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The right to adequate food (Art. 11) and violations of this right in Nigeria

Parallel report to the initial report of Nigeria concerning Economic, Social and Cultural Rights enshrined in the International Covenant on Economic, Social and Cultural Rights

Submitted at the occasion of the 18th session of the Committee on Economic, Social and Cultural Rights (27 April - 17 May, 1998) by FIAN International, an NGO in consultative status with ECOSOC, working for the Human Right to Feed Oneself, in collaboration with Shelter Rights Initiative, the Nigerian NGO for Economic Rights.

**Parallel information to the initial report of Nigeria
concerning the right to adequate food as enshrined in the
the International Covenant on Economic, Social and Cultural Rights**

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FIAN International Secretariat
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Preface

FIAN, the International Human Rights Organization for the Right to Feed Oneself, would like to present a parallel report to the periodic report on Nigeria submitted by the Nigerian Government. Of the many questions concerning economic human rights in Nigeria, FIAN in co-operation with Shelter Rights Initiative will concentrate on the right to freedom from hunger and the right to food. Nigeria is a state party to the International Covenant on Economic, Social and Cultural Rights. In **Art. 11 of the ICESCR**, the state parties guarantee the right to freedom from hunger and the right to food. More specifically, the right to adequate food derives from the following responsibilities of states elucidated in Article 11:

- a) **Respect** for the access to food adequate both in quality and quantity in terms of nutritional balance, absence of toxic substances and cultural acceptability; this means that no state should adopt measures that destroy the access to food of a group or an individual;
- b) **Protection** of the existing access to food against aggressions by third parties;
- c) Support for the efforts made by groups and individuals to **fulfill** their food security, especially in the case of individuals and groups who do not have the opportunity to feed themselves;

Based on **Art. 16 of the ICESCR**, the state parties, and Nigeria among them, have the duty to present reports on the measures they have adopted and the progress they have made in order to guarantee the respect of the rights included in this international Covenant. In the fulfillment of this duty, the states have to follow certain guidelines. According to a note by the Secretary general of the UN, those guidelines have been adopted in order to facilitate the elaboration of these reports and to avoid inadequateness or insufficiency.

Art. 11 of the Covenant, states very clearly what kind of information is required. According to Clause 2, a sufficient reference to the right to food has to be made. Strictly speaking, a general description of the countries implementation of the right to feed oneself, the sources of information, studies on the food situation and supervisory measures, the statistical data on the existence of famine and/or malnutrition in the country has to be provided. Specific aspects of especially vulnerable or disadvantaged groups should be taken into account.

However, while revising the report submitted by the Nigerian government on February 23, 1996, we realized that the report completely neglects the rights guaranteed in art. 11. Therefore we would like to submit the information on the situation in Nigeria in this respect. In fact, FIAN and Shelter Rights Initiative the Nigerian Organisation for Economic, Social and Cultural rights, are receiving a high number of information on a regular base and from different sources concerning violations of the right to adequate food in Nigeria.

As it appears, the general picture shows problems. They are linked to processes related to the access to productive resources. In fact, the case of Nigeria reveals patterns of gross violations of the right to adequate food. The state fails to address the issue of right to adequate food, that is access to productive resources for all. The documentation below shows how it fails to protect, to respect and to fulfill the right to feed oneself of the population.

I Introduction

Some general information about Nigeria show the context in which violations of the right to adequate food occur in Nigeria.

A) Economy

It should be stated that the largely subsistence agricultural sector has failed to keep up with rapid population growth, and Nigeria, once a large exporter of food, now must import food. Indeed the oil-rich Nigerian economy continues to be hobbled by political instability and poor macroeconomic management. Apart from that, the NGO Transparency International qualified Nigeria as last year's most corrupt country in the world. Nigeria's unpopular military rulers failed to make any significant progress in diversifying the economy away from overdependence on the capital intensive oil sector which provides almost all foreign exchange earnings and about 80% of budgetary revenues. Regime officials also appear divided on how to redress the fundamental economic imbalances that result in troublesome inflation, the steady depreciation of the Naira, and the discouragement of investors. The government's domestic and international arrears continue to limit economic growth and prevent an agreement with the IMF and bilateral creditors on debt relief.

Figure one: Quantitative basic data on economy

GDP: purchasing power parity per person	1220\$ ^o
GDP: per capita	1300\$ ^o
GNP: per capita	260\$ ^o /320*
GDP real growth rate	2.6 ^o
GDP composition by sector:	
- Agriculture	28% / 38%*
- industry	53% / 22%*
- services	18% / 40%*
Total labour force	42,844 mio 45% / 54%* 48% / 42%+ 7% / 12%+
Unemployment rate	28% ^o
Inflation rate on consumer prices	40% / 57% ^o
Amount of the food imports in relation to all the imports	10,8%

Sources: * Fischer Weltalmanach 1997
+ The World - A Third World Guide 1995/96
others CIA homepage (Feb 98)

B) Population

Figure 2: Quantitative basic data on population

Population in total	103.912.489 [○]
- 0-14 years	45% [○]
- 15-64 years	52% [○]
- 65 years and over	3% [○]
Population growth rate	3.05% [○]
Birth rate	42.89 births/ 1.000 population
Death rate	12.71 deaths/ 1.000 population [○]
Infant mortality rate	11.4%
Child mortality rate	19.1%
Life expectancy at birth	52 years
Total fertility rate	6.24 children/woman [○] 5.5 children/woman
Percentage of people with access to clean water (1994-1995) ; (1988-1990)*	43% 53%*
Percentage of people living under the poverty border (1981-1995)	28.9%

Sources: ○ Fischer Weltalmanach 1997
 * The World - A Third World Guide 1995/96
 Other CIA homepage (Feb 98)

Nigeria has the largest population in Africa. The 250 or so ethnic groups can be divided into four main groups: the Hausa and Fulani in the north, the Yoruba in the southwest and the Ibo in the southeast.

