

JUDGE WOOD

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

96 CIV. 8386

KEN WIWA, individually
and as Administrator of the
Estate of his deceased father
KEN SARO-WIWA

and

OWENS WIWA

and

BLESSING KPUINEN,
individually and as
Administratrix of the
Estate of her husband,
JOHN KPUINEN,

Plaintiffs,

v.

ROYAL DUTCH PETROLEUM COMPANY

and

SHELL TRANSPORT AND TRADING
COMPANY, p.l.c.

Defendants

Civil Action No.

COMPLAINT FOR SUMMARY
EXECUTION; CRIMES AGAINST
HUMANITY; TORTURE; CRUEL,
INHUMAN OR DEGRADING
TREATMENT; ARBITRARY ARREST;
AND DETENTION; WRONGFUL DEATH;
ASSAULT AND BATTERY;
INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS; NEGLIGENT
INFLICTION OF EMOTIONAL
DISTRESS; NEGLIGENCE

DEMAND FOR JURY TRIAL

Introduction

1. On November 10, 1995, internationally renowned author and human rights and environmental activist Ken Saro-Wiwa and youth leader John Kpuinen were hanged in Port Harcourt, Nigeria. Ken Saro-Wiwa was the leader of the Movement for the Survival of Ogoni People (MOSOP) and John Kpuinen was the Deputy

President of MOSOP's youth wing, the National Youth Movement of Ogoni People (NYCOP). Saro-Wiwa and Kpuinen were among a group of activists accused of murders which they did not commit and tried before a special tribunal which violated international standards of due process.

2. The executions of Ken Saro-Wiwa and John Kpuinen by the Nigerian military junta were carried out with the knowledge, consent, and/or support of defendants Royal Dutch Petroleum Company and Shell Transport and Trading Company, p.l.c., ("Royal Dutch/Shell") and its agents and officers as part of a pattern of collaboration and/or conspiracy between Royal Dutch/Shell and the military junta of Nigeria to violently and ruthlessly suppress any opposition to Royal Dutch/Shell's conduct in its exploitation of oil and natural gas resources in Ogoni and in the Niger Delta.

3. Defendants Royal Dutch/Shell, together with the military regime governing Nigeria, and acting through the Shell Petroleum Development Company (SPDC), have in the past and, continuing through the present, used force and intimidation to silence any opposition to their activities in Nigeria which include the exploitation of the petroleum resources of the Delta and spoilation of the environment there. Defendants' conduct violates state and federal law, and international law, including the prohibitions against torture, summary execution, and crimes against humanity.

JURISDICTION and VENUE

4. This Court has jurisdiction over plaintiffs' claims under 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1350 (Alien Tort Claims Act and Torture Victim Protection Act), and 28 U.S.C. § 1367 (supplemental jurisdiction).

5. The Alien Tort Claims Act provides federal jurisdiction for "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." The Torture Victim Protection Act provides federal jurisdiction for acts of torture and extrajudicial execution.

6. In addition, plaintiffs invoke the supplemental jurisdiction of this Court over claims based upon laws of the State of New York.

PARTIES

7. Plaintiff Ken Wiwa brings this action individually and as administrator of the estate of his father, Ken Saro-Wiwa, now deceased, who was a subject, citizen, and resident of Nigeria. Ken Wiwa presently resides in England and is a citizen of Great Britain.

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

9. Plaintiff Blessing Kpuinen brings this action individually and as administratrix of the estate of her husband, John Kpuinen, now deceased, who was a subject, citizen, and resident of Nigeria. Plaintiff Kpuinen presently resides in the

United States and is a citizen of Nigeria.

10. Defendant Royal Dutch Petroleum Company is a corporation organized under the laws of the Netherlands. Its corporate headquarters are in The Hague, The Netherlands.

11. Defendant Shell Transport and Trading Company, p.l.c., is a corporation organized under the laws of England. Its corporate headquarters are in London, England.

