

# Open Research Online

---

The Open University's repository of research publications and other research outputs

## Country Studies: Nigeria

### Book Section

How to cite:

Yusuf, Hakeem O. (2013). Country Studies: Nigeria. In: Stan, Lavinia and Nedelsky, Nadia eds. Encyclopedia of Transitional Justice, Volume 2. Cambridge: Cambridge University Press, pp. 333–339.

For guidance on citations see [FAQs](#).

© [not recorded]



<https://creativecommons.org/licenses/by-nc-nd/4.0/>

Version: Accepted Manuscript

---

Copyright and Moral Rights for the articles on this site are retained by the individual authors and/or other copyright owners. For more information on Open Research Online's [data policy](#) on reuse of materials please consult the policies page.

---

[oro.open.ac.uk](http://oro.open.ac.uk)

## **Nigeria**

On the heels of Nigeria's transition to democracy in 1999, the Human Rights Violations Investigations Commission (the Oputa Panel, so called after the name of its chairman) was established as the cardinal transitional justice mechanism in the post-authoritarian period. The Oputa Panel submitted its report in June 2003. However, the report remains officially unpublished and unimplemented though it has been posted on the internet by a group of civil-society organisations in the country. The Federal Government of Nigeria, FGN premises its position not to publish the report on a Supreme Court decision on a challenge of the 'coercive' powers of the Oputa Panel to summon witnesses brought by some ex-military rulers of the country. Nigeria also employed lustration and trials as transitional justice measures to secure the new democratic order.

In dumping the Oputa Panel's Report, with its wide-ranging and far-reaching recommendations for accountability and institutional reforms, the Nigerian state set the stage for real and potential conflicts and gross violations of human rights in the country both by public and private actors. The country has since 1999 witnessed several ethnic and inter-communal conflicts resulting in the loss of hundreds of lives and millions of dollars in property. This has led to the view in certain quarters that not only has the transition to democracy failed to deliver on justice and restoration of the rule of law, but also that impunity and state-sponsored violence have remained unchecked, if not increased, in the country.

### **The Repressive Past**

On 15 January 1966, Nigeria's military took over power from elected civilian leaders in a bloody coup. Another coup followed six months later. A crop of leading political office-holders, including the prime minister, were murdered in the putsches. The events that followed the latter coup led to a bloody thirty-month civil war from 1967 to 1970 in which hundreds of thousands lost their lives. Property worth millions of dollars was also destroyed in the war,

which left thousands maimed for life. From 1966-1999, the country was subjected to nearly thirty years of authoritarian rule (interjected by a short spell of democratic governance in from 1979-1984) under seven military regimes. The Military ruled by draconian decrees and edicts. Many of these limited the jurisdiction of the courts. With the military repeatedly imposing emergency rule, gross violations of human rights were prevalent.

Between 1966 and 1993, over two hundred military officers and civilians were brought before military tribunals on charges related to at least seven instances of actual or alleged coup plots, tried without regard to due process, convicted and sentenced to death. Though the military sometimes directed its guns at its own, it was the civilian population that severely bore the brunt of military repression. There was widespread deployment of lethal force by security agents and the police against civilians: for example, in the 1990s, protests against unpopular economic policies were met with the shooting and killing of hundreds of demonstrators.

Special Military Tribunals (SMTs) were established to try a number of civil offences, including armed robbery, drug trafficking, corruption in public office, and 'economic sabotage.' SMTs were almost invariably chaired by serving senior military officers, and composed mainly of members of the military and security agencies as well as a few civilians. They commonly imposed the death penalty and the convicted were in some instances summarily executed, in breach of their constitutional right of appeal. Others were sentenced to long terms of imprisonment.

Cases of public execution in defiance of due process included that of Ogoni Rights activist and renowned author Kenule Saro-Wiwa and some other members of the Movement for the Survival of the Ogoni People (MOSOP) referred to as the 'Ogoni nine'. The military rulers institutionalised abuse of office, corruption, a vicious cycle of lawlessness, violence and impunity in the Nigerian polity. The General Sani Abacha regime (November 1993-June 1998)

was especially noted for its ruthlessness to political opposition and the struggle for democracy in the country.

