

The Warri Crisis: Fueling Violence

5/5-04

I. Summary	2
II. Background.....	3
III. Violence in 2003.....	5
IV. The Elections in Delta State.....	14
V. Illegal Oil Bunkering.....	17
VI. Security Forces.....	21
VII. Small Arms.....	24
VIII. Conclusion	26
IX. Recommendations.....	27
To the Nigerian Federal and Delta State Governments	27
To foreign governments, intergovernmental organizations, and the oil companies	28
Acknowledgments.....	29

I. Summary

Conflict in Nigeria's Delta State during 2003 has led to the killing of hundreds of people, the displacement of thousands, and the destruction of hundreds of properties. Among the dead are probably dozens killed by the security forces. Although the violence has both ethnic and political dimensions, it is essentially a fight over money. In Nigeria, control of government often represents virtually unaudited control over resources. Delta State, which produces 40 percent of Nigeria's oil and receives 13 percent of the revenue from production in the state, has a particularly controversial division of political and government positions and structures, over which representatives of different ethnic groups are struggling. The wholly fraudulent nature of the 2003 state and federal elections in Delta State, as in 1999, means that there is little hope of changing political structures by democratic means, and elections become a focus for violence. In addition, the warring factions are fighting for control of the theft of crude oil, siphoned from pipes owned by the joint ventures that operate Nigeria's oil industry, known as "illegal oil bunkering." Illegally bunkered oil accounts for perhaps 10 percent of Nigeria's oil production, and those who sell the stolen oil, who have low capital costs, make enormous profits from this trade. Both politicians and those who head the illegal bunkering rackets (sometimes the same people) have armed youth militia to ensure their reelection or defend their operations. Among the other factors contributing to the conflict are the widespread availability of small arms, and ongoing impunity for abuses by all sides, including the security forces, since the first round of serious fighting in Delta State in 1997. Finally, the corruption and mismanagement in government that has left the region from which Nigeria derives its wealth poor and underdeveloped, has created a large class of young men who have no hope of legitimate work that would fulfill their ambitions, and are easily recruited into violence.

Because of the sheer scale of the violence over the past year—which many people described to Human Rights Watch as a war—and because many of the alleged abuses have taken place in the mangrove forest riverine areas which have been effectively inaccessible for much of 2003, Human Rights Watch was unable to document these abuses in a systematic and comprehensive way. The following account is based partly on our own research in September 2003, but also upon the reports of informed observers, including nongovernmental organizations (NGOs), government spokespeople, oil company staff, journalists, and the assertions of the political leaders of each of the three ethnic groups involved in the violence—the Ijaw, Itsekiri and Urhobo. Ordinary people on all sides have been victims of violence and continue to suffer the consequences of the fighting; but it seems that the Itsekiri, the smallest group of the three, have been the main victims of violence during 2003, largely at the hands of organized Ijaw militia. There is a great need for detailed and unbiased investigation and reporting of the abuses that have taken place, both by official inquiries and by nongovernmental organisations, so that the impunity that has characterized the crisis can be ended. In particular, the scale of the destruction and loss of life in the riverine areas must be urgently

documented. Those alleged to be responsible for murder and other crimes must then be brought to justice following due process of law.

Finding a permanent solution to the violence in Delta State will be difficult. It must involve both a dedicated effort by government to resolve the political issues under dispute, including the equitable and effective spending of government resources, and the restoration of law and order through effective, impartial, and law-abiding security force action. Those responsible for murder and other crimes must be brought to justice. A negotiated solution to the demands of the different ethnic groups must be found; and fresh elections should be held in Delta State, as in other states where national and international monitors found the level of fraud and violence surrounding the 2003 polls to be so high that the minimum international standards for democratic elections were not met. One contribution to ending the violence may also be an effort to create a system for “certifying” crude oil as coming from legitimate sources, in order to reduce the demand for illegally bunkered oil, and thus the funds going to those organizing many of the ethnic militia.

II. Background

Since before Nigeria’s independence in 1960 there have been tensions surrounding the arrangements for the government of the region surrounding Warri, the second most important oil town in Nigeria after Port Harcourt.¹ Warri itself, the largest town (though not the capital) of Delta State, is claimed as their homeland by three ethnic groups: the Itsekiri, the Urhobo, and the Ijaw. The Itsekiri, a small ethnic group of a few hundred thousand people whose language is related to Yoruba (one of Nigeria’s largest ethnic groups), also live in villages spread out along the Benin and Escravos Rivers into the mangrove forest riverine areas towards the Atlantic Ocean. The Urhobo, a much larger group numbering some millions related to the Edo-speaking people of Benin City, live in Warri town and to the north, on land. To the south and east, also in the swampy riverine areas, are members of the Western Ijaw, part of the perhaps ten million-strong Ijaw ethnic group, the largest of the Niger Delta, spread out over several states.

The question of the “ownership” of Warri has been in dispute for decades—since well before independence—and is the subject of heated debate in the Nigerian courts and media as well as in the homes of Warri. It forms the core argument in the presentation of the various ethnic groups as to the underlying causes of the violence of the last decade. Closely linked to the question of “ownership” is that of representation in the formal structures of government, both at local government and state level. Delta State was created in 1991, with several others, by the military regime of Gen. Ibrahim Babangida.

¹ See Obaro Ikime, *Niger Delta Rivalry: Itsekiri-Urhobo Relations and the European Presence 1884-1936* (New York: Humanities Press, 1969); T.A. Imobighe, Celestine O. Bassey, Judith Burdin Asuni, *Conflict and Instability in the Niger Delta: The Warri Case* (Abuja: Academic Associates Peaceworks, 2002).

Both Ijaw and Urhobo see the current dispensation in the state, in which Itsekiri dominate government structures in the three Warri local government areas (LGAs), Warri North, Warri South, and Warri South West, as unfair. They complain that this dominance means that the Itsekiri and their traditional leader, the Olu of Warri (itself a contested title, having been changed in 1952 from the Olu of Itsekiri), benefit disproportionately from government resources—both at the level of government contracts and appointments, and, for example, when it comes to obtaining “certificates of origin” in order to obtain government bursaries for higher education. Control of government structures also brings other benefits, notably a greater amount of contact with the oil companies, which may lead to the award of valuable contracts. Among the demands of the Ijaw and Urhobo are the creation of new wards and local government areas which they believe would ensure that their ethnic groups are more effectively represented.

Human Rights Watch takes no position on who the “true indigenes” of Warri are, nor on the creation of wards or local government areas. However, the long term peace of Delta State clearly depends in part on the resolution of these political issues in a manner that ensures equitable representation of all those living in the state regardless of origin. Above all, the process of arriving at a final arrangement must be seen to be fair. The concept of “indigene” is itself problematic: all those concerned are Nigerians, and should have equal rights in relation to the government of the state where they live.²

The first major outbreak of violence in the Warri area in recent years was in March 1997, and centered on the creation, by the then military regime, of a new local government area, Warri South West, and the location of its headquarters.³ An Ijaw expectation based on official statements that the local government headquarters would be in Ogbe-Ijoh, an Ijaw town, was disappointed when the location published in the federal government gazette turned out to be Ogidigben, an Itsekiri area. From March to May, widespread clashes continued, in which hundreds of people died on each side. More than 200,000 barrels per day (bpd) production were closed down for some weeks.⁴ The Delta State government under Military Administrator Col. J. Dungs appointed a commission of inquiry into the violence, chaired by Justice Alhassan Idoko, which met during June and July 1997. The report of the inquiry was never published nor its recommendations implemented or incorporated into a government “white paper” setting out the official response to the inquiry’s findings.

Violence has regularly erupted in the region since then, leading to clamp-downs by the authorities. In October 1998, a curfew was declared in Warri town by the new military administrator, Navy Commander Walter Feghabor, after at least five people were shot dead in clashes between Ijaws and

² See, “Jos: A City Torn Apart,” Human Rights Watch, December 2001, for a discussion of the concept of “indigene” under the Nigerian constitution.

³ There were also clashes in 1993, between Urhobo and Itsekiri, into which there was a government inquiry led by Justice Nnaemeka Agu (of which the report was never published), but the violence was not on the same scale as the more recent fighting.

⁴ See, Human Rights Watch, *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities* (New York: Human Rights Watch, February 1999), pp.111-114.

Itsekiris and a large number of houses set on fire. Violence nevertheless continued, in Warri town and in the surrounding creeks, with attacks on leaders of each community. Oil exports were reduced by several hundred thousand barrels a day for several weeks.

In late May and June 1999, at the time of the hand-over from a military to civilian government in Nigeria, serious violence once again broke out in and around Warri, when new local government officials were due to be sworn in for the contested local government area created in 1997. Up to two hundred people were reported to have been killed in raids by ethnic Ijaw and Itsekiri militia on areas inhabited by members of the other ethnic group. The new civilian governor, James Onanefe Ibori, imposed a curfew which remained in place for months. Hundreds of government troops were once again deployed to Warri town and its environs. Newly sworn-in President Olusegun Obasanjo visited Warri on June 11, 1999, and pledged to find a fair solution to the problems. In September 1999, the Delta State Assembly passed a bill moving the Warri South West local government headquarters from Ogidigben to Ogbe Ijoh. Though the intense fighting of 1999 died down, there were new clashes throughout the next four years, in which, cumulatively, dozens of people were killed. Hundreds of thousands of barrels of oil production were also lost in periodic shut-downs of flow stations following occupation by armed or unarmed youths (a term that in Nigeria can include men up to thirty-five or forty in age), or by other local residents, including women's groups; in some cases based on grievances with the oil companies, in others on discontent with government.

There has been no systematic investigation of the crimes committed in the Warri conflict since 1997, nor of the number of casualties or damage to property caused. There have been few arrests and even fewer, if any, prosecutions for these killings: either the government security forces have shot dead those involved in violence in the course of arresting them; or if there are arrests, the suspects are released after interventions with the police by their leaders. There are also credible reports from across Nigeria that many criminal suspects are summarily executed while in police custody. Often there are no consequences of any kind for those involved in the violence: there have been none for the political leaders of those who are fighting on the ground. The continued impunity for years of brutal violence is a fundamental cause of the renewed outbreak of fighting in 2003.

III. Violence in 2003

The latest round of violence began in early 2003, during the lead up to state and federal elections held in April and May (local government elections have still not been held anywhere in Nigeria since 1999). On the weekend of January 31 / February 1, there was fighting in the Okere district of Warri town between Itsekiris and Urhobos, during primaries being held for the Delta South senatorial district by the People's Democratic Party (PDP), the incumbent party in both Delta State and at federal level. The dispute centered on the number of wards making up the district, and the boundaries between the wards, which Urhobos alleged disadvantaged them. According to local accounts and press reports, Urhobo youths attacked an Itsekiri area on the afternoon of January 31, and began to loot and burn property. Itsekiri

youth collected at the stadium where the primary voting was taking place then retaliated in response to reports of this raid. Over the next couple of days most of a large estate belonging to Chief Benjamin Okumagba, the traditional ruler of the Urhobo in Warri, was destroyed. Government soldiers intervened during the initial Urhobo attack on the Itsekiri neighborhood, and one soldier was reportedly killed in this confrontation. Urhobo witnesses to the events alleged that soldiers patrolling the Okumagba estate were withdrawn before the Itsekiri attack. There were other reports of random shooting or executions by the armed forces during efforts to quell the fighting. Estimates of the number of dead over the few days of violence ranged from twelve to two hundred. The Nigerian Red Cross reported that more than 6,000 people had been displaced.⁵

Violence flared again in March, leading to more prolonged and brutal conflict. The immediate spark for the renewed violence appears to have been a combination of Ijaw political discontent around the same issues of representation that had contributed to the January/February fighting; and a clash between Ijaw militia and the Nigerian navy over illegal oil bunkering.

On March 3, the Federated Niger Delta Ijaw Communities (FNDIC), an organization of youth militants with its support base among the Delta State Ijaw, issued an ultimatum giving the Nigerian government seven days to meet a series of demands—including the redrawing of electoral wards in Warri South West local government area, troop withdrawal from Ijaw communities, reversal of the April 2002 Supreme Court ruling that offshore oil revenue belongs to the Nigerian federal government and is not subject to the constitutional requirement that a 13 percent share be returned to the state of derivation, and withdrawal of expatriate oil company staff—or face “mass action” to “reclaim” the creeks of the riverine areas. FNDIC advised the international oil companies to leave the area until the government met their demands.

The March 10 deadline passed without incident. On March 12, however, there was a clash between government forces and Ijaw militia near the village of Okorenkoko on the Escravos River south of Warri, in which several soldiers and sailors and up to five militia members were killed. According to FNDIC, the clash happened when “men of the Nigerian Navy under the then commanding officers (CO) of Umalokun (now Warri) Naval Base, Warri, Navy Capt Titus Awoyemi were accosted while carrying out illegal bunkering in the areas of SPDC [the Shell Petroleum Development Company of Nigeria Ltd, the joint venture operated by Shell] Jones Creek Oil fields.”⁶ According to other accounts, naval personnel captured the boat being used for bunkering, despite the fact that the people running the illegal bunkering had “settled” (bribed) Capt. Awoyemi so that the navy would take no action. The bunkerers had then hired the youth militia to recapture the boat. Other reports

⁵ Human Rights Watch interviews, September 12 and 13, 2003. See also, “Testing Democracy: Political Violence in Nigeria,” *A Human Rights Watch Short Report*, April 2003.

⁶ “Operation Restore Hope: An act of further militarisation of the Niger Delta,” FNDIC, August 27, 2003. In November 2002, naval personnel reportedly burnt down eleven houses and killed several people in Okorenkoko in reprisal for an alleged attack by youth from the village on a naval escort for ChevronTexaco staff. Kelvin Ebiri, “Witnesses: Five killed in Nigerian navy attack after ‘pirates’ rob ChevronTexaco boat,” *Associated Press (AP)*, November 14, 2002; Sola Adebayo, “5 Missing as Naval Men Raid Ijaw Community,” *Vanguard* (Lagos), November 7, 2002.

indicated that in the course of the fighting a number of people not involved in the initial clash, including SPDC staff and their escort of three Nigerian police officers, had been taken hostage by armed youths; the Shell staff were released and the police officers kept (and never accounted for; they are presumed killed). The clash between the navy and youth militia then occurred during an attempt to rescue the policemen.⁷ Capt. Olufemi Ogunjinmi, the naval CO who replaced Capt. Awoyemi in April, told Human Rights Watch that Ijaw militia had disarmed some sailors, and that when others returned to retrieve the rifles they were again confronted by armed militia and some personnel injured. One sailor and several soldiers were killed.⁸ The army reported that they were attacked on the Escravos River by youths they believed to be from Okorenkoko, who killed four of their men.⁹

Following this encounter, FNDIC claimed that government soldiers and navy attacked Ijaw villages in the Escravos River, including Okorenkoko, from March 13, exchanging fire with FNDIC's own supporters, of whom several were killed. The Port Harcourt-based NGO ND-HERO, which had a representative stationed in Warri at the time, spoke to people fleeing Okorenkoko who reported that two naval gun boats and other smaller boats had attacked different villages in the area.¹⁰ Journalists also spoke to witnesses who described indiscriminate shootings both by the government forces and by ethnic militia.¹¹ The commanding officers of the army and navy based in Warri, however, denied to Human Rights Watch that any raid on Okorenkoko or other villages in the area had taken place.¹²

Itsekiri leaders claimed that Ijaw militia then attacked Madangho, Arutan, and other Itsekiri villages near Escravos on March 17, killing perhaps a dozen civilians.¹³ Other observers concurred that the Ijaw had launched attacks on Itsekiri villages, which were taken by surprise. Over the following weeks, many other villages were attacked in what appear to have been well-organised raids, and dozens of people killed. Chevron Nigeria Ltd (CNL; the company's Nigerian registration has not yet been changed to reflect the global merger with Texaco) and SPDC assisted in the evacuation of hundreds of affected villagers, airlifting over 2,000 displaced community members, mostly Itsekiris, who had sought shelter at the CNL Escravos terminal.¹⁴ SPDC also evacuated dozens of people by

⁷ Human Rights Watch interviews, Warri, September 2003; see also, Austin Ogwuda, "Warri Crisis—Police confirm killing of sergeant," *Vanguard* March 19, 2003; "Okorenkoko—Battle on the Jungle Island," *This Day* (Lagos), March 25, 2003; SPDC letter to Human Rights Watch, October 17, 2003.

⁸ Human Rights Watch interview, Warri, September 11, 2003.

⁹ "Field report of military invasion of Okorenkoko community, Warri, Delta State," ND-HERO March 21, 2003.

¹⁰ "Field report of military invasion of Okorenkoko community, Warri, Delta State," ND-HERO, March 21, 2003; "Okorenkoko Community Update," ND-HERO, March 26, 2003. See also, "The Situation in Warri, March 13-19, 2003" and "Warri Crisis Update: March 20-26, 2003," Institute for Democracy in South Africa (IDASA), Abuja, March 2003.

¹¹ Glenn McKenzie, "Witnesses: Nigerian troops shoot villagers during oil unrest," AP, March 21, 2003; Dave Clark, "Niger Delta refugees fear new violence as oil operations paralyzed," Agence France Presse (AFP), March 21, 2003.

¹² Human Rights Watch interviews, Warri, September 11, 2003.

¹³ "International appeal to stop the genocide against the Itsekiris by the Ijaws," Itsekiri Survival Movement, March 25, 2003.

¹⁴ "Chevron Nigeria Limited Shuts in all Western Niger Delta Production," ChevronTexaco Press Release, March 23, 2003; CNL letter to Human Rights Watch, November 4, 2003.

air who had come to its Escravos flow station; the helicopters used were also reportedly fired upon. According to Bello Oboko, president of FNDIC, who did not deny to Human Rights Watch that Itsekiri villages had been attacked by FNDIC supporters, the raids were carried out because the Nigerian government forces had been using Itsekiri communities as bases from which to target Ijaw militia. FNDIC alleged that sixty people had been killed in attacks by Itsekiri militia or the government forces on various Ijaw villages by the end of March, and published the names of eighteen dead.¹⁵

The fighting had a severe impact on oil production, both because some flow stations were themselves attacked, and because of the general insecurity. By March 19, SPDC had closed ten flow stations in Delta State as a result of the violence, evacuating employees and losing 126,000 bpd production; four more were closed a few days later, bringing the total loss in output to 320,000 bpd. Chevron stated that it had closed its onshore facilities, and then its main export terminal at Escravos, closing down output of 440,000 bpd. Both SPDC and CNL declared *force majeure*—an inability to fulfill their obligations due to events beyond their control—on their Nigerian exports.¹⁶ Youth militants destroyed several flow stations after the oil companies abandoned them, including CNL's Olero Creek and Dibi flow stations; and SPDC's Otumara and Saghara flowstations, and a logistics base at Escravos.¹⁷ There was minor vandalization elsewhere. Total (formerly Elf; the joint venture in Nigeria is still known as Elf Petroleum Nigeria Ltd, EPNL) also closed its production in the area. By March 24, combined total loss of production was more than 800,000 bpd, around 40 percent of Nigeria's usual oil output.¹⁸ FNDIC announced that it had seized eleven oil facilities and threatened to blow them up if government attacks on Ijaw villages did not cease.¹⁹ Not till the second week in April did production begin to resume. As of August 11, SPDC was still down 125,000 bpd, and ChevronTexaco by 140,000 bpd; Total had not restarted its own 7,500 bpd closed in since March.²⁰ By October, SPDC was reporting production reduced by 80,000 bpd and CNL still by 140,000 bpd.²¹

¹⁵ "Renewed Hostilities in Warri South-West: The Ijaw Case," FNDIC, April 28, 2003.