C) Geography

Figure three: quantitative basic data on geography

Natural resources	petroleum, tin, columbite, iron, ore, coal, limestone, lead, zinc, natural gas ○
Arable land	31%
Permanent crops	3%
Meadows and pastures	23%
Forest and woodland	15%
Other	28%

Sources: ○ Fischer Weltalmanach 1997
 Other CIA homepage (Feb 98)

Sustain ability is not a key issue in Nigeria's industrial or agricultural development. Increasing erosion causes soil degradation and farming becomes very difficult. Furthermore, industrialization destroys traditional areas and ecosystems and the forests and woodlands of Nigeria are rapidly deforested. Additionally, recent droughts in the north have severely affected marginal agricultural activities. Therefore, the basic means of subsistence of Nigeria's population are increasingly threatened.

D) The right to an adequate standard of living

Despite the government's unilateral decision to increase salaries, real wages in 1995 had fallen to less than 20% of their 1986 value and the situation has worsened since then. The Nigerian workers of all sectors of the economy live below the poverty line. Inflation has gone up by over 500% on all consumer commodities. To date, Nigeria ignored ILO's Convention No. 26 1997, which the state has ratified, and which calls for a tripartite consultation in fixing wages, rather than the state unilaterally fixing the national wages. As a result of this, all technical aid from ILO to Nigeria has been stopped, pending the complete democratization of the country's Labour Movement.

Furthermore, the right to an adequate standard of living seems increasingly threatened by the introduction of economic adjustment measures like SAP (Structural Adjustment Policy) and by the pressure put by the IMF, the World Bank and the GO.

E) The right to trade unionism

All trade unions of note have been either dissolved or banned and their leaders have been in detention without trial. (ILO has, since 1995, asked the Federal Government to allow them a visit without success.) On July 8, 1997, the Kaduna State Government fired 22,000 of 34,000 striking workers. Although the parties involved had come to an agreement, the state would not accept the results. The fired workers have not been recalled, despite protests from

other Nigerians and NGOs.

Special legal provisions, regarding the establishment of Trade Unions, by certain categories of workers, do exist. Such agreements are the Trade Union Decree of 1986 and the Trade Union Act and Trade Unions Amendment (No. 2) Decree. Sadly, however, the results of their doings is that Nigeria has lost its seat on the ILO Technical Committee, as it has been listed by ILO as a violator of the organisations's conventions. For example, senior staff members, or workers, are not entitled to plead for their interests in a collective sense, since they are not allowed to be members, or to hold offices, in trade unions. Despite these and other observations by the ILO, the Federal Government subsequently enacted another Decree, known as Trade Unions (International Affiliation) Decree No. 29 1996, which imposes a fine of 1,250 US\$, or five years of imprisonment, or both, for any person found to be involved in affiliating to any international labour organisation without a written permission from the Labour Minister.

F) Education

The quality of education in Nigeria has continued to deteriorate, in spite of official claims to the contrary, and seems now to be seriously low. Poverty and absence of motivation have driven most teachers away from schools and into other vocations. High qualified teachers at the tertiary level, unable to sustain life on their wages, are going abroad to better salaries and placements. Reports talk about poor motivation of teachers, collapsing infrastructure and a generally bleak outlook. In the last period, serious decline was experienced in the enrolment of primary-school-age children across the country. Recently, part of the Ayedere Ajibola High School building in Ketu, Lagos collapsed, killing a student and injuring eight others. Most of Nigeria's universities are considered no better than secondary schools, as infrastructure, required to create conducive academic environment, is generally lacking.

Nigeria has a population with a reported illiteracy of 64% for women and 41% for men. Education has become the prerogative of the privileged few. Officially announced budgetary allocations to education do in most cases not correspond to the amount actually released. Primary education is also not free in Nigeria, which stands in striking contrast to Article 13 of ICESCR and Article 26 of the Universal Declaration of Human Rights.

G) Health

Despite of the fact that the Nigerian report to the UN Committee ensures the standard of health enjoyed by Nigerians, both physically and mentally, the health care is still far removed from the reach of the average citizen.

On October 30, 1996, the Pharmaceutical Society of Nigeria raised an alarm over the growing ineffectiveness of commonly used drugs, arising from improper self medication. However, the health sector is not, as one might suppose, as distressed and troubled in the rural areas as in the urban cities, where health care seems to have been taken for granted. Therefore, the number one priority for Nigeria should be to ensure the access of adequate health care. There are also reports on critical situations in forms of obsolete and deteriorating infrastructure, lack of electricity, materials and medicine as well as qualified medical practitioners going abroad.

II Documentation on the violation of the right to feed oneself

The destruction of the basic means of subsistence of the Nigerian population shows clear patterns of violations of the right to adequate food. The documentation below will concentrate on illustrations of the various types of violations of the right to adequate food regularly happening in Nigeria. In fact, Nigeria is far from meeting its obligations under the International Covenant on Economic, Social and Cultural rights. The state fails to address the issue of the right to adequate food, that is access to productive resources for all.

