

UNITED STATES DISTRICT COURT FOR THE
FOR THE SOUTHERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT SDNY

KEN WIWA, individually and on behalf of
his deceased father, KEN SARO-WIWA;
OWENS WIWA; BLESSING KPUINEN,
individually and on behalf of her late
husband JOHN KPUINEN; KARALOLO
KOGBARA; MICHAEL TEMA VIZOR;
LUCKY DOOBEE, individually and on
behalf of his late brother SATURDAY
DOOBEE; FRIDAY NUATE, individually
and on behalf of her late husband FELIX
NUATE; MONDAY GBOKOO, brother
of the late DANIEL GBOKOO; DAVID
KIOBEL, individually and on behalf of his
siblings STELLA KIOBEL, LEESI
KIOBEL AND BARIDI KIOBEL and on
behalf of his minor siblings, ANGELA
KIOBEL and GODWILL KIOBEL for
harm suffered for the wrongful death of
their father Dr. BARINEM KIOBEL;
JAMES B. N-NAH, individually and on
behalf of his late brother
UEBARI N-NAH,

Plaintiffs

v.

SHELL PETROLEUM DEVELOPMENT
COMPANY OF NIGERIA LIMITED;

Defendant

04 CV 2665

COMPLAINT FOR SUMMARY
EXECUTION; CRIMES AGAINST
HUMANITY; TORTURE; CRUEL,
INHUMAN OR DEGRADING
TREATMENT; ARBITRARY ARREST
AND DETENTION; VIOLATION OF THE
RIGHTS TO LIFE, LIBERTY, AND
SECURITY OF PERSON AND
PEACEFUL ASSEMBLY AND
ASSOCIATION

DEMAND FOR JURY TRIAL

INTRODUCTION

1. On November 10, 1995, internationally renowned author and human rights and environmental activist Ken Saro-Wiwa, youth leader John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, and Dr. Barinem Kiobel were hanged in Port Harcourt, Nigeria. Ken Saro-Wiwa was the leader of the Movement for the Survival of Ogoni People ("MOSOP") and John Kpuinen was the Deputy President of MOSOP's youth wing, the National Youth Council of Ogoni People ("NYCOP"). Michael Tema Vizer at the time was Vice President of NYCOP. Saro-Wiwa, Kpuinen, Vizer, Doobee, Nuate, Gbokoo, and Dr. Kiobel were among a group falsely accused of murder and tried before a special tribunal in proceedings which violated international standards of due process.

2. The executions of Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, and Dr. Barinem Kiobel and the imprisonment and torture of Michael Tema Vizer by the Nigerian military junta and the campaign to falsely accuse them were carried out with the knowledge, consent, and/or support of Defendant Shell Petroleum Development Company of Nigeria Limited ("SPDC"), its corporate parents Royal Dutch Petroleum Company and Shell Transport and Trading Company, p.l.c. ("Royal Dutch/Shell") and its agents and officers, as part of a pattern of collaboration and/or conspiracy between Defendant and the military junta of Nigeria to violently and ruthlessly suppress any opposition to SPDC's conduct in its exploitation of oil and natural gas resources in Ogoni and in the Niger Delta.

3. The circumstances under which Plaintiff Karalolo Kogbara was shot further illustrate the concerted activities of SPDC and the military in Ogoni. In April 1993, Karalolo Kogbara was shot by the military which was providing security for the construction of SPDC's

Tran-Niger Pipeline. Plaintiff Michael Tema Vizer was arrested, beaten and detained for four days without charge for participating in the peaceful protest against SPDC, its contractor Willbros, and the Nigerian military regime for bulldozing farmland in Bira Gokana for a pipeline. Plaintiff Uebari N-nah was shot and killed in October 1993 in Korokoro, Rivers State, Nigeria by the military engaged in a joint patrol with SPDC personnel.

4. Defendant SPDC, together with the military regime governing Nigeria and Royal Dutch/Shell, and acting with other agents and co-conspirators have, in the past and continuing through at least 1999, used force and intimidation to silence any opposition to their activities in Nigeria which include the exploitation of the petroleum resources of the Delta and spoliation of the environment there. Defendant's conduct violates federal law, and international law, including the prohibitions against torture, summary execution and crimes against humanity.

JURISDICTION AND VENUE

5. This Court has jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 1350 (Alien Tort Claims Act), and 28 U.S.C. § 1350 note (Torture Victim Protection Act). The Alien Tort Claims Act provides federal jurisdiction for "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." The Torture Victim Protection Act provides jurisdiction for claims of summary execution and torture.