¹⁶ Daniel Balint-Kurti, "Shell says Nigeria unrest shuts in 126,000 bpd," Reuters, March 19, 2003; Norval Scott, "ChevronTexaco Declares Force Majeure in Western Niger Delta," *WMRC Daily Analysis* (London), March 21, 2003; "Shell Declares Force Majeure on Forcados, Bonny Loadings," *Platts* (New York), March 21, 2003. A common provision in many contracts, including those for supply of oil, is that the contracting parties shall not be considered to be in breach of the contract for reasons beyond their control (such as catastrophic weather, or other "acts of god"). These provisions are known as *force majeure* clauses; when a company invokes such a clause it is "declaring force majeure."

¹⁷ SPDC letter to Human Rights Watch, October 17, 2003; CNL letter to Human Rights Watch, November 4, 2003.

¹⁸ Daniel Balint-Kurti, "Nigerian militants threaten to blow up oil facilities," Reuters, March 23, 2003; "Nigeria violence hits Chevron," BBC website, March 24, 2003.

¹⁹ The facilities seized were SPDC's Jones Creek, Egwa I and II, Odidi I and II and Batan flow stations, CNL's Otunana, Makaraba and Abiteye flow stations, and EPNL's Opunami and Kwoko flow stations. Dulue Mbachu, "Violence rages in Nigeria's oil region," AP, March 23, 2003.

²⁰ "Nigeria's oil majors cautious about returning to Niger Delta," *Platts Commodity News*, August 11, 2003.

²¹ SPDC letter to Human Rights Watch, October 17, 2003; CNL letter to Human Rights Watch, November 4, 2003.

On April 11, armed Ijaw militia in about seven speedboats attacked Koko, an Itsekiri community and the headquarters of Warri North local government area, situated on the Benin River. Because Koko is accessible by road, this raid has been possible to document; villages attacked in the mangrove forest area remain inaccessible because the waterways are effectively closed. During the attack, the militia killed at least one government soldier and perhaps tens of civilians (including four children) and burnt down around fifty buildings, including the local government secretariat and the residential quarters of soldiers stationed in the town on “peacekeeping” duties as a result of the crisis. The militia broke into the armory used by the soldiers and reportedly took 105 rifles as well as ammunition; the army later said that only eight rifles were taken.²² There was no pre-existing dispute between Koko and neighboring communities that would explain the attack. Koko is not an “oil producing community” in that there is no flow station located there.

Human Rights Watch visited Koko in September 2003. While some rebuilding had taken place, many people who had fled the town had not returned, and traffic on the river, usually a busy thoroughfare, was nonexistent. According to residents, dozens of Ijaw militants carried in up to nine speedboats attacked the village from the river without warning at around four in the afternoon. The youths, dressed in civilian clothes and wearing red or white headbands, were already shooting as they approached the shore at the local government secretariat, where several tens of soldiers were stationed. Residents reported that—although the attack had been rumored for a couple of weeks, so they should have been prepared—the soldiers did not offer any resistance but simply ran away, abandoning the machine gun which was set up at their base on the shore. The machine gun was later taken away by the attacking militia. The militia had also fired a machine gun during the attack; though it was not clear whether this was the one abandoned by the soldiers, or they had attacked with a machine gun already in their boats.

A young man living close by the house of the pastor of the Four Square Gospel Church—itsself next to the house where the major commanding the soldiers in the village was billeted—told Human Rights Watch of a particularly horrific incident. Members of the Ijaw militia came to the building and set it afire. While the house was burning, “the enemy,” as the young man put it, threw four children, aged from around seventeen down to about six, into the fire. The pastor was away from the village at the time of the attack; the bodies of the children had been buried in the grounds of the house. Professor Lucky Akaruese of the University of Port Harcourt, who is from Koko and has led efforts to report the attack, told Human Rights Watch that it was believed that around forty or fifty people had been killed by the militia—though it was hard to be sure, since some may have run away into the bush rather than being killed. Around ten of the dead had been beheaded. Human Rights Watch cannot confirm these figures. Other eyewitnesses described looting and burning of buildings. One soldier who had been separated from his colleagues was also killed.²³

²² Sola Adebayo, “105 rifles missing as Ijaw youths loot military armoury,” *Vanguard*, April 17, 2003; Vincent Nwanma, “Nigeria’s President Facing Sticky Oil, Ethnic Issues,” *Dow Jones* (New York), April 17, 2003.

²³ Human Rights Watch interviews, September 8, 2003.

The militia remained in the village for more than three hours, until after seven in the evening. They only left when a military armored car came, called by Delta State Commissioner for Housing Dr. Ideh, who lives in the village and phoned for assistance from his house. Neither the Delta State nor the federal government had provided any relief assistance to the people affected by the violence by September: although Governor Ibori had promised that those whose houses were destroyed would be given access to an existing nearby new government housing development, this promise had not been fulfilled.

Residents told Human Rights Watch that soldiers from among those who had been in the village on the day of the attack had informed them that the officer in command had accepted money from the militia in order to offer no resistance. Human Rights Watch was unable to corroborate these accounts—the soldiers based at Koko had been redeployed and replaced—but they are serious allegations which deserve investigation at the highest level by both civilian and military authorities. The major currently in command of the soldiers based in Koko would make no comment on these reports. The officer commanding the 7th Amphibious Battalion based at Warri, Lt.-Col. Gar Dogo, told Human Rights Watch that an internal board of inquiry had investigated the allegations and found them not to be true.²⁴

Despite the fighting, which—in addition to causing the displacement of thousands of people, effectively prevented all travel in the waterways once it broke out—the Independent National Electoral Commission (INEC) and Delta State Independent Electoral Commission (DSIEC) decided to go ahead with the three days of voting scheduled for April and May in the three Warri LGAs affected by serious violence. National Assembly elections were held on April 12, gubernatorial and presidential elections on April 19, and state house of assembly elections on May 4.

Violence continued throughout this period, as FNDIC threatened to consider any delivery of election materials an “act of war.”²⁵ In addition to the raid on Koko, headquarters of Warri North LGA, there were clashes in Warri town in early April, and Ijaw militants attacked the INEC offices in Warri South and South West LGAs on April 12, polling day. Voting was prolonged into Sunday. Gun fights between youth militia and the military took place throughout the polling period.²⁶ Ijaw militia reportedly attacked the Itsekiri village of Ugbuwangu near Warri, on April 14, but were prevented from entering Warri town by the army and navy.²⁷ The governorship election faced similar problems, and there were further attacks by Ijaw militants during the lead up to State Assembly elections held on May 4. Ijaw militia reportedly attacked Egbokodo, Warri South (near the Warri Refining and Petrochemical Company) on April 27; and Orere, Warri North, on April 28,

²⁴ Human Rights Watch interview, September 11, 2003

²⁵ Dulue Mbachu, “Voting begins in Nigeria despite violence threats,” AP, April 11, 2003.

²⁶ “Youths ‘sack’ poll body’s offices in Delta State, accuse it of rigging,” *Guardian* (Lagos), April 13, 2003; Glenn McKenzie, “Violence mars 2nd voting day in Nigeria,” AP, April 14, 2003.

²⁷ “6 feared dead in fresh Ijaw, Itsekiri clash,” *Vanguard*, April 13, 2003.

killing several civilians and destroying property.²⁸ On May 2, Ijaw militia in speedboats approached the naval base in Warri, exchanging fire with the troops stationed there; several members of the militia and at least one sailor were killed.²⁹ Unsurprisingly, little polling took place on the day.

Although the worst fighting in the riverine areas appeared to have died down by May, there were several further clashes between supporters of the PDP and the Alliance for Democracy (not along ethnic lines) in May, June and July, in Effurun, part of the Warri urban area, over control of the Uvwie LGA. Dozens of people were reported to have been killed in this violence. There were further clashes in Effurun in September.

No sooner had the Delta State government announced, in July, a relaxation of the curfew imposed in February, than violence flared up again. Attacks and counter-attacks continued in the creeks, including an Ijaw attack on the Itsekiri village of Abi-Gborodo in late July (home of secretary to the Delta State government Dr Emmanuel Uduaghan), reportedly in reprisal for an Itsekiri attack on a boat traveling to the Ijaw community of Burutu; further Itsekiri attacks on four Ijaw villages, including Mangorogbene in Sapele LGA followed.³⁰ Gun battles raged again for several days in mid-August in the McIver market and NPA/Milla areas of Warri.³¹ Once again, a heavy deployment of government troops and mobile police was needed to restore order, and the hours of curfew were increased. On August 22, a spokesperson for the Nigerian Red Cross said that they estimated that about 100 people had been killed in the latest outbreak of killing, and 1,000 injured; several thousand had been displaced and taken temporary shelter in church buildings.³² FNDIC reported that fifty-four Ijaw were killed in the August violence.³³ In late July and early August, further fighting in the riverine areas was also reported, with Ijaw attacks on Itsekiri villages being followed by reprisal attacks on Ijaw communities, once again with dozens of deaths.³⁴

By September, Itsekiri leaders claimed more than thirty of their communities had been attacked by Ijaw militia and remained virtually deserted. Meanwhile, Ijaw informants asserted that around nine Ijaw communities had reportedly been attacked either by Itsekiri militia or by members of the government security forces. Counting communities affected is in itself difficult, since one

²⁸ Sola Adebayo, "Itsekiri youths repel planned Ijaw attack of Egobokodo," *Vanguard*, April 29, 2003; "Four feared dead in fresh attack on Itsekiri," Itsekiri Survival Movement, April 30, 2003.

²⁹ Joel Olatunde Agoi, "Oil workers evacuated from rigs, but violence continues," AFP, May 3, 2003; Human Rights Watch interview Naval Capt. Ogunjinmi, September 11, 2003.

³⁰ Human Rights Watch interviews, Warri, September 2003.

³¹ On July 16, Governor Ibori had announced that Ijaws resident in these areas should leave their homes, on the grounds they had been taken by force from Itsekiris in 1997. He did not, however, propose any process for determining the true owners of the properties, nor for rehousing those who would be affected.

³² "100 die in Delta fighting, Red Cross says," U.N. Integrated Regional Information Networks (IRIN), August 22, 2003.

³³ Bello Oboko, "Characters and Colours of the Warri Peace Process: Why no genuine cease fire agreement yet in Warri," FNDIC, September 2003.

³⁴ Sola Adebayo, "15 killed in fresh Warri war," *Vanguard*, July 25, 2003; "25 die in reviewed Delta violence; women seize oil facility," IRIN, July 29, 2003.

“community” can consist of several distinct settlements regarding themselves as part of the same traditional governance structures. Certainly, thousands of people have been displaced, many of them for months. Numbers of casualties are unknown, but FNDIC claimed to Human Rights Watch a total of around 130 Ijaw dead, including its members; the publicity secretary of the Itsekiri Leaders Forum stated that about 250 Itsekiri had died in 2003—and around 2,000 since 1997.³⁵ Among the government security forces, the army claimed in September that nine soldiers had been killed since March; and the navy that one sailor had been killed and eight injured.³⁶

A handful of oil company or service contractor staff are among those killed and injured in the violence, but there is little evidence that they have been targeted as oil company staff; rather they appear to have been in the wrong place at the wrong time. However, a member of staff of a catering company attached to Chevron’s Escravos terminal—the only fatality among CNL staff or contractors—was killed by a bullet indiscriminately fired from a boat passing by the terminal.³⁷ Two SPDC contractor staff have been killed.³⁸ Government security force personnel deployed to protect oil company facilities have been killed and/or kept hostage even when civilians captured at the same time have been released—such as the three Nigerian policemen presumed dead who were escorting Shell staff at the time of the March 12 clash in Okorenkoko. Ijaw militia have continued to take oil company or contractor expatriate staff hostage and demand ransom payments for their release. All have been released unharmed; it is often unclear if ransoms are paid, though the oil companies usually deny such payments. In August 2003, SPDC Managing Director Ron van den Berg circulated an internal memo to all staff stating that, effective immediately, “There shall be NO Cash Payments to communities other than those specified for legitimate business reasons.” This rule would include ransom payments.³⁹ CNL states that it has taken the same position since July 2002, being “resolved not to pay for work not done or other schemes for extortion.”⁴⁰ Three expatriate staff contracted to SPDC were held hostage for ransom in June and released two weeks later. An oil service company expatriate worker for CNL was taken hostage in Warri in late July and held for a week. Another expatriate oil service worker was taken hostage and later released in August.⁴¹

The Nigerian government has given little if any assistance to people displaced by this violence. Delta State Deputy Governor Elue stated to Human Rights Watch that relief had been given “in genuine cases” but was unable to suggest any budget for that relief, or other contacts for us to speak to in

³⁵ Human Rights Watch interviews, September 2003.

³⁶ Human Rights Watch interviews, Lt.Col. Gar Dogo, Commanding Officer, 7th Amphibious Battalion, David Ejoor Barracks, Effurun; Capt. Olufemi Ogunjinmi, Warri Naval Base, September 9, 2003.

³⁷ CNL letter to Human Rights Watch, November 4, 2003.

³⁸ SPDC letter to Human Rights Watch, October 17, 2003. Total had not responded to Human Rights Watch’s queries before this report went to print.

³⁹ SPDC letter to Human Rights Watch, October 17, 2003.

⁴⁰ CNL letter to Human Rights Watch, November 4, 2003.

⁴¹ “Nigeria Risk: Alert—A shift in Ijaw tactics?” *Riskwire*, Economist Intelligence Unit (London), August 4, 2003; “British oil worker kidnapped in Nigeria,” Reuters, August 5, 2003.

order to obtain further details.⁴² In Warri town, some people reported that the federal government had sent some minimal supplies, including mattresses, rice and gari (cassava). Chevron also made a donation of U.S.\$50,000 to humanitarian relief, distributed with the assistance of the International Foundation for Education and Self-Help (IFESH), a U.S.-based NGO that has undertaken development work in the area, including for Chevron; this was matched by \$50,000 from the U.S. Embassy.

In these clashes Itsekiri leaders have consistently claimed that the Ijaw are the main aggressors. Though Human Rights Watch cannot confirm this on the basis of its own investigations, due to problems in accessing the communities involved on both sides, we believe—on the basis of interviews with informed observers from numerous perspectives—that Itsekiri villages have been the main victims of organized attack in the violence since March 2003 and that there have been more Itsekiri deaths and displaced persons. The oil companies, who overfly the areas affected, confirm that most of the affected communities remained deserted by mid-September.

The degree to which prominent figures in each ethnic group are able to command the loyalty of the ethnic militia operating in Delta State, and to which there is a unified command structure at all, is not clear. But each ethnic group asserts that the other is responsible for initiating the violence, and that leaders on the other side should be held responsible for the actions of their “own” people. Itsekiri leaders, for example, stated to Human Rights Watch that they believed that Chief E.K. Clark, a prominent Ijaw figure, should be prosecuted for “war crimes.”⁴³ While there may not be a unified command among the Ijaw militia, there does appear to be a much greater degree of coordination among the Ijaw youth militants operating in Delta State than there has been in past outbreaks of fighting.⁴⁴ Human Rights Watch’s interviews with eyewitnesses of the raid on Koko are in conformity with accounts of highly organized raids on Itsekiri communities by armed Ijaw militants. Armed militia from Itsekiri communities are also operating in the creeks, and the level of organization among Itsekiri fighters seems to have increased in recent months. In Warri town, the violence of August 2003 appears to have been initiated by the Itsekiri. Armed Urhobo militia have also been responsible for violence, though on a lesser scale. In addition, there is widespread “sea piracy” in which armed gangs attack those traveling on the waterways for purely criminal motives. Among those carrying out sea piracy are no doubt people who may on another day be using the same weapons for ethnic/political purposes. On all sides, ordinary poor people are the main victims of violence and of the economic effects of violence. The crisis has caused and continues to cause immense suffering in Delta State.

The government has not only failed to ensure that its security forces effectively protect civilians, but also that the police arrest, investigate and prosecute those guilty of murder and other crimes in

⁴² Human Rights Watch interview, September 10, 2003.

⁴³ Human Rights Watch interview with J.O.S. Ayomike, Itsekiri Leaders Forum, September 8, 2003.

⁴⁴ This coordination does not, however, reach to Ijaw militia operating in neighboring Bayelsa or Rivers States, though some individuals from those areas are reported to be fighting in Delta State—conflict among Ijaw communities is at least as likely as violence between Ijaw and other ethnic groups in other parts of the delta.

relation to the violence. Though there have been some arrests, Human Rights Watch is not aware of any successful prosecutions in relation to the violence in 2003 or previous years.

Government efforts to negotiate an end to the violence have also been inadequate, even though military and police spokespeople have emphasized the need for a political solution to the conflict in Delta State—perhaps in recognition that the terrain of the mangrove forest areas, ideal for guerrilla warfare, would make a military victory difficult to achieve. In early April, President Obasanjo appointed a committee to try to find a solution to the Warri Crisis, chaired by Gen. Theophilus Y. Danjuma (rtd), former minister of defense. In June, Gen. Danjuma visited Warri, but the committee held no public hearings and did not request formal submissions from interested parties. He was reported as indicating that there was no possibility of any compensation from the federal government to any of those affected by the violence.⁴⁵ In September, during a visit to Warri, President Obasanjo said that he was considering the final report from Danjuma, which reportedly had “remained secret even from members of the committee.”⁴⁶ At state level, Delta State Governor James Ibori has proposed a “road map” for peace, recognizing the disputes over the local government arrangements and the “need for the ethnic groups to meet and fashion out an indigenous framework that would guarantee a fair, just, and equitable coexistence.”⁴⁷ What exactly that would involve in practice, and in particular whether it would require the creation of new local government areas (which under the constitution can only be done at federal level), has not been made entirely clear. In September, President Obasanjo visited Warri and met with leaders of the different ethnic communities. He was quoted as saying that “accommodation should be the focus rather than separation,” appearing to indicate that he did not support the creation of new local government areas.⁴⁸ While the level of violence has died down since the period of the elections in March-May, tension remains high and can break out into violence at any excuse. In October 2003, fresh clashes between ethnic militants led to the deaths of more than a dozen people.⁴⁹

IV. The Elections in Delta State

Delta State produces approximately 40 percent of Nigeria’s oil. According to Nigeria’s 1999 constitution, 13 percent of federal revenue from natural resources is returned to the state from

⁴⁵ Sola Adebayo, “Warri Crisis—Danjuma rules out compensation for victims,” *Vanguard*, June 13, 2003.

⁴⁶ Segun Owen, “Nigeria’s Obasanjo talks peace in Warri,” Reuters, September 19, 2003.

⁴⁷ “Warri: The Road Map to Peace,” Address by Governor Ibori to the Delta State House of Assembly, August 28, 2003; published in the *Vanguard* of August 29, 2003.

⁴⁸ Kingsley Omonobi and Osaro Okhomina, “Obasanjo vows to tackle Niger Delta crises,” *Vanguard*, September 22, 2003.

⁴⁹ “Security task force probes youths’ attacks on 29 persons,” *Vanguard*, October 16, 2003; “Fresh violence threatens fragile truce in Niger Delta,” IRIN, October 23, 2003.

which it came, on a "derivation" basis.⁵⁰ Delta State is thus the richest state in the Nigerian federation, and control of its government structures a major prize both for the individuals and the political parties concerned. Nigeria regularly appears at or near the bottom of Transparency International's Corruption Perception Index, and control of government structures in some states can represent virtually unaudited control of funds.

It is thus hardly surprising that among the main causes of the 2003 fighting in Delta State (as in 1999) have been disputes over the manner in which state and federal elections would be run, and the lack of confidence in the institutions responsible for resolving those disputes and ensuring the vote would be free and fair. INEC and the DSIEC in particular failed to carry out voter registration in a fashion that persuaded anybody that the number of voters registered conformed to any reality of population on the ground; they also failed to put in place systems to demarcate ward boundaries according to a process that could be seen to be fair. The federal and state governments, meantime, have taken no effective action since 1999 to resolve the longer-term dispute over the configuration of local governments in the Warri area. The failure of successive Nigerian federal governments to conduct an accurate census has exacerbated the registration and demarcation problems at state level.

