

**COMMISSION OF INQUIRY TO  
INVESTIGATE POLITICALLY  
MOTIVATED KILLINGS AND  
DAMAGE TO PROPERTY  
BEFORE, DURING AND AFTER  
THE 2015 GENERAL  
ELECTIONS IN RIVERS STATE  
FINAL REPORT  
MAY 21, 2015**



## TABLE OF CONTENTS

Executive Summary	5
1. Introduction: Establishment, Schedule & Working Methods	47
2. Scope of Work of the Inquiry: Immediate Causes	57
I. Temporal Scope: "Events Before, During and After the 2015 General Elections	57
II. Substantive Scope: "Politically Motivated Violence"	64
3. Methodology: Bases for Findings	81
I. Summary of Incidents Reported to the Commission of Inquiry	82
II. Analysis of Violations by Electoral Cycle	88
4. Remote Causes	96
5. Laws Applicable to Political Violence	109
Summary of the Allegations and Petitions Received	118
6. Recommendations	141

## GLOSSARY

ACN	Action Congress of Nigeria
ANPP	All Nigeria Peoples Party
APC	All Progressives Congress
COR	Calabar, Ogoja, Rivers (COR) Movement
DTP	Destruction to Property
IEDS	improvised explosive devices
INEC	Independent National Electoral Commission
ISTF	Internal Security Task Force
JTF	Joint Task Force
LGA	Local Government Area
MOSOP	Movement for the Survival of Ogoni People
NPF	Nigeria Police Force
NYCOP	National Youth Council of Ogoni People
ONELGA	Ogba/Egbema/Ndoni LGA
PDP	Peoples Democratic Party
PMK	Politically Motivated Killings
RSUST	Rivers State University of Science and Technology
SAN	Senior Advocate of Nigeria
ToRs	Terms of Reference
TPA	Terrorism Prevention Act
UNIPORT	University of Port Harcourt

## EXECUTIVE SUMMARY

1. On 7 April 2015, the Governor of Rivers State, Right Honorable Chibuike Rotimi Amaechi, CON, established a Commission of Inquiry (“Inquiry” or “Commission”) to Investigate all the Politically Motivated Killings and Damage to Property in Rivers State Immediately Before, During and After the 2015 General Elections.

2. In exercise of his powers under the law, the Governor appointed the following persons as members of the Commission, with full powers and authority to hold public hearings as well as private hearings:

Prof. Chidi Odinkalu	Chairman
Ayo Obe	Member
Prof. Nlerum S. Okogbule	Member
(Sir) Prof. Owunari Georgewill	Member
Dr. Mrs. Joy Ejiofor	Member
Rev. Father Michael Akere	Member
Richard Ofuru	Member

3. The Terms of Reference (ToRs) of the Inquiry are to:

- a. Investigate and ascertain the remote and immediate causes of the all the politically-motivated killings, damage to property and grievous bodily harm to persons, all of which have been taking place in Rivers State, before, during and after the 2015 General Election;
- b. Investigate and ascertain the number of persons injured or threatened with injury;

- c. Ascertain properties destroyed, their owners and the value of such properties;
  - d. Identify person(s), groups, or institutions who either by acts of omission and commission were directly and indirectly involved or sponsored the violence and killings;
  - e. Investigate any other matter(s) that may come to the knowledge of the Commission in the course of its deliberations, not covered in 2(i) – (iv) above;
  - f. Make recommendations regarding persons whom the Commission finds blameworthy in connection with the violence, killings and damage to property; and
  - g. Make recommendations in the light of its findings and other recommendations which the Commission may consider in view of its findings.
4. The Inquiry was required to submit its report and findings with any recommendations not later than (1) month from the date of its first sitting or within such extended period as may be granted.
5. The Governor also appointed Mrs. Asivosuo Macarthy Oriye as Counsel to the Inquiry and Sir Samuel Egbe as Secretary.
6. On 16 April 2015, the Governor swore in the members of and inaugurated the Commission of Inquiry. Reverend Father Michael Akere did not present himself to take the oath and did not at any other time participate in the work of the Inquiry.

7. Following the inauguration, the Inquiry settled its schedule and methods of work and authorised the Secretariat to issue a public call for memoranda published in five newspapers, namely: the *Punch*, the *Nation*, the *Guardian*, the *Nigerian Tide* and *Top News* (Appendix A). The call for memoranda was also widely disseminated through electronic media in Rivers State, including Radio Rivers. The Call required all memoranda to be submitted on oath.

8. The Inquiry opened on Monday, 4 May 2015.

#### **INQUIRY PROCESS AND WORKING METHODS**

9. The Inquiry received a total of 43 memoranda.

10. The Inquiry undertook five days of public hearings at the Obi Wali Convention Centre in Port Harcourt. The public hearings opened on Monday, 4 May 2015 and ended on Friday, 16 May 2015.

11. On Tuesday, 12 May 2015, the Inquiry visited Umuikpe Obono Community in Ozuzu Clan and Ojia, Obono, Oboku, Akuzor-Oboko- Clan and Abara villages in Etche LGA where it inspected sites of alleged destruction of property and arson allegedly committed during the 2015 elections.

12. On Thursday, 14 May, the Inquiry sat to take evidence in Eleme LGA.

13. The Inquiry also received the testimonies of four witnesses in confidential hearings (in camera).

14. In all, the Inquiry undertook seven days of public hearings during which it heard some 18 hours of oral testimony, received and considered testimonies from 49 witnesses and admitted 221 exhibits. To prepare its report, the Inquiry other relevant official records and reports

15. Additionally, the Inquiry met confidentially with the Department of State Services (DSS) in Rivers State and the Rivers State Command of the Nigeria Police Force (NPF). Separately, the Inquiry also received two different sets of confidential expert briefings (one institutional and one with three experts on violence by gangs, cults and militias in Rivers State and the Niger Delta.

16. All witnesses, whether taken in public or in confidential hearings, testified under oath and were questioned by counsel and members of the Commission.

17. Separately, on 17 May 2015, following negotiations, the Chairman of the Commission met confidentially in Okrika with some senior members of militia movements in the Niger Delta in the presence of Counsel chosen by the militia leaders.

18. This report synthesises the information and evidence from these diverse sources.

## **OVERVIEW OF FINDINGS**

19. In all, the Inquiry received or considered evidence or information on 97 allegations of killings. Three of those representing three per cent of the



killings reported to the Inquiry took place before November 14 2014 while 94 or 97% of the killings reported to the Inquiry occurred between 15 November 2014 and 11 April 2015. This represents a monthly average of nearly 19 killings during the five months of the election period. As indicated earlier in this report these figures are applicable only to the cases in respect of which the Inquiry received evidence, testimony or submissions.

20. 93 cases of injuries were also reported to the Inquiry. Of these, 12, representing 13% of reported injuries occurred before the election period while 81 injuries or 87% of reported cases took place during the election period.

21. In total, the Inquiry received evidence or reports of 83 incidents of destruction of property, including acts of vandalism or arson on both movable and immovable property. Of this number, six incidents representing seven per cent occurred before the election while 77 incidents representing 93% occurred during the election.

22. The Inquiry recorded no allegations of political violence after the elections.

23. This evidence supports the conclusion that in terms of quantity, quality and scope, the violence during the 2015 elections was different from anything that occurred before or after the election period in Rivers State.

24. In total, 275 different violations involving killings, injuries to persons or destruction were reported to the Inquiry. As proportions of this total, killings constitute 35% of the violations reported to the Inquiry; injuries constitute 34%; while destruction of property constitute 31%.

25. In all, 236 alleged perpetrators were identified in testimonies before the Inquiry. Of this number, 120 were named while 116 were unidentified.

26. It is quite possible that the numbers or tallies on similar incidents maintained or produced by the NPF or other security agencies could be different. The Inquiry received ample evidence indicating that security agencies were unwilling or unable to attend to incidents of political violence or that in some locations, they were overwhelmed by the intensity and frequency of reported incidents. The attitude of the security agencies that the Inquiry encountered was largely defensive, tending towards avoidance of the subject. This corroborated the perception of institutional indifference, reluctance or avoidance reported by most witnesses and victims.

27. While the Inquiry was provided with evidence that enabled quantify killings and destruction of property alleged as well as the footprint of such violence, there remained some forms of victimisation which clearly occurred on a significant scale but did not easily lend themselves to quantification. Two notable forms of such victimisation were internal displacement and sexual violence or rape.

## **Displacement**

28. The Inquiry received considerable evidence from many witnesses who, having no places of recourse or remedy, were forced by the violence to flee their communities into displacement. They fled to different places such as the bush; the state capital, Port Harcourt; or to neighbouring states or communities.

29. It was impossible to estimate the extent or size of the population affected by displacement or actually displaced by political violence. Given the nature of political violence, there were no camps established for the victims of such displacement. Any such camps could themselves easily have been targets of attack. Instead, witnesses confirmed that most victims fled ultimately into informal networks of family, community, or associates in other communities or neighbouring states or into the state capital, Port Harcourt.

## **Women and Sexual Violence**

30. Incidents of political violence involving sexual violence or rape were not directly reported to the Inquiry. This is not entirely surprising given the stigma that usually attaches to victims of rape.

31. However, when he testified before the Inquiry, the Rivers State Commissioner for Social Welfare and Rehabilitations, Mr. Joe Phillips Poroma, reported a high incidence of sexual trauma affecting young women and girls in the state. According to Mr. Poroma, the State had an average daily rate of over 10 cases of rape which increased during the election period. He described the pattern of sexual violence as both

“intolerable” and “very high”. In response to this, the humanitarian organisation, Doctors without Borders (better known by its French acronym *Medecins sans frontieres* or MSF), which had pulled out of the State at the end of 2012, returned in January 2015 (during the election period) to address the trauma of sexual violence among women and young girls.

32. The Inquiry is inclined to treat this evidence as suggesting that sexual violence may have been an instrument of political violence in Rivers State during the 2015 General Elections. With reference to sexual violence, the Inquiry was, for the reasons described above, unable to find out how many persons were affected.

### **Constraints and Problems**

33. The Inquiry encountered a number of constraints in the conduct of its work. The Inquiry was established shortly after very hotly contested elections when the situation in the State was far from pacified. The security situation in Rivers State affected the scope of work that could be undertaken.

34. Many of the official institutions and persons with whom the Inquiry could have consulted appeared distracted by the uncertainties of the transitional period. There was a sense that many people who would otherwise have wished to participate in or collaborate with the Inquiry, felt endangered in their persons, property, work or relationships by the very subject matter of the Inquiry. Ironically, therefore, the execution of the Inquiry’s work and the responses to it in many places reflected the

challenges that the Inquiry was tasked to address: insecurity; intimidation; interference; and impunity.

35. There was a pervasive sense of fear among many witnesses the Inquiry met with. A case of interference with or intimidation of a witness was also reported. Some of those who did appear expressed the fear that they could suffer further violence as a result of appearing. There was an overwhelming sense also that the safety and security institutions were incapable of guaranteeing the safety of any persons appearing before the Inquiry. The Inquiry did not have the capacity to afford any effective protection to witnesses other than a closed confidential hearing as an incentive for their testimony. It is impossible to estimate the number of persons who were unable to participate in the Inquiry because of such factors.

36. At least two of the staff who supported the work of the Inquiry received threats because of their work with the Inquiry. In response to the threats, at least one of the support staff declined further participation in any work related to the Inquiry and pulled out. As a result, the members and support staff had to be sequestered for the duration of the work of the Inquiry and had to be protected by a significant contingent of security assets.

37. Also because of the adverse security situation in many parts of Rivers State, the Inquiry was unable to undertake sittings or hearings in or visits to all the locations from which it received petitions or in which there were allegations of politically motivated violence.

38. It is worth noting that without the benefit of the investigative capacities of law enforcement and security agencies, the focus of the Inquiry was deliberately limited to testing the claims that were presented before it. Thus, the report presents material and findings that in themselves must constitute bases for further work or investigation by the agencies of law enforcement, public safety and security in Nigeria.