6. There is jurisdiction over the Defendant under Federal Rules of Civil Procedure 4(k)(2).

PARTIES

7. Plaintiff Ken Wiwa brings this action individually and on behalf of his father, Ken Saro-Wiwa, now deceased, who was a subject, citizen, and resident of Nigeria. Ken Wiwa presently resides in Canada and is a citizen of the United Kingdom.

8. Plaintiff Owens Wiwa is a resident of Canada and a citizen of Nigeria. He is the brother of Ken Saro-Wiwa.

9. Plaintiff Blessing Kpuinen brings this action individually and on behalf of her husband, John Kpuinen, now deceased, who was a subject, citizen, and resident of Nigeria. Plaintiff Kpuinen presently resides in the United States and on March 19, 2004, became a citizen of the United States.

10. Plaintiff Karalolo Kogbara is a citizen and resident of Nigeria.

11. Plaintiff Michael Tema Vzor is a citizen of Canada, currently residing in Canada.

12. Plaintiff Lucky Doobee brings this action individually and on behalf of his brother, Saturday Doobee, now deceased, who was a subject, citizen, and resident of Nigeria. Plaintiff Doobee is a resident of Nigeria and citizen of Nigeria.

13. Plaintiff Friday Nuate brings this action individually and on behalf of her husband, Felix Nuate, now deceased, who was a subject, citizen, and resident of Nigeria. Plaintiff Nuate is a resident and citizen of Nigeria.

14. Plaintiff Monday Gbokoo brings this action individually and on behalf of his brother, Daniel Gbokoo, now deceased, who was a subject, citizen, and resident of Nigeria. Plaintiff Gbokoo is a resident and citizen of Nigeria.

15. Plaintiff David Kiobel brings this action individually and on behalf of his siblings

Stella Kiobel, Leesi Kiobel, and Baridi Kiobel, and on behalf of his minor siblings, Angela and Godwill, for harm suffered for the death of their father Dr. Barinem Kiobel. David Kiobel, Stella Kiobel, Leesi Kiobel, Baridi Kiobel, Angela Kiobel and Godwill Kiobel are all citizens and residents of the United Kingdom.

16. Plaintiff James B. N-nah is a citizen and resident of Nigeria, and brings this action individually and on behalf of his brother, Uebari N-nah, now deceased, who was a subject, citizen, and resident of Nigeria.

17. Defendant SPDC is incorporated in Nigeria and does business there.

18. Defendant SPDC, together with its parents Royal Dutch/Shell are major investors in Nigeria and explore for, produce and sell energy products derived from Nigerian oil and natural gas.

19. Large quantities of the oil produced through the operation of defendant SPDC was and is presently imported into the United States.

20. Plaintiffs are informed and believe, and on that basis allege, that at all times herein material, Defendant's employees and agents came to the United States as part of the conduct of Defendant's business and also specifically in connection with its campaign against Ken Saro-Wiwa and MOSOP.

21. SPDC operates as part of the Royal Dutch/Shell Group. Royal Dutch/Shell wholly owns Shell Petroleum, Inc., a holding company, incorporated and organized under the laws of Delaware with offices in Houston, Texas, which in turn wholly owns Shell Oil Company ("Shell USA"), a corporation incorporated in Delaware with offices in Houston, Texas, and doing business in New York, New York.

22. Royal Dutch/Shell wholly owns The Shell Petroleum Company, Ltd., a holding

company which in turn wholly owns Shell Petroleum Development Company of Nigeria, Ltd. ("SPDC"), a corporation doing business in Nigeria.

23. Plaintiffs are informed and believe, and on that basis allege, that at all times herein material: (a) Defendant was the employer of and/or working in concert with the Nigerian military regime; and (b) the Nigerian military regime was acting as the agent of, and/or working in concert with SPDC and/or Royal Dutch/Shell, and was acting within the course and scope of such agency, employment and/or concerted activity. To the extent that said conduct was perpetrated by the military regime, Defendant conspired in, confirmed, aided and abetted, and/or ratified, the same.

24. At all times relevant hereto, SPDC and Royal Dutch/Shell acted in concert, conspired, and/or were the agents of each other.

25. At all times herein material, Defendant and/or Royal Dutch/Shell conspired with the military regime by entering into an agreement to commit wrongful and tortious acts contained herein and Defendant and/or Royal Dutch/Shell participated in or committed a wrongful act in furtherance of said conspiracy which resulted in injury to the Plaintiffs.