Election issues triggered both the February and March violence. The clash in early February between the Urhobo and Itsekiri in Warri town during the PDP senatorial primaries was over the issue of electoral wards. FNDIC's March 3 statement demanded among other things that "INEC should disregard the fraudulent voters' registration exercise earlier conducted in Warri South West Council until INEC/DSIEC are able to conduct a fair and just delineation of electoral wards."⁵¹ In a situation where there was absolutely no confidence that the polls themselves would be free and fair, those who felt frustrated by the existing systems for dividing up power (and thus wealth) then turned to violence. Of course, those leading the violence do not necessarily have any commitment to a more equitable distribution of resources, beyond securing their own share; but they are able to draw on an inexhaustible well of alienation from the current regime and its corruption, and frustration at the impossibility of changing government through peaceful means, in recruiting those who will fight for them.

Both the Alliance for Democracy (AD) and the All Nigeria People's Party (ANPP) in Delta State called for the April 12 National Assembly elections to be rescheduled in Delta State, citing fraud and the absence of attempts even to hold the poll in some areas; they repeated the call following the gubernatorial elections. AD gubernatorial candidate Great Ogburu claimed that many of his supporters were arrested in the early hours of the April 19 gubernatorial and presidential poll, and

⁵⁰ Section 162(2) of the 1999 constitution provides that: "The President, upon the receipt of the advice from the National Revenue Mobilisation, Allocation and Fiscal Commission, shall table before the National Assembly proposals for Revenue Allocation from the Federation Account, and, in determining the formula, the National Assembly shall take into account allocation principles especially those of Population, Equality of States, Internal Revenue Generation, Land Mass, Terrain, as well as Population Density: provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than 13 percent of the revenue accruing to the Federation Account directly from any natural resources."

⁵¹ Sola Adebayo, "Warri War—The battle in the creeks, the agonies of victims," *Vanguard*, March 30, 2003.

called for the cancellation of the results; candidate for the All Progressive Grand Alliance (APGA) Prince Ned Nwoko alleged intimidation of his supporters by PDP “thugs” acting in collusion with the police. On April 20, the day after the poll, armed youths stormed a private radio station in Effurun, just outside Warri, and forced it to announce Ogburu’s victory; later in the day, the state-owned radio station announced the victory of the incumbent, Governor Ibori. Just days before the vote, the Court of Appeal ordered a retrial of a case in which two members of the Delta State PDP had asked the court for Ibori to be disqualified as a candidate on grounds that he had been convicted of criminal negligence and breach of trust in 1995.⁵² On April 28, Ijaw leaders demanded the suspension of state assembly and local government elections in Warri North, South and South West LGAs until a “permanent solution is found to the Warri crisis.” They stated that: “A situation where the minority Itsekiri will be chairmen, vice chairmen and councillors as well as House of Assembly members in all the three Warri LGAs will not be accepted and allowed by the majority of Ijaws of Warri anymore.”⁵³ The Urhobo Progressive Union also called for the May 4 state assembly elections to be called off, stating that “the Urhobo people cannot and will not participate in a sham election which will further perpetuate the injustice of the past years.”⁵⁴ The uncertainty until the last minute as to whether elections would actually be held and on what basis increased the likelihood of violence right up to the three polling days in April and May.

All independent national and international observers reporting on the 2003 elections in Delta State shared a consensus that they were wholly illegitimate. The European Union (E.U.), for example, the largest international delegation to the Nigerian elections, noted serious irregularities in Delta State in the presidential, gubernatorial and national and state assembly elections, including widespread intimidation, ballot box snatching, multiple voting, polling stations that did not open at all, forgery of results, hundreds of votes added in favor of the ruling party at collation centers, ruling party control of the election process, and other abuses—such that “the minimum standards for democratic elections were not met.” Delta State was one of several in which the E.U. stated that the elections “lack credibility and appropriate measures must be taken to provide voters with a truly democratic electoral process.”⁵⁵ In Warri South and Warri South West, the local government areas worst affected by the pre-election violence, the Independent National Electoral Commission website simply lists the results for the gubernatorial race as “not available.”⁵⁶ Despite all of this, Delta State Deputy Governor B.S.C. Elue denied to Human Rights Watch that there had been any irregularities at all in the conduct of the elections.⁵⁷

⁵² Sola Adebayo, “Armed youths force radio station to announce Ogburu winner in Delta,” *Vanguard*, April 21, 2003; “Saturday polls—Gubernatorial winners,” *Vanguard* April 21, 2003; “As Appeal Court Upturns Abuja Ruling....” *This Day*, April 17, 2003.

⁵³ Sola Adebayo, “Ijaw want assembly, LG polls suspended in Warri LGs,” *Vanguard*, April 29, 2003.

⁵⁴ Oma Djebah, Eddy Odiwri, “Govt moves to stop violence in delta,” *This Day*, May 3, 2003.

⁵⁵ European Union Election Observation Mission statements and report available at www.eueomnigeria.org.

⁵⁶ Election results available at www.inecnigeria.org.

⁵⁷ Human Rights Watch interview, September 10, 2003.

Unless the government of Delta State is perceived to have electoral legitimacy there is little chance that it will be able to resolve the crisis of violence that surrounded its creation. The level of fraud and violence in Delta State was beyond the type that can be solved by election tribunals appointed to adjudicate disputed results: the elections should be reheld, starting from the voter registration process, taking into account the recommendations made by the various observer groups. The lack of confidence in the electoral process, meanwhile, increases the likelihood of violence being used as the means of allocating government positions.

V. Illegal Oil Bunkering

Under the Nigerian constitution, all minerals, oil and gas in Nigeria belong to the federal government. Oil extraction outside the framework of an agreement with the federal government is illegal, as is the possession of crude oil by anyone not licensed to do so; specific crimes have also been created relating to damage to oil installations (including for the purpose of siphoning off crude oil or petroleum products).⁵⁸ Yet theft of crude oil, known as illegal oil bunkering, accounts for perhaps 10 percent of Nigeria's daily production and is a highly organized operation.⁵⁹ Governor Ibori has stated that as much as 300,000 bpd (or 15 percent of production) are lost because of bunkering activities.⁶⁰ The major oil companies operating in Nigeria have stated that this is likely an overestimate; for the whole Niger Delta, illegal oil bunkering probably reaches a maximum 150,000 or 200,000 bpd. But these figures also fluctuate significantly, responding to periodic efforts to police the riverine areas more effectively.⁶¹ There are other claims that the theft of oil is greatly underreported, reaching more than 250 million barrels for the year 2002 (that is, more than 650,000 bpd).⁶² The illegally bunkered oil is sold to refineries in Nigeria, in nearby West African states (including Côte d'Ivoire and Cameroon), or further afield.

Illegal bunkering leads to the loss of billions of dollars in public funds. Those funds could be used to fund initiatives to reduce violence or to protect and fulfill human rights; including ensuring proper

⁵⁸ See "The Niger Delta: No Democratic Dividend," *Human Rights Watch Short Report*, October 2002, pp.27-28.

⁵⁹ "Bunkering" is a term used to describe the process of filling a ship with oil (or coal). "Illegal oil bunkering" is a euphemism for theft.

⁶⁰ Olly Owen, "The Economics of Nigeria's Delta Conflict," *WMRC Daily Analysis* August 5, 2003; "Nigerian Pres, Governors Vow to End Pipeline Vandalism," *Dow Jones Energy Service*, July 31, 2003. On illegal bunkering, see generally the information at www.legaloil.com. Nigeria's total oil production under the quota set by the Organization of Petroleum Exporting Countries (OPEC) is 2.018 million bpd, though the actual output varies above and below this figure.

⁶¹ Kenneth Ehigiator, "Oil smugglers accused of fueling Warri crisis," *Vanguard*, August 21, 2003; SPDC letter to Human Rights Watch, October 17, 2003. According to Shell, illegally bunkered oil from SPDC facilities had fallen in October 2003 to around 5,000 bpd in the Western Division and 25,000 bpd overall.

⁶² "Oil Theft - What Does Obasanjo Know?" *Vanguard*, December 29, 2002.

training for the security forces, not to mention the establishment of schools, hospitals and other essential services in the neglected riverine areas. There is also an urgent need to improve the transparency and effectiveness of government budget management spending, in order to reduce the diversion of funds into private hands. Reducing illegal bunkering will not in itself necessarily improve government spending practices, but the diversion of revenues before they reach government coffers means that there is not even the possibility that these resources will be used for the public benefit.

The fight for control of illegal bunkering opportunities has also significantly escalated the violence in Delta State and worsened the human rights abuses suffered by its people. Oil has become literally the fuel for the violence—despite the fact that in theory it should be easy to stop its theft (it is hard to hide a tanker and easy to trace its owner). Some clashes in the creeks appear to have no political component whatsoever, but are simply a straight fight for opportunities to steal oil; in other cases, motives are mixed.

Illegal oil bunkering is effectively Nigeria's most profitable private business. The stolen crude can currently be sold at around U.S.\$15 to \$20 per barrel on the spot market, assuming some level of discount for its illegitimate origin. Since there are virtually no capital costs—the infrastructure belongs to the Nigerian government and the oil companies—the cleared profit is therefore around U.S.\$2-3 million daily (750 million to a billion dollars annually), assuming a figure of 150,000 bpd stolen oil. The Nigerian government is far more severely affected by this theft than the oil companies, since the government share of revenue from each barrel of oil is much higher than that of the private shareholders in the joint ventures that produce most of Nigeria's oil.⁶³ The loss to the Nigerian government from illegal oil bunkering amounts to figures in the order of U.S.\$750 million to \$1.5 billion annually at oil prices between nineteen to thirty dollars a barrel, assuming bunkering at around 150,000 bpd (close to 55 million barrels a year); or \$3.5 to \$6.2 billion annually, if the figures are as high as 250 million barrels stolen each year. Governor Ibori has stated the amount lost is around \$3.5 billion a year.⁶⁴

⁶³ Under the terms of the 2002 Memorandum of Understanding between the oil companies and the Nigerian government, according to Shell, "at an oil price of \$19 barrel, the Government's take in taxes, royalties and equity share is \$13.78 barrel. Of the remaining \$5.22, operating cost and future investment take the lion's share with about \$1.22 left to be shared as a margin among private shareholders. [The SPDC joint venture is owned 55 percent by the Nigerian government, 30 percent by Shell; 10 percent by Total (formerly Elf), and 5 percent by Agip.] At \$10 per barrel, Government's take falls to \$5.12 barrel, while the margin to be shared amongst the private shareholders reduces to 88 cents. At \$30 per barrel, the government's take increases to 24.13 per barrel, while the margin shared by the private partners increases to \$1.87." *2002 People and the Environment Annual Report* (Lagos: SPDC, 2003), p.6. The oil price was around U.S.\$25-\$30 in March/April 2003 (as the Iraq campaign came to its close), when the shut-down was at its height.

⁶⁴ "Nigerian oil theft rampant," BBC website, August 1, 2003, quoting an interview on the BBC's Network Africa program. See also "Oil Theft—Overview," *Information Paper No. 1*, www.legaloil.com, October 2003, which gives slightly different figures for the revenue split between government and companies. In practice, the theft of oil depletes Nigeria's oil reserves, thus depriving future generations of the revenue that would otherwise accrue to government from the development of such resources. In the short term, Nigeria meets its daily OPEC quota while also pumping an extra 10 percent or so for the benefit of the illegal bunkerers.

Illegal oil bunkering—long prevalent in the delta—has become a sophisticated operation that no longer requires the cooperation of oil company staff to operate equipment at wellheads or allow access—though there are still reports that they are involved. The bunkerers tap directly into pipelines away from oil company facilities, and connect from the pipes to barges that are hidden in small creeks with mangrove forest cover. Frequently, both in the riverine areas and on dry land, the police and military are involved in the process or are paid off to take no action against those tapping into pipelines. Violent conflict that clears the creeks of other traffic makes bunkering easier to carry out; though violence that significantly closes down production also reduces bunkering, since it is much easier to steal oil from the larger pipelines after the gas has been separated from it, for which the oil company facilities must be operational.

In November 2001, the Nigerian federal government set up a Special Security Committee on Oil Producing Areas, “to address the prevailing situation in the oil producing areas which have, in recent past, witnessed unprecedented vandalism of oil pipelines, disruptions, kidnappings, extortion and a general state of insecurity.” Reporting to President Obasanjo in February 2002 (in a report that has not been published), the committee noted that a “major threat to the oil industry ... arises from the activities of a ‘cartel or mafia’, composed of highly placed and powerful individuals within the society, who run a network of agents to steal crude oil and finished produced from pipelines in the Niger Delta region.”⁶⁵ The committee indicated that many of the militant youth groups responsible for halting or diverting oil production and preventing free traffic on the waterways “could be enjoying the patronage of some retired or serving military and security personnel.”⁶⁶

Despite this high-level recognition of the seriousness of the problem, there appears to be no proactive government strategy for investigating the organized illegal oil bunkering rackets. There have been some seizures of the vessels involved. More than nineteen vessels used in the illegal bunkering business are reported to have been seized by the army and navy in the year to July—though it is often not clear what happens to their cargoes thereafter.⁶⁷ Speaking to Human Rights Watch, Capt. Ogunjinmi said that the navy had captured six boats since he had taken command of the Warri naval base in April (excluding small barges), and handed over several dozen people to the police for prosecution.⁶⁸ In August, the navy announced that it had arrested ten foreigners (among them Senegalese, Burkinabe, Togolese, Ivorians and Beninois) and a number of Nigerians for involvement in oil smuggling, and seized four ships; in late October, several more ships were arrested, with a reported combined cargo of oil worth several hundred million dollars.⁶⁹ But there

⁶⁵ Report of the Special Security Committee, paragraph 40.

⁶⁶ Ibid., paragraph 51.

⁶⁷ “Niger Delta moving from agitation to rebellion?” IRIN, July 8, 2003.

⁶⁸ Human Rights Watch interview, September 10, 2003.

⁶⁹ Hector Igbiokwubo, “Government loses \$149b oil revenue to Warri war,” *Vanguard*, August 26, 2003; “Nigerian navy arrests Russian, Romanian ‘oil smugglers,’” AFP, October 22, 2003; Kingsley Omonobi, “Navy arrests 7 ships with crude worth \$250 m,” *Vanguard* November 3, 2003.

are few if any successful prosecutions for involvement in the theft of oil, and it is not always clear what happens to the cargoes of oil that are seized. Moreover, the oil companies say that they frequently report suspicious ship movements to the authorities—with the waterways all but closed to normal boat traffic, any vessel that does not belong to an oil company is probably involved in bunkering—but no action is taken.

Those running the rackets at the top are apparently untouchable. In May 2003, a new Economic and Financial Crimes Commission began work at federal level to investigate various forms of fraud. Its head has freely admitted that “you have government institutions responsible for taking charge of the whole thing [crude oil theft]: the sale of the product, the security of the area.”⁷⁰ The commission has reportedly arrested two executives from small Nigerian-owned oil companies for stealing oil; but has as yet laid no charges.⁷¹ Its work is also apparently not linked to any parallel efforts by the police. The Nigerian Police Force Commissioner responsible for federal operations stated to Human Rights Watch only that any crime reported to the police would be “thoroughly investigated,” but could not identify any proactive measures being taken to tackle illegal oil bunkering.⁷² Police Affairs Minister Broderick Bozimo, interviewed in the media, has also not put forward any serious strategy for investigation and bringing to court those responsible for bunkering at the highest levels, though he has promised additional policing in the riverine areas.⁷³ Delta State Deputy Governor Elue stated to Human Rights Watch that the Nigerian government “is beginning to identify the bunkerers among the people high up; intelligence will fish them out.”⁷⁴ Governor Ibori has blamed criminals with their own armies, dealing with non-Nigerians.⁷⁵ According to many statements to Human Rights Watch, however, individuals very close to Governor Ibori are themselves involved. Others mentioned are senior figures in the current and former governments in Delta and other Niger Delta States, and in the federal government in Abuja. Protestations by those same people that they are acting against the culprits are met with skepticism by those who bear the brunt of the violence the business generates.

In a measure apparently designed to address the demand side of the illegal oil bunkering equation, the federal government has begun to take some action to reduce the sale of oil to neighboring states. On August 10, Nigeria closed its border with Benin, accusing the Benin authorities of turning a blind eye to oil smuggling. The Nigerian federal government has also embarked on a strategy of signing contracts with neighboring countries for supply of petroleum products to ensure they source oil from lawful suppliers. On August 19, Nigeria signed an agreement with the government of Côte d’Ivoire for the supply of 30,000 bpd of crude oil; Ivorian Minister for Mines and Energy Monnet Leon Emmanuel admitted that much of the crude oil delivered to his country was stolen from

⁷⁰ Daniel Balint-Kurti, “Nigerian anti-fraud tsar targets oil thieves,” Reuters, November 12, 2003.

⁷¹ Ibid. See also, “We’ll bring the high and mighty to justice—crimes commission boss,” *Daily Trust* (Abuja), October 9, 2003.

⁷² Human Rights Watch interview, Police Commissioner Lawrence Alobi, Abuja, September 18, 2003.

⁷³ “Bunkerers are behind the Niger Delta Crises, says Police Affairs Minister Bozimo,” *Vanguard*, September 22, 2003.

⁷⁴ Human Rights Watch interview, September 10, 2003.

⁷⁵ Austin Ogwuda, “Warri: Governor blames crisis on oil syndicate,” *Vanguard*, August 26, 2003.

Nigeria.⁷⁶ In November 2003, President Obasanjo announced that the Nigerian government would publish budgets, records of revenue collection and other statistics in line with the international "Publish What You Pay" campaign and the British government's Extractive Industries Transparency Initiative.⁷⁷ Increased transparency should make a contribution both to the proper management of official government revenues and to the measurement of the extent of theft of crude oil.

In June 2003, Shell proposed the certification of oil exports based on the chemical fingerprinting of crude oil to prevent stolen oil from being sold on the open market.⁷⁸ The oil companies operating in Nigeria have developed the technology to trace oil to individual flow stations and even individual wells, meaning that if a ship is stopped and it contains oil that does not appear to have a legitimate source, a sample can be taken and the place it was taken from identified. In theory, if there is no record of a sale from that source to the owner or operator of the vessel concerned, then the Nigerian government should be able to confiscate the oil if it intercepts a vessel in Nigerian territorial waters; or it should be possible to require those purchasing oil, such as refineries, to verify the provenance of the crude they are buying. In principle, it should be possible in this way to create a paper trail for crude oil similar to or better than that established for rough diamonds by the Kimberley Process, which aims to halt the trade in "conflict diamonds" from Africa's war zones.⁷⁹ Even if such a system cannot halt the sale of stolen oil completely, it should at minimum mean that stolen oil will have to be sold at a greater discount on the international spot market, thus undercutting the profits of the illegal bunkerers and the incentives to fight for control of supply.

VI. Security Forces

Several hundred soldiers and sailors are permanently deployed to Delta State, operating out of the David Ejoor Barracks, Effurun, and Warri Naval Base. One of their primary duties is to protect oil installations, regarded by the Nigerian government as a national security priority. Following the clash on March 12 that sparked the worst violence in 2003, the government deployed hundreds of additional soldiers, sailors and mobile police to Warri town and into the creeks surrounding Warri. In August, the federal government established a new joint security task force in Delta State—including army, navy, air force and mobile police—known as "Operation Restore Hope." By mid-September, when the overall control of the operation was taken over by Chief of Defence Staff Gen. Alexander

⁷⁶ Vincent Nwanma, "Nigeria Shuts Border with Benin to Stop Oil Smuggling," *Dow Jones Energy Service*, August 13, 2003; Vincent Nwanma, "Nigeria, Ivory Coast Supply Deal to Help Stop Piracy," *Dow Jones Energy Service*, August 20, 2003.

⁷⁷ See text of President Obasanjo's speech, "Nigeria: From Pond of Corruption to Island of Integrity," November 7, 2003, available at www.transparency.org. See also www.publishwhatyoupay.org and www.dfid.gov.uk.

⁷⁸ See "Fingerprinting oil," *Information Paper No. 2*, November 2003, www.legaloil.com, for a description of the chemical fingerprinting of oil.