12. Defendants Royal Dutch Petroleum and Shell Transport and Trading Company, p.l.c., are holding companies which, together, operate and control the Royal Dutch/Shell Group ("Royal Dutch/Shell").

13. Royal Dutch/Shell, through their wholly owned subsidiaries, are major investors in Nigeria and explore for, produce and sell energy products derived from Nigerian oil and natural gas.

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

15. Royal Dutch/Shell maintain offices in New York City, staffed with its employees.

16. Shell USA was formed by Royal Dutch/Shell for corporate finance purposes to conduct its business in the U.S. and, as such, Shell USA is the agent of Royal Dutch/Shell.

17. Upon information and belief, Royal Dutch/Shell controls the activities of Shell USA, including the offices maintained in New York.

18. Royal Dutch/Shell wholly owns The Shell Petroleum Company, Ltd., a holding company which in turn wholly owns Shell Petroleum Development Company of Nigeria, Ltd. (SPDC), a corporation doing business in Nigeria.

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

20. Plaintiffs are informed and believe, and on that basis allege, that at all times herein material, defendants Royal Dutch/Shell dominated and controlled SPDC and each was the alter ego of the other.

21. Plaintiffs are informed and believe, and on that basis allege, that at all times herein material, each defendant conspired with his/her co-defendants and/or the military regime by entering into an agreement to commit wrongful and tortious acts contained herein and each defendant participated in or

committed a wrongful act in furtherance of said conspiracy which resulted in injury to the plaintiffs.

22. Whenever and wherever reference is made in this complaint to any conduct by defendant or defendants, such allegations and references shall also be deemed to mean the conduct of each of the defendants, acting individually, jointly and severally.

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

STATEMENT OF FACTS

General Facts

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

25. Royal Dutch/Shell began oil exploration in Ogoni in 1956.

26. Royal Dutch/Shell appropriated land used for oil exploitation through misrepresentation and coercion and without adequate compensation to the owners.

27. On information and belief, approximately 76 percent of the natural gas produced during the exploration and exploitation of the crude oil in Ogoni has been permitted to flare, thereby causing persistent air and noise pollution and reduced agricultural yields in the surrounding area.

28. The oil-related pollution caused by Royal Dutch/Shell's activities have contaminated the local water supply and agricultural land and killed fish; the local economies are based largely on subsistence farming and fishing.

29. Nigeria produces approximately 1.7 to 1.8 million barrels per day of oil. Approximately 90% of this yield is produced in the area of the Niger Delta.

30. Approximately 50% of Nigeria's oil production is imported into the United States.

31. Royal Dutch/Shell conducted its operation in Ogoni and the Niger Delta negligently and with reckless disregard for its effect on the population, wildlife and land of Ogoni. For example:

- a. The manner of Royal Dutch/Shell's operation led repeatedly to oil spillage and gas flares.

- b. In late June of 1993, Royal Dutch/Shell permitted oil from its Bomu-Tai pipeline to spill into the neighboring villages and countryside for 40 days.

- c. Royal Dutch/Shell dug and used unlined waste pits in the middle of Ogoni villages.

32. At all times relevant hereto, the Nigerian military regime was acting in conspiracy with, at the request of and/or on behalf of defendants Royal Dutch/Shell. In the alternative, the regime was acting at all times relevant hereto as an agent for defendants Royal Dutch/Shell.

33. On information and belief, Royal Dutch/Shell pays the military and police allowances for personnel assigned to Royal Dutch/Shell installations in Nigeria.

34. Royal Dutch/Shell purchases weapons for the Nigerian police and military.

35. Royal Dutch/Shell provides the Nigerian police and military with transportation vehicles.

36. Royal Dutch/Shell hires members of the Nigerian police for internal security.

37. On information and belief, Royal Dutch/Shell officials meet regularly with the heads of the local security forces to direct and determine their operation in Ogoni and the Niger Delta.