### **Transitional Justice**

So strong was the current of opposition to continued violations of human rights that the first steps towards transitional justice, the prosecution of a handful of notorious military and security operatives of the penultimate military regime, were commenced by Abacha's successor, General Abdusalam Abubakar. But this was a half-hearted attempt, no doubt conditioned by the reality of the precarious balance of power in the short life of that 'transitional regime' itself. Abubakar was mostly interested in handing over the reigns of power to an elected civilian regime. He was well aware of the local and international opposition to continued military rule following General Ibrahim Babangida's infamous 1993 annulment of the most credible electoral process to date. Moreover, the minions of General Abubakar's predecessors remained in the corridors of power and could attempt to seize the reins of government if the opportunity presented itself.

The first steps toward transitional justice were actually taken by the last military regime led by General Abubakar perhaps to advance the acceptability of his government particularly when the country had reached the lowest point of its pariah status internationally. As an important part of the transition process, the military government of General Abubakar implemented limited legal 'reforms'. General Abubakar repealed a number of military decrees (around fourteen of them) a few of which were political transition-related legislation. Most of the affected decrees were draconian legislation that limited the operation of the Constitution and or, curtailed various civil and political rights. They included decrees suspending or subordinating parts of the Constitution, prescribing military supremacy legislation (referred to earlier), establishing special military tribunals, 'civil disturbances' offences, state security and

detention of persons and establishing military courts and tribunals for civil offences. Others were decrees proscribing some media organisations and prescribing treasonable offences.<sup>1</sup> The Abubakar administration also promulgated a ‘new’ Constitution for the country.<sup>2</sup> This introduced some changes like the establishment of the National Judicial Council which was composed largely of the leadership of the judiciary at the federal and state levels (all of whom had been appointed during the military era) along with few senior lawyers, for the appointment and discipline of judges and the Council of State to advise the President whenever requested to do so on the maintenance of public order in the country.<sup>3</sup> However, the democratic legitimacy of that Constitution remains a major issue. It was essentially a product of a closed process undertaken by a few selected individuals appointed by General Abubakar. The panel worked without any serious attempt at public consultation. Indeed, the product was essentially a revamping of the 1979 Constitution with some amendments. The Constitution was approved by the Provisional Ruling Council headed by General Abubakar.<sup>4</sup> It was promulgated into law by a military decree in the circumstance that it was not made by a democratic process. It thus left unaddressed, many issues that agitated the minds of various groups and interests in the country. The non-participatory process instituted for constitution-making further fuelled distrust of the civil society groups in the political transition process.<sup>5</sup>

The legitimacy question remains a major issue with Nigerian constitutions past and present. As stated in the Report of the 2014 National Conference, from the colonial period till date, the country has only been saddled with ‘false constitutions’ by the colonial administrators (before independence) and the military (post-independence):

---

<sup>1</sup> See Constitution of the Federal Republic of Nigeria ( Certain Consequential Repeals ) Decree No. 63 of 1999, Laws of the Federation of Nigeria

<sup>2</sup> Decree 24 of 1999 containing the current 1999 Constitution of the Federal Republic of Nigeria.

<sup>3</sup> Section 15, 1999 Constitution of the Federal Republic of Nigeria.

<sup>4</sup> Human Rights Watch ‘Nigeria- Human Rights Developments’ (1990) available at <https://www.hrw.org/legacy/wr2k/Africa-07.htm> (accessed 03 May 2017).

<sup>5</sup> Interview with Richard Akinnola 2017.

a truly acceptable constitution has not emerged to mediate the social contract between the constituent nationalities of the country and the Nigerian state... successive constitutions have...been vitiated by the absence of that critical organic connection which they are supposed to have had with the spirit of the people in order to give meaning to their cry of 'We the People...'<sup>6</sup>

### **Lustration and Trials**

Between July 1998 and May 1999, there was a largely symbolic lustration of about two hundred 'political' military officers from active service. These were officers that had held political 'postings' (appointments) as governors or administrators of the various states, cabinet ministers and chairmen of important state agencies, public corporations and similar government institutions. Most of them had been corrupt and accumulated fabulous wealth well beyond their legitimate earnings. The experience had made holding political office, rather than military service for which they were engaged, very attractive and an incentive for coup-plotting.