⁷⁹ See www.kimberleyprocess.com.

Ogomudia from Brig.-Gen. Elias Zamani, military detachments had begun to be deployed to oil facilities in the riverine areas.

Nigerian government security forces of various types are deployed to protect the facilities of all the oil companies operating in Nigeria, and this security is stepped up at times of violence such as that in Delta State during 2003. The oil companies contribute to their upkeep while they are deployed at oil facilities, but they remain under the command control of the Nigerian government. In the case of SPDC, for example, around 400 unarmed "supernumerary" police, whose wages the oil companies also pay, are deployed in the company's Western Division (into which Delta State falls), as well as around 265 armed doghandlers and mobile police. Under normal operations, some one hundred army or naval personnel are deployed to SPDC oil facilities designated by the government as of national security importance (such as the major crude export terminals); but as of October 2003 around 350 Operation Restore Hope task force personnel were deployed at or near SPDC's main facilities in the swamp area.⁸⁰

The commanding officer (CO) of the 7th Battalion, based in Effurun, Lt.-Col. Gar Dogo, would not tell Human Rights Watch how many soldiers were deployed in Delta State, though press reports indicate the total may be in the region of 2,000, supported by 900 mobile police.⁸¹ The naval CO, Capt. Olufemi Ogunjinmi, stated to Human Rights Watch that there were 800 sailors based at Warri Naval Base and throughout the creeks. Some of these were deployed at oil facilities for "static security," others were on patrol. The navy has reportedly recently acquired two helicopters for surveillance of the creeks.⁸²

Though the cost to the Nigerian government of this security deployment is large, the additional expenditure itself benefits individuals in government in general and the security forces in particular. In September 2003, a Delta State official indicated that the additional cost to Delta State of the security force deployment in response to the crisis was of the order of ₦200 million (U.S.\$1.43 million) a month.⁸³ State governors are the chief security officers for their states, and the manner in which this money is spent is therefore largely within Governor Ibori's discretion. The individual soldiers, policemen and sailors deployed also benefit from their combat duties: they are paid substantially increased wages when they are on active duty.⁸⁴ For the illegal oil bunkerers to operate, they must also pay off those who are supposed to be stopping them to turn a blind eye; more senior officers in the army, navy, and mobile police thus also benefit from the theft of oil.

⁸⁰ SPDC letter to Human Rights Watch, October 17, 2003. ChevronTexaco would not respond on the record to Human Rights Watch on this point (CNL letter to Human Rights Watch, November 4, 2003) and EPNL did not respond to Human Rights Watch's queries before this report went to print.

⁸¹ Abraham Ogbodo, "Delta Govt Spends ₦200 m Monthly to Keep Soldiers in Warri," *Guardian*, September 14, 2003.

⁸² Muiwa Odu, "Illegal bunkering: navy arrests 2 ships, 15 expatriates," *Daily Champion* (Lagos), September 2, 2003.

⁸³ Abraham Ogbodo, "Delta Govt Spends ₦200 m Monthly to Keep Soldiers in Warri," *Guardian*, September 14, 2003.

⁸⁴ Figures cited to Human Rights Watch were that the supplement is up to ₦30,000 (U.S.\$215) extra each month, but we could not verify this amount with the authorities.

While the deployment of additional security forces, including army and naval troops, has in some cases contributed to the restoration of order, they have too often failed to offer any real protection to civilians threatened either by organized armed ethnic-political militia, or by “sea pirates,” those engaged in armed robbery for purely criminal gain. Residents of both the Itsekiri community Koko, and the Urhobo Okumagba estate in Warri, reported to Human Rights Watch how soldiers either ran away at the first sign of trouble or were mysteriously withdrawn from the area immediately before an attack by opposing ethnic militants. In both cases, they asserted that the attacking group—whether Ijaw or Itsekiri—had paid the soldiers to leave and allow free rein to the aggressors. Ijaw leaders, meanwhile, accuse the security forces of bias, of giving tacit or even active support to the Itsekiri militia. Itsekiri, Urhobo and Ijaw all see the failure of the state government security forces to protect them as criminal and accuse them of bias. For example, a Koko resident told Human Rights Watch:

The state governor should resign, because he has failed to protect us. We think that he has his hands in the fight, because he saw what happened in 1997 [when Koko also attacked during the first “Warri crisis”] but didn’t do anything to stop it. He is in support of the Ijaw. I want to define this as not being crisis: this is war.⁸⁵

The army and navy have strenuously denied any suggestion of bias in their operations.

As during past deployments, the security forces themselves have also carried out serious abuses. In 1999, the Nigerian army completely destroyed the town of Odi, Bayelsa State, killing hundreds of people, after a dozen policemen were killed by youths in the town. In 2001, soldiers killed more than two hundred unarmed civilians in several towns and villages in Benue State, in central-eastern Nigeria.⁸⁶ No soldier has been arrested, prosecuted, or disciplined, to Human Rights Watch’s knowledge, in respect of these massacres. Soldiers and mobile police deployed anywhere in Nigeria, especially in emergency situations, routinely extort money from passing motorists, commercial vehicles, and motorbike taxi drivers (okadas); and often beat those who cannot or will not pay or force them to do frog jumps or other humiliating activities. These practices are carried out openly, without attempting to conceal them from passing journalists or human rights researchers. Sometimes, those who do not pay are simply shot dead. The same is true in the creeks of the mangrove forest areas.

There have also been other much more serious abuses in Delta State. Human Rights Watch interviewed eyewitnesses who described how soldiers under the command of a major burnt down the Idama Hotel Warri, belonging to Urhobo and PDP leader Chief Okumagba on Sunday February

⁸⁵ Human Rights Watch interview, September 8, 2003.

⁸⁶ See Human Rights Watch reports: “The Destruction of Odi and Rape in Choba,” December 1999 and “Military Revenge in Benue: A Population Under Attack,” April 2002. On Odi, see *A Blanket of Silence: Images of the Odi Genocide* (Port Harcourt: Environmental Rights Action, 2002). For violations in the delta, see also, *The Price of Oil*; “Crackdown In The Niger Delta,” *A Human Rights Watch Short Report*, May 1999; “Update on Human Rights Violations in the Niger Delta,” background briefing, December 2000; and “The Niger Delta: No Democratic Dividend,” *A Human Rights Watch Short Report*, October 2002. All available at www.hrw.org/africa/nigeria.php.

2, 2003, in the disturbances surrounding the PDP primaries.⁸⁷ The soldiers flogged staff working in the hotel and detained a staff member for five days. The attack took place despite the fact that twenty mobile police had been billeted in the hotel for several years and were present at the time. Although the attack was reported to the police, no action had been taken. In August 2003, three mobile policemen were arrested by the army on charges of selling arms to and fighting on the side of one of the ethnic militia, but cleared after an internal police investigation.⁸⁸ These are serious allegations that deserve urgent investigation by the appropriate authorities, including not only internal army or navy inquiries but also by the civilian police, and by a public judicial inquiry into the crisis in Warri. Unlike previous inquiries, the report of such an independent investigation should be made public, and its recommendations acted upon.

During 2003, the U.S. government has delivered to the Nigerian navy three (the total will be five) former coastguard "buoy tenders," 180-foot flat-bottomed boats of World War II vintage, unarmed at the time they were handed over. The donation of these boats has been in the pipeline since 2001, and, according to the U.S. Embassy, was not connected to the crisis in Delta State. Two of the boats have been moved to Warri naval base, and have had some weapons mounted on them, but they have not apparently been deployed in the riverine areas. The U.S. Embassy told Human Rights Watch that there was no basis whatsoever for reports in the Nigerian press that U.S. marines would be deployed to oil facilities in the Niger Delta.

VII. Small Arms

The militia groups operating in Delta State—Ijaw, Itsekiri, and Urhobo—are well armed. Among the weapons in use are fully and semi-automatic rifles, shotguns, machine guns, and shoulder-fired rockets (known as "bazookas"); as well as more traditional weapons such as fishing spears and cutlasses used for agriculture.⁸⁹ These weapons are readily available for purchase in Warri at prices that according to one investigation range from around ₦80,000 (U.S.\$570) for a shotgun or ₦120,000 (\$850) for a Kalashnikov rifle, to up to ₦300,000 (\$2,150) for a "bazooka."⁹⁰ While Human Rights

⁸⁷ Human Rights Watch interviews, September 12, 2003.

⁸⁸ Sunny Ogeferi, "Police clear officers over alleged arms deals in Warri crisis," *Guardian*, August 27, 2003; Austin Ogwuda, "Police Commissioner clears men of complicity in Warri crisis," *Vanguard*, August 27, 2003.

⁸⁹ Nigeria may be home to some one million private small arms; see *Small Arms Survey 2003* (Small Arms Survey/Oxford University Press, 2003), chapter 2.

⁹⁰ Joel Bisina, "Reducing Small Arms, Increasing Safety, Security and Minimizing Conflicts in the Niger Delta Region," paper presented at a roundtable organized by African Strategic and Peace Research Group (Afstrag), Benin City, Nigeria, June 2003. These prices are surprisingly high; another recent paper suggests that an imported Kalashnikov rifle was available in Nigeria at around ₦50,000 (U.S.\$350) during 2001. Adedeji Ebo, "The Political Economy of Illicit Small Arms Proliferation in Nigeria: Issues for a Human Security Agenda," paper presented as part of the International Action Network on Small Arms (IANSA) Week of Action, Nigerian Defence Academy, Kaduna, June 2003. Increased demand due to the elections and to the upsurge

Watch could not itself investigate the weapons flows to Delta State, among the immediate sources of weapons reported to us were weapons issued to thugs hired by politicians—including by Governor Ibori—to intimidate their opponents during the election campaign, or to youth hired to protect the operations of illegal oil bunkerers. Politicians allegedly paid youth operating on their behalf during the elections up to ₦10,000 (\$70) to participate in attacks and intimidation of political opponents. Similar sums are apparently paid for youth to protect illegal oil bunkering activities. Among those hired are former policemen and soldiers or sailors. The origins of the weapons are less clear, but many have likely been recycled from other areas of violent conflict in Africa. Boats carrying arms are reported to offload at Warri town and Bonny, Rivers State, among other places. In 2002, the Nigerian Customs Service reported that it had intercepted small arms and ammunition worth more than ₦4.3 billion (U.S.\$30 million) at border posts during the first six months of the year.⁹¹ Cross-border flows of small arms in West Africa are contrary to a 1998 small arms moratorium agreed by the Economic Community of West African States (ECOWAS), under which states in the sub-region commit themselves not to import, export, or manufacture small arms or light weapons. In addition to importing weapons, armed militants steal (as in Koko) or purchase small arms from government soldiers and sailors. Sometimes, members of the security forces appear to be arms dealers themselves. Some small arms are made in Nigeria itself, especially in the industrial zones of the south-east, including Aba and Awka.⁹²

Arms proliferation in the delta (and elsewhere in Nigeria) has substantially increased the casualties from the violence, and has already made it significantly more difficult to achieve a peaceful resolution to the political issues involved. In June 2003, a coalition of nongovernmental organizations in the delta launched a “Mop up the Arms” campaign.⁹³ Nigeria is a signatory to the ECOWAS moratorium, and in May 2001 President Obasanjo established a national committee on its implementation. But practical action remains limited. In September 2003, the federal government announced an “arms surrender” policy to recover weapons being used by the ethnic militia in the Niger Delta. A few guns were handed over as a symbolic gesture, but no real strategy for recovering firearms seems to be in place. Any process to resolve the crisis must involve a carefully thought-out program for disarmament and demobilization of the ethnic militia, and the creation of legitimate alternative income generating activities or other community development projects for affected communities. Simple weapons raids on the villages where they live by government forces will likely achieve little in the way of arms recovery, is likely to result in abuses against civilians, and be counterproductive in the longer run by increasing the alienation of ordinary people from the government forces. Conflict

in violence in Delta State specifically may have driven prices up in Warri during 2003. The exchange rate used here is ₦140 to one U.S. dollar, the rate prevailing on the parallel market in March 2003.

⁹¹ “Focus on the dangers of cross-border crime,” IRIN, October 30, 2002.

⁹² Human Rights Watch interviews, Warri, September 2003.

⁹³ See “Focus on efforts to remove small arms from the Niger Delta,” IRIN, October 13, 2003.

documented by Human Rights Watch in other parts of the country suggests that strategies to take weapons out of circulation should be deployed nationwide.⁹⁴

VIII. Conclusion

The Warri crisis is in many regards a classic example of a “resource war.” Many of those on the ground on all sides claim that it is indeed a war; and the level of weaponry deployed by the various militant groups does indeed indicate a dangerous escalation in the violence. The solutions to the crisis must therefore address the equitable distribution and illegal diversion of resources: both by attempts to improve the democratic legitimacy and accountability of government (including the re-holding of the elections in Delta State and strong measures against corruption), and by closing off the possibilities for the theft of crude oil and its sale on the open market.

The Nigerian government, both at state and federal level, has failed to intervene in ways that fully address the multi-layered dimensions of the problems in Delta State, focusing only on security force interventions and pro forma meetings with elite groups that lead to no concrete outcomes. There is a tendency for politicians to lay the entire blame for the violence on criminals carrying out illegal oil bunkering, without acknowledging that many of those running illegal bunkering operations are allegedly within government. Nor is there official recognition that corruption, mismanagement and discrimination in the spending of public funds mean that competition for political office—especially at election time—also leads to violence; which in turn undermines the legitimacy of those who hold those offices. The government must seek to analyze the many sources of conflict in the Niger Delta and elsewhere, and the actors that have a role to play in ending it; and include both civil society and the international community in efforts to find sustainable solutions.

Much as there is a need for additional security in the Niger Delta, especially Delta State, policing and other security operations cannot be successful unless they are impartial and do not themselves result in further violations of human rights. Given the difficulty of conducting police operations in the terrain of the delta, government efforts to end violence must have the support of the people living there. But though there is widespread anger at the impunity enjoyed by those employing violence, public support for government action will require a level of professionalism on the part of the security forces that has not yet been displayed.

As in every other outbreak of ethno-political violence in Nigeria, impunity is a major cause of continued conflict. There is an urgent need to end the impunity of the ethnic militia and their

⁹⁴ See, for example, the following Human Rights Watch reports: “The ‘Miss World Riots’: Continued Impunity for Killings in Kaduna,” July 2003; “Testing Democracy: Political Violence in Nigeria,” April 2003; “The O’dua People’s Congress: Fighting Violence With Violence,” February 2003.

organizers, of those controlling the illegal oil bunkering activities, and of the security forces when they are themselves responsible for abuses. Since the first outbreak of serious violence in 1997, there have been no credible investigations of the responsibility for murder and other crimes, and few arrests or prosecutions. Various government commissions of inquiry and similar exercises have not led to any action against those alleged to be responsible for violence. Perpetrators assume that they will get away with murder.

The Warri crisis is not necessarily typical of the entire delta: though many of the same issues surrounding management of the oil revenues (legal and illegal) arise across the delta, the particular political dynamics of Delta State, based on the three-way ethnic split in the Warri local government areas, have given the conflict over oil a much greater urgency. The situation in Delta State is, however, a warning of what the other oil producing communities could face unless the underlying causes of the violence are addressed. The crisis in Delta State could itself be much worse at the time of the next scheduled state and federal elections in 2007, and during any earlier local government elections, unless action is taken.

IX. Recommendations

To the Nigerian Federal and Delta State Governments

- Identify and rapidly bring to justice, in accordance with international standards, those responsible for organizing the violence in Delta State, as well as those who carried out the killings. Launch thorough, prompt and impartial investigations into the conduct of the security forces during the violence of 2003 and the previous outbreaks of violence in Delta State, in particular into the allegations of security force bias and misconduct made by either side, make public the results of this investigation, and bring to justice those implicated in abuses.
- Put in place an integrated strategy for investigating illegal oil bunkering activities, up to the highest level, and for ensuring that such investigations and resulting arrests and prosecutions are not affected by political considerations.
- Ensure that all communities, regardless of ethnicity, in Delta State receive equal protection from the security forces. Deployment of additional security, especially to the riverine areas, will not assist in finding a permanent solution to the crisis unless the security forces act professionally and impartially, without themselves carrying out human rights violations.
- Take steps to reschedule federal and state elections in Delta State (and other states where national and international monitors found such serious irregularities that no genuine election could be said to have been held) ensuring that the rescheduled elections fulfill minimum international standards. For all elections, the government should implement the reforms suggested by the teams observing the 1999 and 2003 elections. Amongst other things, the Electoral Act should be thoroughly reviewed; the independence of INEC should be guaranteed, the role of the state electoral commissions clarified, and the capacity for electoral administration

strengthened; a permanent system of voter registration should be put in place; and improved systems for ward and constituency delimitation should be established.

- In order to ensure, among other things, that competition for government resources does not contribute to violence among ethnic groups, especially at election time, put in place proper controls over federal and state government spending—in consultation with the World Bank, International Monetary Fund, and other relevant international agencies—to ensure that budgets are properly audited, off-budget spending eliminated, and government resources allocated in a non-discriminatory manner.
- Provide relief assistance to individuals whose houses or livelihoods were destroyed during the violence.
- Intensify and encourage dispute resolution initiatives and other measures aimed at preventing further violence, including by taking steps to negotiate solutions to the political disputes that underlie the violence, and by supporting civil society grassroots and leadership initiatives to foster dialogue and cooperation among Ijaw, Itsekiri, and Urhobo communities. In attempting to resolve the crisis take into account the recurring violence of previous years and the findings of investigations and studies into the 1997 and 1999 clashes. Special efforts should be made to listen to the grievances and suggestions of the various communities affected by the conflicts.
- Strengthen controls over government-held weapons to ensure they cannot be diverted into private hands. Prevent arms inflows to the delta, including by improving border security. Learning from the experience of other African countries, develop a program for the disarmament of the armed militia operating in the delta that does not depend on indiscriminate raids into the communities where they are believed to live. Press for the strengthening of the ECOWAS small arms moratorium and its implementation, which should be expanded to encompass all weapons categories, developed into an information-exchange mechanism, and be made binding.
- Explore the possibilities of oil certification as a means of reducing the role of illegal oil bunkering in fueling the violence, by reducing the income that can be made from the illegal sale of oil.

To foreign governments, intergovernmental organizations, and the oil companies

- Urge the Nigerian government at state and federal level to seek a peaceful resolution to the political issues raised by the various parties to the Warri crisis and to ensure that all Nigerians receive equal protection of the law.
- Urge Nigerian government and security force officials to ensure that members of the security forces deployed to quell violence in any future incidents of unrest refrain from excessive use of force, extrajudicial executions, and other human rights violations.

- Fund thorough national and international monitoring of future elections, basing diplomatic responses to the elections on the findings of election observers. Urge the Nigerian government to rehold the 2003 elections in Delta State and in other states where minimum international standards were not met.
- Support appropriate national and local dispute resolution initiatives aimed at defusing inter-communal tensions in Delta State and elsewhere, and urge both federal and state government institutions to do likewise.
- Fund independent human rights groups to carry out thorough, impartial documentation of the human rights abuses committed in the course of the violence in Delta State and to press the government to take action to prosecute those responsible and provide equal protection for all ethnic groups in the state.
- Provide funds for relief assistance to those affected by conflict in Delta State and elsewhere in Nigeria.
- Governments providing training, weapons or other military equipment to the Nigerian military should suspend all such assistance until the Nigerian government has shown a commitment to ending the impunity which still protects the military, including at minimum bringing to justice those responsible for the killings and destruction in Benue State in 2001, and in Odi, Bayelsa state, in 1999.
- Explore, as part of other initiatives to increase transparency in the exploitation of primary resources, the possibilities of oil certification as a means of reducing the role of illegal oil bunkering in fueling violence.

Acknowledgments

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Human Rights Watch would like to thank the John D. and Catherine T. MacArthur Foundation and Stichting Doen for funding for its work on Nigeria, and all those in Warri who assisted with our research.