26. Whenever and wherever reference is made to individuals who are not named as a Defendant in this Complaint, but were employees/agents of Defendant, such individuals at all relevant times acted on behalf of the Defendant named in this Complaint within the scope of their respective employments.

STATEMENT OF FACTS

General Facts

27. Ogoni is a densely populated rural area of approximately 404 square miles in southern Nigeria.

28. SPDC began oil production in the Ogoni region in or about 1958.
29. Oil revenues provide 80% of Nigeria's federal government budget.
30. Oil from Nigeria accounts for approximately 14% of Royal Dutch/Shell's global oil production.
31. At all times relevant herein, Defendant SPDC knew or should have known that the Nigerian regime, its army and police committed human rights abuses, including summary executions, in connection with the exploitation of oil in Ogoni and the Niger Delta.
32. SPDC appropriated land used for oil exploitation through misrepresentation and coercion and without adequate compensation to the owners.
33. Upon information and belief, as of 1999, approximately 76 percent of the natural gas produced during the exploration and exploitation of the crude oil in Ogoni has been permitted to flare, thereby causing persistent air and noise pollution and reduced agricultural yields in the surrounding area.
34. The oil-related pollution caused by SPDC's activities has contaminated the local water supply and agricultural land and killed fish; the local economies are based largely on subsistence farming and fishing.
35. Nigeria produces approximately 1.7 to 1.8 million barrels per day of oil. Approximately 90% of this yield is produced in the area of the Niger Delta, which contains the Ogoni region.
36. Approximately 40% of Nigeria's oil production is exported to the United States.
37. SPDC conducts, and has conducted, its operations in Ogoni and the Niger Delta negligently and with reckless disregard for its effect on the population, wildlife and land of Ogoni.

For example:

- a. The manner of SPDC's operation leads and has led repeatedly to oil spillage and gas flares.
- b. In June of 1993, SPDC permitted oil from its Bomu-Tai pipeline to spill into the neighboring villages and countryside for 40 days.
- c. SPDC dug and used unlined waste pits in the middle of Ogoni villages.

38. At all times relevant hereto, the Nigerian military regime was acting in conspiracy with, at the request of and/or on behalf of Defendant. In the alternative, the regime was acting at all times relevant hereto as an agent for Defendant. The acts of conspiracy include, but are not limited to, the following:

- a. SPDC's payments, directly or indirectly, to the military, police (including supernumerary police), intelligence, and/or other personnel assigned to SPDC installations in Nigeria;
- b. SPDC's contracting for the purchase of weapons, directly or indirectly, for the Nigerian security forces (including supernumerary police).
- c. SPDC's logistical support, directly or indirectly, to the Nigerian security forces (including supernumerary police), by the provision of transportation vehicles, patrol boats, ammunition and other material;
- d. SPDC's participation in the planning and coordination of "security operations" including raids and terror campaigns conducted in Ogoni and the Niger Delta, through regular meetings between SPDC, their agents, alter-egos, co-conspirators, and officials of the local security forces;

e. The campaign to arrest and execute Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, and Dr. Barinem Kiobel on fabricated murder charges, including SPDC's bribery or attempted bribery of two witnesses to give false testimony against Saro-Wiwa and Felix Nuate.

g. A coordinated media and public relations campaign by SPDC and the Nigerian government to discredit MOSOP leaders, attributing to MOSOP and Saro-Wiwa airplane hijacking, kidnapping, and other acts of violence.

39. In late October, 1990, villagers in Umuechem, a neighboring community to Ogoni, held a demonstration against SPDC's operation.

40. On or about October 29, 1990, on information and belief, SPDC, acting at all times as the agent of Royal Dutch/Shell, claimed that there would be an attack on October 30, 1990 on its camp site and requested that the Rivers State Commissioner of Police provide the Mobile Police Force for security protection.

41. SPDC specifically requested the assistance of the Mobile Police Force, although this force, popularly known in Nigeria as "kill and go," which was widely reputed to commit massacres and other grave human rights violations.

42. On or about October 31, 1990 and November 1, 1990, the mobile police carried out massive scorched earth operations resulting in a massacre of 80 villagers. Over 495 houses were damaged or destroyed.

43. Following the attack at Umuechem, SPDC's General Manager East continued to request security force involvement for their ongoing operation.

44. By 1993, at least 300,000 Ogonis, more than half the population of Ogoni, supported

the Movement for Survival of Ogoni People (MOSOP), a human rights organization aimed at protecting the rights of the Ogoni people, including protesting the effects of the oil exploitation on the Ogoni.