39. Additionally, the Inquiry did not benefit from the participation of all relevant actors. Through Counsel instructed by them, the Peoples' Democratic Party (PDP) in Rivers State notified the Inquiry of its decision not to participate in the proceedings. The Party claimed that it did this in obedience to an order issued by the Federal High Court in Port Harcourt, restraining the conduct of the Inquiry. The Inquiry was availed of legal advice from B.E.I Nwofor, Senior Advocate of Nigeria (SAN), representing the Attorney-General of Rivers State as well as from Counsel to the Inquiry on the legal challenge to its capacity to discharge its mandate and duly discharged that mandate.

40. The Commission received ample evidence of allegations of acts of political violence and killings in or traceable to Rivers State dating back to more than ten years before the 2015 elections in Nigeria. The Inquiry does not include all such killings in its tallies of killings within the scope of the current Inquiry. However, such acts and allegations have been taken account of in evolving a general picture which strongly indicates that political violence, including arson, injuries to persons and properties, and killings, has been central to the pursuit, exercise and

retention of political power in Rivers State long before the 2015 General Elections.

### **Politically Motivated Violence**

41. Political violence refers to forms of violence deployed for the purpose of accessing or retaining power or precluding citizens from participating effectively in deciding by whom or how they are governed. It is an issue that affects the corporate existence of Nigeria and occurs in most states of the country. Political violence in Rivers State therefore somewhat reflects the evolution of broader attitudes to violence and access to political power in Nigeria.
42. It is a national security threat to Nigeria because it goes to the heart of the sustenance of Nigeria as a polity, the legitimacy of the power to govern it, and the roles and effectiveness of the security agencies in the country. This is because political violence excludes citizens from exercising the right to participate in establishing their government or choosing their leaders. It also destructive of peaceful civic and associational life. As such, political violence denudes politics of any public benefit or link to the public good.
43. The Commission received credible evidence indicating that harassment, intimidation, violence, and killings accompanied by loss, trauma, fear, together with past, present and future threats to life and property (including interferences with witnesses to prevent appearances before the Commission of Inquiry) have been a regular part of the political

experience of individuals and communities in Rivers State for a relatively long period.

44. It was disturbing to hear testimony of the casual and transactional nature of killings with life apparently having little or no value. These acts may be direct or indirect i.e. directed at a family member or destruction of family property. The consequences remain the same; personal fear and physical, psychological and economic harm. The allegations of a “pattern of sustained or systemic violation of basic human rights demonstrable of a failure of state protection”<sup>1</sup> were credible.

45. One notable characteristic of the violence investigated by the Inquiry is that it is destructive of family and community relationships which are the bases of organised society. Many of the cases brought to the attention of the Inquiry involved different members of the same family or community on different sides of political violence as victims or perpetrators. In addition to human life, items allegedly destroyed included family assets and homes, documents of title or proof of qualification, sentimental objects, and invaluable heirlooms of historical significance handed down from long deceased common ancestors.

46. In some cases elements of intra-family dispute appeared present and it appeared that the political season offered an opportunity for sides in some of such disputes to enlist the infrastructure of political violence in

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<sup>1</sup> De Andrade, Jose H. Fischel, ‘On the Development of the Concept of ‘Persecution’ in International Refugee Law’, III *Anuario Brasileiro De Direito Internacional*, V2, 114, at 123 citing Hathaway, J.C., *The Law of Refugee Status*, Toronto, Butterworths, 1991, pp104-105.



order to impose solutions where intra-family or community institutions and processes would have sufficed.

47. It was equally evident from testimony made available to the Inquiry that the intimacy of such political violence has long term adverse effects on the family and community in deepening animosities, undermining coexistence and degrading the legitimacy of the institutions of community governance, including traditional institutions. In many cases, the witnesses indicated that they were unwilling to report the cases to traditional or community institutions because they believed that those institutions were partisan on one side of the violence or the other. The persistence of such circumstances could have contributed to the sense of helplessness that was in evidence from many of the witnesses heard by the Inquiry, giving the violence a peculiar intimacy and enhancing the sense of persecution.

48. This was reinforced by evidence indicating a well-established and persistent record of failure or neglect by the law enforcement and security agencies in Rivers State to effectively bring the persons responsible for such acts to justice. Thus, the violations suffered are further aggravated by an ineffective police force in which many people expressed to the Commission little or no confidence or in which people expressed strong perceptions of law enforcement ineffectiveness and/or partisanship. It must be clarified that the Inquiry did not have enough time to verify or indeed make any specific determination as to whether or not the law enforcement and security agencies in Rivers State were in fact partisan before, during or after the 2015 General Elections. The

Inquiry did, however, receive credible evidence indicating the existence of significant *perceptions* of partisan law enforcement.

49. It is acknowledged that the security agencies in Rivers State operated under severe constraints of personnel, equipment and geography. They also confronted an unusual political landscape in which personnel of the agency were in some cases victims of political violence. The failure or inability of the State to bring to account persons responsible for such attacks is itself confirmation of the absence of any remedy to less well placed citizens.

50. The Inquiry heard testimony of hesitation or reluctance on the part of the NPF and other security agencies to respond to matters they have identified as political. The failure of security and law enforcement agencies to attend or investigate reports of violence denies the victim of a crime the possibility of a remedy, aggravates the feeling persecution, and grants impunity to the perpetrators. Further, the Inquiry heard allegations of collusion or tolerance on the part of the police and security services in certain acts either directly or in failing to act when notified of potential crime, or serious injury. As a result, perpetrators were strengthened by the feeling that they were above the law or, as many witnesses testified, “untouchable”. All this fostered an overwhelming, disempowering and frightening sense of impunity.

51. Another form of impunity exists in the form of the protection afforded to senior political office holders, aspirants and, in the Niger Delta, even militants and gang leaders, in the facility of a “security detail”. These are

often police personnel detailed to provide protection and private guard duties. In this respect, the Inquiry reviewed and accepts the position contained in the advisory on pre-election violence in preceding the 2015 General Elections, Nigeria's National Human Rights Commission which reported:<sup>2</sup>

"Persons occupying these offices enjoy high levels of security protection, especially provided by the Police. In its 2008 report, the Presidential Committee on Police Reform, chaired by former Inspector-General of Police, Mohammed Dikko Yusuf, estimated that over 117,000 police personnel (nearly one-third) of the entire personnel of the Nigeria Police Force were engaged in protection duties for senior political office holders and other persons and complained that "the rich and powerful behave with impunity because of police protection."<sup>3</sup>

52. The growth of political violence in Rivers State is therefore easily traceable to the growth of impunity for it.

53. Most of the allegations presented to the Inquiry are crimes under Nigerian law. They include killings, threats to kill, assault and bodily injury, kidnap, blackmail, damage to property (vehicles, buildings, personal possessions), arson, theft, electoral offences such as theft of election materials as well as allegations against the police comprising

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<sup>2</sup> National Human Rights Commission, *A Pre-Election Report and Advisory on Violence in Nigeria's 2015 General Elections*, page. 33.

<sup>3</sup> Federal Republic of Nigeria, *Main Report of the Presidential Committee on Police Reform, Vol. II*, p. 196 (2006)

broadly failure to protect issues, serious abuse of power and violations of the human rights of citizens.

54. The Government of Nigeria (including the constituent states) has a duty under the constitution and international law to guarantee the safety and security of all persons in the country. This includes ensuring effective accountability for and prevention of political violence as a form of systematic violation of human rights. Government, at both federal and state levels, has the obligation to not only investigate complaints of election violence but also to ensure remedies to victims for the injuries suffered, and take other necessary steps to prevent reoccurrence of the violation. In effect, government has an obligation to ensure zero-tolerance for political violence and eliminate impunity for it. In this, government has failed. Political violence in Nigeria has become a network crime in which multiple actors share different objectives and common benefit in the perpetration or continuation of criminal enterprise.<sup>4</sup>

### **Immediate Causes**

55. The evidence before the Inquiry suggested that two different factors appear to have played a significant role in the intensity and perceptions of violence in the elections in Rivers State in 2015. One was the split in the ruling PDP in the State which formally occurred in 2013, following

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<sup>4</sup> In a report issued in January 2015, Nigeria's National Human Rights Commission said that elections in Nigeria "have historically been akin to organised crime. This is because during Nigerian elections, multiple actors pursue pre-determined outcomes through common enterprise rather than allowing the people's vote to determine the country's political leadership." See National Human Rights Commission, *An Independent Review of Evidence of Gross Violations of the Rights to Participate in Government, to Public Service, and to Fair Trial Through the Election Petition Process in Nigeria 2007 & 2011*, (January 2015), para 1:01

which a faction of the party led by the incumbent Governor moved into a new Opposition coalition that later became the All Progressives Congress (APC). The other is public perceptions and associated allegations concerning the influence on the politics of Rivers State during the relevant period of the First Lady, Dame Patience Jonathan, who is from Rivers State.

56. Evidence received by the Commission thus indicated that one notable difference between the situation in 2015 and the previous episodes of political opposition and violence in Rivers State was the fact that the opposition this time was led by an incumbent State Governor who also had control of state resources (including media, money, and personnel) and guaranteed access to the levers and institutions of law, order, safety and security in the State. The defection of the Governor's faction into an opposition formation created a rift with the PDP-controlled Federal Government at a time when it was led by a President with origins from the Niger Delta.

57. It was impossible to miss the effect that this split had on governance, political institutions, and ultimately, on violence and public safety and security in the state. The symbolisms of this are evidence in the State Capital, Port Harcourt, where the premises of the legislature in the State House of Assembly have been shuttered since July 2013. 10 months later, in May 2014, the judiciary was equally closed down in the State. For one year preceding the 2015 General Elections, only one arm of the State government, the Executive, functioned for any practical purpose. The system of checks and balances inherent in the separation of powers

as the foundation for democratic government collapsed in Rivers State in the wake of the political contest for the for supremacy between different factions of the ruling PDP in the state led by the Governor on one side and the President on the other. In this contest, both sides freely deployed the benefits incumbency and self-help to their advantage, creating a system that could arguably be described as government by vigilantism. It would have been impossible for the wider population to miss or refuse to follow the example of government by vigilantism. This was naturally, therefore, a major factor in the spike in political violence during the 2015 General Elections in Rivers State.

58. It is relevant here that under Nigeria's Constitution, the institutions and assets of law and order; safety and security, including the Nigeria Police Force (NPF) and the Armed Forces, are all controlled by the Federal Government. In 2013, therefore, the split within the PDP in Rivers State which led the Governor to defect to an opposition formation transformed what was in fact a not unusual, intra-party contest for supremacy into an existential political contest between forces loyal to the President and those loyal to the State Government in which public resources were freely deployed, with Rivers State as the turf or site of battle.

59. A second distinguishing feature of the violence in the 2015 elections in Rivers State was the fact that the First Lady and wife of the President has origins in Okrika, Rivers State. Evidence presented to the Inquiry included allegations and perceptions that either the first lady in person or persons claiming to represent her interests, including one Evans Bipi

who is a member of the Rivers State House of Assembly, exercised undue or negative influence on the security agencies in Rivers State or on other persons or entities involved in the violence reported. The Inquiry was unable to put these allegations to the First Lady and could not, therefore, verify or form an independent view of these allegations. They are recorded here as proof that they were made not necessarily as confirmation of the allegations made.

### **Remote Causes**

60. The agitation for resource equity in the Niger Delta has a long history and has been the subject of considerable interest beyond the terms of reference of the present Inquiry. For present purposes, however, a significant milestone in the evolution of the political economy of the Niger Delta occurred with the execution in November 1995 of then President of the Movement for the Survival of Ogoni People (MOSOP) Ken Saro-Wiwa and eight other members of the Ogoni community associated with advocacy for more responsible exploitation of petroleum resources in Ogoni land.<sup>5</sup> As the dispute between the MOSOP and the then military government of General Sani Abacha evolved, the word “terrorist” crept into the agitation in the Niger Delta. By 1994, the activists of the National Youth Council of Ogoni People (NYCOP) were described in some quarters as “terrorists”. The Internal Security Task Force (ISFT) established in the same year by the government to address the situation in Ogoniland was reportedly authorized to undertake “wasting operations coupled with psychological tactics”, a euphemism

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<sup>5</sup> They were executed for alleged involvement in the killing of four senior Ogoni Chiefs in Giokoo, Ogoni land, in January 1994.

for State terror, including extra-judicial killing of civilians.<sup>6</sup> Twenty-one years later, the Task Force today remains in operation in the Niger Delta as the Joint Task Force (JTF).

