What to Do and How to Do it*, (Washington DC, National Institute of Justice, US Department of Justice, 2001).

50 See Open Society Foundation for South Africa, *Strengthening oversight of police in South Africa*. Report on the workshop on police accountability held on May 10th 2004 in Cape Town, available at: <http://www.policeaccountability.co.za/Publications/Pub-Categories.asp?PubCatID=23>. 56. In terms of internal accountability the Nigeria Police system is weak. What few statistics were made available to the Special Rapporteur in response to repeated requests indicate that few serious disciplinary measures are taken except against rogue individuals. Indeed the single greatest impediment to bringing police officers to justice for their crimes is the Nigeria Police force itself. Evidence indicates that it systematically blocks or hampers investigations and allows suspects to flee. In order to break this cycle of impunity, a new investigation and prosecution mechanism is required.

57. A ten-point police reform plan put forward by the acting IGP includes reviewing and strengthening mechanisms for public complaints of police misconduct, introducing a zero-tolerance policy on corruption, particularly in relation to roadblocks, and efforts to ensure that police obey court orders.⁵¹ The initiative is encouraging, but it needs to be implemented and monitored.⁵² The Police Complaints Bureaux and the Human Rights Desks set up within the Police structures since 2003 have yielded little. The offices that the Special Rapporteur saw in various states looked forlorn and determinedly unavailable and he received evidence that they had achieved little of substance. The internal vacuum must be filled since external accountability procedures can "only be effective if they complement well developed internal forms of control".⁵³

58. In terms of governmental accountability, the Police Service Commission is charged with police discipline, but has opted to refer all complaints of extrajudicial police killings back to the police for investigation. The Commission's mandate is potentially empowering. But despite efforts by one or two excellent commissioners, its performance has been dismal and self-restraining.⁵⁴ Its Quarterly Reports to the President are not published and present a dismal chronicle of rubber-stamping decisions taken by the police, coupled with inaction in relation to pressing concerns. A radical overhaul of its procedures and composition is warranted.

59. In terms of societal accountability there are various initiatives to promote community policing and reinvigorate the Police-Community Relations Committees that exist in some states.⁵⁵ But these efforts fall far short of the need. Some external authority

⁵¹ <http://www.nigeriapolice.org/10pointprogramme.html>.

⁵² A proposal pending in 2005 is to establish a new Police Public Complaints Bureau for the purpose of receiving public complaints lodged against police officers. The Bureau would be granted independent powers of investigation and prosecution and have its own investigative department staffed by a permanent police squad and security service. It is unclear E/CN.4/2006/53/Add.4 page 33 whether this initiative will be adopted or will be pursued independently and funded adequately.

See, *The Police Public Complaints Bureau (Establishment) Bill 2005*, in particular, Sections 6 and 12.

⁵³ T. Jones, "The Governance and Accountability of Policing" in Tim Newburn (ed), *The Handbook of Policing*, (Devon, Willan Publishing, 2003) p. 603.



54 Some of its members are alleged to have accepted official cars provided by the Police Force whose behaviour they are supposed to monitor.

55 For a detailed analysis of many of these arrangements see "Rest in Pieces", note 43 above. needs to be equipped and empowered to monitor police abuses, including instances of illegal checkpoints, demands for bribes and other forms of corruption and abuse.

C. The right to life and the Nigerian armed forces

60. The military regularly supplement or even replace the police in establishing law and order in civilian disturbances. The President acts on his own initiative or in response to a State Governor's request. The Minister for State for Defence informed the Special Rapporteur that the armed forces are not given any rules of engagement in such situations. It is unsurprising therefore that there have been frequent complaints of arbitrary and excessive use of force, but few, if any investigations⁵⁶ or prosecutions.⁵⁷

61. The armed forces have also attacked towns to exact revenge on civilians for militia attacks on the army. In Benue State, in 2001, in response to the kidnapping and killing of nineteen soldiers by a militia group, carefully-planned army attacks killed over 200 civilians. A federal judicial inquiry reported in April 2003, but the report remains typically confidential, with no adequate Government response and no measures taken by or against the military.

62. In February 2005 in Bayelsa State, a joint army/police patrol entered Odioma seeking a local militia leader. He escaped, but a number of people were killed and the town was burned down.⁵⁸ Local leaders viewed the attack as an act of collective punishment.⁵⁹ A federal Senate committee blamed the town for having shielded the militia leader,⁶⁰ an assessment which unwittingly seemed to confirm the allegations. The Governor of Bayelsa State acknowledged to the Special Rapporteur that excessive force was employed. A judicial inquiry was established but, as usual, no report has been published.

63. In such incidents it is assumed by officials that the armed forces acted in "self defence" or were otherwise justified in carrying out retaliatory executions of civilians. Thus, although the intentional killing of unarmed civilians, whether in situations of armed conflict or otherwise, is a clear violation of both international and Nigerian

⁵⁶ This pattern is exemplified by the killing of Lawan Rafa'i Rogo, described above. The official Committee of Inquiry reported that the army failed to reply to its inquiries into the incident. The Governor of Kano informed me that only one such incident had come to his attention in relation to the 2004 violence in Kano, but that there was insufficient evidence to mount a prosecution.

