

## **Submission from the Commonwealth Human Rights Initiative to the April, 1997 meeting of the Commonwealth Ministerial Action Group**

1. The Commonwealth Human Rights Initiative (CHRI) has taken special interest in the situation in Nigeria since 1989, when Dr Beko Ransome-Kuti was invited to join its Advisory Group which produced our initial survey *Put Our World to Rights*, in advance of the 1991 Commonwealth Heads of Government Meeting.
2. CHRI was concerned at the frequent arrests of Dr Ransome-Kuti and others working for human rights and democracy.
3. In 1993 it recommended that only a duly elected Nigerian President should be allowed to attend the Limassol Commonwealth Summit. In 1995, CHRI's fact-finding report *Nigeria – Stolen by Generals* demonstrated that conditions were widely at variance with the 1991 Harare Declaration.
4. Dr Ransome-Kuti has now been held for more than two years for his stand on democratic rights and has suffered several bouts of ill-health. He is in solitary confinement for 23 hours a day and is allowed one visit a month by his daughter of 20 minutes duration. Six officials are always in attendance at these meetings.
5. Other prisoners are also held in humiliating circumstances. It is particularly appalling that General Olusegun Obasanjo, Joint Chairman of the Commonwealth Eminent Persons Group mission to South Africa in 1986, which played such a vital role in paving the way for democratic rule in South Africa and who visited Nelson Mandela in jail, is now himself held under much worse conditions than was the South African President. Furthermore, the presumed winner of the aborted 1993 elections, Chief Mashood Abiola, has been held for three years without trial.
6. Although Commonwealth Heads of Government called for the release of all Nigerian political prisoners at Auckland in November 1995, most still remain in jail.
7. Nigeria has now been under military rule for 12 years. The Commonwealth Lawyers Association statement that 60,000 people are being held in prison unlawfully is truly shocking viewed against the Commonwealth's Harare commitment.
8. Some 200 Ogoni people are held without trial in appalling conditions, many of them subjected to whipping and torture. Another 18 await trial, a 19<sup>th</sup> having died in prison. The UN Special Rapporteur on torture has likened Nigeria to South Africa under apartheid. In addition, the damage to the environment of Ogoniland as a result of oil operations, undertaken with government acquiescence, has been a grave violation of human rights.

### **CHRI puts before the Ministerial Action Group (CMAG) the following points for consideration :**

9. We believe that CMAG should express its continuing grave concern at evidence of repression of human rights by the government of Nigeria. We fear for the physical and psychological health of the detainees and regret that CMAG did not refer to them adequately during its Nigeria visit. The regime should never be allowed to rest easy in this respect.
10. A regular pattern of detention and arbitrary arrests of pro-democracy activists and journalists continues unabated. Within the last few weeks these have included two former presidential candidates, the editor of *The Week*, and Dr F. Faseun, a representative of the Campaign for Democracy. Token releases at the time of the CMAG visit in November 1996 have been overshadowed by subsequent events, including harassment of ordinary civilians under the

gulse of "Operation Sweep" in Lagos. The regime has shown a cynical readiness to dally with international opinion.