In the almost three decades of military authoritarian rule, discipline and cohesion of the armed forces had become greatly weakened. Junior officers who had benefited from political postings became incorrigible in view of their enhanced financial positions in an increasingly materialistic society. It was rightly felt that in order to develop and sustain professionalism of the armed forces, it was necessary to rid the ranks of 'political officers'. Ridding the armed forces of this class was a very important measure to facilitate a sustainable democratic culture in the country.

Further, about fifteen notorious members of the Abacha regime that ruled from November 1994 – to June 1998, who were generally believed to be arrowheads of state

---

<sup>6</sup> *National Conference 2014: Final Draft of Conference Report* (14 August 2014) 51 available at: <http://www.premiumtimesng.com/national-conference/download-nigeria-2014-national-conference-report-ngconfab-2/>

sponsored killings and violence, were arraigned for various serious offences ranging from murder and kidnapping to arson. Some of those arrested and charged included a former chief of army staff, the chief security officer of the former head of state (Abacha), his chief police detail, his son Mohammed, his former chief security adviser, and a former military administrator of one of the states in the country.

While some of the trials became moribund due to the absence of political will to proceed, many others have (except in one instance) not been concluded due largely to the exploitation of a very weak criminal procedure process which remains unreformed since the colonial era. Thus more than ten years on, the trials have not been concluded. Rather, they have moved back and forth through all levels of the court system and remain in progress.

The Abubakar regime also commenced the prosecution of a handful of notorious military and security operatives of the penultimate military regime. About fifteen notorious members of the Abacha regime, alleged to have played prominent roles in state sponsored killings and violence, were arraigned for various serious offences ranging from murder and kidnapping, embezzlement of public funds, to arson. Some of those arrested and charged included Abacha's son, Mohammed, his National Security Adviser, a former chief of army staff, chief security officer of the former head of state, his chief police detail, his former chief security adviser, and a former military administrator of one of the States in the country. These individuals formed part of a group deemed to be particularly powerful and capable of threatening the new administration. While some of the trials became moribund due to the absence of political will to proceed, many others have (except three)<sup>7</sup> not been concluded.

The delay in the trial process of cases forming part of the transitional justice measures is due largely to the exploitation of a very weak criminal justice system which remains largely unreformed since the colonial era discussed earlier. Defence counsels - especially experienced senior lawyers - often exploit the state of the law to frustrate the speedy disposal of criminal proceedings in the name of fair hearing. A practice of raising all sorts of objections to the trial, and where that fails, alleging bias against the trial-judge has developed in the country. This practice was exploited in virtually unprecedented fashion in the line of cases involving former members of General Abacha's regime mentioned earlier. The practice also involved appealing virtually every interlocutory issue or objection all the way to the Supreme Court and insisting on a 'stay of proceedings' (suspending the trial) while awaiting the appeal decision. Once the issue on

---

<sup>7</sup> The Former Chief of Army Staff was charged with attempted murder of the publisher of a leading newspaper and was discharged and acquitted after eight years of trial on 2<sup>nd</sup> April 2008. The son of General Abacha was charged with conspiracy to commit murder of a wife of the winner of the 1993 Presidential elections in one of the country's aborted political transition programmes. He was ordered released by the Supreme Court on a 'no-case' submission in what was viewed as a politically influenced decision by the Obasanjo regime. The Chief Security Officer was convicted of murder but was acquitted on appeal. A final appeal to the Supreme Court is pending.

appeal is decided, new applications are made (sometimes by another defendant on the same issue) and a vicious circle of long-standing trials is maintained.

The situation was compounded by the approach of the judges whose view of the demands of the common law tradition of adjudication was that of a rather distant umpire whose role was to hear and determine all applications (even where such is an evident abuse of the judicial process). In practice, most trial judges hardly maintained a control of their courts and this facilitated abuse of process and inordinate delay by defence counsels in the name of legitimate defence of clients. In one instance, after frustrating continuation of his trial for more than seven years through such a process, the accused brought an application to challenge the delay he had orchestrated as an injustice.<sup>8</sup>

Meanwhile, the accused persons in their bid to secure reprieve at all costs, were alleging persecution and appealing to ethnic and religious sentiments in the media.