⁵⁷ A letter to the Minister of Defence of 28 June 2005 seeking information as to complaints procedures, disciplinary measures and rules of engagement remains unanswered.

⁵⁸ Agence France-Presse, Nigerian Town Razed by Army after Oil find Triggers Local Feud

(March 21, 2005).

⁵⁹ Id.

⁶⁰ This Day, Senate Committee Justified Odiama Destruction (March 10, 2005).



law, impunity is the reality. The Minister of State for Defence assured the Special Rapporteur that the media exaggerated the Odi and Odiama incidents and that the military intervenes to promote community mediation.

64. There is a consistent pattern in responding to these incidents. Major human rights violations are alleged; the authorities announce an inquiry; and either the resulting reports are not published, or the recommendations are ignored.⁶¹ The reports become a substitute for appropriate civil and criminal measures, no-one is charged or disciplined, and no or inadequate compensation is paid.

65. The Special Rapporteur officially requested copies of the major reports resulting from recent commissions of inquiry. The Federal Government provided none. The Governor of Kano State cooperated fully. The report on the 2004 Kano "sectarian crisis" is instructive and apparently typical.⁶² It reported in November 2004. By July 2005 nothing had been made public and the State Government was still working on a White Paper in response. One of the key questions for the inquiry concerned the number killed. Credible and detailed civil society reports

put the figure at 200-250.⁶³ The report, on the basis of no investigation or analysis of any sort, notes that there are "conflicting figures" but recommends that the Police figures of 84 be taken as the "official position". This step removed in one fell swoop the prospect that the overall inquiry could be meaningful.

66. Other terms of reference involving a determination of the damage done and advice on compensation were analysed in less than 40 lines of text. In relation to damage, the Commission accepted without question the Government figures, thus undertaking no inquiry worthy of the name. On the second issue, compensation of 60 per cent for buildings and 40 per cent for personal property was recommended, with no differentiation in terms of the circumstances and no argument as to why those figures were chosen. To the Special Rapporteur's knowledge, none has actually been paid.

61 Similarly, the commission of inquiry set up following the attack on Odiama in Bayelsa State earlier this year submitted its report to the Bayelsa State government in May. The report has not been made public and there appears to be no intention to publish this report. The Governor informed that it was his intention to study the report and respond by issuing a white paper.

62 Report of the Administrative Committee of Inquiry on May 11, 2004 Kano Sectarian Crisis.

63 See Human Rights Watch, *Revenge in the Name of Religion: The Cycle of Violence in Plateau and Kano States*, p. 62.

67. The killings, considered briefly as "security problems", are explained by "[o]ver-zealousness and/or calculated hatred on the part of some security personnel". The report notes detailed information about the identities of those responsible, but observes that the army did not acknowledge or reply to the Commission's correspondence.⁶⁴

It suggested compensation be paid and action be taken against the responsible army officers. According to the Special Rapporteur's interlocutors, not a single soldier has ever been charged or disciplined.

In short, apart from identifying measures to promote future inter-communal harmony, the Commission was a whitewash and army impunity was vindicated.

D. The prison system and deaths in custody



68. Deaths in custody and the many prisoners on death row make the Nigerian prison system highly relevant to this report. On the basis of a largely malfunctioning justice system, Nigeria tolerates an arbitrary and especially harsh form of punishment of alleged criminals. Of approximately 44,000 prisoners, some 25,000, or well over 50 per cent, have yet to face trial.⁶⁵

About 75 per cent of the latter have been charged with armed robbery, which is a capital offence. Three-quarters of those were not able to get legal assistance from the Legal Aid Council and a shocking 3.7 per cent remain in prison because of lost case files. Many of the 25,000 with whom the Special Rapporteur spoke are held in seriously health-threatening conditions, some for periods of 10-14 years.

69. Almost no accused with access to money will suffer this fate. Such unconscionable incarceration practices become the "privilege" of the poor. Some State Chief Judges are highly conscientious in carrying out regular visits with a view to ordering the release of those held longer than their alleged crime could possibly warrant,⁶⁶ but others are slow and unsystematic and many inmates awaiting trial are rarely visited. One way forward is to resolve that any prisoner held for more than five years without trial should be entitled to an immediate court appearance and benefit from a

64 Kano Report, note 49 above, para. 3.6.4.

65 O. Ezigbo, "25,000 Inmates Awaiting Trial", This Day, September 2, 2005, at <http://allafrica.com/stories/200509050323.html>.

66 Section 35(1) of the Nigerian Constitution provides that "...a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for E/CN.4/2006/53/Add.4 page 34 the offence." This serves to highlight the perversity of making the generic offence of armed robbery a capital offence. The result is that a petty thief can be jailed for ten years or more while (forlornly) awaiting trial.

presumption that s/he should be released. Similarly, any prisoner whose hearing is adjourned more than five times should benefit from the presumption of release.

Prisoners whom the Special Rapporteur met who in ten years have been subject to more than 50 adjournments are living testimony to a system which simply does not care about people once they are in prison.