45. On or about February 15, 1993 through February 18, 1993, SPDC met officials of Royal Dutch/Shell in the Netherlands and England to formulate anti-MOSOP campaigns.

46. On March 18, 1993, at a meeting with the Governor of River State, SPDC's General Manager East specifically requested that the military remain in the area to provide protection during the construction of SPDC's Trans Niger Pipeline.

47. Upon information and belief, on or about April 28, 1993, SPDC, together with Willbros West Africa, Inc. ("Willbros"), a pipeline contractor, and in the company of Nigerian military, entered the Ogoni village of Biara to bulldoze farmland in preparation for the Rumuekpe-Bomu pipeline.

48. In reaction to the actions of SPDC and Willbros, villagers gathered to protest the bulldozing. The military accompanying the pipeline construction crew fired on villagers peacefully protesting the destruction of their farms. SPDC employees were present during these operations.

49. At Biara, on or about April 30, 1993, Karalolo Kogbara was shot by the military who fired upon those protesting the destruction of their crops.

50. Karolola Kogbara was then detained incommunicado in a military hospital where she was denied adequate medical care. As a result her arm was later amputated.

51. At Biara, on or about April 30, 1993, Plaintiff Michael Tema Vizer was arrested, beaten and detained for four days without charge for protesting the bulldozing of farm land for SPDC's Trans Niger Pipeline.

52. On May 4, 1993, in a letter to the Governor of Rivers State, the general manager of SPDC's eastern division requested that the Nigerian government provide "assistance as usual" so that work on the pipeline could continue.

53. Ken Saro-Wiwa was an outspoken critic of SPDC's operation in the Ogoni region, charging that SPDC and its parents Royal Dutch/Shell were "waging an ecological war against the Ogoni."

54. In April and June, 1993, Ken Saro-Wiwa and other MOSOP activists were arrested and detained.

55. Following Saro-Wiwa's detention on or about June 21, 1993, Royal Dutch/Shell attacked Saro-Wiwa's environmental protests as being a pretext used to build his political movement.

56. On or about July 6, 1993, while still in detention, Ken Saro-Wiwa was elected president of MOSOP.

57. John Kpuinen held various positions, including that of Deputy President of the National Youth Council of Ogoni People (NYCOP), MOSOP's youth wing. In that capacity, Kpuinen was active in NYCOP's environmental campaign against SPDC and the Nigerian military regime.

58. Michael Tema Vizer held various positions, including that of the Vice President of the National Youth Council of Ogoni People (NYCOP), MOSOP's youth wing.

59. Saro-Wiwa, Kpuinen, and Vizer supported and organized peaceful demonstrations in Ogoni.

60. In September 1993, Ogoni villagers complained about the ongoing environmental

contamination due to leaking from the SPDC pipeline to SPDC officials in Port Harcourt and local officials in Bomu-Tai.

61. The military and other security forces, on or about October 24, 1993, were brought into the area near the Korokoro flow line by SPDC personnel in SPDC vehicles. The security forces headed by Paul Okuntimo arrived in vehicles supplied by Royal Dutch/Shell and Royal Dutch/Shell staff were present. The military police shot a seventy-four-year-old man and two youths, killing one, Plaintiff Uebari N-nah.

62. Thereafter the forces led by Paul Okuntimo arrested James N-nah and detained him for approximately three weeks without charges. During his detention, James N-nah was tortured and denied food.

63. SPDC paid "field allowances" to the Nigerian security personnel involved in the Korokoro attacks.

64. Upon information and belief, on or about December 1, 1993, SPDC Managing Director P.B. Watts requested approval by the Nigerian Police Inspector General for an increase in its security; promised to provide complete logistics, accoutrement and welfare support to the Nigerian police force; promised to fully support the cost of setting up and maintaining a police contingent of 550 men; and requested a quotation for the supply of semi-automatic rifles for vehicle and marine patrols.

65. SPDC praised the co-operation and excellent working relationship developed over the years between the Nigerian security forces and SPDC.

66. Plaintiff Owens Wiwa was detained without charges, from on or about December 26, 1993 to the night of January 4, 1994 to prevent him from organizing for and participating in a

planned demonstration to protest, among other things, SPDC's despoilation of the Ogoni environment.

67. During his detention, plaintiff Owens Wiwa was beaten by Captain Odina who worked directly under Paul Okuntimo.

68. In January 1994, Dr. Barinem Kiobel was appointed as Honorable Commissioner of the Ministry of Commerce and Tourism and Member of the Rivers State Executive Commission. He was an outspoken opponent of Shell's operations in Ogoni and the violent acts against political opponents.