The transitional justice-related trials, more than any other criminal trials in the country's history, brought to the fore the need to reform the criminal justice system as pointed out earlier. The foregoing state of affairs in the judiciary calls further attention to the institutional heritage of the judiciary from its colonial founding. To the average citizen, the judiciary, to a large extent, constitutes one of the most prominent symbols of a colonial heritage. It is usually considered as being at some remove from the regular day-to-day activities of ordinary people. Even in the post-authoritarian period in Nigeria, the courts continue to suffer from a serious 'social legitimacy' deficit, enjoying recognition within a much circumscribed segment of society.<sup>9</sup> The public trust in the judiciary as an institution for securing rights and abating impunity is understandably low in the circumstances.

Whatever might have been the weaknesses of the criminal justice system, it is important to bear in mind that the initial move by the Abubakar regime to even prosecute the few individuals for violations of human rights was half-hearted at best. The move was conditioned by the reality of the precarious balance of power in the short life of that 'transitional regime' itself. From a pragmatic point of view, the fact was also not lost on him that the minions of his predecessor remained in the corridors of power and they could attempt to topple his regime through a coup if the opportunity presented itself.

Another feature of the Abubakar regime was the symbolic lustration of about two hundred politically exposed military officers from active service. These officers had held political appointments as governors or administrators of the various States, cabinet ministers and chairmen of key state agencies, public corporations and similar government institutions. Many of them had been corrupt and accumulated fabulous wealth well beyond their legitimate earnings. The experience had made holding political office, rather than military service for which they were engaged, very attractive and one of the major incentives for coup-plotting.

The lustration of those considered as politically exposed military officers was also carried out by Chief Obasanjo soon after he came to power in 1999. He purged 93 top military officers from the armed forces.<sup>10</sup> Those affected were generally in the same category as those earlier disengaged by General Abubakar. It was felt that such military

---

<sup>8</sup> The author was part of the prosecution team in these cases from 2000-2006.

<sup>9</sup> H Kwasi Prempeh 'Marbury in Africa: Judicial Review and the Challenge of Constitutionalism in Contemporary Africa' (2006) 80 *Tulane Law Review* 1239, 1301.

<sup>10</sup> Olugbenga Adanikin and Ibrahim Azeez 'Why I Sacked 93 Top Military Officers in 1999 - Obasanjo' *The Nation* (Lagos 16 July 2017) <http://thenationonlineng.net/obasanjo-purged-army-1999/> (accessed 16 July 2017).



officers were a threat to the country's 'budding democracy'.<sup>11</sup> According to Chief Obasanjo, the disengagement of such military officers was a critical step for securing professionalism of the country's military and correcting the aberration of their holding political office in the first place.<sup>12</sup> Thus, the lustration process was directed at protecting the new civil regime rather than at ensuring institutional reform and riding the military of violators of human rights.

The circumstances of the judiciary, trials and limited application of lustration highlighted above, raise wider issues of institutional legacies from the colonial experience. There are issues that could be considered in this regard across the spectrum of government institutions like the civil service, the security agencies; the military and intelligence services, the police and so on at the point of independence. There was generally no recourse to what would today be regarded as transitional justice measures or processes. There were no trials for human rights violations just as there was no record of the use of lustration at the time.