### **The Role of Militias and Violent Crime Networks**

61. Following the execution of Ken Saro-Wiwa, peaceful advocacy lost any appeal that it may have had for most of the youths of the Niger Delta and an incentive system emerged which made violence appealing to them. The Commission received extensive evidence showing the long standing and growing influence of cults, gangs and boys on the politics of Rivers State. Various referred to as “Youth” groups or networks of “boys”, militias, “gangs” and “cults”,<sup>7</sup> these groups appear to operate through pre-existing social groups, formed on the basis of age rank, social rank, community locale rank, or various other affiliations determinable by them.

62. The operation of these cult groups appears to have moved seamlessly over the years into the mainstream of the political economy, permeating all aspects of life evolving into the provision of a variety of services on a transactional basis in the informal and even formal sectors of whatever is required of them. The creation of the present day cults is the result of an amalgamation of a number of factors comprised variously of groups involved in the resource struggle, environmental struggle, student politics and political struggle to name a few, each with their own competing interests, leadership challenges, territorial battles and quest

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<sup>6</sup> See generally, Matthew Hassan Kukah, *Witness to Justice: An Insider's Account of Nigeria's Truth Commission*, (2011)

<sup>7</sup> The Commission heard evidence that a youth was someone between 1 and 50 years old.



for supremacy which continues to manifest regardless of provision of services to political actors.

63. With the return to democracy in 1999, the conflation of politics and disaffected communities, the quest for control of resources, and power, made Rivers State an important player on the political landscape. To garner the support of a variety of stakeholders, politicians courted various youth groups or cults who could deliver a sizeable demographic to them in the quest for power. The Commission was informed that the political linkage increased the proliferation of arms in the Niger Delta.

64. The Commission received three pieces of information to illustrate the growth in the influence of cults, gangs and militias in the politics of Rivers State in 2015. First, ahead of the primaries, a well-known militia leader, Chief Ateke Tom, indicated serious interest in contesting the Governorship primaries on the platform of the ruling PDP and even flew into Abuja with his supporters to collect governorship application forms. It appeared that Chief Ateke was compelled to drop his interest at the last minute following appeals of senior political and security sector leaders. Second, following the conclusion of the primaries and ahead of the elections, it was credibly alleged that both leading party candidates for the Governorship of Rivers State as well as senior politicians from surrounding States met on more than one occasion with militia leaders to appeal for their assistance and support. These encounters with the militia leaders continued until the eve of the governorship polls of 11 April 2015. It was confirmed that about ten leading members of their

network were elected into the Rivers State House of Assembly during the election of 11 April 2015.

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## RECOMMENDATIONS

65. The existing system does not encourage political leaders to offer the young merchants in violence any pathways to legitimate life because they need the violence to retain access to power or ensure that their candidates win in elections. The result is a political system in which impunity is essential to protect perpetrators of political violence and protect political office holders who profit from such violence. This political economy is essential to understanding the long term trajectory of political violence in Rivers State and the wider Niger Delta. Over the years, since the return of Nigeria to elective civilian government in 1999, political violence and impunity for it has been a constant in the Niger Delta. What has changed is the intensity of the violence, the identity of the victims, and the footprint of those who have access to impunity for violence.

66. The ToRs require the Inquiry to, among other things, “make recommendations in the light of its findings and other recommendations which the Commission may consider in view of its findings.”

67. In formulating its recommendations, the Inquiry is reminded that while the timing of the incidents covered by it may be unique, the subject matter of violence in Nigeria and agency responsibility for preventing and ensuring accountability for it have been the subject of various previous inquiries at both state and federal levels. Between 2005 and 2009, Professor Tekena Tamuno led an Inquiry into violence in Okrika

(2005) while Justice Kayode Eso led the Truth and Reconciliation Commission in Rivers State.<sup>8</sup>

68. Political violence implicates the responsibilities of government at community, local, state, and federal levels. Any recommendations even for a state-specific situation such as that the subject of the present Inquiry, must recognise that public safety and security in Nigeria is the primary responsibility of the Federal Government.

69. Political violence equally impedes and violates the exercise of choice as the bedrock of democratic participation. In this connection, Nigeria's Supreme Court emphasized in 1983 that "voters must be allowed to freely go to the polling booths and cast their votes unmolested. Free and fair election cannot, therefore, tolerate thuggery or violence of any kind."<sup>9</sup>

70. Despite this clear statement of the applicable law, political violence in Nigeria appears pervasive around elections. The federal government's panel of investigation into the post-election violence that followed the 2011 General Elections (headed by Sheikh Ahmed Lemu), disclosed that all elections in Nigeria since 1922 had been beset by violence largely because many political competitors in the country "embrace or resort to self-help and vengeful tactics in settling their grievances."<sup>10</sup> Among the major factors in the violence, the Panel identified what it called "security lapse", <sup>11</sup> including poor "physical security coverage of many areas in

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<sup>8</sup> See, Government of Rivers State, *Report of the Rivers State Truth and Reconciliation Commission*, Ibadan, Evans Brothers (Nigeria) Ltd., (2009)

<sup>9</sup> *Ojukwu v. Onwudiwe*, 3 *Election Petition Reports*, 850 at 892 (1983)

<sup>10</sup> Sheikh Lemu Report, Vol.1, para. 2.7

<sup>11</sup> *Sheikh Lemu Report*, Vol. 1, para 8

various states, inter-agency rivalry between some security agencies.... Lack of synergy in information sharing and inadequate coordination among security agencies”,<sup>12</sup> as well as “perceived political partisanship of the security agencies”<sup>13</sup> and, the dwindling capacity of the security agencies, particularly, the Nigeria Police.”<sup>14</sup>

71.Many of the issues addressed by the Sheikh Lemu Panel have equally been the subject of many other official or high level Inquiries before and since then. Particularly notable are the reports of various presidential and some state level inquiries the reform of the security sector whose performance or lack of it is central to the trajectory of political violence in the country.<sup>15</sup> There have also been complementary studies and Inquiries on the pacification of the Niger Delta.

72.These Commissions of Inquiry issued reports with recommendations addressed to government at the federal and state levels which address proposals for long term reform of the institutions of public safety and security as well as pacification of the Niger Delta and its politics. Few of these recommendations were ever implemented. To begin with, this Inquiry calls attention to the pressing need to review and implement the reports and recommendations of previous Inquiries on various aspects

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<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> These include: Government of Kaduna State, *Report of Kaduna State Peace and Reconciliation Committee*, p. 217 (Jan 2013); Federal Republic of Nigeria, *Main Report of the Federal Government Investigative Panel on 2011 Election Violence and Civil Disturbances* (2011); Federal Republic of Nigeria, *Report of the Presidential Committee on Electoral Reform*, (Chaired by former Chief Justice of Nigeria, Muhammed Lawal Uwais) (2008); Federal Republic of Nigeria, *Presidential Committee on the Reform of the Nigeria Police Force* (chaired by Alhaji M.D. Yusuf, retired Inspector-General of Police) (2008); Federal Republic of Nigeria, *Report of the Presidential Committee on Police Reforms*, (Chaired by Muhammadu Danmadami, retired Deputy Inspector-General of Police) (2006); Federal Republic of Nigeria, *Report of the Judicial Commission of Inquiry into the Affairs of the Federal Electoral Commission (FEDECO) 1979-1983*, (chaired by Hon. Justice Bolarinwa Babalakin) (1986).

of violence in Rivers State or the Niger Delta; election-related or political violence in Nigeria; and on the reform of the institutions of public safety and security, which have historically been neglected.

73. The recommendations contained in this report, therefore, focus on short- to-medium term measures. They aim to respond to the need to address political violence and some of its underlying causes. In particular, the recommendations focus on the need to ensure accountability for political violence; attack the culture of impunity that has led to the growth of vigilantism and violence in the politics of Rivers State; address the incentive structure that makes violence appear profitable for the young people of Rivers State; ensure access to remedies for victims of such violence; and restore inter-governmental collaboration among the arms of government at both federal and state levels in doing these.

74. Accordingly, all the recommendations formulated below are designed largely to be implemented within the framework of existing laws. The Inquiry believes that there are enough laws to effectively tackle political violence in Nigeria generally and Rivers State in particular and that with administrative imagination and capable institutions this can be achieved.

### **Taking Partisanship out of Political Violence: A Role for the Council of State**

75. In tabling these recommendations, the Inquiry acknowledges that while partisanship is inherent in political contest, guaranteeing the safety and security Nigeria's institutions and inhabitants is the most important job

of political leaders and is beyond politics. The record of most political leaders over the period since the return of Nigeria to elective government in 1999 has failed to foster public confidence in the capability of leaders elected on the party political platforms to protect the best interests of the Nigerian voter. In Rivers State, partisanship at the level of both the federal and state governments undermined the performance of institutions of law enforcement in ensuring accountability for crimes of political violence.

76. To address political violence in Nigeria effectively, it is necessary to restore credibility to and public trust in the role of elected political office holders to protect the public good. Given this problem, the Inquiry recommends that National Council of State should play a significant role in restoring public confidence in political leadership in Nigeria.<sup>16</sup> The constitutional role of the Council is essentially to “advise the President whenever requested to do so on the maintenance of public order within the Federation or any part thereof”,<sup>17</sup> which is broad enough to cover the subject of political violence. As part of this role, the Council should set national priorities and goals on political violence as part of an enhanced role in guaranteeing public order and stability in the country and providing mentorship to elected and serving political office holders. Periodic public communications on the Council’s deliberations on this

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<sup>16</sup> Established by s. 153 of Nigeria’s 1999 Constitution, the Council of State comprises the following: the President, who shall be the Chairman; the Vice-President, who shall be the Deputy Chairman; all former Presidents of the Federation and all former Heads of the Government of the Federation; all former Chief Justices of Nigeria; the President of the Senate; the Speaker of the House of Representatives; all the Governors of the states of the Federation; and the Attorney-General of the Federation. Among its functions, the Council of State advises the President with reference to the INEC, and is also empowered to “advise the President whenever requested to do so on the maintenance of public order within the Federation or any part thereof and on such other matters as the President may direct.” See Constitution of the Federal Republic of Nigeria, 1999, 3<sup>rd</sup> Schedule, Part 1(b)

<sup>17</sup> *Ibid.*

subject as well as progress in the implementation of their advice, would be a necessary complement in evolving this role.

*Growing the Political Culture within Parties*

77. In the absence of independent candidacy in Nigeria, political parties exclusively mediate political competition for access to public office. This is a high constitutional responsibility to which they have not always brought the requisite culture or political maturity. The internal culture of political parties is essential in framing the tone of political contest in the country. Presently, the culture of imposition of aspirants and candidates within political parties eliminates internal democracy in political parties, denudes the process of candidate selection of competition or fairness, and denies the parties the standing to argue for the application in the wider polity of standards of fairness that they themselves are unwilling to apply in their internal contests. This makes political violence nearly inescapable. The Inquiry, therefore, recommends that:

- The Council of State may also offer non-partisan standards or guidance for mediating cultures of internal democracy in political parties. Such non-partisan standards may become a reference point for advocacy groups seeking to monitor or measure compliance by parties to hold them accountable for conduct likely to result in political violence.
- Political parties should, within the framework of the need to renew and grow cultures of internal party democracy, the establishment of clear conventions that will deny party political platforms for persons accused of crimes of political who have not yet cleared their names



or of supporting or working with groups, entities or networks that are involved in political violence. The parties should evolve a consensus that politicians with pending criminal indictments or who are named suspects in criminal proceedings should not be allowed to present themselves for office nor continue to hold public office while such charges are pending.

