



Executive summary: Ogoni People, racial discrimination, minority rights, land rights, environmental protection, ILO convention 169, judicial inefficiency, language rights.

Ogoni People

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1. Introduction

The Ogoni People live mainly in the Niger Delta in South Nigeria and their population consists of more than 500.000 people organized in six kingdoms and speaking four languages. The Ogoni have inhabited the Niger Delta for more than 500 years, living from agriculture and fishing. In addition to the economic importance of nature, the environment is a central part of Ogoni religion. The conservation of the environment of the Niger Delta is therefore crucial to their survival and cultural identity. Through extensive exploitation of the Niger Delta's oil resources oil companies and the Nigerian State have deprived the Ogoni of their right to make use of their own resources. Despite its richness of natural resources the average life expectancy in the Niger Delta is 43 compared to the national life expectancy of 47.

On 16 October 1967, the government of Nigeria signed and ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and also guarantees in its 1999 Constitution, Chapter II (15) that "*discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited*".

The implementation of these commitments against all forms of discrimination is until today gravely deficient and represents one of the major grievances of the Ogoni People.

2. Recognition

Ignoring the recommendations made to Nigeria in 2005 by the Committee on the Elimination of Racial Discrimination (CERD¹), the most recent National Population Census in 2006 did not include ethnicity and religion as variables. This exclusion denies the recognition of the Ogoni People and other minorities. Additionally, it prevents the determination of precise figures on the ethnic composition of the population necessary to assess the implementation of the ICERD Convention in Nigeria.

UNPO therefore calls upon the Federal Government to develop a coherent policy on the collection and desegregation of all data to show the ethnic and religious composition of Nigeria on the basis of voluntary self-identification, as has been recommended by the CERD in 2005.

Furthermore, the Ogoni People are consistently excluded from effective national dialogue. For example, president Obasanjo held a National Political Reform Conference on 21 February 2005 without inviting the Ogoni People and other minority groups or even mentioning indigenous people in the Report.

UNPO urges the Nigerian government to integrate the Ogoni People and other minorities in the national political dialogue and follow meaningful consultation.

3. Land Rights and Environmental Protection

Although the 1999 Nigerian Constitution, Chapter II, Section 17 (2) (d), calls for the prevention of any "*exploitation of human or natural resources in any form whatsoever for*

¹ CERD document number: CERD/C/NGA/CO/18.



reasons, other than the good of the community” the Nigerian Government fails to fully adhere to this principle.

50 Leaks from oil pipelines and the building of roads and canals accompanied by deforestation have harshly disrupted the wetlands. In effect the fishing industry has collapsed and the quality of drinking water and soil has drastically declined, decreasing agricultural yields considerably and threatening the livelihood of the Ogoni. Burning wells are sometimes
55 extinguished only after months. Gas flaring continues to release toxins into the air causing acid rain. As a result, local people suffer from respiration problems such as asthma and bronchitis. Despite these problems there is no governmental policy of environmental rehabilitation, more oil fields are opening with government permission, and laws limiting gas flaring have not been effectively implemented. Most recently, the main contract holder Shell has announced it cannot meet the latest target date of 2008 for the elimination of gas flaring.
60 Furthermore, the safety of the operations within the petroleum industry is currently not being scrutinized by an independent oversight body.

*UNPO therefore recommends that the Nigerian government will ensure appropriate environmental and social impact assessments for any future oil development, as well as
65 establish independent oversight bodies that are to assess the safety operations in the petroleum industry.*

Furthermore, UNPO urges the State of Nigeria to provide information on health and environmental risks as well as meaningful access to regulatory and decision-making bodies to communities likely to be affected by oil operations.

70 *In light of this, UNPO also urges Nigeria to extend an invitation to the Special Representative of the Secretary General on human rights and transnational corporations and other business enterprises to investigate the possible human rights violations resulting from the aforementioned activities in the Niger delta.*

75 The Nigerian Land Use Act divests the people of their rights of ownership and possession of land and its resources. The Petroleum Decree denies consultation and participation of the local Niger Delta population in the exploitation of the natural resources, placing this right only in the hands of foreign corporations in collaboration with the Nigerian federal government. Section 25 (1) (a) of the 1969 Petroleum Act empowers the government to take
80 over and re-award oil fields that are inactive.

As the Petroleum Decree 1969/1996 and Land Use Act 1978 are depriving the Ogoni and Niger Delta Peoples of their right to self-management and their natural resources, and as they are in contravention with the ICERD, UNPO:

85 *Stresses the recommendations of the CERD of 2005 and urges the State of Nigeria to repeal the Petroleum Decree 1969/1996 and Land Use Act 1978.*

Insists that the State of Nigeria offers compensation for the take-over of land by the oil companies (in transparent and easy procedures) and guarantees the inclusion of the Niger Delta people in the sale of crude oil.

90 Chapter VI, Section 162 (2) of the 1999 Constitution states that “*Provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen per cent of the revenue accruing to the Federation Account directly from any natural resources.*” This gives the producing region only 13 percent of the oil revenue while the
95 federal government earns the remaining 87 percent.



Therefore UNPO calls upon the government to adopt a revenue allocation formula that is just and fair to the producing regions, providing more than 13 percent of the revenue and therefore increasing local compensation for resource development.

100 *UNPO further recommends that these revenues should be administered by a regional trust fund that would promote education and economic development.*

UNPO calls upon the Nigerian government to comply with their announcement made on 3 June 2008 and finally release an official notice calling for Shell to suspend their activities and leave the Ogoni inhabited Niger River Delta.