38. In late October, 1990, villagers in Umuechem, a neighboring community to Ogoni, held a demonstration against Royal Dutch/Shell's operation.

39. To suppress the peaceful protests against its activities in Ogoni and the Niger Delta -- such as those in Umuechem -- Royal Dutch/Shell specifically requested the assistance of the Mobile Police Force, although this force was widely reputed to regularly engage in grave human rights violations.

40. The following day, on October 31, 1990, the Mobile Police massacred 80 villagers in Umuechem and carried out a "scorched earth" assault, destroying or damaging 495 homes.

41. Following the attack at Umuechem, Royal

Dutch/Shell's general manager in Nigeria requested the continued police involvement for their ongoing operation.

42. By 1993, 300,000 Ogonis, more than half the population of Ogoni, were organized under the Movement for Survival of Ogoni People (MOSOP), a human rights organization aimed at protecting the rights of the Ogoni people, including protesting the effect of the oil exploitation on the Ogoni.

43. In April 1993, Willbros, a U.S. pipeline contractor for defendants Royal Dutch/Shell, began bulldozing crops on the farmland of the Ogoni village of Biara in preparation for a pipeline.

44. On April 30, 1993, Willbros, on information and belief, acting at the direction and/or on behalf of defendants Royal Dutch/Shell, called in government troops who fired on villagers peacefully protesting the destruction of their farms. Following the incident, the general manager of Royal Dutch/Shell's eastern division wrote to a Nigerian official, asking for the "usual assistance" so that work on the pipeline could continue.

45. In April and June, 1993, Ken Saro-Wiwa and other MOSOP activists were arrested and detained on fabricated charges.

46. In July, 1993, while still in detention, Ken Saro-Wiwa was elected president of MOSOP.

47. Ken Saro-Wiwa was an outspoken critic of Royal Dutch/Shell's operation, charging that Royal Dutch/Shell was "waging an ecological war against the Ogoni".

48. John Kpuinen held various positions, including Deputy President, of the National Youth Council of Ogoni People (NYCOP), MOSOP's youth wing.

49. In that capacity, Kpuinen was active in NYCOP's environmental campaign against Royal Dutch/Shell and the Nigerian military regime.

50. Saro-Wiwa and Kpuinen supported and organized peaceful demonstrations in Ogoni.

51. In August, 1993, the Nigerian military led an attack which resulted in the deaths of thirty-five residents of the Ogoni village of Kaa.

52. In September 1993, Ogoni villagers complained about the ongoing environmental contamination to local officials in Bomu-Tai.

53. On or about October 25, 1993, Royal Dutch/Shell called the military police into the area near the Korokoro flow line; the military police arrived in vehicles supplied by Royal Dutch/Shell.

54. In the October 25 incident, the military police shot a seventy-four-year-old man and two youths.

55. In April 1994, Nigerian security forces supported attacks on eight Ogoni villages and burned down the villages of Leader on April 16 and Tumbe on April 18, 1994.

56. At the direction of Royal Dutch/Shell, the Nigerian military regime excluded foreign journalists from Ogoni.

57. On May 21, 1994, four Ogoni tribal leaders were

killed.

58. On May 22, 1994, Ken Saro-Wiwa was arrested and detained without charges by the Nigerian military and the arrest of the entire MOSOP leadership was ordered by the Rivers State military administrator.

59. Ken Saro-Wiwa, John Kpuinen and others were arrested because of their non-violent opposition to the activities of Royal Dutch/Shell and the Nigerian military regime.

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

61. In the summer of 1994, the Internal Security Task Force raided approximately sixty towns and villages in Ogoni, breaking into homes, beating anyone in their path, including the elderly, women and children, killing some, looting and forcing others to pay "settlement fees" to secure their release. At least fifty Ogonis were killed.

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

63. In November, 1994, a special three man tribunal (Civil Disturbances Special Tribunal) was created and especially appointed by the Nigerian military regime to try Ken Saro-Wiwa, John Kpuinen, and other Ogoni leaders.