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Nigeria: Renewed crackdown on freedom of expression

I. Introduction	2
II. Political violence and arrest and harassment of opposition party supporters	4
III. The fuel dispute: crackdown on peaceful protests.....	7
IV. Arrest and torture following protest at US embassy in Abuja	13
V. Harassment of human rights organizations and individuals suspected of providing information to them.....	19
VI. Harassment of journalists and restrictions on press freedom	22
VII. Human rights violations against members of self-determination groups	28
Yoruba self-determination groups	28
MASSOB.....	32
VIII. Other cases.....	35
Disappearance of Hussaini Umar.....	35
Harassment of Sergeant Musa Usman.....	36
IX. Recommendations.....	37
To the Nigerian government and security forces:	37
To foreign governments and intergovernmental organizations:	38
Acknowledgements.....	40

I. Introduction

Significant improvements in freedom of expression and civil liberties were among the immediate gains of Nigeria's transition to civilian rule in 1999. Although little has changed with respect to persistent corruption, violence and poverty, it is generally assumed that Nigerians are at least able to express themselves freely in the context of Nigeria's new political environment. However, the impression given to the outside world is misleading, as the basic right to freedom of expression is still not guaranteed.

This report documents a number of cases of violations of the right to freedom of expression in Nigeria since the second half of 2002, in which real or perceived critics and opponents of the government have been arrested, detained, ill-treated, and subjected to other forms of harassment and intimidation. Brutal measures have been used to repress peaceful expression. In extreme cases, the government's reaction to dissent or protest has resulted in extrajudicial killings. Most of these violations have been carried out by members of the Nigerian police force, in some cases on the direct instructions of senior officials; in other cases, the perpetrators have been members of the intelligence services known as the State Security Service (SSS). The victims have included journalists, human rights activists, supporters of opposition political parties, other political activists, peaceful demonstrators, and innocent passers-by who were the victims of indiscriminate police operations. The vast majority of cases, affecting ordinary men and women across Nigeria, are not even reported and may never reach human rights organizations or the media.

The cases described in this report are not exhaustive and are just a sample of a broader pattern of violations of the right to freedom of expression in Nigeria. Human Rights Watch is concerned at what would appear to be a proliferation of such incidents in 2002 and 2003. While activists and critics of the government have always faced a measure of harassment in Nigeria, even after the end of military rule in 1999, there are indications that the civilian government's intolerance of criticism may have increased, particularly in the run-up to the 2003 elections. However, not all the incidents reported to Human

Rights Watch are directly related to the elections, and several have taken place since the elections.¹

Before President Obasanjo's government came to power in 1999, Nigerians had experienced decades of systematic human rights violations under successive military governments. The period of military rule from 1966 to 1999—interrupted by only a brief spell of civilian rule from 1979 to 1983—was characterized by the ruthless suppression of dissent. Human rights and pro-democracy activists, as well as journalists and others, were routinely targeted, especially under the government of Sani Abacha, from 1993 to 1998.² The 1999 elections, which brought President Obasanjo to power, marked an important transition from military to civilian government in Nigeria. Despite blatant and widespread rigging, there was a huge feeling of relief and hope that the 1999 elections would not only mark the end of military rule in Nigeria, but usher in a new era of respect for human rights and civil liberties, in which people would be able to express their views freely without fearing automatic arrest, detention or worse.

Undoubtedly there are far fewer violations of the right to freedom of expression in Nigeria today than there were four years ago, and fewer blatant cases of political imprisonment. Indeed on the surface, Nigerians are able to express their views openly, as illustrated by the broad range of articles and opinions, many very critical of the government, published in Nigeria's many newspapers and magazines. Nigerian human rights organizations are generally able to function without too many obstacles and a greater degree of formal political opposition is now tolerated. While initially, the Independent National Electoral Commission (INEC) had only allowed six parties to contest the 2003 elections, a landmark ruling by the Supreme Court in November 2002 declared many of INEC's party registration rules unconstitutional, with the result that a total of twenty-nine political parties were eventually allowed to compete against the ruling People's Democratic Party (PDP) in 2003.

The international community was quick to welcome these positive developments in Nigeria's transition to democracy and within a short time, it seemed that restrictions to free expression in Nigeria were a thing of the past. Yet the daily reality, as described by Nigerians from many different backgrounds, is different. The improvements since 1999,

¹ This report does not describe in detail the many incidents of political violence and other human rights violations directly related to the elections, as these are documented in separate reports. See Human Rights Watch report "Testing democracy: political violence in Nigeria," April 2003; and Human Rights Watch briefing paper "Nigeria at the crossroads: human rights concerns in the pre-election period," January 2003.

² See for example Human Rights Watch reports " 'Permanent transition': current violations of human rights in Nigeria," September 1996, and "Transition or travesty? Nigeria's endless process of transition to civilian rule," October 1997.

combined with President Obasanjo's stated commitments to respecting human rights, have blinded observers to a number of ongoing abusive practices by the government and the security forces. Although less violent and ruthless than those of previous governments, these practices are clearly intended to deter criticism and intimidate potential opponents. While continuing to tolerate a fairly high level of verbal criticism, the authorities have often cracked down on individuals whom they perceive as too persistent in their opposition or who have touched on sensitive or controversial areas.

The human rights violations described in this report constitute serious breaches of Nigeria's national and international obligations. Section 39 (1) of the Nigerian Constitution states: "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference." Sections 33 (1) and 34 (1) (a) of the Constitution guarantee the right to life and the right to human dignity, including the right not to be subjected to torture or inhuman or degrading treatment.³ Nigeria is also in breach of several international and regional conventions which guarantee freedom of expression and prohibit torture, cruel, inhuman or degrading treatment, and extrajudicial executions; these include the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the African Charter on Human and Peoples' Rights.

Human Rights Watch is calling on the Nigerian government to ensure that all individuals are allowed to express their views freely and openly without fear of arrest, violence, or other forms of intimidation, to issue clear instructions to the police that they should not use force to respond to peaceful protests, and to bring justice those found responsible for carrying out or ordering such abuses.

II. Political violence and arrest and harassment of opposition party supporters⁴

The Nigerian government's unwillingness to tolerate any "real" opposition was starkly illustrated in the months leading up to the 2003 elections. Between April 12 and May 3, 2003, elections were held across the country for the posts of president, state governors, members of the National Assembly and members of state houses of assembly. In the

³ Constitution of the Federal Republic of Nigeria, 1999.

⁴ For details of election-related violence in Nigeria, see Human Rights Watch reports listed in footnote 1.

preceding months, from mid-2002 onwards, several hundred people were killed in politically-motivated violence. The victims included high profile political figures, as well as rank-and-file party supporters. While much of this violence was carried out by supporters of the ruling PDP, especially in areas viewed as PDP strongholds, supporters of opposition parties, such as the All Nigeria People's Party (ANPP), also launched attacks on their rivals, resulting in deaths and injuries. Most of the major parties hired and armed groups of youths to terrorize their opponents, with the result that in some areas, especially in parts of the south and the southeast, no elections took place at all. The worst violence took place in the months preceding the elections; however, according to information gathered by Human Rights Watch, by Nigerian human rights organizations and by election observers, at least one hundred people were killed and many more injured during the actual election period, in April and May 2003.⁵

Despite these killings—and despite widespread rigging and fraud reported by national and international election observers deployed across the country—the 2003 elections were described as generally peaceful, both by Nigerians and non-Nigerians, and the mostly anonymous victims of this violence were quickly forgotten in the interests of encouraging Nigeria along its path to “democracy”. Official results reported that President Obasanjo and the PDP won the elections with an overwhelming majority. Nigeria's key foreign partners, while recognizing that there had been fraud and rigging, played down the violence surrounding the elections and failed to denounce it in their public statements. For example, British Foreign Secretary Jack Straw described the elections as “a landmark in the advancement of Nigeria's democracy” and welcomed “the relative calm in which the elections took place,”⁶ while the U.S. government “congratulate[d] the people of Nigeria for what was largely a peaceful expression and exercise of their right to vote [...] The widespread violence predicted by many did not happen.”⁷

Such statements by foreign governments have done little to encourage the Nigerian government to end impunity for political violence. President Obasanjo's numerous pre-election promises to hold to account perpetrators of political violence have remained unfulfilled. Very few of those responsible for ordering or carrying out killings and other attacks on their opponents have been brought to justice, especially in cases of violence

⁵ Pre-election violence is documented in the Human Rights Watch report “Testing democracy: political violence in Nigeria,” April 2003. Human Rights Watch subsequently carried out further research in Nigeria on violence which took place during the actual election period; the findings of this research will be published in a forthcoming report.

⁶ Foreign and Commonwealth Office press release, April 29, 2003. See also Human Rights Watch letter to Jack Straw, May 2, 2003.

⁷ White House statement on Nigerian elections, May 2, 2003.

instigated by PDP supporters. On the other hand, scores—and possibly hundreds—of members of opposition parties were arrested before, during and after the elections. The majority were members of the ANPP, the largest opposition party. However, in some areas, members of other parties, such as the United Nigeria People's Party (UNPP) and the All Progressive Grand Alliance (APGA), whose largest support base is in the southeast, were also arrested. The opposition parties have claimed that most of them were not guilty and that these arrests were politically-motivated. Many have since been released without charge.⁸

Human Rights Watch has not been able to verify the circumstances surrounding all these arrests, or whether there was substantial evidence against those detained. The offences of which they were accused ranged from murder, armed robbery, arson and assault to criminal defamation against public officials. However, a clear pattern of arrest and detention of opposition party supporters, combined with the low level of arrest of PDP supporters, many of whom were also responsible for acts of violence and intimidation during the elections, indicates that opposition party supporters were at the very least disproportionately targeted. In addition, the fact that many detained members of opposition parties were released after the elections seems to indicate that the motive for many of these arrests was probably to prevent opposition activity during the elections, rather than to bring perpetrators of violence to justice.

The harassment of opposition party supporters continued after the elections. The Conference of Nigerian Political Parties (CNPP)—an umbrella organization of political parties which has become one of the main voices of the opposition in the aftermath of the elections—claimed that on June 23, 2003, “a group of 23 supporters of the presidential candidate of the ANPP, including 11 women who were on their way to Abuja to witness court proceedings in the case instituted by the candidate against the outcome of the election, were arrested on the orders of the Inspector-General of Police and detained without bail for three days. As we write this letter, many more members of the opposition are in illegal detention, some of them since the eve of the elections.”⁹

On July 7, 2003, the police raided the ANPP office in Abuja and arrested several people; they later released them. The police reportedly accused them of organizing a protest at the U.S. embassy on July 3, described below.¹⁰

⁸ Human Rights Watch research carried out in Nigeria, July 2003, and information gathered from a range of sources, including human rights organizations and members of opposition parties.

⁹ Extract from a letter by the CNPP to U.S. President Bush, quoted in “Bush arrives today, coalition of parties oppose visit,” *The Guardian* (Lagos), July 11, 2003.

¹⁰ Human Rights Watch telephone interview, July 8, 2003.

The police have also tried to prevent the ANPP from organizing rallies and other public events, on the pretext that they did not have police authorization or that the rallies could pose a threat to public security. This happened on at least two occasions in the northern city of Kano, which has been the focus of intense anti-Obasanjo sentiment in recent years. On July 15, 2003, it was reported that twenty-five people were arrested in Kano as crowds gathered for a rally organized by the Buhari organization, the campaign organization of Muhammadu Buhari who was the ANPP presidential candidate during the elections. The police justified the arrests on the basis that the rally had not been granted prior authorization.¹¹ The police also tried to prevent an ANPP rally in Kano on September 23, 2003. Directives to block the rally reportedly came from the police headquarters in Abuja, in particular the Inspector General of Police, who was unhappy with the failure of the Kano State police to stop the event. The police cited "security reasons" as justification for not granting permission to the organizers to hold the rally. Eventually, the rally took place and was addressed by both Muhammadu Buhari and the Kano state governor, Ibrahim Shekarau (also an ANPP member).¹²

III. The fuel dispute: crackdown on peaceful protests

On June 20, 2003, less than two months after its election victory, the federal government announced an increase of more than 50 per cent in the price of fuel. Fuel prices in Nigeria have traditionally been kept low through heavy government subsidies. The government's announcement of a sudden and sharp price increase caused a storm of public outrage across the country, as similar announcements had done in the past. As negotiations between the government and the trade union movement—which led the protests—broke down, the trade unions, under the leadership of the Nigeria Labour Congress (NLC), called a general strike from June 30. Massive public demonstrations were organized in different parts of the country, uniting Nigerians from all sectors of society. Defying expectations, the strike was kept up for around ten days. It was eventually called off on July 8 after a compromise on the price of fuel was reached between the government and the NLC, although this did little to pacify popular anger against the government.

¹¹ See "Nigerian police arrest 25 at protest over Bush's visit," Panafrican News Agency, July 15, 2003.

¹² See for example "Police stop Buhari rally in Kano," *Daily Trust*, September 23, 2003, and "IG queries Kano police command over Buhari rally," *The Guardian*, September 25, 2003.

The police response to the strike and the protests was brutal. Large numbers of police (both regular police and paramilitary mobile police) were deployed across the country. In a manner reminiscent of the military era in Nigeria, they violently broke up demonstrations and rallies, dispersing protestors with tear-gas and live shots, even when there was no sign of violence. They shot dead several protestors and passers-by, and severely beat people, including several journalists who were covering the events. At least twelve people, and possibly more than twenty, were killed and others were injured. Scores of people were arrested, some apparently at random, on allegations that they had used violence or incited rioting. Union officials were among those arrested, and later released. While there were reports that some protestors had resorted to violence and set up burning barricades, many protests were completely peaceful.¹³

On June 30, on the first day of the strike, four people were reportedly shot dead by the police just outside the federal capital territory, in Mararaba, Karu local government, Nasarawa state. One of the victims was Patrick Daniel Danjaba, a thirty-seven-year-old casual worker with the construction company Julius Berger. He was not taking part in the protest, but happened to be at the scene when the police opened fire. He had been trying to go to work but when he found that there was no transport and that all the roads were blocked because of the demonstrations, he started to make his way back home; he was with a colleague when he joined the main road. A relative told Human Rights Watch what happened next:

At around 2.30 or 3 p.m., when he returned to the roadside, the mobile police were firing. He tried to run. A bullet hit him in the back. When we [his relatives] reached the scene, we found him lying and people around him. He was still alive. We tried to get a vehicle to take him to the hospital but there were no vehicles. A water-seller had a big wheelbarrow. We put him in it and pushed it to the medical centre. At the medical centre, there was no one working because of the strike. We took him to a private hospital but there was no doctor. He was still in the wheelbarrow. We took him to another hospital. A doctor there attended to him but he died while he was being treated.

[...] He was not protesting. He was just passing by.¹⁴

¹³ Human Rights Watch telephone interviews with human rights activists, journalists, and other eye-witnesses of the demonstrations, July 2003.

¹⁴ Human Rights Watch interview, Mararaba, August 8, 2003.

The death certificate from the hospital confirmed that he had bullet injuries and that he died on June 30, at 4.40 p.m.

In addition to those who died, several people were injured by the police in Mararaba. Local residents told Human Rights Watch about four people who were injured, one of whom had three fractures on his arm. They were arrested and taken to the police force Criminal Investigations Department (CID) in Abuja; the police then took them to the national hospital and left them there.¹⁵

On July 1, the news agency Agence France-Presse (AFP) asked the police for a response to the news of the shootings in Mararaba. Police public relations officer Chris Olakpe initially confirmed that four people had died, without giving details, but then called the agency back denying that the police had recorded any deaths.¹⁶

On July 1, the police severely beat several journalists and arrested at least two during a large but peaceful protest rally in the federal capital Abuja; the rally was addressed by the NLC president Adams Oshiomhole. A group of more than ten policemen assaulted George Osodi, a photographer working for the news agency Associated Press (AP), who was taking photographs of the rally. A colleague described what happened:

George was one of the first photographers to start taking pictures. The riot police rushed in, grabbed him and pulled him out of the compound. Ten to thirteen of them beat him with whips and rifle-butts and kicked him. They smashed his cameras. They took his bag and cameras. He later found his bag empty; they had taken everything. He had bruises and cuts all over his face and body. They beat him up for a long time; he was trying to protect himself. While they were beating him, they said: "This is for the pictures you people take!" and "You have no right to be here as a journalist."¹⁷

Two reporters working for the *Vanguard* newspaper, Funmi Komolafe and Rotimi Ajayi, were also beaten by police the same day. Funmi Komolafe was then arrested by the police, as was Ola Awoniyi, a journalist working for AFP who had asked the police why they had arrested Funmi Komolafe. They were released later the same day.

¹⁵ Human Rights Watch interviews, Mararaba, August 8, 2003.

¹⁶ Human Rights Watch telephone interview, July 1, 2003. Also see "Riot police fire tear gas at protesters on second day of Nigerian strike," AFP, July 1, 2003.

¹⁷ Human Rights Watch telephone interview, July 1, 2003.

In the southern city of Port Harcourt, where students organized two large protests, at least two and possibly four people were shot dead on July 2 as police dispersed a protest on the Port Harcourt-Aba express road. Two of the victims died after being hit by stray bullets as police shot at the crowds. One was government traffic warden Chisa Nwoko. The other was trader Izuchukwu Nzenwefe, who was shot in front of his shop which happened to be located in an area where protestors had gathered. No police officer was arrested in connection with either of these deaths. It was also reported that two secondary students were shot dead during the protests. Several students were also beaten by police and arrested in a protest on the Ikwerre Road the same day.¹⁸

The highest number of fatal police shootings was in Lagos. One week into the strike, the protests showed no sign of dying down. On July 7, at least six people, and possibly as many as sixteen, were shot dead by the police in several different locations of Lagos; the exact number of victims has still not been independently confirmed. Some of the victims were protestors, others were hit by stray bullets. Eyewitnesses told Human Rights Watch that in several areas, the police opened fire on the crowds indiscriminately. For example, in Yaba, a young man in his twenties, Tunde Abdulazeez Andoyi, was shot dead as he stood outside his house. Witnesses described the police action in Yaba as completely unprovoked and said the protests had been peaceful until the police started dispersing the crowds. In Akowonjo, at least three people were reported to have died, including Obot Akpan Etim, aged twenty-seven; several others, including teenagers, were injured. At least two people were reportedly killed in Iyana-Ipaja. All the victims were reported to have died from bullet wounds.¹⁹

Initially, the police repeatedly denied any knowledge of the killings in Lagos. A Nigerian television journalist who had been in Akowonjo and had seen the victims' bodies asked the police for a response; they continued to deny that these incidents had occurred, even though he told them he had seen the bodies.²⁰ The public relations officer for Lagos State police was quoted as saying: "We wonder where Oshiomhole [NLC president] got his fact from that the police was the one that did the killings, let them produce their evidence and show us the corpses of those killed [...] We are yet to receive any case of death recorded during the protest [...] The allegation is completely untrue as the police

¹⁸ Human Rights Watch telephone interviews with sources in Port Harcourt, July 9 and 10, and November 7, 2003. See also letter to the Rivers State Commissioner of Police by the Civil Rights and Development Organisation (CRIDO) on the killing of Izuchukwu Nzenwefe; and "Police clamp down on Rivers labour leaders," *ThisDay*, July 3, 2003.

¹⁹ Human Rights Watch telephone interviews with human rights activists and journalists in Lagos, July 8, 2003. See also "Nine feared killed as protest turns violent in Lagos," *The Guardian*, July 8, 2003, and "Gone with the strike!", *The Vanguard*, July 13, 2003.