There are a number of possible explanations for the absence of transitional justice measures at independence. First, despite the Nuremberg precedent, transitional justice had not yet assumed the prominence it now has. Second, there is the reality that the international system has constituted the major catalyst in the adoption and implementation of transitional justice processes across the world. The international system was very much under the control and direction of countries that were also colonial powers at the time. There was understandably no appetite among the relevant players to subject their governments and institutions to accountability for the colonial enterprise. Another explanation could be that the absence of an armed struggle for independence in Nigeria made the imperative of transitional justice measures less pressing, even if arguably relevant. There was no experience of gross and widespread violations of human rights of individuals and groups involved in the independence movement. The campaign for independence was conducted essentially peacefully through the local press, political parties and trade unions. There was no mass liberation movement or struggle that involved widespread violence in Nigeria, unlike the experience in a country like Kenya with its Kenya Land and Freedom Army (KLFA).<sup>13</sup> Moreover, as stated earlier, Nigeria remained a part of the British realm with Queen Elizabeth II as Head of State for another three years after independence. In the circumstance, most institutions of government, including the police and the armed forces, the judiciary and the civil service were either still headed by British officials or had British officials in very senior positions until at least 1963 when Nigeria became a republic. In addition, the British had also made clear that they intended to continue to do business with Nigeria, ostensibly to the mutual benefit of both countries. Indeed, as one commentator has observed, the British (and the French) had ensured independence for its territories like Nigeria was organised to put in place 'constitutional transfers of power to ideologically friendly, moderate political parties which would broadly align themselves with the interests of the former colonial power.'<sup>14</sup> This approach meant that those who took over from the departing colonial power were allowed into such succession only

---

<sup>11</sup> Idris Ibrahim 'I Have No Regret Retiring Politically Exposed Military Officers – Obasanjo' *Premium Times* (05 July 2017 Abuja) <http://www.premiumtimesng.com/news/top-news/235897-i-no-regret-retiring-politically-exposed-military-officers-obasanjo.html> (accessed 05 July 2017).

<sup>12</sup> Ibrahim 2017.

<sup>13</sup> This came to be known as the 'Mau Mau' Movement.

<sup>14</sup> Richard Reid 'Horror, Hubris and Humanity: The International Engagement with Africa, 1914–2014' (2014) 90 (1) *International Affairs* 143, 153-154.

after it was fairly certain they would not be interested in instituting justice for past abuses.

In any event, even left to their devices, the elite, as stated above were, and remain keen to take over the privileges enjoyed by the departing British colonialists. That objective severely relegated the significance of conducting an inquiry into securing justice for the victims of gross violations of human rights resulting from colonial rule or reforming state institutions for post-colonial governance. Put another way, the interests of the political elite made the prospect of transitional justice plainly unattractive, and even if it was attractive, the mechanisms by which it would be implemented were severely compromised by the structures established under colonisation.

The post-colonial precedent established a culture of condoning impunity of those who have held power. Arguably, that legacy, at least to a reasonable extent, created an atmosphere in which there is little appetite for a sustained engagement with transitional justice even after the period of military rule. Rather, as Nurudeen Ogbara noted

When the politicians also took over, they also became politicians in uniform and therefore

continued with the military tendencies of doing things against the rule of law and due

process...The civilians elected also began to do things like the military. They became

antagonistic to the rule of law, constitutionalism and democracy.<sup>15</sup>

Nevertheless, as stated earlier, the truth-telling process is the most important transitional justice mechanism adopted in the post-authoritarian/military era in Nigeria, and it will be considered below.

### **The Truth-Telling Process**

The truth-telling process remains the notable transitional justice mechanism adopted in the post-authoritarian/military era in Nigeria. The Obasanjo administration garnered positive public acclaim when it set up the Oputa Panel (see separate entry), and its work was well received. At the submission of its work, President Obasanjo commended the Oputa Panel, noting that the public hearings had the strong potential to serve as a deterrent to human rights violations.

Notwithstanding its popularity, at least a section of the Nigerian public seemed to have viewed the Oputa Panel as more of a juridical forum than an unencumbered avenue for investigating the past. This is reflected in the fact that at the public hearings, many petitioners, respondents and witnesses were represented by some of the leading legal practitioners in the

---

<sup>15</sup> Interview with Nurudeen Ogbara 2017.

country. Even those who took serious exception to participating in the public hearings (sections of the elite who felt threatened by the truth) ensured appearance by legal proxy. The composition of the Oputa Panel largely by lawyers may have contributed to this juridicalisation of the truth-telling process in Nigeria.