A) The Ajaokuta steel complex

In the course of the construction of the Ajaokuta steel complex in the Kogi State, Nigeria has failed to protect and to fulfill the right to feed themselves of the endogenous population. When the ambitious project started in 1976, the local population was forcibly evicted, and has since then not been properly resettled. Furthermore, all groups living in the area suffer from the side effects of the steel mill. This is a gross violation of the right to adequate food through a denied access to the productive resource land. The steel industry intended to launch Nigeria into the technological age. Two decades after, the steel mill is yet to take off. Worse still, the displaced people cannot find succour.

1) Forcible land acquisition

The Federal government of Nigeria decided to site a steel industry in Ajaokuta, which by that time was situated in Kwara State. The government compulsorily acquired about 18 square kilometres of land comprising 13 villages, namely Agumenu, Achimpa, Oguro Ajaokuta, Ejugu, Omitu, Emi-Agbati, Kudoji, Abbe, Eti-Egbe, Gereju and Ofumenu. The population of the villages was about 15,000 then, but has now grown to be over 25,000.

Upon the compulsory acquisition of the land, the villagers were forcibly evicted to a place close to the river Niger. The ousters were informed that their new place was temporary, until new settlements of at least 1,560 habitable and permanent structures were built, of about the same size as the one they were moved from. They were told that the Ajaokuta Steel Complex would be completed in a few years from 1976, and that the villages would benefit immensely from the complex site, in the form of employment and contracts, as well as progressing social infrastructure. They were also made to believe that all modern amenities would be provided in the new settlement.

2) Lack of compensation

However, more than twenty years later, nothing has been done to fulfill the promises mentioned above. This is against the run of national and international laws which require governments to provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with the wishes and needs of persons and communities that have been forcibly evicted, following mutually satisfying negotiations with affected persons or groups. Thus, the people are left with the fact that they have lost partially, or even totally, their means of subsistence. This lack of intervention on behalf of the former represents a massive violation of Nigeria's duty to protect and fulfill the right of its inhabitants to feed themselves.

3) Lack of access to clean water

The displaced people of Ajaokuta have no piped water. They drink water fetched from the River Niger. The water has colour, offensive odour and taste, and is therefore unsafe for human consumption if not preliminarily boiled. The river Niger is an open river that passes

through Ajaokuta, and it is still a miracle how these people have been able to survive under such conditions. Furthermore, it has been established that once the Ajaokuta steel complex is completed and commissioned, its operations will discharge harmful waste into the river Niger, the same river on which the Ajaokuta people depend for drinking water. There is no alternative water supply in Ajaokuta. The Ajaokuta people could face serious health problems by their continued use of the water fetched from the river Niger. **Article 11 of the ICESCR** also contains the right of the access to clean water, as it is impossible to survive and adequately feed oneself without it. The fact that the government does not do anything to provide the people with clean water, is a violation of this right.

4) Destruction of fishing grounds

Through pollution, fishing activities of the people in the River Niger have been adversely affected in the past. It is not far from ceasing completely. Moreover, the size of lands available to Ajaokuta people for farming has been greatly reduced as these victims of land rights violations are lumped within Ajaokuta and Geregu villages, areas which are closely to the steel complex. This living condition is affecting their productivity level as the villagers cannot effectively continue their fishing operations, which had prior to 1976 been the main source of their livelihood. On the contrary, it is very likely that an ever-increasing destruction of fishing grounds and a further demolition of natural land will be the case. This means for the people constantly increasing difficulties in the fulfillment of their right to feed themselves. (The governments not doing anything to improve the situation, is another violation of art. 11 ICESCR.)

5) Side effects

There are, apart from the shown violation of Article 11 ICESCR, side effects which contribute to a deterioration of the living conditions of the affected people. Although the Ajaokuta Steel Complex generates excess megawatts of electricity beyond its needs, there is no electricity in the areas occupied by the endogenous people. It was revealed that the authorities of the Ajaokuta steel complex and government officials said that since their abodes were temporary zinc roofed shanties, electricity supply could not be extended to them. They would be given electricity when they were permanently resettled in the structures being built by the government. Moreover, there is no hospital where the displaced people of Ajaokuta are temporarily settled. In fact, there is only one two-room health dispensary which has very scanty medical facilities. The nearest hospital is located at Okenne, about 18 kilometres from Ajaokuta and Okenne. When one realises that the absence of motor vehicles between Ajaokuta and Okenne forces most people to trek the 18 kilometres distance for receiving medical attention, the plight of the Ajaokuta people will be better appreciated.

6) Violations of national and international law

The Ajaokuta Steel Complex clearly violates both national and international legislation.

As far as **international law** is concerned, the **ICESCR** is infringed as has been proved previously.

As far as **national law** is concerned, it is regrettable that, though various legislation has made provisions for issues similar to the Ajaokuta case, very little has been done.

One might first quote the **Public Lands Acquisition Act No.33** of 1976 which provides compensation in the following way:

- **section 5 (1):**

"In cases where any estate or interest in any area which has been mainly developed for residential purposes is acquired compulsorily under any scheme for the development of the area

for the public purposes of the Federation or a State, the Government may at its discretion offer, and the owner of any estate may accept, instead of compensation payable in accordance with the provisions of this Decree, resettlement in any place or area other than the area by way of a reasonable alternative accommodation (if appropriate in the circumstances)."

- **section 5 (3):**

"Where an owner accepts resettlement pursuant to this section, his right to compensation shall be deemed to have been fully satisfied and no further compensation shall be payable to such owner."