70. Prison conditions in general are not part of the Special Rapporteur's mandate. However, because of the numbers of individuals on death row and the fact that perhaps a majority of inmates are charged with capital offences (armed robbery or murder), a comment on prison conditions is warranted. The Special Rapporteur heard impressively few accusations of official abuse, but the lack of resources to ensure humane conditions was decried by almost everyone, including senior administrators. Common phenomena included: considerably in excess of 100 prisoners in cells designed to hold 25, unsanitary conditions which breed terrible illnesses, untreated illnesses leading to death, and food which is wholly inadequate. Money to improve prison conditions is never on politicians' lists of priorities, but it is absolutely essential. While death row conditions are harsh, they are often better than those endured by the vast numbers awaiting trial. Most deaths in custody are due to atrocious conditions rather than intentional ill-treatment.

71. Some interlocutors spoke of the need for a Minister for Prisons, a Prison Service



Commission, or the need to decentralize control over prisons to the State level. The Special Rapporteur was in no position to choose among the different options but it is clear that an enhanced mechanism for monitoring and public reporting on prison conditions is urgent and indispensable.

E. Inter-communal violence

72. In recent years large-scale violence between religious and/or ethnic groups have cost thousands of lives. For example, in Kaduna State in 2002, Christian/Muslim riots coincided with the 2002 Miss World contest, and led to the deaths of some 250 people.⁶⁷ In February 2004 violent clashes shook Yelwa in Plateau State. At least 78 Christians, and a number of Muslims, were killed in well-organized attacks. Smaller scale attacks occurred in nearby villages. In May 2004 an attack by Christians killed an estimated 700 Muslims.⁶⁸ A little over a week later the violence spread to Kano where Muslims retaliated against Christians, resulting in the deaths of more than 200.⁶⁹

⁶⁷ For a description of this incident see Human Rights Watch, *The "Miss World Riots": Continued Impunity for Killings in Kaduna* (July, 2003).

⁶⁸ For a description of this incident see Human Rights Watch, *Revenge in the Name of Religion: The Cycle of Violence in Plateau and Kano States* (May, 2005).

⁶⁹ Id. 73. The causes of inter-communal violence in Nigeria are complex. There are over 250 ethnic groups, some of which have long been in conflict over political power, land, and resources. While the government does not bear direct responsibility for killings perpetrated by individuals during these violent incidents, action and inaction by the authorities have contributed significantly.

74. Although religious events are often the trigger, these divides coincide with ethnic and political splits and religion is often exploited for populist reasons. Underlying many incidents is a legal distinction drawn between "indigenes" (individuals considered to be living in their state of "origin") and settlers ("newcomers" who might have lived in the state for decades). The distinction often coincides with ethnic and/or religious divisions, and is used to justify according indigenes privileged access to government jobs, educational institutions and political positions.⁷⁰ The distinction itself and the ways in which it operates are, at least potentially, highly discriminatory. Unless steps are taken to significantly downplay its importance, it will sow the seeds of a great many future incidents of communal violence.

75. Another problem is a failure by the security forces to react quickly, let alone preemptively, to situations of inter-communal tension, thereby allowing the violence to escalate.⁷¹ In addition, politicians have been accused of actively fuelling violence for political gain.

76. With relatively few exceptions, a consistent pattern of governmental response to inter-communal violence has emerged. Security forces respond slowly, resulting in higher casualties; they then use force indiscriminately and excessively. A few arrests and prosecutions of minor players follow. If an inquiry is held it quells popular anger but the report remains confidential, is ignored, or adopts a formalistic approach. And almost no long-term preventive measures are taken. Just as predictable as this routine is the future occurrence of more serious incidents of inter-communal violence unless Federal and State Governments take seriously the need for thorough-going reforms.



70 World Organization Against Torture and Centre for Law Enforcement Education, *Hope Betrayed? A Report on Impunity and State-Sponsored Violence in Nigeria*, 14 (2002). See also, Human Rights Watch, *Revenge in the Name of Religion*, at 8.

71 For example, it was reported that even though special units had been set up following earlier violent attacks in Kaduna in order to respond to future such incidents, these units were not deployed when the 2002 violence first broke out. Human Rights Watch, *The Miss World Riots*, at 24. Similarly, the report of the Administrative Committee of Inquiry investigating the 2004 violence in Kano observed that, although "it was obvious that tension was building up two to three weeks before the Kano Crisis" due to the earlier violence in Plateau State, security forces failed to act pre-emptively to prevent the violence from spreading to Kano. See Kano Report, note 52 above, pp. 6-7.

F. Political assassinations

77. In recent years many leading political figures have been assassinated.⁷² Prosecutions have been rare and convictions almost non-existent. One interlocutor suggested that this was unsurprising since many of those killed would have been involved in shady financial deals. Others, including the Minister for Justice, invoked the absence of an effective police forensic capacity. The de facto impunity enjoyed for these crimes risks undermining Nigerian democracy, and the 2007 election year threatens many more killings unless impunity is ended.

