

4. CONFIRMATION OF THE JUDGEMENT OF THE OGO NI CIVIL DISTURBANCES (SPECIAL) TRIBUNAL, HELDEN AT FORT-HARCOURT ON KENULE BRESON SARO-WIWA, LEDUM MITEN, DR. HARENEN NULAKI KIOBEL, JOHN KPIUNEN, BARIKOR HERA, POGBARA AFA, SATURDAY DOBEE, MONDAY DOWIN, FELIX NWADE, NORIU ERWO, PAUL LEVORA, JOSEPH KPANTE, MICHAEL VIZOR, DANFEL GIKOO AND ALBERT KAGEBARA

The Council considered memorandum HQ(95)18 by the Head of State, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria.

During discussion, members generally expressed support for the memorandum. The Council's attention was drawn to the pockets of pressure mounted by the foreign media to whip up sympathy for the convicted persons irrespective of their heinous crime. It was cautioned that if members soft-pedalled the Administration would be regarded as a weakling and that it would only be logical to expunge the death penalty from the nation's statute books.

It was also argued that there was no basis for comparing the case under consideration with that of the coup plotters. Council was reminded that the Government's decision on the plotters had sent wrong signals to the generality of Nigerians and that the current case should be used to correct that wrong impression, particularly during the transition period.

A strand of opinion blamed the Ogoni incident on the cumulative effects of omissions and dereliction of responsibility on the part of Government in the past. It was stated that Government watched helplessly, the build-up of grievances in the Ogoni area. It was conceded however that the vented anger had bearing on apparent degradation and deprivation in the area. It was therefore not surprising that a few mischievous individuals could exploit the situation for their selfish ends. Council was therefore urged to approve the judgement of the Tribunal and ensure its expeditious implementation. It was recommended also that the Government should, among others, take immediate action to intensify division among the members of the MOSOP, provide employment for the key elements of Ogoni who were opposed to the violent leadership of MOSOP; neutralize the militant Youth Wing of the organisation and intensify propaganda to counter the damage done by Saro-Wiwa and his cohorts. It was recalled that the P.R.C. had approved some fund which, if properly utilized, would remove the cause of civil disobedience in the Ogoni area.

During further discussion, members called for the prosecution of MOSOP. They urged that the prayers in the memorandum be upheld to serve as deterrent to intending miscreants. Council was advised to expose the crimes of Saro-Wiwa and the MOSOP as oil production in the area had been halted due to the activities of the organisation. Mr. Wiwa was described as a separatist, who presented himself as an Environmentalist and Human Rights activist before the international community. Members frowned at the double standard of the international community

which saw nothing wrong in the murder of prominent Nigerian citizens. It was pointed out that if Soro-Wiwa and his fellow convicts had any grievances, they had access to either the State or the Federal Governments for redress. For taking the laws into their hands, therefore, members generally supported that they should face the full consequences of their action.

Members commended the Special Tribunal for its painstaking consideration of the facts of the case and the eventual judgement. Council was advised not to yield to the pressure from the West, championed by the United States of America. The Council was reminded that the Arab countries visited crimes with commensurable punishment for which the West saw nothing wrong because of their economic interests. It was therefore advocated that minimum time be wasted between the Council decision and its implementation. In the absence of any convincing plea for mitigation of sentence, Council was urged to uphold the prayers in the memorandum.

With regard to the call for proscription of MOSOP, a member reminded Council that the crime should be seen as individual actions as proscription would amount to infringing on the fundamental human rights to free association of the Ogoni people. The need for Government to control ONPADEC was stressed to ensure that funds released to the organisation were judiciously utilised to the benefit of the oil producing areas.

A suggestion was made that throughout the remaining transition period, offences like the one under consideration should be handled by a Civil Court instead of a Tribunal except in cases of serious breach of security. The Council was reminded that the ONPADEC projects were mainly those of long gestation. It was therefore suggested that the Organisation be asked to embark on projects which addressed issues of immediate benefit such as education, water supply and health care delivery. To facilitate the effectiveness of ONPADEC, it was suggested that its activities be decentralised.