78. Lack of accountability and impunity for offences was a recurring characteristic of the testimony and information put to the Inquiry. It is therefore critical that steps are taken to address this. The independence, autonomy and capacity of the police force needs to be significantly and urgently addressed to tackle the problem of impunity for criminal acts and violations of human rights. Any existing institutional problems within the police force – whether in terms of equipment, training and orientation – has been magnified by perceptions of partisanship in the electoral and process.

79. It is impossible to prevent, investigate or prosecute political violence without a capable Police organisation. In Rivers State during the period covered by the present Inquiry, the NPF proved far from effective in containing political violence or ensuring accountability for it. Even worse, it was also widely perceived as partisan. This perception inflicts considerable reputational damage to the NPF, fosters helplessness among citizens and encourages vigilantism and self help. While the constraints of the NPF are many and well advertised, it is also the case that its institutional ineffectiveness is increasingly a national security problem.

80. The Nigeria Police Force, through the Inspector General of Police, is under operational and political control of the executive at the Federal level who appoints him. Contingents of NPF stationed in states of the federation are under the control of the Commissioner of Police of that state who may defer orders of the Governor to the Presidency. With the complicated procedures for constitutional amendment, this constitutional position is unlikely to change in the short term. Political differences, such as those that existed in Rivers State during the period covered by the present report can result in obstruction in effective policing to the detriment of accountability mechanism and the provision of a remedy to citizens. Short term administrative adaptations can nevertheless be implemented to enhance the record of the NPF on political violence. The Inquiry therefore recommends that:

(a) The Inspector-General of Police should develop and issue for the NPF clear doctrine of zero tolerance for and clearly spelling out the kinds of acts or circumstances which the Force would regard as political violence. Such Force Order should also contain clear instructions, protocols and procedures to be followed by all personnel of the Force when confronted with reports of political violence. Within the text of such a Force Order, it should be made clear the circumstances in which crimes of political violence may be treated as crimes within the TPA.

(b) Reflecting the seriousness of crimes of political violence, the Inspector-General of Police should designate an officer of a rank not below that of Commissioner of Police with responsibility at the

federal level to lead the operationalisation of this Force Order and the development of a new Force disposition on political violence.

(c) There should be established at the federal level under the authority of the Council of State, an inter-agency Task Force on political violence to be co-ordinated by the Honorable Attorney-General of the Federation (HAGF). Participation in this would include the INEC, NPF, DSS and other security agencies, with the participation of National Human Rights Commission, the National Emergency Management Agency (NEMA), and the National Refugee Commission with some independent observers from civil society, the private sector, and academic institutions. This structure should be mirrored at the state level. This task group would collate information on measures of accountability for crimes of political violence. This Task Force should report annually on progress on political violence to the Council of State and the National Assembly. Its reports should be made public and should be accessible under the Freedom of Information Act.

(d) Additionally, the conflation of politics and criminality has been a huge contributor to the culture of impunity within Rivers State and should be tackled in a specific manner. The Inquiry recommends the establishment of in the office of the HAGF and in all state Ministries of Justice, a Political Crimes Prosecutions Unit (PCPU), with specialised prosecutorial assets dedicated to addressing accountability for crimes of political violence in co-ordination with the task force recommended above. Reports of the work of the PCPU

will be included in the annual reports from the Task Force to the Council of State.

(e) Subject to the implementation of measures to restore public confidence in the NPF's capability and institutional desire to effectively address crimes of political violence in Rivers State, the Inquiry recommends that the Honorable Attorney-General and Commissioner for Justice should refer to the NPF for further investigation and necessary action, the report of the Inquiry together with the specific allegations of crime contained in the petitions addressed to the Inquiry.

81. The Inquiry considers it important to confront directly the problem of impunity for crimes of political violence. Over the course of its work, the Inquiry received many allegations against several persons alleged to have been involved in crimes of political violence in Rivers State during the 2015 General Elections. These allegations were generally of uneven quality. However, there was a small pool of alleged perpetrators against whom there was a consistent pattern of allegations that was both compelling and too serious to ignore. It is not within the purview of the Inquiry to determine guilt or innocence. However, the Inquiry would be failing in its duty if it failed to bring these persons to the attention of the necessary authorities for appropriate action.

### **Confronting Impunity**

82. The Inquiry acknowledges the need to balance action against impunity for political violence on the one hand against the constitutional

imperative of the presumption of innocence on the other. In striking a balance between these two values, the Inquiry decided to deliver a copy of the report to both the Governor of Rivers State and the National Peace Council through its Chairman and former Head of State, General Abdulsalami Abubakar, whom it invites to assume a role in guaranteeing fair, impartial and prompt investigative action on these cases.

### **Addressing Youth Violence, Small Arms and Cults**

83. In much of the Niger Delta, as exemplified by the situation in Rivers State, violence is casual, transactional and profitable. Youth involved in it acquire an intoxicating sense of power and wealth. Education and profitable skills are not easily accessible to them. Other avenues for dignified existence are also not available. In the manner that it was administered, the Amnesty programme initiated during President Yar'Adua's government and intensified under the administration of President Goodluck Jonathan created the impression that violence pays in the Niger Delta. Creating a different orientation will require the collaboration of both the State and Federal Governments. The Inquiry recommends for this purpose an independent review of the Amnesty Programme with a mandate to rethink how the priority investments by the programme can be changed from cash transfers to the transfer of skills and involvement in building civics.

84. Such a re-think must be complemented by a commitment to demobilisation of arms in the Niger Delta. The Amnesty Programme failed to demobilise the militias or take arms out of their hands. On the contrary the Inquiry heard evidence that ahead of the 2015 General

Elections, politicians increased access to and supply of small arms and light weapons in the hands the militias. This proliferation has intensified the mutual dependency of politics and the militia and violent crime networks in Rivers State and the wider Niger Delta. The Inquiry therefore strongly urges the Government and the security to make all necessary effort to mop up arms from cultists and militants, through a buy-back system if necessary.

85. Accordingly, the Inquiry recommends the implementation of time-bound programme of demobilisation and reintegration of the cult/youth/militant groups. As part of this programme, the Federal Government de-criminalise bunkering and ultimately tax it. Such policy will curb the activities of the militias in the creeks and reduce the consequential criminal activities attendant to illegal bunkering.

### **Re-opening the Courts**

86. Another major factor in the pervasive sense of impunity in Rivers State is the closure of the courts. The Commission urges the Government to take all steps to resolve the impasse and re-open the Courts without further delay.

### **Social Challenges**

#### *Civic Education*

87. Civic education should be strengthened in our schools to re-orientate the youths on the sanctity of life. They should be made to understand that no one should destroy what one cannot create.

### *Intensifying Peacebuilding Programmes*

88. Peace building activities should be encouraged to enhance togetherness and communal life. Projects such as schools, hospitals, churches and even festivals that will bring persons of different persuasions together should be encouraged. This will enhance peacebuilding.

### *Addressing internal displacement*

89. The Commission recommend that the Government of Rivers State cooperates and refers the issue of internal displacement to National Emergency Management Agency (NEMA) for an assessment of the situation and provision of necessary assistance.

### *Widows/children*

90. The Commission recommends the provision of assistance to widows and children during the present cycle of political violence. For those widows who may be dispossessed because of security issues as a result of the loss of the breadwinner in the family, the Commission recommends that the Government take steps to provide alternative secure accommodation. For those of school age, scholarships should be provided to those children up to and including the completion of university education for those who are accepted into university.

### *Traditional System*

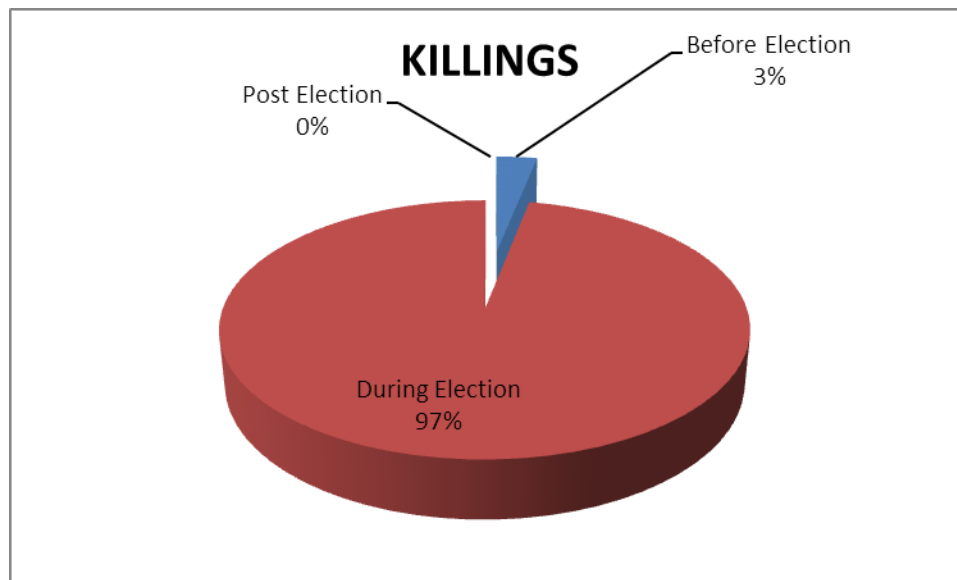
91. Traditional rulers should be encouraged to enforce cultural sanctions on all that spill blood. To evolve better citizens, traditional rulers should be encouraged to enforce our cultures.