The very nature of a truth commission, with its focus on establishing the truth about the past as a measure of accountability, commonly attracts challenges of various types to its operations. However, in the case of the truth-telling process in Nigeria, there were some avoidable problems thrown in its way from its inception. As stated earlier, the seven-member panel was headed by Chukwudifu Oputa, a retired and respected Justice of the Supreme Court of Nigeria. That from the onset gave the panel much credibility amongst a highly sceptical populace as to the true intentions of the new government. However, the composition of the panel was strongly challenged for been unrepresentative of the country's diversity. Some segments of the country, specifically the Muslims (North and South) felt alienated by the constitution of the membership. For example, Rev. Matthew Kukah, a Catholic priest and a minority Christian from the North is viewed as a vociferous anti-Muslim socio-political commentator and opinion leader. Oputa himself is a Catholic from the South East and four of the other five members were Christians. The secretary, though not regarded as a member, was also a Christian. Only one member was confirmed to be a Muslim. In a country where more than half the population is Muslim, and religion a sensitive and divisive issue, that was problematic.

Voicing the feelings of the northern Muslim elite, Mohammed Haruna, a seasoned journalist, media and public affairs commentator, faulted the lopsided composition of the Oputa Panel, and dismissed it as a witch-hunt. Moreover, considering the size of the country, the scope of the mandate and the heterogeneous nature of its population, a seven-member panel was rather inadequate. It was not sufficient to effectively cover the diversity in the

country. It is important to recall in this regard that the Oputa Panel, following pre-commencement deliberations with civil society groups, specifically requested an increase in the number of its commissioners, but this was not implemented. The Nigerian government did not pay any serious heed to the concerns expressed about the composition of the Oputa Panel. The reasons for the government's attitude remain unclear, but it may not be unconnected with the authoritarian hangover of the President which was to permeate all facets of his eight year tenure.

Further, the Oputa Panel was established without adequate preparations or public consultations. This is, with the benefit of hindsight, ill-informed at least, if not outright suspect. By comparative standards the Nigerian truth commission was a modest undertaking, yet the Oputa Panel remained inactive for the better part of a year after it was inaugurated, as it was incapacitated by the paucity of funds. The government had reportedly made no budgetary provisions for it despite its being a campaign issue. Some viewed this as a deliberate attempt to utilise the Oputa Panel to the political advantage of the regime that established it. Indeed, the Oputa Panel was only able to commence operations after a take-off grant of US\$ 400,000 was made to it by the Ford Foundation.

Equally worthy of mention are the shaky legal foundations on which the Oputa Panel was established. The Tribunals of Inquiry Act was a colonial legacy. Principally designed for specialised inquiries, it fell well short of the more extensive remit of a truth commission in a post-military transitional society like Nigeria at the end of the 20<sup>th</sup> century. The work of the Oputa Panel was affected by the fact that it was not established pursuant to a tailor-made law by the post-authoritarian parliament. The lesson to be learnt is not to proceed with the delicate process of truth-seeking without specific 'made-to-fit' legislation. Such legislation is required to clearly spell out the powers and limits of the process.

Another challenge the truth-telling process faced was the rather feeble international support for its work. While it attracted some international attention in its initial stages, this did not translate into positive advantage for the Panel's work nor was it sustained during its most crucial stages. For example, the non-implementation of the final report and recommendations, including reparations for victims, has hardly attracted international censure. Although now a matter for conjecture, it is quite plausible that international attention, monitoring and support for the truth-seeking process in Nigeria may well have positively affected the outcomes of the truth-telling process. For example, international focus on the work of the Oputa Panel could have turned the management of the truth-telling process into a litmus test for the government that established it. As it turns out however, the transition moment is now irretrievably lost.

The failure of implementation of the laudable report ostensibly in compliance with a Supreme Court judgement continues to haunt the Nigerian polity in its bid to chart a path for peace, justice and democracy. There is, moreover, no unanimity on the effect of the Supreme Court judgement on enforceability of the recommendations. While some agree that the decision may have rendered nugatory aspects of the recommendations that related to the plaintiffs, they contend that the Supreme Court judgement was no excuse for the refusal to implement the Oputa Panel's recommendations. Some insist the Supreme Court in fact endorsed the Panel and that its creation was in any case valid under international conventions to which the country is party. Thus, they argue, the government ought to implement the recommendations. The latter view would appear to be strengthened by the failure of the government to offer an explanation on the specific aspects of the judgement which prohibited it from publishing and implementing the recommendations. The failure of the regime that initiated it as well as the continued silence of the successor government on the matter has been telling.