G. Vigilantes

78. With the end of military rule large businesses, including oil companies and banks, as well as the rich, turned to private security to fill the vacuum of authority. For the poor, vigilantes were seen as a way to make-up for inadequate, ineffectual and often malign policing. For politicians, armed volunteer groups offered a means of intimidating opponents and rewarding supporters. While "vigilante" groups play a major role in Nigeria, definitional issues are crucial to understanding the situation. The term covers a wide spectrum of groups ranging from community policing through problematic ethnic-based vigilantes, to state-sponsored or supported gangs. Because many of the groups have been openly or covertly supported by State officials, they cannot be considered classical non-state actors. The right of citizen arrest is often invoked to justify the groups' activities.⁷³

79. Among the most violent have been those established to defend commercial interests in urban areas. While they may carry out some "policing", they also undertake debt collection, crime protection, extortion and armed enforcement services. The Bakassi Boys for example, is a group active mainly in Abia, Anambra and Imo states that has been responsible for many extrajudicial executions, often carried out publicly. They patrol the streets in heavily armed gangs, arrest suspects, determine guilt on the spot and exact punishment, which may involve beating, "fining", detaining, torturing or

72 One list provided to me identified 48 "high profile attacks, murders and assassinations" between Sept 1999 and March 2004. See generally Civil Liberties Organisation, *Clear and Present Danger: The State of Human Rights and Governance, Year 2004* (Lagos, 2005). One example was Chief Lamidi Adedibu, a prominent politician in Ibadan, the Oyo State capital, who was shot dead in his car on 16 July 2005. The assailants escaped. "Suspected assassins kill Adedibu's associate" *The Punch*, Monday, July 18, 2005.



73 Section 14(1) of the Nigerian Criminal Procedure Act provides that "...Any private person arresting any other person without a warrant shall without unnecessary delay make over the person so arrested to a police officer, or in absence of a police officer shall take such person to the nearest police station." This limited power of arrest is far exceeded by many vigilante groups who have even established their own detention centers, killing the victim. The Bakassi Boys are tacitly supported by state governments and one has accorded them official recognition.⁷⁴

80. Another prominent group operating in the south-west is the O'odua People's Congress (OPC) which combines vigilantism with political advocacy of Yoruba autonomy. There have been persistent reports of OPC members apprehending suspected robbers and beating and killing them in public. Members of other ethnic groups, particularly the Hausa, are especially vulnerable. Despite official denials, the OPC appears to have a close relationship with some state governments.

81. An important religious-based group is the Hisbah who are considered to be an integral part of overall State policing in some northern States. While some strongly defend their role there are also persistent reports of attacks upon women alleged to be inappropriately dressed, of businesses selling alcohol being destroyed, of insults to Islam being punished severely, and of prostitutes being badly beaten. There is a need for much closer and more systematic scrutiny of their activities.

82. The rise of vigilante groups has especially problematic consequences for women since such groups are overwhelmingly male-dominated. As a result, gender stereotypes are both reinforced and enforced, and women are often subjected to various forms of gender-based violence. This consequence is exacerbated by the support given to the groups by state governments. In Kano, the relationship between the Hisbah and the Government is very close and the Governor of Bayelsa told the Special Rapporteur that he has recruited some 420 vigilantes who play a law enforcement role and are paid a salary far in excess of that earned by junior police officers. Whatever the justifications offered, the potential for manipulation of such groups by politicians is immense.

83. While there is a benign traditional concept of vigilantism in Nigeria, many groups have moved far beyond the appropriate limits. Too many have evolved into highly armed criminal gangs, or gangs doing the political bidding of their paymasters. State governments have generally supported this expanded role while imposing no form of regulation or accountability. Clear guidelines should be published in relation to all groups operating with governmental support, their conduct must be monitored, and impunity for activities such as torture, detention and executions must cease.

84. The rise of vigilantism and the undeniably significant public support for some groups partly reflects the failure of the Nigeria Police to address high violent crime rates. However, the lack of public trust and confidence in the police cannot be used to justify the violent and illegal acts of untrained, unregulated and unaccountable armed groups. The performance of the Nigeria Police must instead be improved so that the vigilantes can be confined to non-policing activities.

85. Community policing initiatives are in their infancy in Nigeria but offer an important opportunity. A pilot Community Policing Programme, launched in 2004 in Enugu State, involves local, highly visible patrols interacting cooperatively with the public to reduce

²¹ 74 The Anambra State Vigilante Service Act No. 9, 2000.



and prevent criminal activity, as well as improved police training and accountability. It has succeeded in reducing levels of police corruption and public fear of crime, while improving police-public relations and the treatment of prisoners. The expansion of such programmes throughout Nigeria offers the potential to fill the vacuum in local law enforcement that has facilitated the rise of vigilante groups.

H. Non-state actors and the right to life

86. Oil companies have long been accused of complicity in actions involving human rights violations including extrajudicial executions. In Ojobo in November 2004, up to 21 people were wounded and one or more deaths were alleged. Shell vigorously denies that charge and claims an independent report vindicated its position. The Special Rapporteur's request for that report was unsuccessful and community activists apparently contest the author's independence. The February 2005 Odioma incident⁷⁵ was not blamed on Shell but one report has argued that because it occurred "within its sphere of influence and area of operations" the company should have been more vigilant in relation to the human rights issues involved.⁷⁶ In Escravos in February 2005 protesters against Chevron were fired upon and one person was shot and later died. Eight months later it was reported that neither Chevron nor the Nigerian Government had undertaken a full inquiry into the incident.⁷⁷

87. In the present context it must suffice to emphasize that the oil companies must do all in their power to ensure that security companies and others to whom they contract or sub-contract work respect human rights standards. State Governments must also acknowledge their own responsibility.⁷⁶ Amnesty International, Nigeria, *Ten years on: Injustice and Violence Haunt the Oil Delta*, AI Index: AFR 44/022/2005, 3 Nov. 2005, p. 14.