69. In the spring of 1994, the villages where Friday Nuate and Monday and Daniel Gbokoo were then living, were among many Ogoni villages which were attacked and burned by forces led by Paul Okuntimo. They were forced to flee with their families and settle in another village.

70. Plaintiff Owens Wiwa was detained from on or about April 6, 1994 to April 20, 1994 on false charges of murder. During his detention, plaintiff was assaulted by Lt. Kennedy in the presence of Paul Okuntimo.

71. Plaintiff Owens Wiwa and his fellow arrestee, Noble Obani-Nwibari, were told to face the woods and guns were put to their heads. They were saved by the intervention of a policeman whose daughter Plaintiff Dr. Owens Wiwa had treated.

72. On each of the occasions described above, Plaintiff Owens Wiwa was arrested at the direction of Paul Okuntimo.

73. At the time of the arrests of Owens Wiwa, Paul Okuntimo was receiving an allowance from SPDC.

74. On or about April 21, 1994, Lieutenant Colonel Komo, the Head of Rivers State sent a memo to Paul Okuntimo, the head of the Internal Security Task Force detailing an extensive military presence and policy of military intervention in Ogoni, in order to ensure that those "carrying out business ventures...within Ogoniland are not molested." On or about May 12, 1994, Paul Okuntimo, reported that "Shell operations still impossible unless ruthless military operations are undertaken for smooth economic activities to commence", and proposed that the Nigerian security forces exert pressure on Shell for regular payments from SPDC to support the operations.

75. On May 21, 1994, four Ogoni tribal leaders were killed.

76. Between May and August 1994, the Rivers State Internal Security Task Force mounted several months of nightly raids through at least sixty towns and villages in Ogoni, to punish entire communities for their support for MOSOP.

77. Between May 1994 and August 1994, several hundred young Ogoni men were arrested, detained and flogged on a daily basis because of their real or imagined affiliation with MOSOP.

78. On or about May 22, 1994, Ken Saro-Wiwa and Dr. Barinem Kiobel were arrested and detained without charges by the Nigerian military and the arrest of the entire MOSOP leadership was ordered by the Rivers State military administrator.

79. No charges were filed against them for eight months after their arrest and detention.

80. Michael Tema Vzor was asked to confess to the murder of the four Ogoni tribal leaders on May 21, 1994. When he refused he was beaten and tortured. While in jail he was denied medical assistance. On one occasion his son, Wisdom Vzor, brought some medication to give to him, but was caught by the soldiers and beaten and detained for two days without food. On his

release he was warned to cease all visits to Plaintiff Vizor.

81. During his arrest Plaintiff Vizor was manhandled and beaten in front of his children. Soldiers then stole N400,000 in cash and documents from his home.

82. In October 1994, plaintiff Owens Wiwa was arrested and held for 12 hours for the possession of letters written by Ken Saro-Wiwa.

83. In November, 1994, a three-man tribunal ("Civil Disturbances Special Tribunal") was created and specially appointed by the Nigerian military regime to try Ken Saro-Wiwa, John Kpuinen, Dr. Barinem Kiobel, and other Ogoni leaders for the May 21, 1994 murder of four Ogoni tribal leaders. They were formally charged on January 28, 1995.

84. On or about March 16, 1995, top executives of Royal Dutch/Shell and Shell International Petroleum Company, Ltd. ("SIPC") met in Shell Centre, London with the Nigerian High Commissioner, and top Nigerian military officers to discuss a common strategy regarding Ken Saro-Wiwa and the Ogoni campaign, including a joint media campaign and other action.

85. On March 28, 1995, the Civil Disturbances Special Tribunal assumed jurisdiction over the cases of ten additional Ogoni leaders, including Saturday Doobee, Felix Nuate, Daniel Gbokoo, and Michael Tema Vizor, who were formally charged with murder on April 7, 1995.

86. Ken Saro-Wiwa, John Kpuinen, Michael Tema Vizor, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel and others were arrested because of their non-violent opposition to the activities of SPDC and the Nigerian military.

87. The creation of the Civil Disturbances Special Tribunal and the conduct of the ensuing trial violated customary international law because, inter alia:

a. An edict creating the Civil Disturbances Special Tribunal and providing the death

penalty was given retroactive effect;

b. the Civil Disturbances Special Tribunal's judgment was not subject to review by a higher court;

c. the accused met with their counsel only with the permission of and in the presence of a military officer.

88. Defense counsel for the accused were subjected to threats of beatings and Ken Saro-Wiwa's 74-year-old mother, as well as other family members, were beaten when attending the Civil Disturbances Special Tribunal hearing.