64. On March 18, 1995, the Civil Disturbances Special Tribunal assumed jurisdiction over the cases of ten additional Ogoni leaders who were formally charged with murder on April 7,

1995.

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

a. An edict creating the Civil Disturbances Special Tribunal and providing the death penalty was given retroactive effect;

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

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

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

67. The accused were beaten and denied adequate food and medical care.

68. Royal Dutch/Shell promised bribes to at least two key witnesses to give false testimony against Saro-Wiwa.

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

70. Those incarcerated were subjected to floggings and other torture.

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

72. Upon information and belief, Royal Dutch/Shell held meetings with the Nigerian military regime to discuss strategies concerning the unlawful execution of Saro-Wiwa.

73. Brian Anderson, the president of SPDC, and on information and belief, the employee and agent of Royal Dutch/Shell, met with plaintiff Owens Wiwa and offered to trade Ken Saro-Wiwa's freedom for an end to the international protests against the company.

74. On October 30 and 31, 1995, Ken Saro-Wiwa, John Kpuinen, and seven other Ogoni activists were condemned to death by the military-appointed special tribunal, in violation of international law and the laws of Nigeria.

75. Ken Saro-Wiwa, John Kpuinen and the others scheduled for execution were beaten, denied food, water or bedding for a period of days prior to their execution.

76. On November 10, 1995, plaintiffs Ken Saro-Wiwa and John Kpuinen were hanged.

77. On November 13, 1995, plaintiff Owens Wiwa, who had previously been arrested and detained without charges, fled Nigeria because he feared arbitrary arrest, torture and death.

78. Plaintiff Owens Wiwa was forced to leave his medical clinic and his work as a doctor.

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

80. Nineteen Ogonis remain in detention charged with murder in connection with the same allegations and before the same Civil Disturbances Special Tribunal that convicted Saro-Wiwa and Kpuinen.

81. Eighteen Ogonis, most held without trial since mid-1994, were charged in May 1995 on a "holding charge" of murder. Of those eighteen, one died in detention and two were released.

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

83. On information and belief, Royal Dutch/Shell private police cooperated in the arrests, beatings and torture of some of the nineteen arrested.

84. The 19 Ogonis continue to be detained without trial under conditions violative of minimum international standards.

85. Oil revenues provide 80% of Nigeria's federal government budget.

86. Oil from Nigeria accounts for approximately 14% of Royal Dutch/Shell's global oil production.

87. At all times relevant herein, defendants Royal Dutch/Shell knew or should have known that the Nigerian regime, its army and police committed human rights abuses, including

summary executions, in connection with the exploitation of oil in Ogoni and the Niger Delta.

General Allegations

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

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

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

91. Plaintiff's causes of action arise under and violate the following laws, agreements, conventions, resolutions and treaties:

- (a) Alien Tort Claims Act, 28 U.S.C. § 1350;
- (b) Torture Victim Protection Act, 28 U.S.C. § 1350;
- (c) Customary international law;
- (d) United Nations Charter, 59 Stat. 1031, 3 Bevans 1153 (1945);

(f) Universal Declaration of Human Rights, G.A. Res.

217A(iii), U.N. Doc. A/810 (1948);

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

(h) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, 39 U.N. Doc., GAOR Supp. (No: 51) at 197, U.N. Doc. A/39/51 (1984);

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

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

(k) Statutes and common law of the State of New York, including but not limited to wrongful death, assault and battery, intentional infliction of emotional distress, negligent infliction of emotional distress, and negligence; and the

(l) Laws of Nigeria.

92. There is no independent functioning judiciary in Nigeria and any suit against defendants Royal Dutch/Shell there would have been and would still be futile and would result in serious reprisals.

FIRST CLAIM FOR RELIEF

(Summary execution)

93. The allegations set forth in paragraphs 1 through 92

of this complaint are realleged and incorporated by reference as if fully set forth herein.