- **Section 6:**

"Where an owner of an estate or interest in land compulsorily acquired is required to yield up possession of his estate or interest in land prior to the payment of compensation or provision of alternative accommodation, as the case may be, interest at the bank rate shall be payable on the value of the estate or interest acquired (as determined pursuant to this Decree) for the period between the entry on the land and the payment of compensation or the provision of alternative accommodation."

The land acquisition act clearly stipulates that compensation must be provided, either in the form of "land for land" or by acceptable financial indemnification.

Furthermore, the **Constitution of the Federal Republic of Nigeria (1979)** provides in chapter four compensation for compulsory acquisition of land. The chapter makes general provisions for the protection and enforcement of the fundamental human rights of Nigerians and residents in Nigeria Thus S.40(1) of the Constitution provides that:

"No movable property or interest in an immovable property shall be taken provision of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that among other things

(a) requires payment of compensation therefore and

(b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or a tribunal or body having jurisdiction in that part of the country."

To sum it up, when land was forcibly acquired for the construction of the Ajaokuta complex, it resulted in a clear violation of articles of the PLAA and the national Constitution. A claim of mandatory injunction compelling the Government to complete the Ajaokuta resettlement project is therefore appropriate. Also a claim for monetary compensation is appropriate, because of the long delay in the completion of the Ajaokuta Resettlement Project; a delay not in any way attributable to the conduct of Ajaokuta people.

Therefore, the forced evictions linked to the construction of the Ajaokuta steel complex constitutes a gross violation of the human right to adequate food both in international and national law.

B) Forcible eviction of city dwellers

The Nigerian state fails to respect the right to adequate food of city dwellers in Lagos, who had been traditionally trading in the area and paid yearly taxes. About 250,000 traders who used bridges and flyovers as places of business or shelter, were forcibly evicted by the Ministry of Works and Housing after they had received a 7 days deadline to quit. Most shopkeepers lost their means of subsistence and were left with high debts, since they had contracted credits to set up their shops. This represents a gross violation of the access to markets as a productive resource for the informal sector.

1) Forcible evictions

In May 1996, many people in Lagos city, were evicted by the ministry of Works and Housing. Major General Abdulkareem Adisa issued a sudden seven-day deadline to traders, numbering about 250,000 who were operating in these locations to quit. Attempts for a dialogue initiated by the nascent Association of Under Bridge Dwellers were rebuffed by the minister. Not even the numerous advertisements placed in some national newspapers, pleading for time so that the local council authorities could tolerate them, could change things. Brushing aside criticism, the General was reported to have retorted that he did not want unnecessary delays so that the press could make a human rights issue out of the exercise. On the contrary he unleashed the ministries bulldozers on the city of Lagos after this deadline without any qualms.

General Adisa embarked on the first round of demolitions to make them effective. With a combined team of soldiers and policemen, armed along with teargas and bulldozers, he set out to work. Ijora overhead bridge was his first port of call. So, as was probably anticipated, the under-bridge dwellers failed to beat the deadline. Warehouses erected under the bridge were razed to ground, food vendors, mechanics and other artisans were displaced and their property reduced to rubbles. The same day the settlers of the Apongbon bridge in central Lagos were the victims of the demolitions. An array of shops, structures and public utilities fell to the bulldozers. Interestingly most of the shops were far away from the bridges.

On Friday 17th, the Ojuelegba area of Lagos was to face the minister's wrath. As usual, no structures under the flyover or near it were spared. The following week, the popular Oshodi Market fell to the bulldozers as well. Apart from shops under the flyovers, several others, metres away from the bridge were also bulldozed by the assault team. Through these exercises most of the traders lost their goods, because they were not allowed to remove them before the demolition started. Other areas affected were Idumota, Obalende overhead bridge, Liverpool and the Wilmer end of the Apapa-Oshodi expressway. It is reported that through each visit of the bulldozers goods worth millions of dollars were destroyed.

Approximately three weeks after the first demolitions, General Adisa gave another ultimatum to owners of commercial and residential buildings situated 30 metres to federal highways to remove such structures or loose them to bulldozers. Mostly affected by this second round of demolition were the shops and houses on the Apapa-Oshodi expressway and CMS-Apongbon all in Lagos metropolis. Through these exercises most of the traders lost their goods, as they were not allowed to remove them before the demolition started. It is reported by members of the National Conscience Party (NCP) that, in some cases, the minister opted to give a long notice to the occupants to evacuate the area, whereas in others it was inadequate, short and poorly communicated. They added that a very large number of those displaced in popular markets like Idumota belong to a particular ethnic group, and that soldiers, who carried out the demolition, carted away goods worth millions of Naira for their personal use after beating up innocent traders.

Occupants of the destroyed areas had paid rents on an annual basis to the local and state governments concerned, which entitled them to at least a six-months notice to quit. The minister however sustained the tempo to rid bridges and flyovers of illegal structures. In the fulfillment of this plan he again gave the order to pull shops down, which were far away from the flyovers and whose owners never thought that they would be affected by this measures. Many of those people are in a lot of trouble now, since they had borrowed money to set their shops and became debtors. Apart from the structures under flyovers and near bridges other parts of Lagos were victims to the bulldozers in the meantime as well. The Lagos State Government made public its intention to pull down all slum settlements including the business facilities provided. Indiscriminate demolition of buildings for government land acquisition seems to be a standing policy for sometime now. In 1994 three hundred looked up shops belonging to Lapido market, Mushin, Lagos, were demolished; and in June 1995, Oyo State government swept away 2,000 market stalls at the Oke-Itunu Area

of Ibadan. One of the main arguments for this policy given by the people in charge is that thatched buildings, especially along the mayor streets of the city, were presenting the state capital in primitive light, constituting environmental nuisance.