⁷⁷ Ibid., p. 3. E/CN.4/2006/53/Add.4 page 35

⁷⁸ When asked about such issues the Governor of Bayelsa State argued that the oil companies had "come to divide and rule the people" and had wreaked environmental havoc. In relation to the corruption flowing from the practice of oil bunkering (estimated to be worth up to \$4 billion per year) he implied the connivance of the Federal police. Several months after this discussion the Governor was charged in London with money-laundering, and subsequently absconded from bail in the United Kingdom.



III. A CYCLE OF BLAME: THE MAIN PATHOLOGIES AFFECTING THE NIGERIAN CRIMINAL JUSTICE SYSTEM

88. There is no single entry point for reformers of the dismally inadequate Nigerian criminal justice system. Virtually every component part of the system functions badly. The result is a vicious circle in which each group contributing to the problem is content to blame others. Thus for example, police officers complain about a lack of resources, but the politicians complain that the police are thugs and their performance undeserving of increased resources. The judiciary blames the prison system and the police for the scandalous number of uncompleted cases, while the police observe that arresting robbers is futile because the courts will never convict them. It is essential to understand the vicious cycle of blame and for all actors to acknowledge their own responsibilities. The following list illustrates some of the pathologies.

A. The police investigation

89. Only the Police are authorized to investigate killings, even where the principal suspects are police officers. But the police service is so under-funded that the family of the deceased are often requested to fund any investigation, an expense which is well beyond the capacity of most Nigerians. Notions such as sealing off a crime scene or allocating the best officers to investigate a particular crime are foreign to a force for whom the phrase "police investigation" has become an oxymoron. There is no tradition of systematic forensic investigation in Nigeria, there is a single ballistics in the entire country, only one police laboratory, and no fingerprint database. The result, unsurprisingly, is that the police rely heavily upon confessions which, on one estimate, are the basis for 60 per cent of prosecutions. The temptation to "extract" a confession by all available means seems hard to resist.

B. Coroner's inquiries

90. The Nigeria Police informed the Special Rapporteur that "[c]oronerial inquiries [have] been conducted in all relevant cases, however records are not available ...".⁷⁹ According to virtually every other source, however, coroners are an endangered species and inquiries a rarity. It is unsurprising that the records are unavailable.

91. In practice, unspecialized magistrates act as coroners. It is commonplace for pathologists to sign reports without examining the body and when police killings are involved, there is often no signature.

C. Administrative remedies

92. The Special Rapporteur heard impressive plans for Citizen's Rights bureaux and comparable initiatives but received remarkably little evidence that most were working. These institutions have immense potential but they need resources, staff and powers, all of which are in short supply.

D. The holding charge

93. If the system worked, suspects would be brought before a court, charged and remanded. Instead the police consistently resort to a short cut by taking suspects before a magistrate who remands them indefinitely without formal charges while the police conduct their investigation. The result of this "holding charge" is that individuals can be jailed mo²²re or less indefinitely in a legal limbo based on little more than a suspicion of

²² 79 See note 12 above (police letter of 2 July) p. 2.



criminal activity, unsupported by any evidence. This practice continues despite a declaration of its unconstitutionality by the Court of Appeal.⁸⁰ It has contributed significantly to the extremely high rates of individuals in Nigerian prisons who have not been formally charged, a situation which can endure for a decade and beyond. It is an insidious but pervasive practice which shields police inefficiency and severely punishes many innocent persons.

94. Proposals in Lagos State would limit the remand period to 100 days.⁸¹ This would constitute a vast improvement, although 100 days is still far too long.⁸²

E. The prosecutorial system

95. Public Prosecutors have no control over police investigations, nor can they demand that individuals be produced in court. As a result, most police killings are never referred to the DPP and the latter cannot initiate a prosecution. Moreover, a police officer must be dismissed from the police force before being prosecuted.

F. Legal aid

96. There is a "severe lack of competent and adequately compensated counsel for indigent defendants and death row inmates seeking appeals."⁸³ Although the Legal Aid Act guarantees free legal assistance in capital cases to those who cannot afford a lawyer, in practice the Legal Aid Council, the body responsible for providing such assistance, is under-funded and unable to fulfil its duties.⁸⁴ While practitioners are keen to point to the pro bono work done by some barristers, this makes little dent in the overall shortfall of legal aid.

⁸⁰ Bayo Johnson v. Olufadeju (2002) 8NWLR Part 768, 192-222 (cited in Human Rights Law Service, *Travesty of Justice: An Advocacy Manual Against the Holding Charge* (2004)).

⁸¹ Thereafter the suspect would be entitled to release unless good cause is shown for a further 30 day remand. Human Rights Law Service, *Travesty of Justice: An Advocacy Manual Against the Holding Charge* (2004) pp. 52-57.