## Analyses of violations by electoral cycle (before, during and post election)

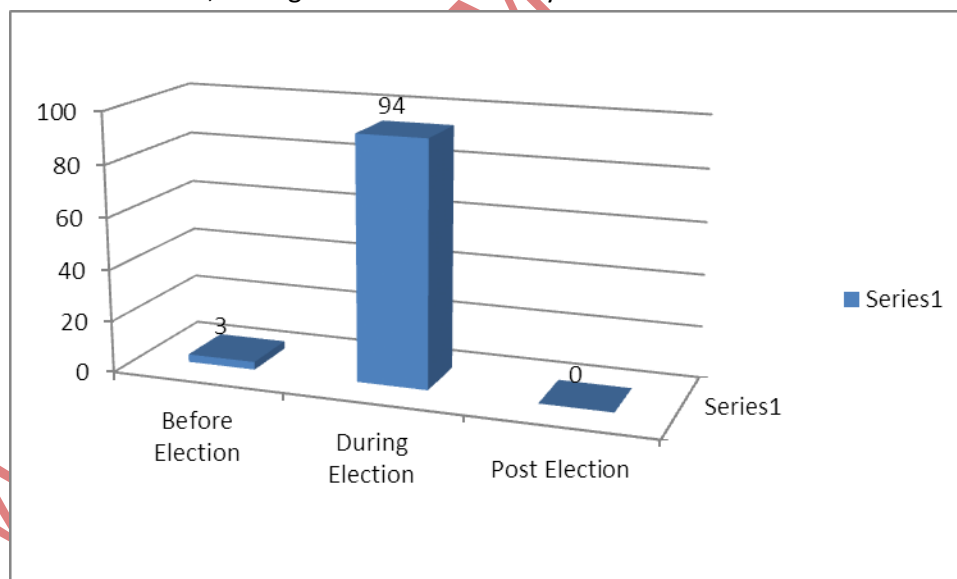
### A. Violations by Electoral Period

#### 1. Politically Motivated Killings (PMK)

##### a. PMK Before , During and After Election by % :

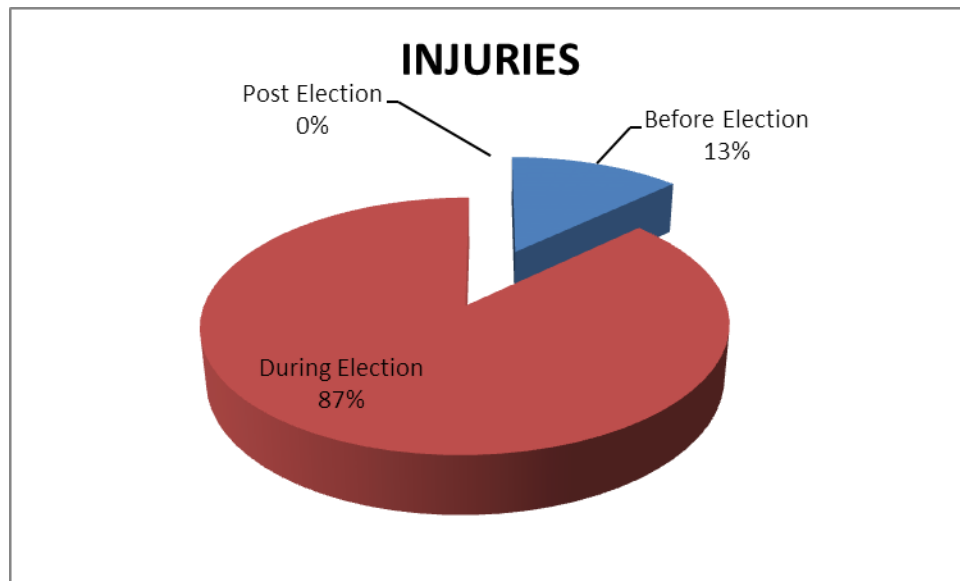


##### b. PMK Before , During and After Election by number :

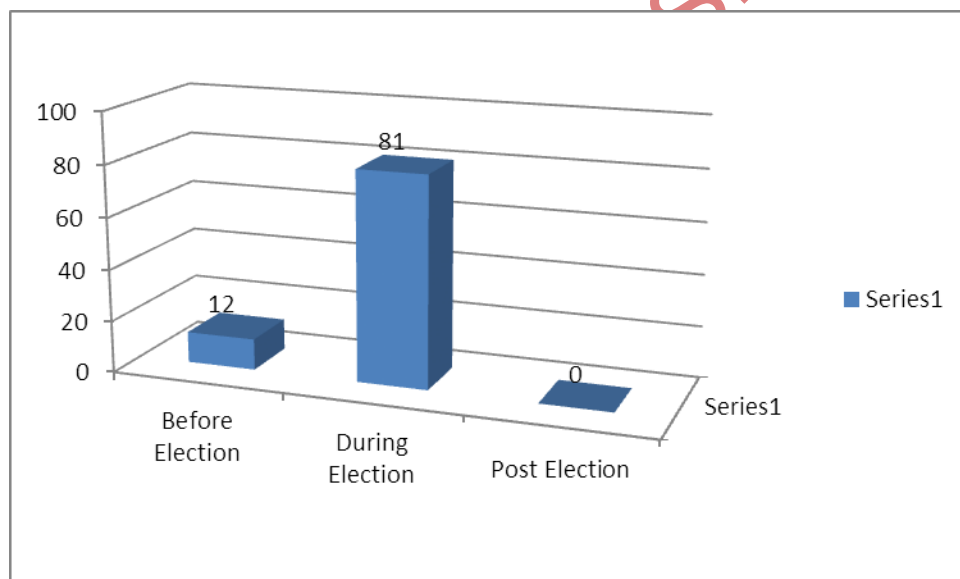


##### c. Injuries Before , During and After Election by % :

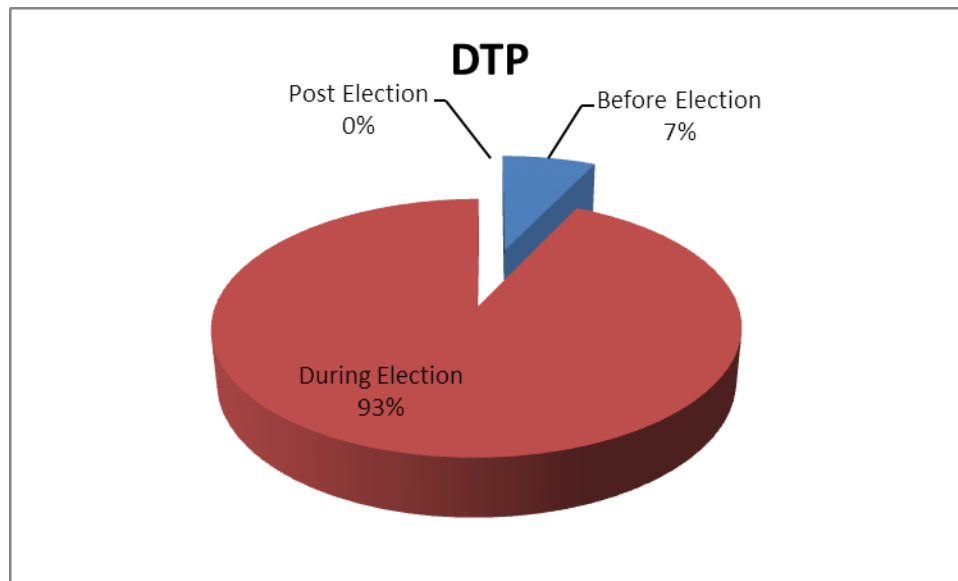




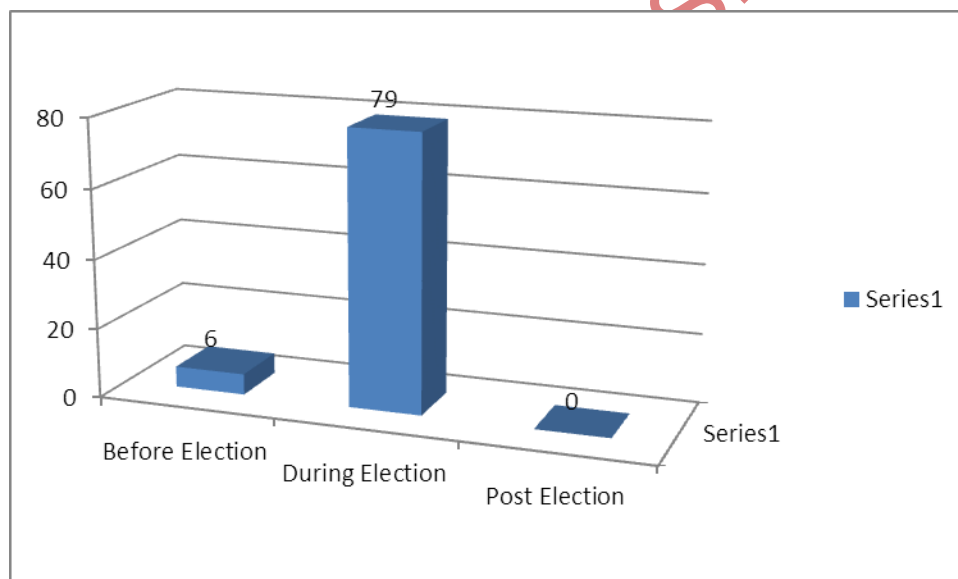
d. Injuries Before , During and After Election by numbers:



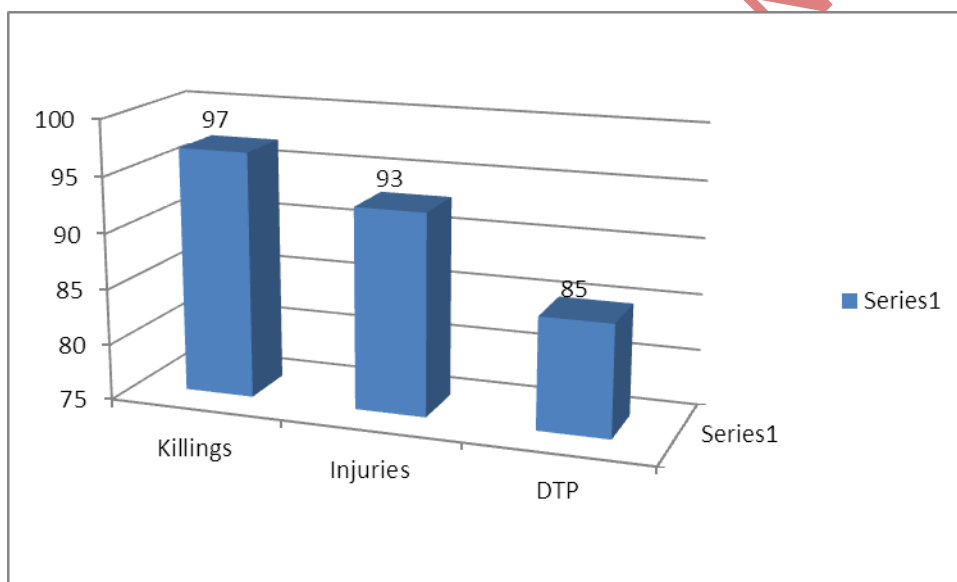
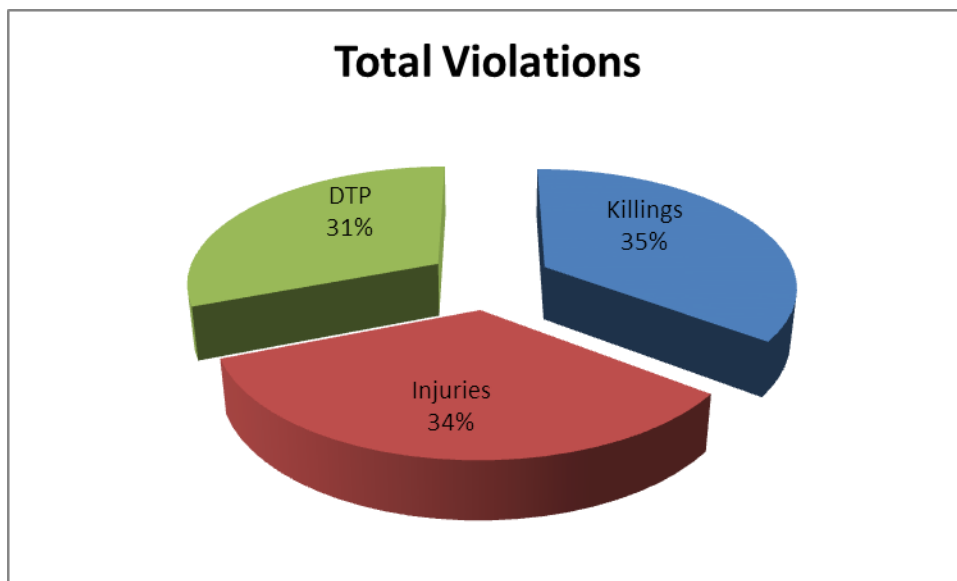
e. Destruction to Property (DTP) Before , During and After Election by %



f. Destruction to Property (DTP) Before , During and After Election by numbers:

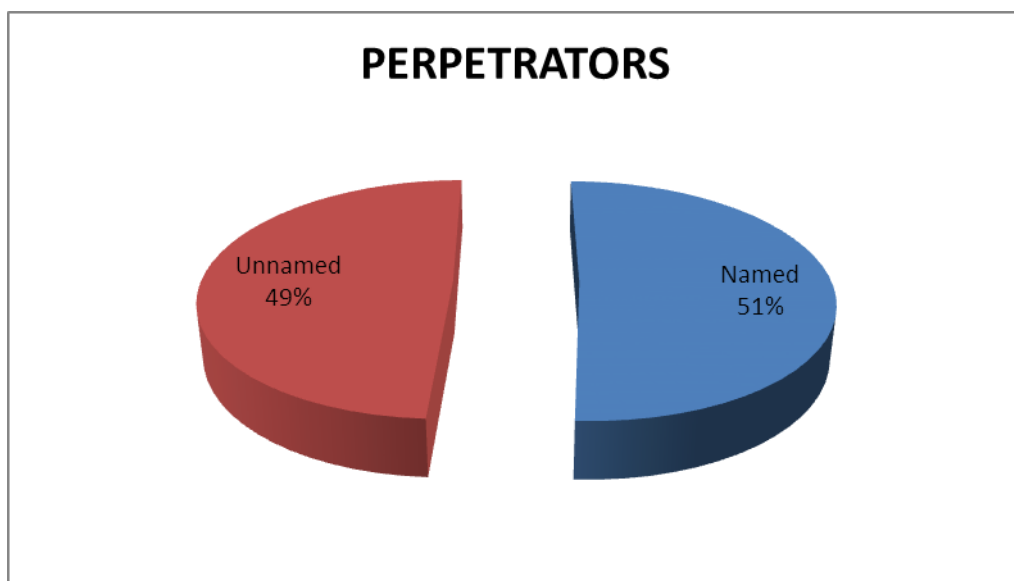


B. Total Violations :

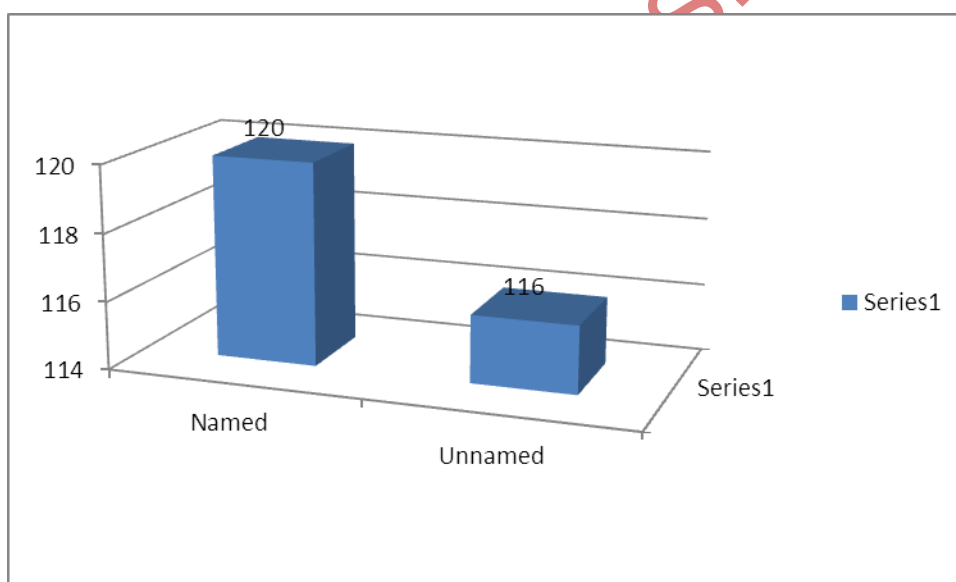


C. Pepertrators:

a. Pepertrators by %:

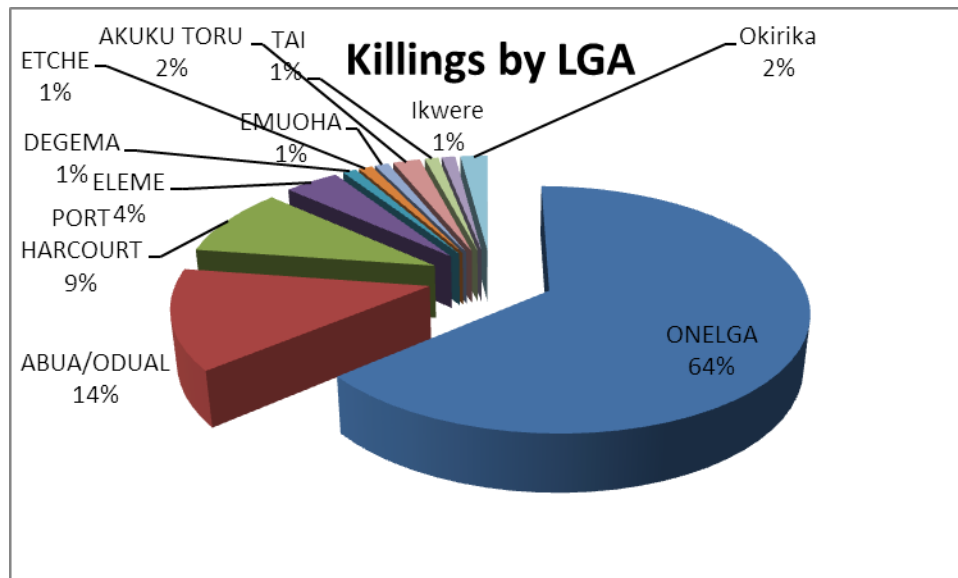


b. Perpetrators by numbers:

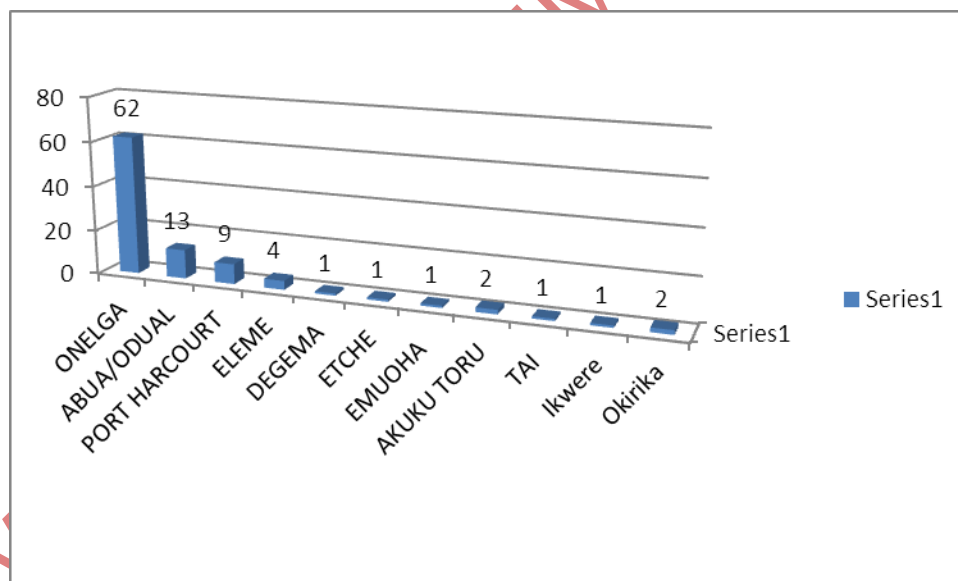


D. Violations by LGA

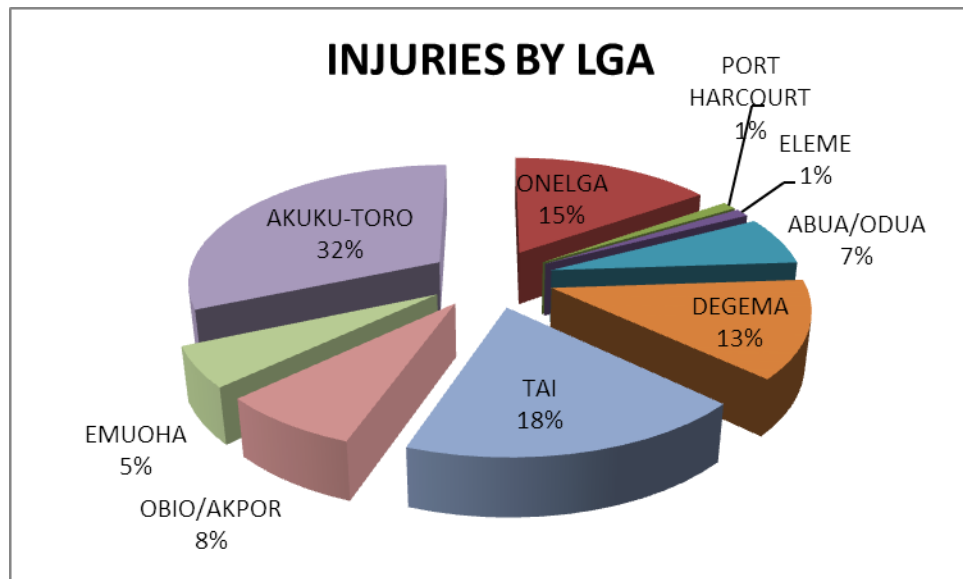
a. PMK by LGA in %:



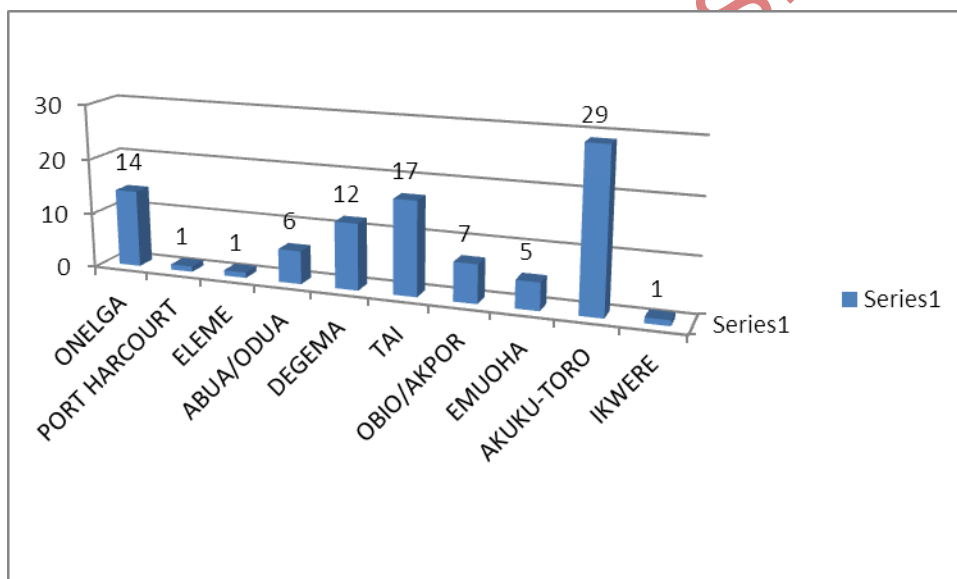
b. PMK by LGA in numbers:



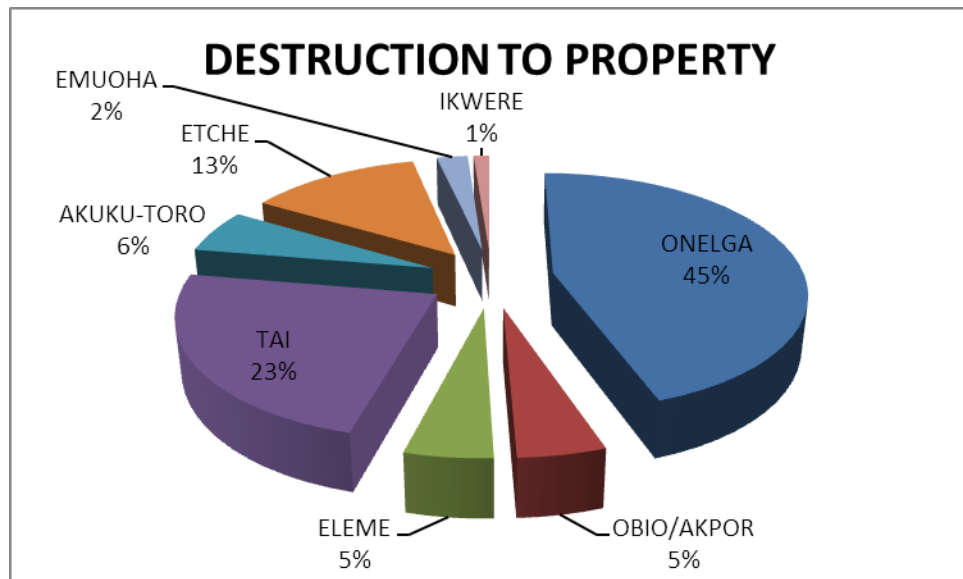
c. Injuries by LGA in %:



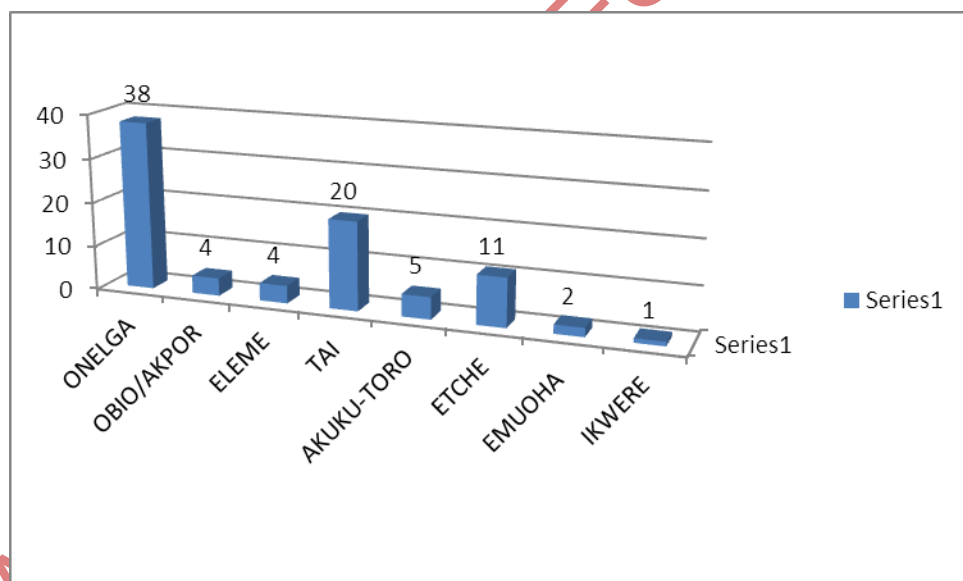
d. Injuries by LGA in numbers:



e. DTP by LGA in %:



f. DTP by LGA in numbers:



## CHAPTER 1

### INTRODUCTION : ESTABLISHMENT, SCHEDULE & WORKING METHODS

1. This Chapter sets out information about the establishment of the Commission of Inquiry and provides an overview of the work that it undertook, the material it received and considered and the constraints encountered during the course of its work.
2. By a legal instrument dated 7 April 2015, the Governor of Rivers State, Right Honorable Chibuike Rotimi Amaechi, CON, established a Commission of Inquiry pursuant to the Commissions of Inquiry Law,<sup>18</sup> an Instrument Constituting a Commission of Inquiry (hereafter referred to as “the Inquiry”) to Investigate all the Politically Motivated Killings and Damage to Property in Rivers State Immediately Before, During and After the 2015 General Elections. Governor Amaechi constituted and established the Commission of Inquiry under powers conferred upon him by Section 2(1) on 7 April 2015.
3. The Inquiry is tasked to investigate all the politically-motivated killings, damage to property and grievous bodily harm to persons, which may have taken place since the commencement of political activities in the run up to and after the 2015 General Elections.
4. In exercise of his powers under the law, the Governor appointed the following persons as members of the Commission, with full powers and authority to hold public hearings as well as private hearings:

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<sup>18</sup> Cap.30 Law of Rivers State of Nigeria, 1999, Section 2(1)



Prof. Chidi Odinkalu	Chairman
Ayo Obe	Member
Prof. Nlerum S. Okogbule	Member
(Sir) Prof. Owunari Georgewill	Member
Dr. Mrs. Joy Ejiofor	Member
Rev. Father Michael Akere	Member
Richard Ofuru	Member

5. The Terms of Reference (ToRs) of the Inquiry are to:

- i. Investigate and ascertain the remote and immediate causes of the all the politically-motivated killings, damage to property and grievous bodily harm to persons, all of which have been taking place in Rivers State, before, during and after the 2015 General Election;
- ii. Investigate and ascertain the number of persons injured or threatened with injury;
- iii. Ascertain properties destroyed, their owners and the value of such properties;
- iv. Identify person(s), groups, or institutions who either by acts of omission and commission were directly and indirectly involved or sponsored the violence and killings;
- v. Investigate any other matter(s) that may come to the knowledge of the Commission in the course of its deliberations, not covered in 2(i) – (iv) above;
- vi. Make recommendations regarding persons whom the Commission finds blameworthy in connection with the violence, killings and damage to property; and

- vii. Make recommendations in the light of its findings and other recommendations which the Commission may consider in view of its findings.
6. The Inquiry is required to submit its report and findings with any recommendations not later than (1) month from the date of its first sitting or within such extended period as may be granted.
7. The Governor also appointed Mrs. McCarthy Oriye as Counsel to the Inquiry and Sir Samuel Egbe as Secretary.
8. On 16 April 2015, the Governor swore in the members of and inaugurated the Commission of Inquiry. Reverend Father Michael Akere did not present himself to take the oath and did not at any other time participate in the work of the Inquiry.
9. Following the Inauguration, the Inquiry settled its schedule and methods of work and authorised the Secretariat of the Inquiry to issue a public call for memoranda published in three national newspapers the *Punch*, the *Nation*, and the *Nigerian Tide* (Appendix A). The call for memoranda was also widely disseminated through electronic media in Rivers State, including Radio Rivers. The Call required all memoranda to be submitted on oath.
10. During the period of its operation, the Inquiry received a total of 43 memoranda.

11. The Inquiry held public hearings at the Obi Wali Convention Centre in Port Harcourt on five days between Monday, 4 May 2015 and Saturday, 16 May, and one day of public hearings in Eleme LGA on Thursday 14 May.
- 12.. The public hearings of the Inquiry opened on Monday, 4 May 2015 and ended on Friday, 16 May 2015.
13. On Tuesday, 12 May 2015, the Inquiry visited Umuikpe Obono Community in Ozuzu Clan and Ojia, Obono, Oboku, Akuzor-Oboko- Clan and Abara villages in Etche LGA where it inspected sites of destruction of property and arson allegedly committed during the 2015 elections.
14. On Thursday, 14 May, the Inquiry sat to take evidence in Eleme LGA.
15. The Inquiry also received the testimonies of four witnesses in confidential hearings (in camera).
16. In all, the Inquiry undertook six days of public hearings during which it heard some 18 hours of oral testimony, received and considered testimonies from 49 witnesses and admitted 221 exhibits.
17. Additionally, the Inquiry met in confidence with the Department of State Services (DSS) in Rivers State and arranged to meet with the Rivers State Command of the Nigeria Police Force (NPF). On the date set for the meeting, 20 May 2015, the Commission attended at headquarters and was requested to submit a questionnaire to be completed instead which

the NPF would return completed by an agreed time on that day. The Commission submitted the requested questionnaire. No response to the questionnaire was received by the Commission within the agreed time so the Commission was obliged to compile its report without input from the Rivers State Command of the Nigeria Police Force (NPF).

18. Separately, the Inquiry also received three different sets of confidential expert briefings (one institutional, one expert, and one interaction involving the Chairman with militants in Okrika) on political and other violence by gangs, cults and militias in Rivers State and the Niger Delta.

19. All witnesses, whether taken in public or in confidential hearings, testified under oath and were questioned by counsel and members of the Commission.

20. Separately, on 17 May 2015, following negotiations, the Chairman of the Commission met confidentially in Okrika with some senior members of militia movements in the Niger Delta in the presence of Counsel chosen by the militia leaders.

21. This report synthesises the information and evidence from these diverse sources. In preparing this report, the Inquiry has also taken benefit of and consulted other official reports and relevant secondary material referred to in the body of the text that follows.

## **CONSTRAINTS AND PROBLEMS ENCOUNTERED BY THE COMMISSION OF INQUIRY**

22. It is essential to summarise the constraints encountered by the Inquiry in the conduct of its work.
23. The instrument under which it was established shortly after very hotly contested elections, granted the Inquiry a duration of 30 days, when the situation in the State was far from pacified. The brevity of the time between the elections and the commencement of the Inquiry's work, as well as the Inquiry's short life span made it inevitable that the persisting security situation in Rivers State would affect the scope of work that could be undertaken
24. Logically, the Inquiry took place during the transition following the 2015 General Elections. As a result, many of the official institutions and persons with whom the Inquiry could have consulted appeared distracted by the uncertainties of the period. There was a sense, some of which was communicated informally to the Inquiry, that many people who would otherwise have wished to participate in or collaborate with the Inquiry, felt endangered in their persons, property, work or relationships by the very subject matter of the Inquiry. Ironically, therefore, the execution of the Inquiry's work and the responses to it in many places reflected the challenges that the Inquiry was tasked to address: insecurity; intimidation; interference; and impunity.
25. Invariably, the security situation in Rivers State was a constraint on the work of the Inquiry. There was a strong sense of fear among many of the

witnesses the Inquiry met with. Some of the witnesses who came expressed fears that by attending or testifying before the Inquiry they could suffer further violence. At least two of the staff who supported the work of the Inquiry received threats because of their work with the Inquiry. In response to the threats, at least one of the support staff declined further participation in any work related to the Inquiry and pulled out. As a result, the members and support staff had to be sequestered for the duration of the work of the Inquiry and had to be protected by a significant contingent of security assets.

26. There was a sense also that the safety and security institutions were incapable of guaranteeing the safety of any persons appearing before the Inquiry. Other than the facility of a confidential or closed hearing, the Inquiry was unable to afford any effective protection to witnesses as an incentive for their testimony. As a result, many persons who may have wished to did not in fact come forward or co-operate with the Inquiry because of the sense of pervasive insecurity in the State. At least one petitioner (from ONELGA) was precluded from testifying after his brother was kidnapped subsequent to the submission of his petition. It was reported that the petitioner subsequently received a call from unknown persons warning him to stay away from the Inquiry if he desired to save his brother's life.<sup>19</sup>

27. As a result of the adverse security situation in many parts of Rivers State, the Inquiry was unable to undertake sittings or hearings in or visits to all the locations from which it received petitions or in which there

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<sup>19</sup> Petition PMKC1/030/2015

were allegations of politically motivated violence. This limited the capability of the Inquiry to make specific findings or recommendations with respect to claims of destruction of property in most locations.

28. The ToRs required the Inquiry to, among other things, “[i]dentify person(s), groups, or institutions who either by acts of omission and commission were directly and indirectly involved or sponsored the violence and killings.” However, the Inquiry is not a substitute for law enforcement agencies nor was it a joint enterprise with them. Without the benefit of the investigative capacities of law enforcement and security agencies, the focus of the Inquiry was deliberately limited to testing the claims that were presented before it. In many places, therefore, this report presents material and findings that in themselves must constitute bases for further work or investigation by the agencies of law enforcement, public safety and security in Nigeria.

29. Through Counsel instructed by them, the Peoples Democratic Party (PDP) in Rivers State notified the Inquiry of its decision not to participate in the proceedings. The Party stated that it did this in obedience to an order issued by the Federal High Court in Port Harcourt, restraining the conduct of the Inquiry. At the session of the public hearing of the Inquiry on Monday, 11 May, Counsel to the PDP, E.C. Aguma, Esq., showed members of the Commission of Inquiry the photocopy of a document purporting to be the interim order of the Federal High Court in Port Harcourt restraining the Inquiry from sitting. The order was allegedly issued on 28 April 2015 in response to an application filed on 24 April. Until the conclusion of the Inquiry, neither the alleged order nor the

originating application on the basis of which it was made were at any time served on the members of the Commission of Inquiry who were on the face of the document parties to the proceedings. When Counsel brought the document to the attention of the Inquiry, the Inquiry scheduled a special hearing on the implications of the document for Wednesday, 13 May and invited both Counsel to the PDP and other Counsel to address it on the implications of the document. Instead, on 13 May, the Inquiry received a letter from Counsel (APPENDIX B) dated 11 May 2015 by which he notified the Inquiry of the instructions of his clients (the PDP) to decline further participation in the Inquiry. On 13 May, the Inquiry was availed legal of advice from B.E.I Nwofor, Senior Advocate of Nigeria (SAN), representing the Attorney-General of Rivers State (APPENDIX C) as well as from Counsel to the Inquiry.

30. Against this background, it is important to acknowledge that the contents of this report only reflect the information and evidence submitted to or received or considered by the Inquiry. It is not intended to and does not in fact necessarily exhaust the scope, types, identities or quantity of incidents, perpetrators, victims or sites of political or election related killings or violence that took place in Rivers State during the relevant period.

31. Notwithstanding these constraints the Inquiry team exercised considerable diligence in testing and checking allegations submitted to or tendered to the Commission of Inquiry and in seeking material to verify information provided.



32. The Inquiry was conducted in a transparent manner. The public hearings were attended by witnesses, parties and their chosen counsel, members of the public and the press. Hearings were covered by print and electronic media. There was also contemporaneous social media coverage, including a LiveBlog and LiveTweets.<sup>20</sup>

WWW.PREMIUMTIMESNG.COM

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<sup>20</sup> The tweets on the hearing are accessible with the HashTag #RiversInquiry.