11. CMAG should assess very critically the so-called "transition process" now under way in Nigeria. The recent council elections, the first elections carried out in the country since the 1993 annulment, were held three months later than the promised schedule, and shortly afterwards a decree empowered the Head of State to remove any local council head if he "is satisfied that the affairs of them are not being managed in the best interest of the people in Nigeria." It was also said that no civil court could challenge the validity of the election or the decision of a special election tribunal.
12. CHRI believes that, far from there being any real improvement in the situation since CHOGM 1995, matters have worsened. A new report by two of the special investigators of the UN Human Rights Commission says the rule of law in the country is near to collapse. It adds that some judges have stopped issuing court orders because the government refuses to obey them.
13. We believe Nigeria is moving inexorably to establish a military group as, or in, a political party which if not checked would encourage the reprehensible practice of perpetuating illegally gained power.
14. The current Nigerian "transition process" is undemocratic. Selection of the five political parties has been so engineered as to marginalize mainstream and established political parties, and known democratic personalities – all in flagrant breach of the Harare Principles.
15. We much regret that CMAG went to Nigeria without first being assured that its members could see the political prisoners and without securing the presence of their Canadian colleague. When in the country the Group failed to meet representatives of those groups which have sought to alert the international community to what is going on and to the potential for crisis, illustrated by the recent spate of explosions. It is vital that CMAG should meet such groups and CHRI would be willing to facilitate such meetings.
16. By contrast with CMAG, two UN Special Rapporteurs cancelled plans to visit Nigeria in February – March because of the conditions imposed by the regime, including refusal to admit them to the prisons.
17. In any event, we hope that before CMAG reports to Heads of Government in Edinburgh, it will hold oral hearings with expert Commonwealth groups with an interest in its work. As set up by the Millbrook Plan of Action, CMAG is a highly significant new device, with a wider remit than the West African military regimes to which it was asked to give first attention. CHRI supports CMAG and would like it to succeed.
18. In conformity with the Millbrook Plan of Action, CMAG should point out that the so-called "transition programme" does not meet the criterion of "demonstrable progress: which would allow for the lifting of suspension of Commonwealth membership." It should declare that the council elections cannot be regarded as a step towards democracy and represent in fact a subversion of the process towards a truly representative government.
19. To satisfy the Millbrook criteria, urgent steps should be taken to restore democracy, respect for human rights and the rule of law at all levels, in particular by:
  - guaranteeing freedom of movement
  - guaranteeing freedom of expression and association
  - ensuring independence of the judiciary
  - immediately releasing all prisoners not formally charged with any crime or sentence by tribunals on political charges.

- guaranteeing free and fair access to the political system system by all parties which would traditionally be called legitimate.
20. The immediate release of General Obasanjo and Dr Ransome-Kuti and others arbitrarily detained would be widely welcomed as the initiation of a process towards meeting the above expectations.
  21. In the run-up to the Edinburgh summit member states should apply vigorously and totally sanctions similar to those imposed on apartheid South Africa, as recommended by CMAG in April 1996.
  22. CHRI believes Commonwealth countries should at once end all sporting links with Nigeria and suspend the country from the 1998 Commonwealth Games.
  23. The Commonwealth should call on other countries and international groups, especially the United States, the Organisation of African Unity and the European Union, to build pressure through sanctions. It should act in solidarity with states which agree to sanctions but which require compensation in order to stand against Nigeria.
  24. It should recognize the particular role of the oil companies such as Shell, AGIP and ELF in the Nigerian context and call on them and their host governments to initiate verifiable practices that uphold human rights and the rule of law in all countries of operation.
  25. The Commonwealth at large has been disheartened and the Nigeria dictatorship encouraged by the lack of robust determination in many capitals. By contrast. In the early 1990s, Commonwealth nations pursued a policy of sanctions and dialogue with apartheid South Africa and only gradually lifted its sanctions in response to verified progress towards human rights and democracy.
  26. The Nigerian government has successfully exploited a weakness of resolve within the Commonwealth and threatens to undermine the credibility of the Harare Declaration and the Millbrook Plan of Action – and indeed of the Commonwealth itself.
  27. We believe that Commonwealth is heading for profound international embarrassment unless it toughens its stance in advance of CHOGM, marshals world pressures against the regime and implements sanctions. The Harare principles are being betrayed – in the first instance when the Commonwealth failed to protest about the abortion of the 1993 election. Ultimately, the Commonwealth is more important than Nigerian membership.
  28. CHRI deplores the failure of the CMAG to make any impact on the Nigerian government in terms of its remit under the Millbrook Plan of Action.
  29. As CHRI sees it, there has been a continuing retreat in the face of Nigerian intransigence from the Commonwealth stand taken in Auckland and by the Group itself at its first meeting after CHOGM in January 1996. The resolve to visit Nigeria immediately was frustrated, Nigerian insistence on meeting the Group outside the country was conceded and finally CMAG went to Nigeria without seeing any of the prisoners. Threatened sanctions have never been implemented.
  30. Paragraph 10 of the Heads of Government Auckland communiqué said Heads of Government had decided that “if no demonstrable progress” had been made towards the fulfillment of conditions that included compliance with the principles of the Harare Declaration and the release of prisoners Nigeria would be expelled from the association “within a timeframe to be stipulated.”
  31. The Commonwealth can do no less if it is to retain its credibility.