2) Lack of compensation

To top it all the traders were evicted without any compensation. The minister alleged that the demolished structures were illegal and that those who decried the minister's action were sentimental rather than rational. As a recipe, the minister who claimed that the exercise was not a punitive action, advised those who had no place to live in Lagos to go back to their country homes and farm. In what appears to be a response to the call from various quarters on the need to resettle those affected by the spate of demolition, the Lagos State Government has set up an intergovernmental committee on relocation. The committee took inventory of those affected by the demolition exercises, their number and types of business. But the prospects of resettlement remain a thorny issue. Seven years after the Lagos State Government pulled down Maroko, the expansive slum in highbrow Victoria island, less than three per cent of its 300,000 inhabitants have been resettled, while their former land has now been allocated only to the rich and powerful.

3) Violation of the right to adequate food

Through these actions many people lost their sales places and shops, which had mostly been their families' only source of income. Because they weren't resettled the dwellers now have no place where they could earn their living. It has to be emphasized that these poor people need this type of informal business to be able to sustain their families. It is the state of Nigeria's duty to respect the right to feed themselves of city dwellers. Access to market places is ensuring poorer parts of the population a certain standard of living. Through the forcible evictions the demolition of the shops and the loss of their goods, the traders lose their means of subsistence. Furthermore, most of them took up credits to set up their businesses, making of them indentured unable to pay back their credits.

C) The Shiroro Dam Project

The Nigerian government fails to respect and to protect the right to feed themselves of communities affected by a dam construction: In 1977/78, a large dam project, called the Shiroro Dam, took off in the continuation of a wider national electrification development process. By the time it started, the project affected communities in two districts of the Niger State: the Galadiman Kogo district and, particularly, the Kuta district. With the creation of more districts, following the creation of the Shiroro Local Government some time around 1987, there are now about 5 districts with communities that are directly affected by the construction of the dam. These districts are at present: Galadiman-Kogo, Guni, Sarkin Pawa, Chiri and Kpmakpma. All of them face many different problems. The dam construction represents a violation of the communities' right to adequate food through the destruction of traditional means of subsistence and the destruction of livelihoods.

Officially, the Shiroro dam project should have allowed more welfare for an increasing part of the population, which would be benefitting from electricity. In reality, when the dam spillways were completed with a big reservoir behind the dam in 1984, communities in the Shiroro area became landless and homeless. Furthermore, the living conditions of communities in the bordering area of the dam have extremely deteriorated. The dam lake has furthermore not only resulted in evictions, loss of livelihood and dramatically changed the eco-system. Also the interpersonal communication system and the traditional trade activities between bordering communities were broken when the dam construction cut them off from each other. No bridges or crossing system was planned or implemented.

The Shiroro dam project was aimed at creating welfare through development but resulted in

manifold violations of the right to adequate food.

1) Loss of means of subsistence

Many communities downstream have lost their access to water because of the dam construction: Fisher communities have lost their means of subsistence when the streams were swallowed in the dam lake and the access to the dam lake is denied to them. Therefore, the once self-subsistent communities were forced into emigrating to cities where they generally end up as beggars and prostitutes. Drought is only one side effect of the dam: All settlements on the edge of the dam now face the contrary situation. They are turned into patches whenever it rains, because of the poor roads' elevation and drainage system. During the rain season, the area is mostly flooded, since the soil is saturated with water anyway. Up to now, no measure have been thought of as a remedy to the situation. In both cases, the dam construction has resulted in the destruction of the means of subsistence of the bordering communities.

2) Resettlement and compensation

The Shiroro project was completed without any sound impact assessment on the local population. Surrounding communities of the dam were flooded. At the time, a resettlement office (the NEPA resettlement office) was set up but resulted in violations of the right to adequate food for the affected communities: Instead of an sound resettlement plan, the communities were displaced to remote areas without access to infrastructure or even only clean water. The land allocation was arbitrary, was not equivalent to the former situation and in terms of financial compensation, families received the ridiculous lump sum of US\$ 20. The communities have lost their access to credits, to markets, to services and to supplies and were left without financial assets.

Two bodies were set up for handling the problems arising from the resettlement programme. These are the NEPA Resettlement Office and the Niger State Committee on Resettlement. These two bodies, charged primarily with the task of carrying out the resettlement exercise, seem to have operated with some serious limitations. The whole exercise was more or less reduced to the idea of simply paying monetary handouts, and allocating alternative sites for settlement by affected communities.

With this background, it is therefore not surprising that the NEPA office folded up its operations as early as 1986. (This by implication could be taken to mean that it had completed its assignment by that date.) This was in spite of the fact, that a backlog of issues emanating from the resettlement exercise remained to be resolved. The resettlement office was also a form of public relations outfit, doing public relations work among the communities for NEPA. Unfortunately, nothing was done in terms of serious studies of the possible impact of this project on those it would affect.

With a project as large as the building the Shiroro Dam, affecting the lives of people in several communities, one would expect that its impact on the environment would have been foremost in the projection of its planners. They should have covered the possible effect on vegetation and soil for instance, at least as life supporting entities. Surprisingly, there is no indication or any hint that such a thing had been carried out, or even contemplated. Hence, the setting up of this body was not anything in the direction of taking articulated measures in advance of, and against, problems emanating from resettlement which continues to threaten the daily existence, and even survival, of thousands of people. Nor are there indications from the manner in which environment related problems, associated with the dam and the resettlement were being handled, or that such an issue had been in projection before the construction started at all.