⁸² For a similar criticism see Human Rights Law Service, *Travesty of Justice: An Advocacy*

Manual Against the Holding Charge (2004) p. 55.

⁸³ The Report of the National Study Group on Death Penalty, Abuja, August 2004 p. 82. Aid Act guarantees free legal assistance in capital cases to those who cannot afford a lawyer, in practice the Legal Aid Council, the body responsible for providing such assistance, is under-funded and unable to fulfil its duties.⁸⁴ While practitioners are keen to point to the pro bono work done by some barristers, this makes little dent in the overall shortfall of legal aid.

G. The prison systems

97. The budget allocated to individual prisons is manifestly inadequate. Casualties in the administration of justice include those who need to go to court when their cases are finally scheduled. The chronic shortage of prison vehicles ("black marias") means that many prisoners are not delivered to court and their cases are simply adjourned.

H. The judicial system

98. The judiciary cannot absolve itself of responsibility for the unconscionable amount of time taken to resolve serious criminal charges, the adjournments handed out with reckless abandon (the Special Rapporteur met accused persons who had endured more than 50 adjournments), and the subsequent long-term rotting in prison of thousands charged with capital offences. There seem to have been remarkably few efforts to develop alternative dispute resolution mechanisms or more efficient methods of resolving criminal charges.

I. The Federal-State complication

99. There are good reasons why policing is a federal responsibility. By the same token State authorities use this as an excuse to insist that there is nothing they can do to change



police behaviour. In practice State Governors do exercise a measure of control over the police and the local Police Commissioner is an important part of the State executive. But the permission of the IGP or the President is required to direct the police to take any particular action. Moreover, since the States lack any independent investigative capacity they are almost entirely dependent upon the police to investigate. When the issue is alleged police misconduct such a system is neither viable nor convincing. One State DPP suggested that in such cases "the facts are systematically concealed and the files submitted to the DPP are wholly inadequate to base a prosecution". As in South Africa, consideration needs to be given to developing community policing which is responsible to local communities, without undermining ultimate federal control.

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²³ 84 Udo Jude Ilo & Oluwaseye Ajayi, *On the Gallows* (May 2005) at 4.1.3.



IV. IMPUNITY

100. The result of the vicious cycle described above is predictable. Investigations are replaced by heavy-handed tactics to extract confessions from suspects. Coronial findings rarely challenge police accounts, holding charges are used and abused where necessary, and where confessions are not available the well-cultivated inefficiencies of the system will ensure the long-term incarceration of the unconvicted accused. The result is a largely unaccountable police force, a system that does little to deter police killings or deaths in custody, and impunity for those accused of associated misconduct.

101. The official response is one of implausible denial. It is exemplified by a Government response to allegations concerning the killing of alleged armed robbers in Anambra State. The Government flatly refuted the allegations, partly on the grounds that the Special Rapporteur's information "did not indicate the venue of the execution, the names of the other detainees that carried the corpses into waiting police vehicles, and the final destination of the corpses". Such information is rarely available, especially given witnesses' fear of retribution. More tellingly, the Government observed that the "[b]odies of all such robbers are usually deposited by the Police in mortuaries or government hospitals and subsequently given burial by hospital authorities. There is always a coroner's inquest/post mortem examination report ...". In terms of the general situation, each of these claims runs counter to the Special Rapporteur's findings.

The reply added that the activities of police throughout Nigeria are guided by laws that respect human rights and that "[e]very effort by the Nigeria Police to keep Nigeria safe for all ... should be commended and supported". Accordingly, it concluded that the "petition is not only frivolous, diversionary, and false but calculated to encourage criminality especially violent crimes."⁸⁵ Such a reply does not exactly signify either a vibrant system of investigating allegations or of general police accountability.⁸⁶

V. CONCLUSIONS

102. While this report focuses on major problems within Nigeria, there are also many encouraging developments underway. In particular, the fight against corruption at all levels is closely linked to issues of extrajudicial executions. African leaders have identified ⁸⁵Note verbale No. 144/2005 from the Permanent Mission of Nigeria, 16 June 2005.

⁸⁶In a similar vein, the Government responded to a complaint submitted to the African Commission on Human and Peoples' Rights alleging a consistent pattern of extrajudicial executions by asserting that they were "generally unfounded, baseless and lacking substantiation". The remainder of the reply asserts that domestic remedies have not been exhausted and that they would have provided ample remedies. None of this is consistent with the findings of the present report. *Access to Justice v. Federal Republic of Nigeria*, African Commission on Human and Peoples' Rights, Communication 270-/2003; Response by Mrs Eudora E. Ekwueme, Director, International and Comparative Law, Federal Ministry of Justice, Nigeria, Nov. 2004.

corruption as one of the biggest problems confronting Africa,⁸⁷ and Nigeria has ranked especially badly.⁸⁸ Recent initiatives, however, have succeeded in targeting some of the most prominent cases,⁸⁹ and other governance reforms have facilitated significant debt relief. It should also be acknowledged that there are elements within the police and the



armed forces which are committed to promoting reforms. Much will rest on their shoulders.