94. The deliberate killings, under color of law, of Ken Saro-Wiwa and John Kpuinen were not authorized by a lawful judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

95. The acts described herein constitute summary execution in violation of the Alien Tort Claims Act, the Torture Victim Protection Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 91 herein.

96. Defendants are liable for the killings in that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the deaths of Ken Saro-Wiwa and John Kpuinen.

SECOND CLAIM FOR RELIEF

(Crimes Against Humanity)

97. The allegations set forth in paragraphs 1 through 92 of this complaint are realleged and incorporated by reference as if fully set forth herein.

98. The acts described herein against Ken Saro-Wiwa and John Kpuinen constitute crimes against humanity, in violation of customary international law which prohibits inhumane acts of a very serious nature such as willful killing, torture and arbitrary

arrest and detention and other inhumane acts committed as part of a widespread or systematic attack against any civilian population or persecutions on political, racial or religious grounds. Leaders, organizers, instigators and accomplices participating in the formulation of these acts are responsible for all acts performed by any person in execution of such plan.

99. The acts described herein constitute crimes against humanity in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 91 herein.

100. Defendants are liable to plaintiffs for the said conduct in that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the arbitrary arrests and detention, torture and killing of Ken Saro-Wiwa and John Kpuinen and the detention of Owens Wiwa.

THIRD CLAIM FOR RELIEF

(Torture)

101. The allegations set forth in paragraphs 1 through 92 of this complaint are realleged and incorporated by reference as if fully set forth herein.

102. The torture of Ken Saro-Wiwa and John Kpuinen, as described herein were inflicted deliberately and intentionally for purposes which included, among others, punishing the victim or intimidating the victim or third persons.

103. The acts described herein constitute torture in violation of the Alien Tort Claims Act, the Torture Victim Protection Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 91 herein.

104. Defendants are liable for the said conduct in that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the torture of Ken Saro-Wiwa and John Kpuinen.

FOURTH CLAIM FOR RELIEF

(Cruel, Inhuman, or Degrading Treatment)

105. The allegations set forth in paragraphs 1 through 92 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

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

107. The acts described herein constitute cruel, inhuman or degrading treatment in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 91 herein.

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

109. Defendants are liable for the said conduct in that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the arbitrary cruel, inhuman or degrading treatment of Ken Saro-Wiwa, John Kpuinen, Owens Wiwa, and Blessing Kpuinen.

FIFTH CLAIM FOR RELIEF

(Arbitrary Arrest and Detention)

110. The allegations set forth in paragraphs 1 through 92 of this complaint are realleged and incorporated by reference as if fully set forth herein.

111. The arbitrary arrests and detention of Ken Saro-Wiwa and John Kpuinen were illegal and unjust, in violation of customary international law.

112. The plaintiffs were placed in fear for their lives, were deprived of their freedom, separated from their families and forced to suffer severe physical and mental abuse.

113. The acts described herein constitute arbitrary arrest and detention in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 91 herein.

114. Defendants are liable for the said conduct in

that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the arbitrary arrests and detention of Ken Saro-Wiwa, John Kpuinen and Owens Wiwa.

SIXTH CLAIM FOR RELIEF

(Wrongful Death)

115. Plaintiffs Ken Wiwa and Blessing Kpuinen on behalf of their deceased relatives, Ken Saro-Wiwa and John Kpuinen, reallege and incorporate by reference the allegations set forth in paragraphs 1 through 92 as if fully set forth herein.

116. Plaintiff Ken Wiwa is the natural son of Ken Saro-Wiwa and his heir at law.

117. Plaintiff Blessing Kpuinen is the widow of John Kpuinen and his heir at law.

118. As a direct result of the defendants' acts and omissions and as a result of the death of his father, plaintiff Ken Wiwa has sustained pecuniary loss resulting from loss of society, comfort, attention, services and support of decedent.

119. As a direct result of the defendants' acts and omissions and as a result of the death of her husband, plaintiff Blessing Kpuinen has sustained pecuniary loss resulting from loss of society, comfort, attention, services and support of decedent.