²⁰ Human Rights Watch telephone interview, July 8, 2003.

was given stern warning not to use firearms during the riot.”²¹ Eventually, under intense pressure and following widespread publicity of these incidents—graphic reports of the shootings, including footage of the victims, were shown on private television stations—they conceded that a number of people may have died but continued denying responsibility for their deaths, claiming that some had been killed in accidents in the general confusion, or that they may have been killed by armed rioters.²²

Information gathered by Human Rights Watch indicates that orders to the police to shoot protestors in Lagos may have been issued from the highest level, from the police force headquarters in Abuja. On July 7, at the height of the protests in Lagos, a man who was arrested in Abuja in connection with an unrelated incident was taken to the police force headquarters. While he was waiting there, at around 11 a.m., he overheard a telephone conversation between a senior federal police official (who was in the same room as him) and the Commissioner of Police for Lagos State; he was able to hear part of the conversation because the speaker on the telephone was switched on. According to his testimony, the Commissioner of Police for Lagos State reported that people were protesting in large numbers in the Ikeja area of Lagos and asked for advice on what he should do. The senior federal police official replied that if the situation persisted for more than thirty minutes, the police should shoot the protestors on sight.²³

In July, the House of Representatives and the Senate (the two houses of the National Assembly) set up inquiries into the shootings during the protests. The Senate’s investigation was carried out by five members of the Senate Committee on Petroleum Resources. Its proceedings took place in Lagos, Abuja and Port Harcourt between July 23 and August 2. It collected evidence from a range of witnesses, including victims and relatives of victims of the shootings, senior federal and state police officials, and representatives of the NLC. The police who testified to the committee denied that the police had shot anybody, claiming they had only used tear-gas. They claimed that the protests had turned violent and that some of the rioters were armed. They stated that eight people had died in Lagos, but that seven of them had died as a result of motor accidents. However, the committee’s report points out inconsistencies and contradictions between the testimonies of state and federal police officials, and identifies several cases in which injuries had clearly been caused by bullets. In particular, it

²¹ “Lagos police to arraign arrested fuel price hike protesters today,” *The Vanguard*, July 10, 2003.

²² Ibid, and Human Rights Watch telephone interviews, July 2003. In their testimony to a Senate inquiry on this matter, the police said that according to their records, eight people had died during the protests in Lagos, but claimed that seven of them had died as a result of fatal motor accidents. Senate Committee on Petroleum Resources, Report on the Alleged Killings during the Strike over Price Increase of Petroleum Products.

²³ Human Rights Watch interview, Abuja, July 20, 2003.

highlights the case of Obot Etim, stating “there is a consensus that he died during the riot from bullet wounds. The only controversy is whether it was the police that did kill him as alleged by Labour [the NLC].” It also highlights the case of Abdulazeez Tunde Andoyi, in which witnesses named a deputy superintendent of police who they alleged had shot indiscriminately, killing Tunde Andoyi and injuring one other person in the leg; the report states “on the whole, there is a lot to suggest that the police is culpable in the death of Tunde Andoyi.” The report confirms that in addition to the above cases which occurred in Lagos, at least two people were killed in Mararaba, stating “the assertion from the police that nobody died cannot be correct,” and that not all those who were shot were rioters; the police had denied that anybody was killed in Mararaba, claiming that rioters had turned to violence and that four people had been injured.²⁴

The conclusions of the Senate committee’s report state that the “police reaction to situation like the one we had during the crisis under question remain inhuman. The slightest provocation by citizens elicits a very bloody reaction.” Its recommendations include a request for the Police Services Commission—a body set up in 2001 to provide independent oversight over the activities of the Nigerian police force—to investigate three of the cases of killings in Mararaba and two cases in Lagos. Most of the remaining recommendations focus on the need for broader reforms and training within the police force, including the creation of a special Civil Protest Response Unit whose officers would not be armed with lethal weapons.²⁵

At the time of writing, the report of the House of Representatives’ investigation into events during the protests is not yet available. The Lagos state government also set up a judicial commission of inquiry, the outcome of which is not known.

Partly as a result of these inquiries and the high level of media coverage of the events, several policemen were reportedly questioned about their actions during the protests, as part of an internal police investigation. However, by October 2003, Human Rights Watch was not aware that any police officer had been arrested or charged in connection with the shootings, or that disciplinary measures were taken against those involved in these incidents.

Human Rights Watch raised these cases directly with federal government and police authorities in Abuja. Lawrence Alobi, Commissioner of Police for Operations, denied that anybody was killed by the police in Lagos; he claimed that there was a stampede and

²⁴ Senate Committee on Petroleum Resources, Report on the Alleged Killings during the Strike over Price Increase of Petroleum Products.

²⁵ Ibid.

that some people were run over by a vehicle. He denied that anyone was killed in Mararaba; he said that some had been injured, but that these were “miscreants”, not striking workers. He also denied that anyone was killed in Port Harcourt or that any force was used there. In a subsequent meeting, Lawrence Alobi told Human Rights Watch that the police were under threat from the protestors and that no policeman would shoot an unarmed protestor. He said that there was no need for further investigations and dismissed suggestions that such investigations might be useful. He said he had never heard about any photographers being beaten by the police.²⁶

When Human Rights Watch met the Attorney General and Minister of Justice, he denied that orders had been given to the police to shoot or to kill, and stated that individual police officers would only resort to live bullets if they were unable to disperse the crowd and if they were being threatened. He said that a state commissioner of police would not have to obtain the authorisation of the Inspector General of Police to use live bullets, that they would be justified in doing so if the situation were violent, but not if they directly shot someone who was “minding his own business”. However, he also stated that “if in the process one or two lives were lost to save others from being killed, this shouldn’t create a reaction and it is lawful.” He told Human Rights Watch that the police were investigating the reported shootings and that if a case were established, the police officers would be tried.²⁷

IV. Arrest and torture following protest at US embassy in Abuja

U.S. President George W. Bush visited Nigeria just days after the demonstrations about the fuel price increase, as part of a planned tour of several African countries between July 7 and 12, 2003. The Nigerian government was therefore especially sensitive to the atmosphere in the country during this period—a sensitivity which was manifested in a further crackdown against individuals openly criticizing the government.

On July 3, while the strike and protests were still going on, a group of protestors, made up of private individuals from different walks of life under the name Concerned Youth Alliance of Nigeria, went to the U.S. embassy in Abuja to protest against President Bush’s visit, on the grounds that it conferred undeserved legitimacy on President Obasanjo’s government. In a five-page letter to President Bush, which they delivered to

²⁶ Human Rights Watch interviews with Lawrence Alobi, Commissioner of Police for Operations, Abuja, July 23 and September 17, 2003.

²⁷ Human Rights Watch interview with Chief Akin Olujinmi, Attorney General and Minister of Justice, Abuja, August 8, 2003.

the embassy, they expressed their disappointment at the widespread fraud during the recent elections, highlighted human rights violations by the police, and appealed to President Bush to reconsider his visit to Nigeria.²⁸

Despite the entirely peaceful nature of the protest, around thirty protestors were arrested and detained for two weeks; some of them were tortured, on instructions from the highest levels of the police force, as indicated in the testimonies below. The torture was intended to force them to reveal the names of those who had organized their protest; they were repeatedly accused of being sponsored by political opposition parties. The nature of the interrogation they underwent indicates clearly that their arrest was politically motivated and intended to avoid any further negative publicity for the Nigerian government during President Bush's visit. The police tried hard to claim that the protest had been organized by opposition parties, a claim consistently denied by the protestors, who describe themselves as professionals of different backgrounds who were simply protesting President Bush's visit.²⁹ The police also put pressure on the ANPP to admit that they had been behind the protest (see above).³⁰

Human Rights Watch spoke to some of the protestors after their release. One of them described how they were arrested after delivering their letter of protest to staff at the U.S. embassy:

There were about 200 to 250 people in the protest. There would have been more but some were obstructed on the way. We got to the U.S. embassy and talked to an official who came out. We approached the personnel and asked for an audience with the Consul General [...] We filled in the form to request a meeting. We came out with our placards. We just said we wanted to deliver our letter. The police initially didn't agree, but a U.S. embassy official came out and we explained to him why we were there. We read the letter out loud. He listened and was very receptive. We explained that we had feared being arrested. We had applied to the authorities for authorization to demonstrate, but they had not granted it. So we decided to write a letter about Bush's visit. The

²⁸ "Nigeria's 2003 elections: a people under siege," letter to President Bush by the Concerned Youth Alliance of Nigeria.

²⁹ Opposition political parties also independently protested President Bush's visit to Nigeria.

³⁰ Human Rights Watch telephone interview, July 8, 2003.

embassy official took the letter. It was very peaceful, and we asked people to disperse peacefully.

We left. Less than two kilometres away, within Aso Drive, near the flyover, the police arrested us. They were mobile police. They arrested twenty-nine people, but released them after our coordinator appealed to the police. Then they arrested another thirty people [...]³¹

The protestors in this second group, who included three women, were then detained for two weeks. They were held in police custody in various locations in Abuja, including the Maitama Area Command, the zonal police headquarters in Zone 3, the police station in Asokoro, and the police force Criminal Investigations Department (CID) in Area 10.³²

On July 7, the police arrested one of the coordinators of the demonstration, whom they had not been able to arrest earlier because he had travelled outside Abuja after the protest. They came to find him at his home:

On the Monday morning, at 8 a.m., nine heavily-armed mobile police came to my house. They included a chief superintendent of police, an assistant superintendent and the assistant commissioner of police in charge of the Inspector General of Police's monitoring unit. They arrested me like a criminal. They didn't even let me put on my shirt or shoes. I was wearing only my trousers. They took me to the force headquarters. They knew my name, and asked me if I knew one of the other coordinators (by name). They told me I was under arrest.

At the police headquarters, I was taken to the IG [Inspector General] himself. I was questioned first by the assistant commissioner, then by the IG, at the same time. The assistant commissioner asked me a series of questions: "Do you know the names called by the lady? [one of the other protestors who had been forced to give names to the police] You must have been sponsored by a political party or top individuals of opposition parties." I explained we weren't sponsored by anybody. I asked what offence I had committed and said I would sue the IG and the president for unlawful detention. The IG said: "Take him and he should be squeezed." They asked whether I was sponsored by Buhari [leader of the ANPP], Ojukwu [leader of APGA], another opposition

³¹ Human Rights Watch interview, Abuja, July 20, 2003.

³² Human Rights Watch interviews, Abuja, July 20, 2003, and telephone interview, October 13, 2003.

party] etc. I denied that I was sponsored by anyone. [...] They tried to force me to mention names. I said I would rather die than indict innocent people. That was when the IG said I should be squeezed. The assistant commissioner had also asked about another coordinator of our protest (by name) because she had given an interview on the BBC and Reuters about the arrests. He told me I must give them information about her.

I was taken to the anti-robbery squad, room 40 or 41. I was interrogated there and told to mention the names of those who had sponsored me. It was just me with four interrogators. They asked the investigative police officer (IPO) to bring handcuffs to hang me. The IPO said he didn't have any handcuffs. They used another instrument. They brought it close to my body. I felt like my blood stopped flowing. I don't know what to call it. It looked like a metal detector. They held it in their hand. You feel it in your brain. They just brought it very close to my hands, my chest and my legs. I fainted. One of them said: "I'll shoot your legs if you don't give us names." I stayed there from 5 p.m. until about 6.30 or 7 p.m.

Then I was taken to Asokoro police station. They took me the back way, through the basement, into a vehicle with tinted windows. I was handed to the DPO [divisional police officer]. The cell was full. There were more than forty people there. It was Cell 1. I was held there for forty-eight hours. I was standing up all the time. We couldn't even sit down [...]

After two days, I was allowed to receive visits from my friends. I could talk to them for just two or three minutes behind the counter. The police listened but they were sympathetic. They said they had received orders from above. I was not tortured in the police station.

There was a court order to release us unconditionally or charge us to court, but the police defied it. They took us to court on the ninth day. It was the chief magistrate's court in Zone 2. We were taken there on Tuesday [July 15]. They accused us of three offences: unlawful assembly, conspiracy and incitement to disrupt public peace. Originally they had included treason but they dropped this. Thirty-one of us appeared in court with heavily-armed mobile police surrounding us with AK47s. We couldn't move an inch. They were in court with us. We all pleaded not guilty. The judge said we had only exercised our rights

according to section 40 of the Constitution. The police confirmed that we had not had any weapons. We were discharged and acquitted. [...]³³

Our lawyers were told by the police that they couldn't release us until Bush had been and gone, because they didn't want to be embarrassed.³⁴

Several other male protestors were tortured. One of those detained in a police cell in Zone 3 was severely beaten by the police; a fellow detainee heard him screaming "please, please, pardon me if I cannot tell you!"³⁵ Another detainee, held in a different location in Abuja, sustained injuries to his eyes and ears after being slapped very hard; he reported that he temporarily lost his hearing. On the day he was arrested, he was forced to stay in a squatting position all night, until the following morning.³⁶

At least one other protestor, who was among the group arrested on July 3, also reported that the IG had personally ordered their torture:

On the day of my arrest, I was taken to the IG's office in the police force HQ. It was only me who was taken inside his office, but there were three other boys [other protestors] in the waiting room. Inside the office, the IG and several SSS [State Security Services] were there. The IG accused us of wanting to disrupt the country. He told his boys [the police] they should squeeze me and throw me in the cell where I should die. He didn't interview me. I spent only about five minutes in there.

The police interviewed me before and after. Initially, a commissioner of police interviewed me, then the IG said I should be taken to the monitoring unit. The other police commissioners and SSS came there. They questioned me. They asked who sponsored us. I said nobody. They asked how much we paid people to go on the protest. I said nothing. They asked did Buhari send you. I said no. They said we

³³ The 31 included Mustapha Mohammed Bello, Happy Asuquo, Abubakar Suleiman, Samuel Olayemi, Idris Ahmed, Alriru Ajayi, Bassey Uko, Tola Balogun, Linus Osemobo, Bassey Etim, Michael Okike, Usen Sani, Abubakar Salisu, Sani Ali, Rachel Okoloba, Saheed O.Shokunbi, Benson Ojeaga, Yusuf Garuba, Abubakar Balagun, Livinus Onwude, Gebmi Oluranakinse, Julius Isakunle and nine others.

³⁴ Human Rights Watch interview, Abuja, July 20, 2003.

³⁵ Human Rights Watch telephone interview, October 13, 2003.

³⁶ Ibid.

deliberately organized the protest to set the country back. They asked for the names of other protestors. [...]

They put me in a cell in Zone 3, for about twelve days. There were fourteen of us in the cell. They didn't torture me, but they forced me to sleep on the bare floor. Other people were tortured. [...]

When I was released, the assistant commissioner of police from the Monitoring Unit threatened me. He said: "If you go for any other protest, I will come after you personally."³⁷

In meetings with Human Rights Watch, Commissioner of Police for Operations Lawrence Alobi denied that anyone had been tortured following the protest at the U.S. embassy, but stressed that the organizers had not been granted a police permit to protest there.³⁸

Human Rights Watch also raised these cases with the U.S. embassy in Abuja, as the arrests had occurred in connection with the protest there. When we first inquired with staff at the embassy soon after the arrests, we were told that the embassy was aware of the situation, that they believed the protestors had been arrested because they did not have a permit to assemble, but that the embassy could not take any action as none of those arrested were U.S. citizens.³⁹ Once the detainees had been released, Human Rights Watch informed U.S. embassy officials that several of them had been tortured, as described above. The embassy officials told Human Rights Watch that they would look into the case. They said that their chief security officer (who had since left the embassy) had talked to the protestors and had asked about the arrests when they occurred, but it appeared that the embassy had not followed the case closely since then.⁴⁰ U.S. President George Bush is not known to have raised human rights issues with the Nigerian government during his visit to Abuja in July.

³⁷ Ibid.

³⁸ Human Rights Watch interviews with Lawrence Alobi, Commissioner of Police for Operations, Abuja, July 23 and September 17, 2003.

³⁹ Human Rights Watch correspondence with U.S. embassy in Abuja, July 10, 2003.

⁴⁰ Human Rights Watch interview, Abuja, July 22, 2003.

V. Harassment of human rights organizations and individuals suspected of providing information to them

While most of the time, Nigerian human rights organizations and other civil society groups are allowed to carry out their activities without systematic hindrance, there have been several cases where the authorities have put obstacles in their way, apparently with a view to intimidating them.

On April 30, 2003, Okechukwu Nwanguma, coordinator of the southeast zone of the Civil Liberties Organisation (CLO), Nigeria's largest and oldest human rights organization, was subjected to intense questioning, threats and intimidation for several hours by the police in the southeastern city of Enugu. The incident was connected with a letter documenting arbitrary arrests, corruption and other abuses by the police in Enugu State, which the CLO had sent to the Inspector General of Police on March 1, 2003; the letter was signed by Okechukwu Nwanguma.⁴¹ Nwanguma received a letter dated April 28 asking him to come for an interview with the Enugu State Deputy Commissioner of Police. Believing the interview was intended to shed more light on the cases of abuse raised by the CLO, he went to meet the Deputy Commissioner of Police in Enugu on April 30. He was then interrogated for several hours by six police officers, including the Deputy Commissioner himself. Their behaviour was clearly intended to intimidate and humiliate him. They tried to dictate the contents of his statement and prevented his lawyer from being present while his statement was taken. They accused him of fighting the police and of harbouring criminals, and stated that "a complainant could be turned into an accused". The Deputy Commissioner threatened to charge him with an unspecified offence. The police officers complained about the fact that the CLO had written directly to the Inspector General of Police, rather than raising the incidents of abuse directly with the individual police divisions or state police command in Enugu, even though the CLO had done so and not received any satisfactory response from the state police on previous occasions.⁴² The following week, when Nwanguma returned to the police station with his lawyer, one of the police officers warned him to

⁴¹ Letter from CLO to the Inspector General of Police entitled "Extortion, indiscriminate arrests and detention by police officers in Enugu," March 1, 2003.

⁴² Letter addressed to the Inspector General of Police by Okechukwu Nwanguma's solicitors, and statement by the CLO South-East Chairman entitled "CLO's southeast coordinator under threat by the police," dated May 1, 2003.

be careful because he was a young man—a warning which he interpreted as a further threat.⁴³

Human Rights Watch wrote to the Enugu state commissioner of police and the Inspector General of Police on May 9, 2003, asking for an immediate investigation into this incident and for assurances that human rights activists are able to conduct their work freely and without fear for their safety. We received a reply dated October 14 from the principal staff officer to the Inspector General of Police in Abuja. The reply does not address Human Rights Watch's main concern, which was the intimidating and threatening manner in which Nwanguma was treated by the police. Instead, it attempts to discredit Nwanguma and the CLO's initial letter about police abuses, claiming that Nwanguma failed to produce any evidence to substantiate the CLO's allegations.⁴⁴

In August 2002, the Lagos-based nongovernmental organization Centre for Law Enforcement Education (CLEEN), in conjunction with the Geneva-based World Organisation against Torture (*Organisation mondiale contre la torture*, OMCT), published a book entitled "Hope Betrayed? A report on impunity and state-sponsored violence in Nigeria." The book is composed of chapters by different authors, many of them human rights activists, describing case studies of targeted killings in Nigeria and the impunity which has protected the perpetrators, particularly members of the security forces. The book was launched by CLEEN and OMCT with a press conference in Lagos, which was not disrupted by the authorities. However, a consignment of several hundred copies of the book, sent from Geneva, was intercepted at customs in Lagos, and blocked there. The two organizations put repeated pressure for the release of the books, in vain. On October 2002, CLEEN received a letter from the Lagos-based transport company which stated: "[...] Nigeria Customs at M.M. Cargo still refused to release cargo due to the perceived political undertone of the book and hence required clearance letter from the Controller General of Customs Abuja through you before the cargo can be released."⁴⁵ One year later, in October 2003, the books have still not been released. In June 2003, CLEEN launched a court case against the board of customs and excise, which is due to be heard by the Federal High Court in Lagos; the date of the hearing was not yet known.

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⁴³ Human Rights Watch telephone interview, May 6, 2003.

⁴⁴ Letter to Human Rights Watch from Solomon E. Arase, principal staff officer to the Inspector General of Police, October 14, 2003.

⁴⁵ Letter to Innocent Chukwuma of CLEEN from Panalpina World Transport (Nigeria) Ltd, October 11, 2002.