VI. RECOMMENDATIONS

103. Commissions of inquiry

Inquiries are often used for whitewashing purposes. One State Attorney-General could recall no case of prosecutions following such an inquiry. Their main purpose, he observed, was to facilitate a "cooling of the political temperature".

(a) The only slightly delayed publication of the report of the Apo 6 inquiry is exemplary and this should become standard practice. To that end the Federal Government should legislate to require the publication within six months of all commission of inquiry reports relevant to extrajudicial executions. In cases of non-publication a specific national security exemption should need to be invoked, and justified;

(b) The full report of the Apo 6 inquiry should be made public immediately.

104. The death penalty

(a) The Federal Government should reiterate that the imposition of the death penalty for offences such as adultery and sodomy is unconstitutional. It should commit to undertaking a constitutional challenge at the earliest opportunity;

(b) The sentence of every prisoner who has served more than five years on death row should be commuted immediately and consideration given to commuting all such sentences;

(c) All persons sentenced to death or life imprisonment under martial law should have their convictions reviewed in recognition of the highly unsatisfactory due process protections applied at the time. Since judicial review is probably beyond the capacity 87 See Our Common Interest: Report of the Commission for Africa (2005), available at http://www.commissionforafrica.org/english/report/thereport/english/11-03-05_cr_report.pdf, Chapter 4.5.

88 Nigeria is ranked 152nd out of 158 countries on the Corruption Perceptions Index prepared by Transparency International in 2005. The Index measures "perceptions of the degree of corruption as seen by business people and country analysts". Available at <http://www.transparency.org/cpi/2005/cpi2005.sources.en.html>. Only Haiti, Myanmar, Turkmenistan, Bangladesh and Chad received lower rankings than Nigeria. E/CN.4/2006/53/Add.4 page 36

89 In March 2005 the Inspector-General of Police, the Minister for Education and the Speaker of the Senate were dismissed for corruption. Charges have subsequently been brought against each of them.

of an inefficient and overstretched court system, an administrative procedure should undertake an initial vetting of all such convictions and make recommendations to the Government;

(d) UNICEF should commission a consultant to review the files of all prisoners on death row for crimes committed before they were 18. Judicial review should then be sought to ensure compliance with the Convention on the Rights of the Child.

105. Executions and accountability



- (a) There are no systematic police statistics recording extrajudicial executions.⁹⁰ An annual register should be published and strong disciplinary measures applied to those who fail to report fully, promptly and accurately all deaths at the hands of police;
- (b) Professionally staffed and well equipped forensic laboratories should be established in key regional centres without delay;
- (c) Armed robbery per se should be removed as a capital offence which warrants a shoot-to-kill response. Its current classification has pernicious effects far beyond any benefits that result. The rules regarding the use of firearms by police officers (Police Order No. 237) should be amended immediately as recommended above.

106. Police reform

- (a) There should be an independent external review of the Police Service Commission, taking account of recent South African reforms, designed to establish an effective police accountability system. The Commission needs (i) commissioners committed to achieving results; (ii) the capacity to collect and disseminate information on police misconduct; (iii) independence from the Nigeria Police, including its own investigative capacity; (iv) assured funding; and (v) an obligation to publish its results;⁹¹
- (b) Petty, everyday, police corruption is a constant reminder to the populace that justice can be bought, that the police cannot be relied upon for protection, and that police and criminals are all too often involved in the same enterprise. "Nipping points" symbolize the rampant corruption. Initiatives to eliminate them have been loudly proclaimed but pathetically under-implemented. Routine checkpoints should be abolished immediately and senior officers demoted when their forces are caught "rogering";⁹²

⁹⁰ The Inspector-General of Police confirmed that no statistics were kept in relation to extrajudicial executions. See note 12 above.

⁹¹ See generally Themba Masuku, *Strengthening Democratic Policing in South Africa: Enhancing and Coordinating the Internal and External Accountability Systems of the South African Police Service*, (Braamfontein, Centre for the Study of Violence and Reconciliation, 2005).

- (c) The Nigeria Police should issue an order that no medical professional will be prejudiced as a result of providing urgent life-saving treatment to a wounded person without first obtaining police authorization;
- (d) Linked to these reforms, police pay and conditions, especially for the lowest ranks, should be greatly improved. Existing salary levels invite corruption.

107. Vigilantes and community policing

- (a) The corruption and unreliability of the police force provides a convenient excuse for efforts to marginalize it: use of the military for policing, hiring "supernumary" police by oil companies, and support of vigilantes gangs. But these developments further undermine the community standing of the police and make reforms even less likely. The police, at all levels, must begin to see that it is in their own interests to clean up their act. The recently launched Community Policing Initiative has huge potential to obviate the need for vigilantes and to link the police to local communities. It should be greatly expanded;
- (b) Tackling the vigilante problem is especially urgent. The Federal Government should prepare and publi²⁴sh an authoritative inventory of all vigilante groups enjoying any form

²⁴ ⁹² The local slang for demanding a bribe.



of official support and playing any role whatsoever in law enforcement. Each state Government concerned should promulgate rules regulating the activities of such groups. And the relevant authorities must investigate and prosecute any illegal vigilante activities involving torture, detention or executions.