89. During the proceedings before the Civil Disturbances Special tribunal, an attorney representing SPDC was in the courtroom.

90. The accused were denied adequate food and medical care, beaten and subjected to other torture.

91. SPDC promised bribes to at least two key witnesses to give false testimony against Saro-Wiwa.

92. On January 4, 1995, soldiers dispersed peaceful demonstrations protesting SPDC's operation and the arrest of Saro-Wiwa, Kpuinen and the others with shootings, beatings and arrests, extorting money from those who they released.

93. Those incarcerated as a result of the January 4, 1995, protest were subjected to floggings and other torture.

94. In June 1995, the team of defense lawyers representing Saro-Wiwa, and Kpuinen, and those charged with them, withdrew from the proceedings as a protest against the flagrant violations of international standards of due process in the two concurrent trials.

95. In August 1995, plaintiff Owens Wiwa was arrested and held for 8 hours for possession of letters written by Ken Saro-Wiwa.

96. Upon information and belief, SPDC held meetings with the Nigerian military regime to discuss strategies concerning the unlawful execution of Saro-Wiwa.

97. Brian Anderson, the Managing Director of SPDC, met with Plaintiff Owens Wiwa and offered to trade Ken Saro-Wiwa's freedom for an end to the international protests against Defendant.

98. On July 21, 1995, SPDC Managing Director Brian Anderson met with the military dictator of Nigeria and, based on that discussion, understood that Ken Saro-Wiwa would be convicted by the military appointed special tribunal.

99. On or about October 30 and 31, 1995, Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel and other Ogoni activists were condemned to death by the military-appointed special tribunal, in violation of international law and the laws of Nigeria.

100. Michael Tema Vizer was given partial and purported acquittal.

101. Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel and the others scheduled for execution were beaten, denied food, water or bedding for a period of days prior to their execution.

102. On November 10, 1995, Plaintiffs Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, and Dr. Barinem Kiobel were hanged.

103. On November 13, 1995, Plaintiff Owens Wiwa, who had previously been arrested and detained by the Nigerian government on four occasions without charges, fled Nigeria because he

feared arbitrary arrest, torture and death. As a result , Plaintiff Owens Wiwa was forced to leave his medical clinic and his work as a physician.

104. On January 5, 1996, soldiers came to the home of Plaintiff Michael Tema Vzor in Mogho Gokana in Ogoni with the purpose of killing him. Finding the house empty, they broke into the house. They searched for money and property to loot, and then destroyed the house.

105. Because of this incident Plaintiff Vzor along with one of his children was forced to flee and fall out of touch with his family in Port Harcourt. He did not see them again for seven years.

106. Plaintiff Michael Tema Vzor and his son were forced to leave Nigeria and his family, and escape first to Benin and then Canada.

107. On December 15, 1995, Royal Dutch/Shell signed an agreement to invest \$4 billion in a natural gas project in Nigeria.

108. Over the next two years, an additional twenty Ogonis were also detained and charged with murder in connection with the same allegations and before the same Civil Disturbances Special Tribunal that convicted Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, and Dr. Barinem Kiobel. All, aside from those who died in detention, were subsequently released by 1998.

109. Of the total twenty Ogoni detained, eighteen, most held without trial since mid-1994, were charged in May 1995 on a "holding charge" of murder. Of those eighteen charged, one died in detention and two were released.

110. Four others were charged with murder in the magistrate's court on October 27, 1995.

111. SPDC private police cooperated in the arrests, beatings and torture of the arrested Ogoni activists. On February 23, 1995, Baribor Bera, one of the co-defendants, showed the Tribunal the scar he sustained from the beatings. Visitors to Ken Saro-Wiwa saw physical evidence of torture on his body.

112. The twenty Ogonis were detained for various periods without trial under conditions violative of minimum international standards.

113. From at least 1992 until at least the end of the Abacha regime, the military dictatorship's repression of its opponents, particularly of Ogoni, precluded any action by plaintiffs for civil remedies in Nigeria and plaintiffs are entitled to equitable tolling of their claims.

114. Plaintiffs have exhausted the remedies available in Nigeria and/or the remedies available in Nigeria are inadequate.

GENERAL ALLEGATIONS

115. The acts described herein were inflicted under color of law and under color of official authority of Nigeria, and/or in conspiracy with or on behalf of those acting under color of official authority of Nigeria.

116. The acts and injuries to Plaintiffs and their next-of-kin described herein were part of a pattern and practice of systematic human rights violations directed, ordered, confirmed, aided and abetted, and/or ratified by Defendant and its agents and/or committed in conspiracy with the Nigerian military regime.