Speaking in support of the memorandum, a member however suggested that execution of the judgement should be delayed especially as the Head of State would be attending the forthcoming Commonwealth Conference in Auckland. He also opined that in order to assist the reconciliation process, there was need for Government to come to the aid of the families of the crime victims, pointing out that the case had political undertones as well. Council was however not persuaded by that argument as other members advised that a bad precedent should not be set by compensating the victims. It was pointed out that the Federal Government had already made provision for the development of oil producing areas but it was left to ONPADEC to do something as a matter of urgency.

/Adding

SECRET

3rd Meeting

- 11 -

Adducing reasons why the memorandum should be approved, another member recounted that violence had become the second nature of Nigerians and should be visited with the severest sanction. He also advised that Government should commence the monitoring of events in the oil producing areas of the country with a view to addressing identified problems. The Government was commended for trying to inject sanity into the society. Consequently, stern measures were prescribed to avert wanton destruction of life and property.

The Police was equally commended for doing an excellent job. Council was reminded that the convicts had ample opportunity to defend themselves but they failed to exculpate themselves and therefore they did not deserve any sympathy.

On the use of Civil Courts in place of Military Tribunals, a member expressed the view that the Special Court was only Military in name but in content it was like any other Civil Court since it consisted of two High Court Judges and only one Military personnel. He therefore supported the contention that Military Tribunals should be avoided to obviate adverse comments from the International Community. Government was urged to embark on extensive publicity to explain its position as the summary of the judgement was eloquent testimony that justice had been done. Council was therefore urged to implement its decision on the memorandum without delay.

Summarising, the Head of State described the memorandum as straight forward which should not be confused with the other issues confronting the nation. He was of the view that no sympathy should be shown to the convicts so that the sentence would be a lesson for everybody. He stated that the Ogoni issue had lingered on for a very long time and should be addressed once and for all. The Head of State expressed regret that some of the victims had served the nation creditably before their untimely death.

Council's attention was drawn to the fact that Soro-Wiva was not acting alone but that he was being used by some members of the International Community to destabilize the country. Members were reminded that a sizeable amount of the nation's investment was sited in Ogoni land and yet it was not appreciated. He therefore stressed that anybody who killed his fellow citizen did not deserve to live.

The Head of State observed that there was difference between the case of the coup plotters and the current case which he described as pre-meditated murder. In the case of the plotters, he stated that they were yet to carry out the plot. He agreed with the views expressed by members that the verdict of the Special Court should be implemented without loss of time so that the nation could put the Ogoni problem behind it. He recounted that the likes of Soro-Wiva existed in the Universities where they fomented trouble and exhibited irresponsible leadership.

/On

3rd Meeting

SECRET

- 12 -

On whether the Military Tribunals should be replaced with Civil Courts, he expressed preference for Military Tribunals which he said considered and decided cases with despatch. On the call to proscribe the MOSOP, he directed the Attorney-General of the Federation and Minister of Justice to look into MOSOP and other similar Organisations in the country with a view to recommending their proscription or otherwise. The Attorney-General should also advise on the need to compensate the victims of crime by the State.

The Council:

- (1) Noted that the Lagos Civil Disturbances (Special) Tribunal, helden at Foot Harcourt had concluded the trial of Kenule Beeson Sara-Olwa, Ledun Mitoo, Dr. Barinon Nubari Kiboh, John Kpuinen, Baribor Sera, Pogbara Afa, Saturday Debee, Monday Dwin, Felix Nwate, Nordu Eawo, Paul Levura, Joseph Kpante, Michael Vizer, Daniel Gbekoo and Albert Kagbara.
- (2) Noted that the Tribunal discharged and acquitted Ledum Mitoo, Pogbara Afa, Monday Dwin, Joseph Kpante, Michael Vizer and Albert Kagbara for want of evidence.
- (3) Noted that the Tribunal sentenced Kenule Beeson Sara-Olwa, Dr. Barinon Nubari Kiboh, John Kpuinen, Baribor Sera, Saturday Debee, Felix Nwate, Nordu Eawo, Paul Levura and Daniel Gbekoo to death by hanging by the neck until they be dead.
- (4) Confirmed the judgement and recommendations of the Tribunal as contained in (2) - (3) above.
- (5) Directed the Attorney-General of the Federation and Minister of Justice to:
  - (a) look into MOSOP and other similar Organisations in the country with a view to recommending their proscription or otherwise.
  - (b) advise the Government on the laws of restitution.