105 The Niger Delta Development Commission (NDDC), created in 2000 to address the physical development of the Niger Delta, has continually ignored the development needs of the Ogoni People. Only a fraction of the projects realized are on Ogoni inhabited land and the Ogoni are grossly underrepresented in the Board of the Commission.

110 *UNPO therefore urges that the NDDC ensures the inclusion of the Ogoni People in its work, as it has consolidated poor living standards of the Ogoni People.*

115 Development of lands to which indigenous peoples have made a claim for generations must be decided upon with dialogue and consent of informed representatives of the communities that are affected by this development. Several United Nations bodies and committees have stressed the need for such dialogue and the rights of indigenous peoples and the dialogue that should take place with all stakeholders on the determination of the use of these lands. In particular, the International Labour Organization (ILO) has identified key areas in which the rights of indigenous peoples need to be upheld. Unfortunately, systematic discrimination in this field still thrives in many states around the world, especially in areas where native or

120 indigenous peoples inhabit lands rich with natural resources. Too often are indigenous peoples ousted, forcefully evicted or deported from their native lands or are forced to give up the claims to their land under false pretences, incomplete information or even under threat of violence. The Niger Delta of Nigeria is no exception to such malpractice from the side of governmental officials and local developers. UNPO believes that, especially now that Nigeria

125 has been elected as one of the Members of the International Labour Organization Governing Body in spring 2008, efforts should be made to guarantee these rights and Nigeria should demonstrate its willingness and cooperation with the ILO as it is a Member of this organization's Governing Body.

130 *Thus, UNPO calls upon Nigeria to sign and ratify ILO Convention Number 169 concerning Indigenous and Tribal Peoples in Independent Countries.*

4. State Suppression and Judiciary ineffectiveness

Article 5 of the ICERD states that

135 *“In compliance with the fundamental obligations laid down in article 2 of [the ICERD], States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:*

140 *(a) The right to equal treatment before the tribunals and all other organs administering justice;*

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

[...]



- 145 (d) *Other civil rights, in particular:*
[...]
(ix) *The right to freedom of peaceful assembly and association;*
(e) *Economic, social and cultural rights, in particular:*
[...]
150 (iii) *The right to housing;”*

Unfortunately, article 5 of the ICERD has faced persistent neglect by the Nigerian government.

155 On 22 December 2004 the River State Government led by the Commissioner for Lands and Urban Development embarked on the demolition of houses in an area of Port Harcourt called Eagle Island, an area mainly populated by the Ogoni.

On 18 February 2006 police shot live ammunition to break up peaceful demonstrations to protest the constitutional amendment to allow the president to run for a third term.

160 These incidences are only two examples of many reported acts of repressions conducted by Nigerian authorities. Despite general awareness this use of excessive force, forced evictions as well as arbitrary arrests and detentions by law enforcement officials has thus far not been adequately scrutinized by the Nigerian judicial system. In addition, the Nigerian government has dispatched an increasing number of soldiers to the Niger Delta since 2003.

165 *UNPO urges the State of Nigeria to conduct full and impartial investigations of cases of alleged human rights violations by law enforcement officials and by private security personnel. Furthermore the government should take action to submit detailed information about the number of persons who have died in these conflicts and their ethnic affiliations.*

170 *UNPO strongly encourages the government to compensate all the victims of the various demolition and eviction exercises, as this has left people in a state of physical and psychological torment.*

UNPO recommends that the Nigerian government stops the ongoing militarization of the Niger Delta and withdraws all its soldiers as soon as possible.

175 Although UNPO welcomes the existence of a National Human Rights Commission, its independence is unfortunately not guaranteed. In 2006 the head of the Commission, Mr. Bello, was removed by the Federal Minister of Justice after condemning the state's arrest of two journalists who had criticized the spending policy of president Obasanjo.

180 *UNPO therefore requests the State of Nigeria to ensure the independence of the National Human Rights Commission so it can effectively monitor the human rights situation in Nigeria.*

5. Education and Language

185 UNPO welcomes the National Policy on Education which guarantees that the initial language in primary education must be the mother tongue of the child. The implementation of this policy has been limited to few languages and has excluded minorities such as the Ogoni People. This is a clear violation of ICERD commitments and contradicts its founding principles.

UNPO urges the government to set up a national policy for the development and promotion of all languages irrespective of the size of the ethnic or linguistic group.

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6. Summary of Recommendations

UNPO sees great room for improvement of the human rights situation in Nigeria and believes that the Nigerian government can play a crucial role in this improvement process. UNPO



195 therefore urges the Nigerian government to immediately consider all aforementioned
recommendations and to act upon them with great urgency. Amongst the most immediate
actions to be taken, are:

- 200 • *Full implementation of international instruments, especially the Convention on the
Elimination of All forms of Racial Discrimination;*
- 205 • *Compliance with the treaty-monitoring bodies and their recommendations, especially
with regards to the recommendations made during the 67th session of the Committee
on the Elimination of Racial Discrimination (CERD) in 2005, which was the most
recent review of Nigeria under this committee;*
- 210 • *Genuine development of the national human rights policy, especially with regards to
minorities, and its implementation by bodies that operate independent from the
government;*
- 215 • *Recognition of minorities and their ensured involvement in political dialogue; and*
- *Serious efforts to resolve the ecologic and economic problems in the Niger Delta,
which requires a programme for environmental protection and rehabilitation, a fair
oil and gas revenue sharing scheme for the inhabitants, and a greater involvement of
the indigenous people, like the Ogoni, in the decision-making processes.*