If one uses values and indices quite irrelevant to the understanding and assessment of a typical rural economy, as it has been the case with Shiroro districts, then the communities

appear simply backward. Thus a resettlement official felt it logical to observe, in response to complaints over the situation of road link to Galadiman-Kogo, that the communities had never had such facilities before the construction of the dam after all.

3) Drinking water

The problem with the drinking water is in some cases adequacy, and in others outright lack of it. The streams from which the bigger settlements used to get their drinking water have mostly been swallowed up in the dam lake. In the bigger settlements, there might be hand pumps provided, but often they are all out of order. Even the wells that do exist, tend to dry out as the rain stops. In addition to this, some of the systems hardly ever worked since they were installed. This leaves the communities with a severe shortage of water in the dry seasons. Even the communities close to the dam face problems with drinking water. They do have the access to water, but there is no assertion to the water being drinkable, due to the high rate of pollution upstream from Kaduna. (The water is considered unsuitable for bathes, let alone human consumption).

For several other relocated settlements, smaller in size and less known, the question of the access to water does not arise at all, not even in the calculation of the authorities, whose responsibility it is to carry out this resettlement exercise. All this has made the question of providing portable drinking water all too important for the affected communities. Water is one of the most important means of subsistence. It therefore causes a gross violation of the Right to Feed Oneself that the original water sources of the people have been destroyed, without providing them with alternative sources.

4) Flooding

Another environmental issue emanating from the dam, is that of flooding. As much as this problem affects communities of the Shiroro districts however, one should not discuss the question without mentioning its effects on communities downstream, even as far away as those along the banks of the Gbako River.

For these areas downstream, below the River Zungaru, the River Kaduna provides the channel into which several tributaries flow. The peak of the rainy season, in August and September, is for the communities along these plains the normal flooding period. But the spillage from the Shiroro dam has added another dimension to the problem. This becomes particularly serious when the water level in the river Niger, which also has two dams on it, rises considerably. Whenever a combination of these factors coincide, and the spillways in the Shiroro Dam are opened routinely, there is a backlash of water flooding thousands of hectares of land downstream. For years this was even worse on account of high record rainfalls. Due to this, large tracks of farmland have had to be left uncultivated, especially the rice producing Fadama Plains.

For the communities located along these plains, most of the rice yields are determined as much by rainfalls as by the dams. For the communities of the Shiroro Districts, located above the dam, the problem is not less serious. In fact, for the villages in its immediate neighbourhood, flooding has become an annual routine. Added to the fact that the soil seems permanently saturated with water, owing to the dam lake, Guni is said to remain marshy for much of the rainy season.

Agriculture is one of the only ways for the affected communities to feed themselves. If their land is flooded frequently, and for that reason turned more or less unusable, this causes a violation of their Right to Feed Themselves.

5) Violations of the communities' right to adequate food

The project constituted a severe form of disturbance and dislocation on the communities

affected by it, not just in the technical and physical sense of disturbance. Rather, it is in the context of the dislocation of the economy of whole societies, as it relates to food production and other productive activities and social life. One will expect that such an understanding would have provided a basis from which adequate operations in relation to dislocation and resettlement of affected communities would be carried out. Such an approach would dwell on a whole conception of development, which obviously has not been made. That the people are left alone with their problems causes a violation of Nigeria's duty to comply with its obligations to respect, protect and fulfill the people's Right to Feed Themselves. The Shiroro dam was aimed at creating welfare through development but resulted in manifold violations of the right to adequate food.

D) The Activities of Oil Companies and the case of the Ogoni people

Some decades ago, Nigeria was considered one of the most promising African countries due to the oil affluence in the Niger Delta. It was assumed that the wealth coming out of the oil exploitation would rocket Nigeria into an industrialised country. So far, the Nigerian government and the transnational corporations operating in Ogoni land, Rivers State are the only ones to profit from the exploitation meanwhile the local people's natural resources and traditional livelihood are destroyed. Since the exploitation started, the State has constantly failed to protect the Ogonis' right to adequate food.

1) Background/Ogoniland

Ogoniland is an area of some 1,000 square kilometers situated in Rivers State east of Port Harcourt. There are over 500,000 Ogonis, who are one of many village-dwelling ethnic groups living in the oil-producing southeast. Ogoniland was, already before the beginning of the oil exploitation, one of the most densely populated regions in Nigeria; while the average density in the country is 300/km³, the number in Ogoniland is 500/km³. Moreover, as the larger part of the Delta area consists of swamp and wetland, the actual habitable land is much lower. Consequently, Ogoniland requires the use of all arable soil in order to feed its population.

The Niger Delta is seen as one of the most fragile ecosystems in the world, with for example the third largest stand of Mangrove trees. It is also one of the richest areas in terms of crude oil and gas. Despite this, the Ogoni people are at the bottom of the social hierarchy. Although the average illiteracy rate in the whole country is 50%, 4 out of 5 Ogonis cannot read or write. 70 000 Ogonis have to share one medical doctor; they have neither tap water, nor telephone or electricity. Schools and hospitals - when at all existent - are badly equipped. Nutrient food has to be bought from other regions. Were the Ogonis in previous time not at all taken notice of, they are now seen as peace disturbers due to their fighting for their rights to accurate living standard.

The Ogonis were farmers and fishermen by tradition and Ogoniland produced food not only for its own people but for much of the Rivers State. Since oil was discovered, and explorations begun in 1958, it has come to dominate the Nigerian economy.