120. Defendants are liable for the said conduct in that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the wrongful

deaths of Ken Saro-Wiwa and John Kpuinen.

121. The acts described herein constitute wrongful death, actionable under the laws of New York, the laws of the United States and the laws of Nigeria.

SEVENTH CLAIM FOR RELIEF

(Assault and Battery)

122. The allegations set forth in paragraphs 1 through 92 of this complaint are realleged and incorporated by reference as if fully set forth herein.

123. As a result of these acts, plaintiffs were placed in great fear for their lives and suffered severe physical and psychological abuse and agony.

124. Defendants' acts were willful, intentional, wanton, malicious and oppressive.

125. Defendants are liable for the said conduct in that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the assault and battery of Ken Saro-Wiwa, Owens Wiwa, John Kpuinen and Blessing Kpuinen.

126. The acts described herein constitute assault and battery, actionable under the laws of New York, the laws of the United States and the laws of Nigeria.

EIGHTH CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress)

127. The allegations set forth in paragraphs 1 through 92 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

128. The acts described herein constitute outrageous conduct in violation of all normal standards of decency and were without privilege or justification.

129. These outrageous acts were intentional and malicious and done for the purposes of causing plaintiffs to suffer humiliation, mental anguish and extreme emotional and physical distress.

130. As a result of defendants' acts, plaintiffs were placed in great fear for their lives and were forced to suffer severe physical and psychological abuse and agony.

131. Defendants are liable for the said conduct in that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the intentional infliction of emotional distress of Ken Saro-Wiwa, John Kpuinen, Owens Wiwa, and Blessing Kpuinen.

132. Defendants' outrageous conduct constitutes the intentional infliction of emotional distress and is actionable under the laws of New York, the United States and Nigeria.

NINTH CLAIM FOR RELIEF

(Negligent Infliction of Emotional Distress)

133. The allegations set forth in paragraphs 1 through

92 of this complaint are realleged and incorporated by reference as if fully set forth herein.

134. The actions of defendants, and each of them, constituted a negligent infliction of emotional distress upon said plaintiffs.

135. Defendants, and each of them, carelessly and negligently inflicted said emotional distress through a wanton and reckless campaign of harassment and intimidation.

136. Defendants are liable for the said conduct in that defendants directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the negligent infliction of emotional distress of Ken Saro-Wiwa, John Kpuinen, Owens Wiwa, and Blessing Kpuinen.

137. As a direct and legal result of defendants' wrongful acts, plaintiffs have suffered and will continue to suffer significant physical injury, pain and suffering and extreme and severe mental anguish and emotional distress.

138. Defendants' conduct constitutes the negligent infliction of emotional distress and is actionable under the laws of New York, the United States and Nigeria.

TENTH CLAIM FOR RELIEF

(Negligence)

139. The allegations set forth in paragraphs 1 through 92 of this complaint are realleged and incorporated by reference as if fully set forth herein.

140. Defendants failed to use ordinary or reasonable

care in order to avoid injury to plaintiffs. Defendants' negligence was a cause of injury, damage, loss or harm to plaintiffs and their next of kin.

141. Defendants' conduct constitutes negligence and is actionable under the laws of New York, the United States, and Nigeria.

PRAYER FOR RELIEF

WHEREFORE, each and every plaintiff prays for judgment against defendant Royal Dutch Shell and Shell Transport and Trading Company, p.l.c., in excess of \$50,000, as follows:


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

JURY TRIAL DEMAND

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

Dated: November 8, 1996
New York, NY

Respectfully submitted,

By 
JUDITH BROWN CHOMSKY
JENNIFER M. GREEN [JG-3169]
ALBERTO SANTOS
BETH STEPHENS
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th floor
New York, NY 10012
212-614-6464

JULIE SHAPIRO
950 Broadway Plaza
Tacoma, WA 98402
(206) 591-2209