117. As a direct and proximate result of Defendant's unlawful conduct, Plaintiffs have suffered and will continue to suffer harm including pain and suffering, and extreme and severe mental anguish and emotional distress. Plaintiffs are thereby entitled to general and compensatory damages in amounts to be proven at trial.

118. Plaintiffs' causes of action arise under and violate the following laws, agreements, conventions, resolutions and treaties:

(a) Alien Tort Claims Act, 28 U.S.C. § 1350 and Torture Victim Protection Act, 28 U.S.C. § 1350 note;

(b) Customary international law;

(c) United Nations Charter, 59 Stat. 1031, 3 Bevans 1153 (1945);

(d) Universal Declaration of Human Rights, G.A. Res. 217A(iii), U.N. Doc. A/810 (1948);

(e) International Covenant on Civil and Political Rights, G.A. Res. 2220A(xxi), 21 U.N. Doc., GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966);

(f) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 39 U.N. Doc., GAOR Supp. (No. 51) at 1100, U.N. Doc. A/39/51

(1984);

(g) Declaration on the Protection of All Persons From Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452, 30 U.N. Doc., GAOR Supp. (No. 34) at 91, U.N. Doc. A/10034 (1976);

(h) Common law of the United States of America;

119. There is no independent functioning judiciary in Nigeria and any suit against Defendant there would have been and would still be futile and would result in serious reprisals.

FIRST CLAIM FOR RELIEF

(Summary execution)

120. The allegations set forth in paragraphs 1 through 119 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

121. The deliberate killings, under color of law, of Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel, and Uebari N-nah were not authorized by a lawful judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

122. The acts described herein constitute summary execution in violation of the Alien Tort Claims Act, the Torture Victim Protection Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 118 herein.

123. Defendant SPDC is liable for the killings in that Defendant directed, ordered, confirmed, ratified, aided and abetted, and/or conspired with the military regime in bringing about the deaths of Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel, and Uebari N-nah.

SECOND CLAIM FOR RELIEF

(Crimes Against Humanity)

124. The allegations set forth in paragraphs 1 through 119 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

125. The acts described herein against Plaintiffs constitute crimes against humanity, in violation of customary international law which prohibits inhumane acts of a very serious nature such as willful killing, torture and arbitrary arrest and detention and other inhumane acts committed as part of a widespread or systematic attack against any civilian population or persecutions on political, racial, ethnic, or religious grounds. Leaders, organizers, instigators and accomplices participating in the formulation of these acts are responsible for all acts performed by any person in execution of such plan.

126. The acts described herein constitute crimes against humanity in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 118 herein.

127. Defendant SPDC is liable to Plaintiffs for said conduct in that Defendant directed, ordered, confirmed, aided and abetted, ratified, and/or conspired with the military regime in bringing about the crimes against humanity committed against Plaintiffs.

THIRD CLAIM FOR RELIEF

(Torture)

128. The allegations set forth in paragraphs 1 through 119 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

129. The torture of Ken Saro-Wiwa, John Kpuinen, Saturday Doobee, Felix Nuate, Daniel

Gbokoo, Dr. Barinem Kiobel, Karololo Kogbara, Michael Tema Vzor, Uebari N-nah, James N-Nah, Karolala Kogbara, and Owens Wiwa as described herein, were inflicted deliberately and intentionally for purposes which included, among others, punishing the victim or intimidating the victim or third persons.

130. The acts described herein constitute torture in violation of the Alien Tort Claims Act, the Torture Victim Protection Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 118 herein.

131. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, aided and abetted, ratified, and/or conspired with the Nigerian military regime in bringing about the torture of Ken Saro-Wiwa, John Kpuinen, Karololo Kogbara, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel, Michael Tema Vzor, Uebari N-nah, James N-Nah, Karolala Kogbara, and Owens Wiwa.

FOURTH CLAIM FOR RELIEF

(Cruel, Inhuman, or Degrading Treatment)

132. The allegations set forth in paragraphs 1 through 119 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

133. The acts described herein had the intent and the effect of grossly humiliating and debasing the Plaintiffs, forcing them to act against their will and conscience, inciting fear and anguish, breaking physical or moral resistance, and forcing them to leave their home and country and flee into exile.

134. The acts described herein constitute cruel, inhuman or degrading treatment in violation of the Alien Tort Claims Act, customary international law, the common law of the United

States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 118 herein.

135. All Plaintiffs were placed in great fear for their lives and forced to suffer severe physical and psychological abuse and agony.