2) The oil exploitation

About 90% of Nigeria's export income comes from the oil business and about 80% of its taxes derives from it. 3 out of 4 Nigerian refineries and 2 petrochemical factories is situated in the Niger Delta, and of those are 2 refineries and 1 factory situated in the Ogoni area, as well as five oil fields, 96 drilling holes and five pump stations. A fine-meshed net of drilling towers and pipelines goes through the area of villages and agricultural areas, fields and gardens of the Ogoni. Almost all the pipes run over-earth. Fires, leaks and oil spills are frequent.

On January 14, 1982, Chanomi Creek Manifold in Ijaw Delta State, belonging to Shell Petroleum Development Company Limited, spilled about 400 barrels of crude oil into the river and the surrounding environment. Many rivers and communities were affected. Oil flowed into Ezu, Asayn, Kelakakamesimo, Oba and Opaskeme, which are rivers from where the communities fetch their drinking water. The water carried the crude oil into the fish ponds, fish channels, mangrove swamps, riversides as well as lakes and streams - and into their farming lands. This affected the entire ecosystem of many communities and destroyed their aquatic life. Domestic animals died after drinking the polluted water. Shell admitted liability to one of the communities and offered N300 (about 4 US\$) as compensation.

On December 24, 1982, the same manifold had another spillage. About 2000 barrels of crude oil pumped into the environment and caused great devastation to the ecosystem and environment. Investigation showed that the spillages were due to the age of the pipes (about 30 years) and the fact that they had not been changed or substantially repaired. Several communities went to court after exhausting all efforts at getting compensated by Shell. The court consolidated the suit and at the end of the day found Shell to be liable to pay compensation to the communities. The spillage occurred in 1982 but the case dragged on till 1997. Despite the judgement, the oil company refused to pay the community. Shell is backed by the government.

In June 1997 there was an oil spill at Kedere in Ogoni. The Movement for the Survival of Ogoni People (MOSOP) alleged that before the spill was controlled by the farmers in the area, over 500 barrels of oil had escaped into the surrounding farmland, destroying over 300 acres of densely cultivated farmland. While Shell initially denied liability, it now gave out a contract for the spill to be cleaned up. This was done by pouring sand on top of the oil, scooping oil with plates and digging crude cemetery.

In 1995, there was a crude spillage at Ozochi Terminal, owned by Agip, which resulted in a fatal accident in which at least seven people died. About six months later, another spill occurred. Agip, through DAEWOO, hired villagers to set fire on the crude spills. In the inferno resulting from the fire, fifteen people were burnt to death and seven others died later in hospital. The government has done nothing to protect the people against these violations or ensure a compensation.

3) Consequences of the oil exploitation

When oil leak, even from an underground tank, some of these substances emit into the air and the surrounding environment. These substances and gases are soluble in water, volatile and very toxic. Some leach into the ground water. Thus it makes it difficult to get clean drinking water in the communities where oil is mined. During the early stages of production, vegetation is cut, holes are drilled and dynamites are put into these holes. With the destruction of vegetation and the resultant loose soil, erosion sets in due to denudation. In mangrove swamps, the rate of regeneration of vegetation is very slow and may take up to twenty years. The mangrove trees are used for making salt. About 19% of the Mangrove trees have disappeared through the activities of the oil companies and with them the animals who were dependent on them.

The dynamite hole causes erosion and soil pollution, which among other things results in fishes dying. The exploratory drilling causes plants and fish migrations due to the new flood regime. Gas flaring leads to acid rain which kills soft, fresh vegetation and the depressing of PH of rainwater which affects plants as well as marine and aquatic life. The effects of one explosion in 1970 are still noticeable. As an action of sanitation, Shell burnt the oil whereby a five meter thick crust remains. Through the heat of the sun the oil stratum melts and evaporates. Thereby the concentration of carbon dioxide and carbon monoxide in air increases. As the people living in the area are dependent on rain water, the consequence are disastrous, which the dried-out river is a distinct proof of. Pipelines criss-cross the whole Ogoni territory, again reducing the already polluted agricultural area.

Respiratory diseases and malformations by infants are more frequent by the Ogonis than others. The life expectancy of the Ogonis is with 51 years about three years lower than the country average. The drinking water, as shown in a World Bank study, is frequently and in large amounts infected and causes about 80% of all illnesses in the Delta area, as well as seriously declining the fish stock. This makes fishing only possible in the sea, but to fish there demands the necessary boats and nets.

All these effects of the oil industry, or, rather, some of the companies, has a great impact on the people living in the exposed areas, especially the indigenous people, and severely affects their possibilities to feed themselves.

4) Military involvement

When the Ogoni, led by the Human Rights activist and writer Ken Saro-Viwa, started to resist against the oil exploitation by Shell, they became victims of massive violent evictions from their villages, of murders (some 1.000 were reported), of rapes, of arbitrary imprisonment, of torture and of death sentences.

On January 4th, 1996, armed personnel of the Rivers State Internal Security Task Force violently broke up peaceful rallies called to mark the Ogoni Day and the UN day of Indigenous and Unrepresented Persons. The Ogonis have status with the United Nations Unrepresented People's Organisation (UNPO). The event has been marked peacefully since 1991. This year's occasion was marked against the prohibition of any form of mourning for Ken Saro-Wiwa and the 8 other hanged Ogonis, as well as repression of any form of activism by MOSOP. Soldiers and other security operatives blocked the main roads, leading to the Ogoni village, and moved to the village centres, where they began shooting and beating. In the aftermath of their raid, several lay dead, wounded and brutalized and many others were arrested. Some of the people killed were not older than 12-14 years.