⁴⁶ Human Rights Watch telephone interviews, October 2002 and September 2003. See also OMCT press release "Hope detained! A report on the human rights situation in Nigeria is blocked at the country's customs, while its contributors are being harassed," October 14, 2002.

In October 2002, at least three contributors to the book were called in for questioning by the SSS; two were members of the CLO, and the third was a member of the National Human Rights Commission (a body set up by the government in 1996 to monitor human rights developments and advise the government on human rights policies). SSS officials visited the Lagos office of CLO on several occasions, without specifying why they were looking for the staff members concerned. They also visited CLEEN's office in Lagos and questioned the executive director extensively.⁴⁷

Between December 3 and 6, 2002, the SSS seized the passports of several members of Nigerian civil society organizations and prevented them from travelling. On December 3, Tajudeen Abdul Raheem, chairperson of the Centre for Democracy and Development (CDD) and Secretary General of the Pan-African Movement, was stopped at Lagos airport as he was about to travel to London. Members of the SSS confiscated his passport and kept it for three days. They told him that they had stopped him because his name was on their watchlist; however, they did not provide any explanation as to why it was on their watchlist or why he was not allowed to travel. Subsequently, the SSS told him that his name had been on their list "for a long time," meaning that he was among those blacklisted by previous governments; evidently the current government had never reviewed that list or questioned its existence. The director of the SSS apologized about the incident and blamed it on bureaucracy.⁴⁸ In the following days, the SSS at Lagos airport seized the passports of several other activists, including Jiti Ogunye, secretary of the National Association of Democratic Lawyers, and Iheoma Obibi, director of Alliances of Africa. Iheoma Obibi, who holds a British passport, was stopped at Lagos Airport on December 6, along with her five-year-old son. She was told that there were instructions from Abuja that she needed official security clearance before being allowed to travel, but was not given any explanation as to why. SSS officials took her passport, as well as her son's, and destroyed their boarding cards. Iheoma Obibi and her son were released about six hours later and asked to return to the SSS for interrogation on the following Monday.⁴⁹

On July 22, 2003, Human Rights Watch published a report on killings during the riots in Kaduna in November 2002, following protests at the Miss World beauty contest which had been due to take place in Nigeria.⁵⁰ A large section of the report described killings

⁴⁷ Ibid.

⁴⁸ Human Rights Watch telephone interview, October 7, 2003. See also CDD press release, "CDD chairperson arrested and international passport seized by Nigeria's State Security Service," December 6, 2002, and "My encounter with Nigerian SSS," *Weekly Trust*, December 13, 2002.

⁴⁹ Human Rights Watch correspondence, December 2002. See also "Rights groups allege clamp-down on members," *The Vanguard*, December 9, 2002.

⁵⁰ Human Rights Watch report "The 'Miss World riots': continued impunity for killings in Kaduna," July 2003.

by the security forces, particularly the police, during the days of rioting. In the days immediately after the publication of the report, from late July until mid August 2003, the police in Kaduna harassed at least two people whom they suspected of having provided information to Human Rights Watch on specific incidents of killings by the police, which were documented in detail in the report. On July 24, they arrested a man, accused him of giving information and photographs to Human Rights Watch and asked him why he had done this. They released him the same day, then called him again, and on at least three further occasions within a short period. On these subsequent occasions, they did not question him again, but kept him in the police station for the whole day leaving him alone in a room; they let him go at the end of the day. Another man was also questioned about why he had provided information to Human Rights Watch.⁵¹

In September, Human Rights Watch wrote to the Kaduna state governor and the police asking for assurances that individuals suspected of providing information on human rights violations are not intimidated or harmed, and reminding them of their obligation to investigate the killings and bring to justice those responsible. By November 2003, no reply had been received.⁵²

VI. Harassment of journalists and restrictions on press freedom

On a superficial level, the media enjoys considerable freedom in Nigeria. There is a large number of daily newspapers, weekly magazines, and other publications, most of them published in Lagos or elsewhere in the southern part of the country, and several private radio and television stations. With the exception of the federal and state government media outlets, much of the media regularly carries a range of opinions, including strong criticism of government policies and debates on different issues. However, in reality, genuinely independent journalism is not as common in Nigeria as it may seem, and there is an unspoken threshold beyond which criticism is not easily tolerated. The media, like so many other sectors, is tainted by corruption, with many, though not all, journalists expecting to receive payment before agreeing to report, or not to report, an event. As in many other countries, deals are struck with individual politicians on whether, when or how to report particular events. These personalized relations between politicians and individual journalists or editors allow the government a level of control over how the

⁵¹ Human Rights Watch telephone interviews and correspondence, July and August 2003.

⁵² Human Rights Watch letter to the Kaduna State governor, September 16, 2003.

media represents events. However, not all journalists accept these compromises, and many continue to defy attempts at censorship.

There have been numerous incidents in which officials have intervened directly in an attempt to prevent coverage of events judged detrimental to the image of the government. Media Rights Agenda (MRA), a Lagos-based nongovernmental organization which promotes press freedom and freedom of expression, recorded more than fifty cases of reported abuses against journalists and other violations of freedom of expression between June 2002 and September 2003, including at least nine cases of physical assault by the police, as well as other forms of harassment, intimidation and obstruction, such as destruction or confiscation of journalists' cameras.⁵³ One of the most serious recent examples is the incident described above in which several journalists were beaten by the police during the fuel strike and protests. A few other examples from 2002 and 2003 are given below. These are incidents where the abuses appeared to be motivated specifically by an intention to suppress information or to silence dissent; this section does not include the numerous other incidents where journalists have been physically assaulted, harassed or obstructed for no clear reason, or simply with a view to extorting money.

In late July 2002, journalists were explicitly asked by government and police officials not to report on an incident in Kano on July 29 in which police had clashed with an angry crowd protesting against President Obasanjo's visit to the city. Independent sources, including journalists and other witnesses, initially claimed that several people had died when policemen in the president's entourage shot at protestors. As soon as these reports began circulating, the authorities made frantic efforts to cover up the story. Human Rights Watch spoke to several journalists at the time who said that government officials had been seeking out individual journalists and asking them what they had seen, telling them that nothing had happened and that they should not report the story as the information was incorrect. In particular, the press secretary of the Kano State governor⁵⁴ approached all the Kano-based local and international reporters as they gathered in the press gallery in government house (the state government office) and appealed to them not to report the story.⁵⁵ However, the pressure came too late, as reports of the shootings had already been filed and published by several news agencies, as well as most

⁵³ Analysis of data gathered by Media Rights Monitor, the monthly journal of Media Rights Agenda, between June 2002 and September 2003. Human Rights Watch has not been able to verify all these cases.

⁵⁴ The Kano State governor at the time was Rabi'u Musa Kwankwaso. He was appointed Minister of Defence in the federal government after the 2003 elections.

⁵⁵ Human Rights Watch telephone interviews, July 31, 2002, and subsequent correspondence, September-October 2003.

of the main Nigerian newspapers. Federal government officials, including the minister for information at the time, and a spokesperson for the president's office, expressed dissatisfaction with the content of these reports.⁵⁶

Human Rights Watch was unable to confirm whether anyone was killed at the scene of the protest in Kano on July 29, 2002. Several witnesses reported that shots had been fired into the crowd and people had been injured, but they could not confirm whether the injuries had been caused by live shots or by tear-gas, or whether any of the victims actually died. The police and the government vehemently denied that anybody was killed.⁵⁷ However, Human Rights Watch confirmed the disappearance of a young man, nineteen-year-old Mutari Abba Kabara, in confusing circumstances; he was last seen in police custody after he was arrested on the day of the protests. His family was informed that he was taken first to Jakara police station in Kano, then transferred to the Kano state police headquarters, but was not able to trace his whereabouts thereafter, despite repeated inquiries at different police stations. The police eventually informed the family that a young man with a similar name had died, but the body they were shown in the mortuary was not their son's.⁵⁸

In June 2003, all printed copies of the June 30 edition of the weekly *Tell* magazine were bought up by agents of the Organising Committee of the All Africa Games (COJA). The magazine contained an article on corruption in the award of contracts for coverage of the All Africa Games, due to take place in Nigeria in October 2003, entitled "Scandal in Aso Rock [the presidency]; Anti-corruption campaign, a fraud." On June 20, 2003, officials of COJA visited the *Tell* office in Lagos and offered to buy up all copies of the issue before it went on sale; the management of *Tell* refused. The following day, as the magazine was going on sale, the officials targeted all the main distribution points and bought up all the copies.⁵⁹ According to a journalist reporting from Abeokuta, in Ogun state, the copies there were bought up by SSS officials who identified themselves as acting on orders of the presidency.⁶⁰

⁵⁶ See for example "Nigeria pressures BBC outlet amid row over reporting," AFP, August 6, 2002, and "Nobody died when Obasanjo visited Kano, says Presidency," *ThisDay*, July 31, 2002.

⁵⁷ Human Rights Watch telephone interviews, July 31, 2002. See also "Nobody died when Obasanjo visited Kano, says Presidency," *ThisDay*, July 31, 2002.

⁵⁸ Human Rights Watch interviews, Kano, February 1, 2003, and letter to the Inspector General of Police by lawyers acting on behalf of Mutara Abba Kabara's father, August 10, 2002.

⁵⁹ Human Rights Watch telephone interviews, September 2003. See also press release by the Centre for Research Education and Development of Freedom of Expression and Associated Rights (CREDO), June 27, 2003. The statement mentions that "the security agents also largely succeeded in preventing the export of the magazine, which usually sells in tens of thousands in Africa, Europe and the United States."

⁶⁰ See "Tell alerts of fresh censorship," *Daily Independent online*, June 25, 2003.

In late November 2002, the premises of three independent newspapers based in Port Harcourt, *The Argus*, *The Beacon*, and *The Independent Monitor*, were raided by the police and several journalists were arrested by the police for publishing stories seen as critical of the Rivers state government. They were detained for several hours then released. The Rivers State governor's lawyer reportedly wrote to the newspapers threatening to sue them for libel if they refused to retract the articles.⁶¹

Ofonime Umanah, the Cross Rivers state correspondent of *The Punch* newspaper, was reported to have been harassed after exposing public discontent with the Nigerian government's decision to offer a safe haven to former Liberian President Charles Taylor.⁶² The Cross Rivers state government asked him to tone down his criticism, but he did not give in to this pressure. He was then called to explain himself before the Ethics Committee of the Cross Rivers state chapter of the Nigerian Union of Journalists (NUJ); the committee's members include the state president of the NUJ, who is a member of the PDP and former member of the publicity sub-committee of the state governor's campaign team, and the press secretary of the state governor's wife.⁶³

Several journalists have been expelled from their specific area of reporting after writing articles denouncing abuses, particularly corruption. For example, on September 17, 2003, Cyril Mbah, state house correspondent for *The Monitor* newspaper, was escorted off the premises of the President's compound in Abuja, from where he usually reported, after he had written an article allegedly critical of the President. Agents of the SSS reportedly kept his accreditation card and told him not to return to the presidential compound.⁶⁴ Other journalists have been expelled from particular states following critical reporting. For example, in August 2003, the Akwa Ibom State House of Assembly reportedly ordered Haruna Acheneje, state correspondent of *The Punch* newspaper, to leave Akwa Ibom State, from where he usually reported. This instruction was apparently connected to an article he had written about the State House of Assembly, which members of the House claimed contained false information and

⁶¹ Human Rights Watch interviews in Port Harcourt, December 20, 2002.

⁶² Charles Taylor accepted President Obasanjo's offer of asylum after stepping down from power in Liberia in July 2003. He has been living in Calabar, Cross Rivers State, southeastern Nigeria, since August 2003. Despite the fact that Charles Taylor has been indicted for war crimes and crimes against humanity by the Special Court for Sierra Leone, the Nigerian government has still not handed him over for prosecution.

⁶³ Human Rights Watch correspondence, October 23, 2003.

⁶⁴ See "SSS men bundle journalist out of Aso Rock," *Daily Champion*, September 18, 2003, and "Monitor reporter expelled from presidential villa," *Daily Trust*, September 18, 2003.

portrayed their activities in a negative light, and his subsequent failure to appear before the House after they summonsed him to be questioned about the article.⁶⁵

There have been numerous incidents in which members of the security forces have attempted to prevent journalists from filming or taking photographs, in a variety of different situations. Not all of these have resulted in prolonged detention or physical ill-treatment, but they illustrate a persistently hostile and suspicious attitude on the part of the security forces towards journalists carrying out their legitimate professional duties. For example, on September 28, 2003, two cameramen, George Esiri of Reuters and George Osodi of AP, were stopped by members of the navy and officials of the Nigerian National Petroleum Corporation (NNPC) as they were trying to photograph a ruptured NNPC pipeline at a location known as Atlas Cove, between Apapa and Tin Can Island, in Lagos State. The navy impounded their cameras, held them for about one hour, then released them; eventually they were allowed to take photographs.⁶⁶

On October 4, 2003, Jeff Koinange, head of the West Africa bureau of the U.S. television channel Cable News Network (CNN), was stopped on arrival at Lagos airport, just after going through immigration controls. A group of around twelve officials, including members of the SSS and customs officials, told the CNN team they had received orders from above not to allow them in and that they should take the next plane out of Lagos. They did not give any further explanation. When CNN cameraman Simon Munene started filming the exchange, they slapped him to the ground and confiscated his film. Eventually, the CNN team was let into the country. The minister for internal affairs and the president's personal assistant later apologized personally to Jeff Koinange, claimed the incident was a mistake, and said the government would investigate it and take appropriate action.⁶⁷

Government and security officials have tried to muzzle writers and publishers, as well as journalists. In mid-June 2003, the publisher of a book entitled "This madness called election 2003," which denounced government abuses during the elections, was arrested by the SSS and taken to Abuja for questioning. The SSS also reportedly seized all copies of the book from the publishers, SNAAP Press in Enugu, and confiscated the printing materials so that it could not be reprinted. They also seized twenty copies of the book

⁶⁵ See "The pains of journalists in Nigerian democracy," *Daily Independent*, September 2, 2003.

⁶⁶ Human Rights Watch telephone interviews and correspondence, October 2003.

⁶⁷ Human Rights Watch telephone interview, October 6, 2003.

from a news vendor. The author of the book, Father John Okwoeze Odey, was told that there were plans to arrest him.⁶⁸

There were other instances of restrictions on freedom of expression linked to the elections. According to local activists, the Nigerian media was less critical than usual during the election period, and there were attempts to stifle open criticism. For example, on April 29, 2003, two members of civil society organizations were invited as guest speakers to participate in a discussion program on a radio station called Rhythm, in Port Harcourt. The theme of the discussion was voter education and electoral accountability. Midway through the program, one of the guests was asked for his view on whether voters should participate in the state house of assembly elections scheduled for May 3. In his reply, the speaker denounced abuses by the police and the Independent National Electoral Commission (INEC) during the presidential and governorship elections which had taken place on April 19, and stated that open rigging in Rivers State, particularly by the ruling PDP, had eroded the general public's confidence in the elections. A listener then phoned in, agreed with his comments and gave further examples of rigging. At this point, the manager of the radio station came into the studio and told the participants they should not criticize the police or INEC, because the radio station had received a directive from the National Broadcasting Commission and the Ministry of Information not to air programs criticizing the police or INEC in relation to the elections. The guest speakers refused to continue the program under those conditions, and the presenter had to close the discussion, which was being broadcast live. It was later discovered that during the first week of the discussion programs, officials of the Rivers State government had called the radio station and threatened to get its operating licence revoked if it allowed the station to be used to criticize the government. Other guests who had participated in the program on earlier occasions had also been warned not to criticize the conduct of the police, INEC or the government during the elections.⁶⁹

In Gabasawa town, Kano State, on April 19, 2003—the day of the presidential and governorship elections—Musa Umar Kazaure, the Kano bureau chief of the Abuja-based *Daily Trust* newspaper, witnessed a group of men marking ballot papers in favour of the ruling PDP and stuffing them into ballot boxes. The group noticed him taking photographs and took him to the local district chief, who had apparently sponsored them to stuff the ballot boxes. The chief confiscated the journalist's camera and tape recorder and, in his presence, gave the group 10,000 naira (about U.S.\$75) “for a job well

⁶⁸ Human Rights Watch interview, Abakaliki, Ebonyi State, July 12, 2003.

⁶⁹ Human Rights Watch interview, Port Harcourt, July 14, 2003, and correspondence, October 23, 2003.

done.” As the journalist began to feel threatened, he ran to his car; people threw stones at his car as he drove off.⁷⁰

VII. Human rights violations against members of self-determination groups

With a population made up of more than 250 different ethnic groups and a strong sense of regional as well as ethnic identity, Nigeria has seen the emergence of numerous self-determination groups. These groups have advocated various forms of autonomy on an ethnic or regional basis, within or outside the current federal structure of the country. Several of them, for example Yoruba groups in the southwest, Igbo groups in the southeast, and Ijaw and other groups in the oil-producing delta in the south, have been very vocal in articulating their demands for autonomy, based on claims of marginalization within the current political system; some but not all have used violence. In the last few years, an umbrella organization for Yoruba self-determination groups, the Coalition of O’odua Self-Determination Groups (COSEG), has not only brought together the various Yoruba organizations, but has also made overtures to self-determination groups of other ethnicities and regions of Nigeria which, while representing different interests, are united in their opposition to the current federal structure, and hence the federal government, of Nigeria.

Yoruba self-determination groups

In February 2003, Human Rights Watch published a report on the O’odua People’s Congress (OPC), one of several Yoruba self-determination groups active in the southwest of Nigeria. The report described cases of extrajudicial killings and other abuses suffered by OPC members at the hands of the police, as well as numerous killings and other acts of violence by the OPC.⁷¹ Since the publication of that report, incidents of violence by and against the OPC have decreased, as its leaders appear to have reached a kind of peace or compromise with the federal government. However, there have been cases of extrajudicial killings, arrests and other forms of harassment of members of other self-determination groups.

⁷⁰ Human Rights Watch correspondence, October 10, 2003.

⁷¹ See Human Rights Watch report “The O’odua People’s Congress: fighting violence with violence,” February 2003. The OPC is not purely a self-determination group. It has also taken on characteristics of a militia group and self-appointed vigilante group.

In May 2003, Kayode Ogundamisi, a well-known activist in Nigeria, president of the O'odua Republic Front (ORF, a more recently-established Yoruba group) and former National Secretary of the OPC, was arrested by members of the SSS and detained for two weeks. He was denied contact with his family and lawyer throughout his detention. After two weeks, he was released without charge. During his detention, he was questioned repeatedly about his political activities and those of his organization, the ORF, and he was told he should join the political mainstream. From the interrogation, it would appear that the arrest may have been linked in part to a newspaper advertisement by the ORF published in the Lagos-based *Punch* newspaper a month earlier, on April 5, 2003. In the advertisement, the ORF called for a campaign for a sovereign national conference, a referendum on an Oodua republic⁷² and a campaign for a free southwest. Wale Adedoye, a journalist from *The Punch*, who was with him at the time of the arrest, was also arrested but released after a few hours.

Kayode Ogundamisi had spent the last few years living in Europe but had returned to Nigeria in time for the elections in April and May 2003. On May 11, 2003, he was arrested at the international airport in Lagos, as he was preparing to board a flight back to the United Kingdom:

When I arrived at the British Airways desk at Lagos airport, about seven SSS men came straight up to me. They had obviously been waiting for me. They told me to go with them. I asked why and they pulled out their guns [...] They said they had orders from above not to let me travel. They took my ticket and passport and told me to write a statement. I refused. Then they picked up Wale, in front of his wife and children. They escorted me and Wale out through the back door. They put us in two station wagons, separately. Other armed SSS were waiting outside. At about 2 p.m., they drove us to Shangisha, the Lagos State SSS headquarters. No one had told me why I was arrested.

At Shangisha they put me in a cell. About six or seven hours later, I saw Wale going past; he had been released. [...]