The government's refusal to publish and implement the report and recommendations of the Oputa Panel remains widely condemned. In all events, the fallout of the decision continues to plague/cast a shadow on the socio-political and economic life of the country. The non-release of the report has been viewed as one of the cardinal reasons for the continued agitation by some segments of the population on a number of issues. A notable consequence of the non-implementation of the Oputa Panel's recommendations on redressing decades of injustice and deprivation in the country is the persisting and ubiquitous (albeit low-level) conflict, violence and criminality in the oil and gas rich Niger-Delta area of the country. This has had far-reaching impact on peace, security and development in Nigeria's post-military authoritarian period.

The failure to conscientiously implement transitional justice has also been cited as one of the country's attempts at political reform that was abandoned midstream. Many groups and individuals have made repeated requests for the release and or implementation of the Oputa Report. The calls for positive government action have, however, been consistently ignored. In the aftermath of the non-implementation of the Oputa Panel Report, there has been an upsurge in violent property crimes and inter-communal and ethnic conflicts in the country. Hopes for a new dawn in the wake of the transition have gone largely unfulfilled.

### **Conclusion**

There has been a failure of transitional justice implementation in the post-authoritarian/military era in Nigeria. Even the symbolic trials commenced in the wake of the political transition have been largely moribund due to political and technical reasons. The lustration measures have at best produced a crop of very powerful ex-military officers who have emerged as key political players in the transition to civil governance with largely ill-gotten wealth secured from years of authoritarian rule. The lustration process was only directed at disengaging this crop of officers from active military service and nothing else.

Since they were not barred from seeking elective office, they have emerged as a strong force on the political front. Benefitting from their deep-pockets, they are now in key elective positions or sponsored candidates for elections to protect their interests.

Worse still, the major mechanism for obtaining accountability and justice for victims of impunity—the truth-telling process—has been frustrated by a combination of dynamics, most prominent of which is the deficiency of sincerity on the part of the initiating regime. As a process, the truth-telling mechanism did a commendable job of seeking to establish the *truth* about the course of executive and legislative governance in the pre-transition period. It assisted the bid to legitimise the post-authoritarian civilian administration, but the value of its well received work remains questionable.

With civil governance seriously challenged, if not jeopardised, by the growing incidence of militia-violence and sabotage of oil and gas facilities in the country. Rivers, one of the states in the country's oil-producing areas hardest hit by the violence, set up its own truth-commission in 2008. The report of this latter commission (recently submitted) has predictably generated interest. It remains to be seen if the state government will implement it. A myriad of conflicts that have since ensued to challenge institutional reform, good government and development in the country have provided ample evidence of the danger inherent in neglecting to address the impunity that was the defining feature and legacy of the authoritarian period.

Hakeem O. Yusuf, Queen's University Belfast

Cross-references: Human Rights Violations Investigations Commission, Oputa Panel; Truth commission.

Further readings:

Aka, Philip C. 2003. Nigeria since May 1999: Understanding the Paradox of Civil Rule and Human Rights Violations under President Obasanjo. *San Diego International Law Journal*. 4: 209-276.

Falana, Femi. 2004. When Will Leaders Pay for their Iniquities? *This Day* (20 December).

Osaghae, Egosa E. 1998. *Crippled Giant: Nigeria since Independence*. London: Hurst and Co.

Yusuf, Hakeem O. 2008. Oil on Troubled Waters-Multinational Corporations and Realising Human Rights in the Developing World: A Nigerian Case Study. *African Human Rights Law Journal*. 8: 79-108.

Yusuf, Hakeem O. 2007. Travails of Truth: Achieving Justice for Victims of Impunity in Nigeria. *International Journal of Transitional Justice*. 1 (2): 268-284.

Yusuf, Hakeem O. 2007. The Judiciary and Constitutionalism in Transitions: A Critique. *Global Jurist*. 7 (3): 1-49.

*Oputa Panel Report* (May 2004). available at: <http://www.dawodu.com/oputa1.htm> (accessed on 17 September 2009).