At midnight, 16th of August 1996, men of RSIS went to the communities Kegbara and Baranyonwadere in military trucks and raided, except for the two villages, one community market and other commercial houses bordering the villages. The men of the RSIS harassed, arbitrarily arrested and tortured innocent men, women and children.

Virtually all persons who have managed to enter Ogoni have complained about extortion by soldiers who seem to have been posted there permanently. Allegation of extortion and torture, by armed security men are also frequent. Moreover, the police in Nigeria carry out their duties of maintaining law and order with utter disregard for life, the rights of citizens and the law. The Ogonis are facing everyday fear. They are not free to express their views and MOSOP has been driven underground.

5) Compensation and the right to an adequate standard of living

The mining activities, as well as other activities related to the production and marketing of petroleum products, have left the majority of the population of Niger Delta in an absolute state of poverty without any means of livelihood or economic activity. The government does not protect their right to feed themselves as it rather has joined forces with their oppressors due to the politization of oil, oil production and revenue. Most of the communities are too poor to fight the companies through litigation because of the enormous costs involved. The oil companies hire lawyers who will go on appeal on any technical rule of procedure or practice in the purpose or delaying the case. Some cases have lasted 16 years and are still pending.

International standard requires that, before the cleaning of spills with adequate technology, there should be a Pre-Impact Assessment (PIA) test on the soil to determine the extent of damage. All crude oil contaminations should be removed and the ecosystem should be rehabilitated as close as possible to the state before the pollution. However, the oil

companies in Nigeria do not even clean up the spill, nor do they take any further steps in restoring the environment to its former state (except for Mobil, that recently got commendation).

Despite repeated promises from the Nigerian government and the oil companies, local people have enjoyed little or no benefit from the huge wealth draining out of their land. However, they have known a succession of environmentally disastrous spills from ruptured pipelines which have been driven through farms and villages and have come to live with the incessant noise of gas burning at ground level. The environmental destruction of Ogoniland has driven the Ogoni to import food to keep themselves alive. Acid rains fall on their land destroying the crops. Water courses are polluted. All these effects seriously threatens the Ogonis right to feed themselves.

The entire Ogoni question revolves around the struggle of a minority ethnic group to seek the protection and enjoyment, in particular, of Articles 2, 10, 13, 19, 20, 21 and 24 of the African Charter. In the process, several of their other rights guaranteed by the Charter and their ESC Rights have been violated.

5 The Right to Work under Just and Favourable Conditions

The state of Nigeria fails to protect its population against violations of the right to feed oneself by working under inhuman conditions. For instance, in Omo Woods Industries Limited, Ogbere in Ogun State, a wood processing company, workers are exposed to, and manage, heavy and dangerous machines without medical facilities to take care of those who sustain bodily injuries. It is the policy in Omo Wods Industries to discard its employees, who sustain injuries, without any form of compensation. It is also their policy not to report cases of death in the company. There is no provision for workers in the company to go on annual leave of enjoy any form of leisure as required by law. They are paid less than 1 US\$ for a 12-hour day. There is a high rate of staff change, but the company tries to hide this by not issuing new identity cards to new employees, but providing them with old ones. This makes identification, for example, more difficult.

These conditions are in violation of many legislation. They include the 1979 Constitution of the Federal Republic of Nigeria, the Workmen's Compensation Act CAP 470 Laws of the Federation of Nigeria 1990, the United Charters and the International Covenant on Economic, Social and Cultural Rights. It also contradicts the ILO Safety and Health Recommendation No. 164.

III Possible questions to the government of Nigeria

The report shows various types of violations of the right to adequate food in Nigeria. Therefore, FIAN would like to ask the government about possible measures in order to respect, to protect and to fulfill the right to adequate food of all parts of the population:

a) General standard of living, right to work

- 1) When does the government of Nigeria intend to raise salaries, so that workers won't remain underneath the poverty line?
- 2) How does the government of Nigeria intend to respect the ILO conventions regarding the right to trade unions as a means to control the protection of the workers' right to feed themselves?
- 3) What does the government of Nigeria intend to do to make sure that human working conditions are respected in the industrial sites?

b) Protection of the access to the resources land and water for communities affected by development projects

- 1) What measures are planned to protect the right to adequate food of communities affected by dam constructions?
- 2) How does the government of Nigeria want to fulfill the evicted communities right to adequate food?
- 3) When does the government plan to provide the ousters with equitable settlements?
- 4) What is planned as a means of fair compensation for those who have lost land in the course of construction projects?
- 5) What infrastructure measures are planned to provide all parts of the population with access to clean water?
- 6) What environmental measures are planned to protect the fishing grounds from being polluted and depleted?

c) Respect of traders access to market place as means to ensure their right to feed themselves

- 1) What is intended from the side of the government to respect the access to markets of traders from the informal sector?
- 2) What does the government intend to undertake in order to provide evicted city dwellers with compensation for the material losses?
- 3) Is compensation thought of allowing forcibly evicted city dwellers with financial compensation so that they would be able to pay back their credits?

d) Protection of the means of subsistence in oil exploitation areas

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- 1) How does the government of Nigeria want to protect arable land around oil exploitation?
 - 2) What kind of compensation is thought of when communities are affected by pollution through oil exploitation?
 - 3) How could the endogenous population participate in the exploitation in their area?
 - 4) What is intended to do to fulfill the endogenous population's right to a long-term access to the resource land?