The Lagos State director of the SSS came and told me: "You're giving us problems." He was very angry [...] The next morning, the deputy director said I should write a statement. I refused. They gave me a form of about thirty pages, very detailed, and asked me to fill it in. They had not allowed me to make any phone-calls. I asked if I could call my

⁷² O'odua, or Oduduwa, is the ancestor of the Yoruba race.

PA about my luggage [which had been left at the airport]. They said yes but I could only ask one question. They told her to bring the luggage to me.

Before that, they said they wanted to do a search of the hotel where I had stayed. We went together in a station wagon, on Monday at about 10.30; they were all armed. They stopped at Ikeja High Court to get a warrant. The magistrate refused to give the search warrant as he said there was no reason. They drove to another court in Agege. The magistrate there refused too. Eventually they abandoned the idea of searching the hotel. They drove back to Shangisha. My PA was there but they didn't let me talk to her.

They searched my two bags. They took out the letterhead paper of the ORF, some COSEG campaign materials and the Human Rights Watch report on the OPC. They made me sign a paper that they had taken those materials.

They refused to let me call my lawyer as they kept telling me I would be released very soon, the next day. They said they had told my PA to pick me up on Tuesday. They still hadn't said anything about why I had been arrested.

At about 6 p.m., I decided to write my statement. I wrote that I was protesting about what had happened and lodged an objection. The director said this was not necessary. He said the orders for the arrest had come from Abuja, not from Lagos.

On Tuesday morning [...] they drove me to Abuja. [...] We reached Abuja late at night. I was handed over to the SSS there, at their headquarters [...] One of the receiving officers pointed at me and said: "This O'dua man!" [...] One of them said to another: "Take him to Delta Base". The other one said: "No, it's political." Delta Base is for common criminals. They put me in a vehicle and drove to Delta Base. It is a building in the middle of nowhere, about a 25-minute drive from Abuja. They put me in a very dirty cell. I was alone in the cell. [...]

On Tuesday, at about 10 a.m., I was taken back to the HQ and met the officer in charge of the investigation. I insisted on knowing why I was being held. The officer said it was all to do with ORF. He wanted to know about the ORF and talked about an ORF advert in *The Punch*. He handed me to another officer who asked me why I left the OPC. I

explained that the OPC had lost control and was diverting from its original aims, that it was moving towards violence and vigilantism. They asked me why we chose the name ORF and why not O'odua Congress. I explained it was to make it clear what the organization stood for. They told me to write about the leaders of the organization. They wanted to know the details of the seven members who form the Senate of the ORF [...] Then they asked for details of members of ORF, OYM [O'odua Youth Movement], COSEG, asking name by name where people lived [...]

They asked me to account for what I had done in the last ten years. They took out my passport and went through it country by country [...] The questioning lasted about five hours.

[...] From Wednesday to Sunday, I didn't see anybody. They refused to allow me to walk in the yard outside at all. They said they had instructions to keep me locked up [...]

On Tuesday, they took me back to the HQ for interrogation. There was a team of six people. They said to me: "Where did you keep the arms? We know you have three container loads shipped into the country." They said I should show them where the arms were. I said I didn't have any and we don't believe in using arms. He said: "You're finished" and "The ORF won't see the light of day." I gave them my lawyer's number but they refused to call him.

On Wednesday I said I wanted to write a protest letter to the director and that they should charge me or let me go. I asked if they could at least let me call my family. They refused and said they had to seek approval from above.

On Thursday they questioned me about the advert in *The Punch*. They asked me why we made extreme demands and what we meant by Yoruba should campaign for an independent nation [...] That was the last interrogation until I was released on the evening Monday 26 May.

On Monday morning, they came to get me from my cell [...] I was taken to the national director of the SSS for the first time [...] He had a big file with my name on it: "Kayode Ogundamisi, leader ORF." He said: "Forget it, the case is over. What you've done is not illegal but it could destabilise the country and it could provoke northerners. I've told them to release you. Stop these articles you're writing. Watch what you say

against this government. Obasanjo is a Yoruba man. You should be cooperative with the government.” He never apologized. It was as if my release was a favour.

[...] Six days before my departure, they returned my passport to me. The director said: “If you mess up, you’re on a 24 hour watchlist and you won’t be allowed to travel out of Nigeria.”

While I was in detention, my lawyer went many times to the SSS to ask to see me. They refused him access. He sent people to Abuja twice. At first, the SSS even denied arresting me.⁷³

Several other members of the ORF were questioned and had their houses searched around the same period. Two days after Kayode Ogundamisi’s release, Obe Tajudeen, a local ORF leader in the Mushin area of Lagos, was arrested by the SSS. The SSS asked him for information on Kayode Ogundamisi and other leaders of the ORF; they asked him who Ogundamisi had been seeing and what he had been doing. He was released after one day. During the period of Kayode Ogundamisi’s detention, the SSS also searched the house of Jibril Ogundimu, another ORF leader. On around June 21, armed police searched the house of Oluwatoyin Jimoh, another ORF leader, in Ilorin, the capital of Kwara State; they subsequently apologized, claiming they had mistaken the house for someone else’s.⁷⁴

MASSOB

Many members of the Igbo organization Movement for the Actualisation of a Sovereign State of Biafra (MASSOB), based in the southeast of Nigeria, have been arrested, detained and killed by the police since the organization was created in 1999. MASSOB advocates a separate state of Biafra for the Igbo, the dominant ethnic group in the southeast, based on the ideals of those who fought in Nigeria’s bloody civil war in 1967-1970.⁷⁵

⁷³ Human Rights Watch interview, London, June 23, 2003.

⁷⁴ Ibid.

⁷⁵ Biafra was the independent republic proclaimed in 1967 in the Igbo areas of eastern Nigeria following the end of the First Republic by two military coups in 1966. The ensuing civil war, known as the Biafran war, claimed between 500,000 and two million lives before it came to an end with a federal victory in 1970. Emeka Odumegwu Ojukwu, who led the Biafran movement, resurfaced onto the political scene more recently and stood as a presidential candidate in the 2003 elections, for the All Progressive Grand Alliance (APGA). Although he stood little chance of winning nationwide, many people in the southeast, including election observers, believed that APGA candidates would have won a significant number of votes in the Igbo heartland, had it not been for extensive rigging and intimidation by PDP candidates and their supporters.

MASSOB claims to be a non-violent movement, although the police and some other sources claim otherwise. Although the organization denies having any interest or involvement in politics, MASSOB had been agitating for an Igbo president for Nigeria and had threatened that there would be no elections in the southeast in 2003. However, they subsequently withdrew from that position and are not known to have disrupted the elections when they eventually took place.⁷⁶

Although MASSOB does not appear to enjoy the kind of massive popular support which would represent a serious political threat to the government, MASSOB members have been persistently harassed by the police, acting on orders from the federal government. The clashes between MASSOB and the police are reminiscent of those between the OPC and the police,⁷⁷ with the police raiding MASSOB premises and its leader Ralph Uwazurike's house on several occasions in 2000 and 2001.

MASSOB have claimed that scores of their members have been extrajudicially killed by the police, particularly during 2000 and 2001. One of the most serious recent incidents occurred on March 29, 2003, just before the elections, when MASSOB members clashed with the police. The police reportedly stopped a large convoy of MASSOB members at Umulolo, near Okigwe, in Imo State, attempted to disperse them, then shot and killed several of them. According to their leader Ralph Uwazurike, who was with the convoy at the time, those who were shot had been trying to run away from the tear-gas. The number of dead has not been confirmed by independent sources, and numbers quoted have ranged from seven to more than fifty. While the police stated that seven were shot dead on the spot,⁷⁸ MASSOB put the figure much higher: "The police carried away about ten bodies and later my members recovered about fifty other bodies."⁷⁹ There was speculation that attempts by the police to block the MASSOB convoy may have been prompted by rumours that they were planning to disrupt the election campaign of Achike Udenwa, the Imo state governor—an allegation which MASSOB have denied.⁸⁰

⁷⁶ In an interview with *Newswatch*, MASSOB leader Ralph Uwazurike said: "At the beginning, we said we would not allow elections in the South-East if an Igbo man was not allowed to be the president as done in the West in 1998 [...] We withdrew from that position and I made it public that we were no longer interesting in pursuing that position." "All Igbo politicians want Biafra," *Newswatch*, June 23, 2003.

⁷⁷ See Human Rights Watch report "The OPC: fighting violence with violence," February 2003.

⁷⁸ See "Seven pro-Biafran campaigners killed in Nigeria: police," *Agence France-Presse*, March 30, 2003. In the same article, a police spokesman claimed that MASSOB members had opened fire on the police. MASSOB have denied this.

⁷⁹ See interview with Ralph Uwazurike in "All Igbo politicians want Biafra," *Newswatch*, June 23, 2003.

⁸⁰ *Ibid.*

A newspaper article reported that on June 16, 2003, seventeen MASSOB members were killed and eleven injured during a police raid on their secretariat at Nkpor, near the town of Onitsha, Anambra State.⁸¹ Human Rights Watch has not been able to confirm this incident. The police denied any incident involving MASSOB, claiming that the incident which occurred on that day was an armed robbery, which led to a shoot-out between the robbers and the police.⁸²

Hundreds of MASSOB members have been arrested since 1999 and many have been detained without trial, and sometimes without charge, for prolonged periods. Ralph Uwazurike himself, who has been arrested several times over the last three years, was arrested again on March 29, 2003, the day of the clash with the police described above; around forty other MASSOB members were also arrested the same day. Ralph Uwazurike was detained for just over two months, first in Owerri, capital of Imo State, then in the federal capital Abuja. He and four other MASSOB members were charged with conspiracy, unlawful assembly and misdemeanor. They were released on bail on June 6, 2003, having remained in detention throughout the election period.⁸³

By mid 2003, an unknown number of MASSOB members remained in detention, in various locations in the southeast, as well as in other parts of the country. For example, at least seven MASSOB members who had been arrested during a meeting in Abuja were detained in Asokoro police station in Abuja for around three months in 2003; they were later released on bail.⁸⁴

⁸¹ "MASSOB accuses police of killing 17 of its members," *The Vanguard*, June 17, 2003.

⁸² Ibid.

⁸³ Elections for the National House of Assembly took place on April 12, 2003; elections for the president and governors on April 19, and elections for state houses of assembly on May 3.

⁸⁴ The seven MASSOB members are Augustine O. Obidimma, Ngagozie F.Mbamalu, Okechukwu Onyia, Samuel A. Chukwu, Osita Okeke, Kenechi Uwajuake, and Peter Eziagu. Human Rights Watch has not been able to confirm the charges against them. Human Rights Watch interview, Abuja, July 20, 2003, and telephone interview, October 6, 2003.

VIII. Other cases

Restrictions on freedom of expression have affected individuals from other backgrounds and professions too.

Disappearance of Hussaini Umar⁸⁵

In April 2003, Islamic teacher and scholar Hussaini Umar was arrested in the northern city of Kaduna and detained in an undisclosed location. By mid October 2003, his whereabouts remain unknown.

Sources close to Hussaini Umar in Kaduna believe his arrest was linked to comments he had made just before the elections, which were interpreted as critical of the government. According to one source, the Kaduna State governor had called a meeting of Islamic scholars and others to persuade them to vote for the government. The governor reportedly said that politics and religion should be kept separate; Hussaini Umar disagreed with this and reportedly said that politics and religion could not be separated from each other, or from other aspects of life. Other sources in Kaduna said that Hussaini Umar had accused the government of corruption and of not doing enough to reduce poverty, and that he had been particularly critical of the Vice-President, Atiku Abubakar (who is also a Muslim). He had also been critical of the manner in which Sharia (Islamic law) was being implemented in Nigeria, believing that Muslims should be judged by Sharia wherever they live in the country, not only in those areas where Sharia legislation is in force. He had expressed some of these views to state and federal government officials, as well as to the media and in speeches during prayers.⁸⁶

On April 26, 2003, as he was travelling back to Kaduna from Zamfara State, Hussaini Umar was arrested just outside Kaduna by three mobile policemen and four men in plain clothes believed to be either members of the SSS or the police; he was taken to an unknown destination. By the end of June, neither his family nor his lawyers had been informed of his whereabouts or had been able to visit him. During his period, both his house and the school where he taught were searched by the police. The matter of his disappearance was taken to the Federal High Court in Kaduna on a *habeas corpus* application, which ruled that the authorities (Director General of the SSS, Inspector

⁸⁵ Unless otherwise indicated, the information on this case is based on Human Rights Watch interviews in Kaduna, July 25, 2003, and telephone interview with sources in Kaduna, October 9 and 14, 2003.

⁸⁶ Since 2000, Sharia has been extended to cover criminal law in twelve of Nigeria's thirty-six states. In practice, it is applied selectively and inconsistently. The issue has become highly politicized, and clerics and others have accused state governors of using Sharia purely for political gains.

General of Police and the Attorney General) should either release Hussaini Umar or produce him in court. However, they failed to do either. The court ruling noted that the director of the SSS “totally denied ever arresting or taking part in the operation in which the applicant was arrested,” but that neither the police nor the office of the Attorney General responded.⁸⁷ Sources in Kaduna later reported that he had been arrested by a special unit within the SSS.

When Human Rights Watch visited Kaduna at the end of July 2003, Hussaini Umar’s whereabouts were still unknown. Human rights activists who had tried to locate him had initially been told by the SSS that he had been taken to Abuja, but subsequently the SSS in Kaduna denied that he had ever been arrested. Other sources claimed that he was first taken to Ebonyi State, in the southeast, then transferred to Lagos, in the southwest. Further inquiries in September and October 2003 appeared to indicate that following his arrest on the Zaria-Kaduna highway, he was first taken back to Zamfara, then back to Kaduna again, after which he was transferred first to Abuja, then to Lagos, and finally to Port Harcourt—about 1,000 kilometres from Kaduna—where he was believed to be still detained by mid October. The authorities have still not officially acknowledged his detention.

Harassment of Sergeant Musa Usman

In August 2003, police officer Sergeant Musa Usman was arrested and questioned by the police after speaking out about corruption and poor conditions in the police force. He voiced his criticisms on August 21, 2003, during a meeting in Lagos addressed by Minister for Police Affairs Broderick Bozimo. The minister had invited those present to express their views. Sergeant Musa spoke in the meeting about corruption in the police force; he complained about the poor pay and other disadvantages faced by junior officers. At one point, the Lagos State Commissioner of Police attempted to stop him by trying to take the microphone, but the minister said he should continue. A few days later, on August 27, Sergeant Musa was arrested and questioned by the Lagos State police in connection with the comments he had made during the meeting. It is not known whether he was subsequently released or transferred to another location. Members of a nongovernmental organization who made inquiries with the police in Ikoyi, Lagos, where he was normally based, were told that he was not there, and have not been able to make direct contact with him since. As of September 2003, his whereabouts were not known. In response to a letter addressed to the Minister for Police Affairs by the Network on Police Reform in Nigeria (NOPRIN), which was made

⁸⁷ Ruling of the Federal High Court of Nigeria in the Kaduna Judicial Division holden at Kaduna on Thursday the 26th day of June, 2003, before the Hon. Justice A.M. Liman Judge (Suit no. PHC/KD/CP/ 23/03).

public, the Lagos State commissioner of police denied arresting or questioning Sergeant Musa, claiming that it was a routine procedure.⁸⁸

IX. Recommendations

To the Nigerian government and security forces:

- Ensure that all individuals are allowed to express their views freely and openly without fear of arrest, violence or other forms of intimidation.
- Allow members of human rights organizations and journalists to carry out their legitimate work, including exposing government abuses, without harassment.
- Allow supporters of opposition parties, as well as other political activists, to express their views, including views that are critical of government policies, as is expected in any democratic system. Issue clear instructions to all members of the security forces and intelligence services that no one should be arrested or detained without charge purely on the basis of their political views.
- Issue clear instructions to the police that they should not use force or violence to respond to peaceful protests.
- Ensure that members of the police force abide by the U.N. Code of Conduct for Law Enforcement Officials and the U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials at all times. Senior police officials should ensure that all their members are trained in these standards and should monitor their practical application. Remind the police that even in situations of tension or if some protestors threaten violence, they should respect strict guidelines on the use of force and only use lethal force as a last resort, in situations where lives are directly threatened and where there is no alternative.

⁸⁸ Human Rights Watch telephone interviews, September 30, 2003; letter to Chief Broderick Bozimo, Minister for Police Affairs from NOPRIN, August 29, 2003; and Media Rights Agenda press release "MRA condemns arrest and detention of police Sergeant Musa Usman," August 31, 2003. See also "Travails of police Sergeant Musa," *ThisDay*, September 2, 2003.

- Launch immediate, independent and thorough investigations into all reported cases of fatal shootings and injuries by the police during the fuel strike and protests in July 2003 and ensure that those responsible for ordering these actions and carrying them out are suspended from active duty, charged and tried. The role of senior police officials should also be investigated and they too should be removed from duty and brought to justice if found responsible for ordering extrajudicial killings. Make public the results of these investigations and any action taken. Ensure that these investigations conform with the U.N. Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.
- Provide compensation to those injured by the police during the protests and to the families of those killed by the police.
- Conduct an independent investigation into reports of torture of those arrested in connection with the peaceful protest at the U.S. embassy in Abuja in July 2003. Identify the individuals responsible for ordering and carrying out the torture and take immediate action to suspend them from active duty and bring them to justice. Issue clear instructions to all members of the police force that torture is a crime which will not be tolerated under any circumstance.
- Investigate the disappearance of Hussaini Umar from Kaduna in April 2003; establish his whereabouts and allow him immediate access to his family and lawyers; release him unless he is charged with a recognizable criminal offence, in which case he should be tried without delay, according to due process.

To foreign governments and intergovernmental organizations:

- Urge the Nigerian government to implement the recommendations above and to ensure full freedom of expression in Nigeria.
- Call for an end to the impunity which has protected members of the police force and intelligence services responsible for human rights violations in this context.
- Governments providing assistance or training to the Nigerian police should ensure that human rights standards, including the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and

Firearms by Law Enforcement Officials, are incorporated into the training at all levels and that mechanisms are in place to monitor whether police officers adhere to them in practice.

- The United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression should visit Nigeria and investigate restrictions on freedom of expression, including the cases described in this report and others documented by Nigerian organizations. The information gathered should be included in the report of the Special Rapporteur to the 2004 session of the Commission on Human Rights.
- The African Commission on Human and Peoples' Rights should raise concerns with the Nigerian government regarding restrictions on freedom of expression, in line with its Declaration of Principles on Freedom of Expression in Africa.⁸⁹ The commissioner with specific responsibility for Nigeria should visit the country; investigate the violations of the right to freedom of expression described in this report, as well as other cases; and urge the Nigerian government to implement the recommendations above. At its next session, the Commission should adopt a resolution on freedom of expression in Africa, in which it should express concerns at violations of freedom of expression in Nigeria.
- Governments of Commonwealth countries should pay particular attention to the situation in Nigeria, which is hosting the Commonwealth Heads of Government Meeting (CHOGM) in December 2003. Commonwealth leaders should take this opportunity to express concern about restrictions to freedom of expression in Nigeria and to call for an end to impunity. They should continue to monitor the situation in Nigeria after the CHOGM and urge President Obasanjo to end any ongoing human rights violations.

⁸⁹ Declaration of Principles on Freedom of Expression in Africa, adopted by the African Commission on Human and Peoples' Rights at its 32nd Ordinary Session in Banjul, October 17-23, 2002.

Acknowledgements

We wish to thank the many individuals who were willing to testify to Human Rights Watch about their experiences; the names of many of them are withheld in this report for their own safety.

This report was written by Carina Tertsakian, researcher in the Africa Division of Human Rights Watch. It was edited by Bronwen Manby, Deputy Director of the Africa Division; Emanuela-Chiara Gillard, consultant Counsel; and Iain Levine, Program Director. Production and coordination assistance was provided by Floriane Begasse and Jeff Scott, associates in the Africa Division, and Andrea Holley.

Human Rights Watch thanks the John D. and Catherine T. MacArthur Foundation for funding its work on Nigeria.