136. Defendant SPDC is liable for said conduct in that Defendant directed, ordered, confirmed, aided and abetted, ratified, and/or conspired with the military regime to cause the cruel, inhuman or degrading treatment of Plaintiffs.

FIFTH CLAIM FOR RELIEF

(Arbitrary Arrest and Detention)

137. The allegations set forth in paragraphs 1 through 119 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

138. The arbitrary arrests and detention of Ken Saro-Wiwa, John Kpuinen, Owens Wiwa, Michael Tema Vzor, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel, James N-nah and Owens Wiwa were illegal and unjust, and in violation of customary international law.

139. Plaintiffs Ken Saro-Wiwa, John Kpuinen, Owens Wiwa, Michael Tema Vzor, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel, and James N-nah were placed in fear for their lives, were deprived of their freedom, separated from their families and forced to suffer severe physical and mental abuse.

140. The acts described herein constitute arbitrary arrest and detention in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 118 herein.

141. Defendant SPDC is liable for said conduct in that Defendant directed, ordered, confirmed, aided and abetted, ratified, and/or conspired with the military regime in bringing about the arbitrary arrests and detention of Ken Saro-Wiwa, John Kpuinen, Owens Wiwa, Michael Tema Vzor, Saturday Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel and James N-nah.

SIXTH CLAIM FOR RELIEF

(Violation of the Rights to Life,
Liberty and Security of Person
and Peaceful Assembly and Association)

142. The allegations set forth in paragraphs 1 through 119 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

143. The shooting of Plaintiff Karalolo Kogbara when she was peacefully demonstrating against the actions of Defendant constitute violations of her rights to life, liberty and security of person, and her rights to peaceful assembly and association.

144. The destruction by security forces of the villages in which Friday Nuate, and Monday and Daniel Gbokoo were living constitute violations of their rights to life, liberty and security of person, and their rights to peaceful assembly and association.

145. The arrest of James N-nah by security forces under the direction of Paul Okuntimo constitutes a violation of his rights to life, liberty and security of person, and his rights to peaceful assembly and association.

146. The arrest, detention and torture of Plaintiff Michael Tema Vzor were violations of his rights to life, liberty and security of person and peaceful assembly and association for which Defendant SPDC is liable.

147. The arrest, detention, and execution of Ken Saro-Wiwa, John Kpuinen, Saturday

Doobee, Felix Nuate, Daniel Gbokoo, Dr. Barinem Kiobel were violations of their rights to life, liberty and security of person and peaceful assembly and association for which Defendant SPDC is liable.

148. The shooting of Plaintiff Uebari N-nah when he was peacefully demonstrating against the actions of Defendant constitute violations of his rights to life, liberty and security of person, and his rights to peaceful assembly and association for which Defendant SPDC is liable.

149. The arrest and detention of Owens Wiwa were violations of his rights to liberty and security of person and peaceful assembly and association for which Defendant SPDC is liable.

150. The acts described herein constitute violations of Plaintiffs' rights to life, liberty and security of person, and to peaceful assembly and association, in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 118 herein.

151. Defendant SPDC is liable for said conduct in that Defendant directed, ordered, confirmed, aided and abetted, ratified, and/or conspired with the military regime in bringing about the violations of the rights to life, liberty and security of person and peaceful assembly and association.

PRAYER FOR RELIEF

WHEREFORE, each and every Plaintiff prays for judgment against Defendant Shell Petroleum Development Company of Nigeria Limited in excess of \$75,000, as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for costs of suit, attorneys fees and such other relief as the Court deems just

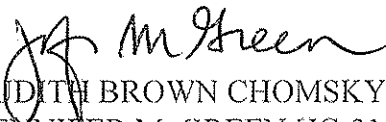
and proper.

JURY TRIAL DEMAND

Plaintiffs hereby demand a jury trial on all issues so triable.

Dated: April 5, 2004
New York, NY

Respectfully submitted,


JUDITH BROWN CHOMSKY
JENNIFER M. GREEN [JG-3169]
MARIA LAHOOD
SHAYANA KADIDAL [SK-1278]
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th floor
New York, NY 10012
212-614-6431

ANTHONY DICAPRIO
RATNER, DICAPRIO AND CHOMSKY, LLP
80 Eighth Avenue, Suite 711
New York, NY 10011
212-604-9466

PAUL HOFFMAN
SCHONBRUN, DE SIMONE, SEFLOW,
HARRIS & HOFFMAN, LLP
723 Ocean Front Walk
Venice, CA 90201
310-396-0731