108. Development assistance

Support for these recommendations must also come from the international community. Rule of law programmes have been too narrowly defined,⁹³ and the taming of high-level corruption, as vital as it is, seems to represent the total picture for some agencies.

109. The armed forces

The Nigerian Armed Forces are essentially unaccountable except to the President and he will rarely call them to account. Legislation should be enacted making it an offence for police and military officers to fail to cooperate with official inquiries into alleged extrajudicial executions.

110. A follow-up report will evaluate all measures taken by the Government to implement these recommendations.

93 Stephen Golub, "Less Law and Reform, More Politics and Enforcement: A Civil Society Approach to Integrating Rights and Development", in Philip Alston and Mary Robinson (eds.), *Human Rights and Development: Towards Mutual Reinforcement* (2005) 297.



Appendix

Programme of the visit

This report is based upon interviews conducted in the States of Lagos, Kano, Rivers State and Bayelsa State as well as in the Federal Territory of Abuja. In addition, account has been taken of a large amount of information provided by both the Federal and State Governments of Nigeria, and by international organizations, civil society groups, and transnational corporations operating in Nigeria. In particular, information was also obtained from individuals involved in all parts of the criminal justice system, ranging from Attorneys-General and Solicitors-General, through Chief Judges, Directors of Public Prosecutions, Prison Commissioners and legal advocates, to the relatives of victims and a great many prisoners (including those convicted, those on remand, and well over 100 on death row). I am grateful for the logistical support provided by various members of the United Nations Country Team and especially by officials of the UNDP.

In the Federal Territory of Abuja, I met with officials from the Ministry of Foreign Affairs (Ambassador Chike Amigbo and Abdul Bin Rimdap), the Minister of Justice (Chief Akin Olujimi), the Minister of Defence (Chief Roland L. Oritsejafor), the Inspector General of Police (Mr. Sunday Ehindero), representatives of the Police Service Commission (Justice Olajide Olatawura and Ms. Ayo Obe), the Executive Secretary of the National Human Rights Commission (Mr. Bukhari Bello), and a member of the House of Representatives (Mr. Bala Ibn Na'allah). I also benefited from briefings by the United Nations Resident Coordinator (Tegegnetwork Gettu), the country representative of the United Nations Children's Fund (Ayalew Abai) the Chief for Child Protection at UNICEF (Robert L. Limlin), the Country Director of the World Bank (Mr. Ghanem), the Security Component manager and Police Advisor of the United Kingdom Department For International Development (Mr. Blair Davies,) and from several other representatives of the diplomatic community.

In Kano, I met with, inter alia, the Governor (Mr. Alh. Ibrahim Shekarau), the State Attorney General (Chief Akinlolu Olujimi, SAN), the Deputy Grand Khadi (Mr. Ahmed Umar Ahmed), and the State Police Commissioner (Mr. Ganiyu Alli Dawodu). I also visited the Kano central Prison and held private interviews with inmates. I am particularly grateful to those who assisted in providing interpretation for those interviews. In Lagos, I met with the Commissioner for Home Affairs, the Solicitor General (Mr. Fola Arthur Warey), the Director of Public Prosecution (Ms Bola Okiklolu Ighile), and the State Police Commissioner (Mr. Ade A. Ajakaiye). I also met with the External Affairs Director of the Shell Petroleum Development Company of Nigeria (Mr. Precious Sotonye Omuku) and the Social Responsibility Officer (Mr. Epomi). In addition I visited the Ikoyi prison and conducted private interviews with detainees. I am very grateful to representatives of the Prisoners Rehabilitation and Welfare Action for their help in conducting such interviews. In Port Harcourt, I met with the Governor (Dr. Sir Peter Odili), the Attorney-General (Mr. Odein Ajumogobia SAN), the State Police Commissioner (Mr. Samuel A. Adetuyi) and the Chief Judge (Mr. Iche Ndu) and several judges of the State High Court. I also visited the Port Harcourt prison to inspect its facilities in the aftermath of a June 2005 jailbreak and to interview inmates.

In Yenagoa, I met with the Governor (Dr. DSP Alamieseigha) and members of his Executive Council, and with the State Police Commissioner (Mr. Oliver Osuchukwu). Round table and individual consultations with representatives of non-governmental



organizations were organized in almost all locations that I visited. I am grateful to the Legal Defence and Assistance Project (LEDAP) as well as the Civil Liberties Organisation for their help invaluable help in facilitating those meetings. I also held meetings with many individuals and numerous NGOs. Among the latter were: the Prisoners Rehabilitation and Welfare Action, Centre for Democracy and Development, the Academics Associate Peaceworks, the Constitutional Rights Project, Global Rights, Legal Research Initiative, the Even development Project, Access to Justice, Centre for Law Enforcement Education, MOSOP and Stakeholder Democracy Network, Ijaw Council for Human Rights, Women's Aid Collective, the Human rights Centre and the Institute of Human Rights and Humanitarian Law. The dedication and energy of these members of civil society was immense and their contribution to the promotion of respect for human rights is a major one.

Finally, in each location I visited I was privileged to hold private meetings with witnesses and family members of victims of extrajudicial executions. I concluded my visit by briefing the representative of the Minister for Foreign Affairs and holding a press conference at the UNDP offices in Abuja.