

## *People versus Big Oil: Rights of Nigerian Indigenous People Recognized*

By Jim Lobe

At a time when the petropolitics of the Bush administration seem to reign supreme, the rights of peoples affected by the global hunt for oil have received an important boost. An African commission has ruled the Nigerian government should compensate the Ogoni people for abuses against their lands, environment, housing, and health caused by oil production and government security forces. Nigerian and international groups say that the ruling by the nine-member African Commission on Human and People's Rights (ACHPR) is a sweeping affirmation of what the human rights community calls ESC rights—defined by the UN's International Covenant on Economic, Social, and Cultural Rights.

The commission called on Nigeria to undertake a “comprehensive cleanup of lands and rivers damaged by oil operations.” It must also ensure that the social and environmental impact of future oil development on its territory does not harm local communities.

Human rights groups are hailing the commission's decision as a major breakthrough in the battle for international recognition of ESC rights, which have long been given lesser status—particularly by Western countries—than political and civil rights. “This is the first decision by the African Commission to specifically and comprehensively address violations of economic and social and cultural rights under the Africa Charter,” said Felix Morka, director of the Lagos-based Social and Economic Rights Actions Centre (SERAC), which launched the case against the military regime of Gen. Sani Abacha in 1996. Morka observed that the recent ruling was the strongest and most articulate statement on the validity and enforceability of economic and social rights emanating from any intergovernmental human rights body.

“It is a remarkable decision indeed,” said Bronwen Manby, a Nigeria specialist at the London office of Human Rights Watch (HRW). “The very fact that it's a decision by the African Commission—which is a body of the Organisation of African Unity (OAU) and appointed by governments—means that it will certainly form a part of the body of international jurisprudence on economic and social rights.”

The case was filed shortly after the execution in November 1995 of nine leaders of the Movement for the Survival of the Ogoni People (MOSOP), including the world-renowned playwright and author, Ken Saro-wiwa. MOSOP and Saro-wiwa had led a global campaign to publicize the plight of the Ogonis, a minority in the oil-rich Niger Delta region, whose lands and rivers had been polluted for years as a result of operations by Shell Petroleum Development Corporations, the area's largest foreign oil producer, and the Nigerian National Petroleum Company (NNPC). Protests by the Ogoni, especially in the early 1990s, were met with fierce military repression, including what one internal government memo called “wasting operations” against Ogoni villages and suspected MOSOP activists. Scores of people were killed and their property looted and burned.

After the 1995 executions, Shell became a target of an international consumer boycott, while a number of Western countries slapped diplomatic and other sanctions on the military regime, most of which lifted only after the return of civilian rule in 1999 when retired Gen. Obusegun Obasanjo won elections. Apart from one submission that confirmed the main allegations filed by SERAC, the Obasanjo government did not participate in the case, forcing

the Commission to conclude that Nigerian courts were not prepared to act on the plaintiffs' case. Although the judgement was communicated to the government early last month, Abuja has not yet reacted officially.

The decision, which runs 14 pages, asserts that the government violated seven articles of the 1981 African Charter on Human and Peoples' Rights, to which Nigeria is a signatory. They included the rights: "to enjoy the best attainable state of physical and mental health," "to a general satisfactory environment favorable to [the peoples'] development," and to "freely dispose of their wealth and natural resources."

According to the ruling, "By any measure of standards, its practice falls short of the minimum conduct expected of governments." In a direct reference to the role of the oil corporations, the commission observed: "The intervention of multinational corporations may be a potentially positive force for development if the State and the people concerned are ever mindful of the common good and the sacred rights of individuals and communities."

The decision is important for people throughout the world who suffer

from corporate practices, said Roger Normand, director of the New York-based Center for Economic, Social, and Cultural Rights (CESR), which co-sponsored the case with SERAC.

"I believe that this can serve as a precedent not only throughout Africa, but also for all similar efforts to hold governments accountable for gross human rights violations linked to abusive corporate practices," he added. Normand and others also agreed with Morka that the decision is the strongest affirmation to date by an inter-governmental body of ESC rights. Despite their inclusion in the 1948 Universal Declaration of Human Rights, this family of rights have tended to be given second-class status by the West, including Western-based human rights groups such as Human Rights Watch and Amnesty International.

Western nations agreed most recently at the 1993 World Conference on Human Rights in Vienna that all rights in the Universal Declaration are indivisible and interdependent, however, "for most of the past 50 years, these rights were totally neglected by governments and human rights NGOs," according to Larry Cox, senior program officer for international human rights at the

New York-based Ford Foundation. "But in the last five years, we've seen the beginning of real momentum on these rights, led first and foremost by groups in the Global South who are in many ways the most adversely affected by the lack of such rights," he noted. "That's the history of the human rights movement: people who make these rights real are the victims who are fighting for them."

Although the U.S. government has long agreed that all of the rights included in the Universal Declaration are indivisible and interdependent, Washington has tended to treat economic and social rights more as privileges than as core rights. Indeed, the State Department's annual human rights country reports do not explicitly cover economic and social rights. In that respect, said Normand, the African Commission's decision "is moving ahead of western standards in the protection of economic, social, and cultural rights—an important achievement for Africa, but an example for the rest of the world."

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