## CHAPTER TWO:

### SCOPE OF THE WORK OF THE INQUIRY: IMMEDIATE CAUSES

33. This Chapter sets out information about how the Inquiry translated its ToRs, including how the Inquiry reached a meaning for “politically motivated killings” and defined its working methods. It also shows how in addressing these issues, the Inquiry was guided by its sense of how politically motivated violence in Rivers State or anywhere else in Nigeria affects the deepening and sustenance of Nigeria’s democracy and the stability of Nigeria itself.

#### ***B. Conceptual Framework***

##### **I. Temporal Scope:**

*“Events Before, During and After the 2015 General Elections”*

34. The terms of reference require the Inquiry to focus on “events before, during and after the 2015 General Elections.” This expression was not defined in the instrument establishing the Inquiry nor in any of the laws that the Inquiry was obliged to consider or take account of. It, therefore, fell to the Inquiry to give meaning to this expression.

35. The Inquiry reasoned that the requirement limiting it to “events before, during and after the 2015 General Elections” meant that there should be some cut off dates to incidents that could be considered by it. In seeking to determine what such dates could be, the Inquiry considered the provisions on electoral campaigning as set out in the Electoral Act 2010 in order to take a view on whether a prescribed campaigning period

might guide it in determining an appropriate set of dates (temporal scope).

36. Pursuant to section 30 of the Electoral Act 2010, the Independent National Electoral Commission (INEC) is to give notice of elections no later than 90 days before the day appointed for holding of the election. The elections were originally scheduled to take place on 14 February 2015. They were postponed pursuant to section 26(1) of the Electoral Act 2010 and subsequently were held on 28 March 2015 and 11 April 2015. Given the postponement of the elections, any campaigning period following notice given by INEC should properly encompass the 90 day notice period prior to the date when the elections were originally scheduled to be held; that is 90 days prior to 14 February 2015 and be extended up to at least 11 April when all the elections scheduled to take place were concluded.

37. In addition to the period of the elections, however, the Inquiry was also mandated in the ToRs to “[i]nvestigate and ascertain the remote and immediate causes...” of the matters within its scope of work. In tracing or determining causation whether remote or immediate, the Inquiry further took the view that it was not only appropriate, but necessary, where evidence and information is before the Commission and it considers the material and relevant, the Commission would take that information, evidence or factor into account.

38. The Commission received ample evidence of allegations of acts of political violence and killings in or traceable to Rivers State dating back to more than ten years before the 2015 elections in Nigeria. For

instance, in March 2003, a former National Vice-Chairman of the PDP from the State who later became a National Vice-Chairman of the opposition All Nigeria Peoples Party (ANPP), Dr. Marshall Sokari Harry, was assassinated. 11 months later, in February 2004, his successor as the National Vice-Chairman of the PDP in South-South Nigeria, Chief Aminasoari Dikibo was himself assassinated. In November 2009, Chief Charles Nsiegbu, a leading member of the party and acclaimed close associate of the State Governor was also assassinated in Port Harcourt, the Rivers State capital. In the same year, the Justice Kayode Eso Truth and Reconciliation Commission recorded that parts of Rivers State were in the hands of “insurgents”, to the point where the Governor felt impelled to offer them “safe passage” in order to “come and give evidence before the....Commission.”<sup>21</sup> The Inquiry also received evidence of the killing of the Mrs. Lucy Wokocha, the mother of former state legislator and current Commissioner for Power in Rivers State, Sir Austin Wokocha.

39. The Inquiry does not include such killings in its tallies of killings within the scope of the current Inquiry. However, such acts and allegations have been taken account of in evolving a general picture which strongly indicates that political violence, including arson, injuries to persons and properties, and killings, has been central to the pursuit, exercise and retention of political power in Rivers State long before the 2015 General Elections.

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<sup>21</sup> Government of Rivers State, *Report of the Rivers State Truth and Reconciliation Commission*, Ibadan, Evans Brothers (Nigeria) Ltd., pages 47 *et seq.* (2009)

40. While this is generally reflective of the pattern of evidence adduced before and received by the Inquiry, it must also be said that the evidence equally suggested that two different factors appear to have played a significant role in the intensity and perceptions of violence in the elections in Rivers State in 2015. One was the split in the ruling PDP in the State which formally occurred in 2013, following which a faction of the party led by the incumbent Governor moved into a new Opposition coalition that later became the All Progressives Congress (APC). The other is public perceptions and associated allegations concerning the influence on the politics of Rivers State during the relevant Period of the First Lady, Dame Patience Jonathan, who is from Rivers State. The Inquiry considers it important to provide some context and clarification with respect to both issues.

41. By way of a background, Rivers State has in the past experienced short-lived episodes of splits within and largely ineffectual opposition to the ruling PDP in the State. In March 2003, a former National Vice-Chairman of the PDP from the State who later became a National Vice-Chairman of the All Nigeria Peoples Party (ANPP), Dr. Marshall Sokari Harry, was assassinated in Abuja where he had gone to attend a meeting of his party. This killing, which remains unsolved, was subject to considerable testimony before the Justice Kayode Eso Rivers State Truth and Reconciliation Commission.<sup>22</sup> In 2011, Dr. Abiye Sekibo, former federal Minister and one-time Secretary to the Rivers State Government left the ruling PDP to contest for the office of Governor of Rivers State under the

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<sup>22</sup> *Ibid.* Pages 76 *et seq.* It must be clarified here that it was not within the purview of this Inquiry to form any view of the testimonies collected by or presented to the Justice Kayode Eso Rivers State Truth and Reconciliation Commission and none was taken in this case. The reference here is merely for the purpose of recording that such incident took place.

banner of the now defunct Action Congress of Nigeria (ACN). The Inquiry received evidence to suggest that high level intolerance expressed through violence was a principal reason why both ANPP and the ACN tendencies failed to gain any traction in Rivers State.

42. Evidence received by the Commission thus indicated that one notable difference between the situation in 2015 and the previous episodes of political opposition and violence in Rivers State was the fact that the opposition this time was led by an incumbent State Governor who also had control of state resources (including media, money, and personnel) and guaranteed access to the levers and institutions of law, order, safety and security in the State. The defection of the Governor's faction into an opposition formation created a rift with the PDP-controlled Federal Government at a time when it was led by a President with origins from the Niger Delta.

43. It was impossible to miss the effect that this split had on governance, political institutions, and ultimately, on violence and public safety and security in the state. The symbolisms of this are evidence in the State Capital, Port Harcourt, where the premises of the legislature in the State House of Assembly have been shuttered since July 2013. 10 months later, in May 2014, the judiciary was equally closed down in the State. For one year preceding the 2015 General Elections, only one arm of the State government, the Executive, functioned for any practical purpose. The system of checks and balances inherent in the separation of powers as the foundation for democratic government were deliberately allowed to collapse in Rivers State in the wake of the political contest for supremacy between different factions of the ruling PDP in the state led

by the Governor on one side and the President on the other. In this contest, both sides freely deployed the benefits incumbency and self-help to their advantage, creating a system that could arguably be described as government by vigilantism. It would have been impossible for the wider population to miss or refuse to follow the example of government by vigilantism. This was naturally, therefore, a major factor in the spike in political violence during the 2015 General Elections in Rivers State.

44. It is relevant here that under Nigeria's Constitution, the institutions and assets of law and order; safety and security, including the Nigeria Police Force (NPF) and the Armed Forces, are all controlled by the Federal Government. In 2013, therefore, the split within the PDP in Rivers State which led the Governor to defect to an opposition formation transformed what was in fact a not unusual, intra-party contest for supremacy into an existential political contest between forces loyal to the President and those loyal to the State Government in which public resources were deployed, with Rivers State as the turf or site of battle.

45. A second distinguishing feature of the violence in the 2015 elections in Rivers State was the fact that the First Lady and wife of the President has origins in Okrika, Rivers State. Evidence presented to the Inquiry included allegations and perceptions that either the first lady in person or persons claiming to represent her interests, including one Evans Bipi who is a member of the Rivers State House of Assembly, exercised undue or negative influence on the security agencies in Rivers State or on other persons or entities involved in the violence reported. The

Inquiry was unable to verify or form an independent view of these allegations. They are recorded here as proof that they were made not necessarily as confirmation of the allegations made.

46. Against this background and for completeness, therefore, the Commission determined that the temporal scope of its work with regard to events before the 2015 elections could extend from as far back as necessary to enable it to properly take a view on immediate and remote causes; that is at least from 2011. With regard to the discharge of its mandate on events after the 2015 elections, the Commission took the view that it is appropriate to consider all memoranda, testimony and information brought to its attention on politically motivated violence, and immediate and remote causes, as practicable, until the completion of its work.

47. Accordingly, the Inquiry treats the reference to “during the General Elections” as covering duration between the commencement of the official campaign period preceding voting and the announcement of results following the voting. Taking account that the initial date for the beginning of the 2015 elections was February 14 2015, the Inquiry takes this period to begin from 14 November 2015 and runs until the end of the announcement of results in the Governorship elections in Rivers State on or about 15 April. Taking account of the remote issues connected, the reference to the period before the elections covers the period between the inauguration day in May 2011 until the formal commencement of campaigns for the 2015 elections, while the references to after the elections would cover the period after the announcement of results.



## II. Substantive Scope

### *“Politically Motivated Violence”*

48. Political violence refers to forms of violence deployed for the purpose of accessing or retaining power or precluding citizens from participating effectively in deciding by whom or how they are governed. In both substantive and temporal terms, it includes but extends beyond election-related violence.<sup>23</sup>

49. Political violence in Rivers State somewhat reflects the evolution of broader attitudes to violence and access to political power in Nigeria. In its 2008 report, the Presidential Committee on Electoral Reform chaired by former Chief Justice, Mohammed Lawal Uwais noted that Nigeria generally had “a weak political culture characterized by electoral violence, monetized politics, poor and low political accountability, abuse and personalisation of power, zero-sum approach to politics.”<sup>24</sup> The Committee bitterly complained that “impunity ... has marred Nigeria’s electoral process to date”,<sup>25</sup> and highlighted the existence of a “prevailing atmosphere of impunity with regard to election offences.”<sup>26</sup> It concluded that “the politicians have become more desperate and daring in taking and retaining political power; more reckless and greedy

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<sup>23</sup> Election violence has been defined as “any random or organized act to intimidate, physically harm, blackmail, or abuse a political stakeholder in seeking to determine, delay, or to otherwise influence an electoral process”, Jeff Fischer, “Electoral Conflict and Violence: A Strategy for Study and Prevention”, IFES White Paper (2002), p. 1. See also, National Human Rights Commission, *A Pre-Election Report and Advisory on Violence in Nigeria’s 2015 General Elections*, p. 6 (Feb 2015)

<sup>24</sup> Federal Republic of Nigeria, *Report of the Presidential Committee on Electoral Reform*, para. Para 1.2.3.1 [“Uwais Committee Report”]

<sup>25</sup> *Ibid.*, para. 2.6.1

<sup>26</sup> *Ibid.*

in their use and abuse of power; and more intolerant of opposition, criticism and efforts at replacing them”.<sup>27</sup>

50. In 2007, Nigeria’s Supreme Court acknowledged “the stark realities of the Nigerian situation particularly as it relates to the attitude of the political class which sees election into any position as a matter of life and death and consequently ready to do anything possible to attain the ambition.”<sup>28</sup>

51. Political violence is an issue that affects the corporate existence of Nigeria and occurs in most states of the country. Indeed, it is a national security threat to Nigeria because it goes to the heart of the sustenance of Nigeria as a polity, the legitimacy of the power to govern it, and the roles and effectiveness of the security agencies in the country. This is because political violence excludes citizens from exercising the right to participate in establishing their government or choosing their leaders. It is also destructive of peaceful civic and associational life. As such, political violence denudes politics of any public benefit or link to the public good.

52. In coming to a working definition of ‘politically motivated killings’, the Commission of Inquiry began by acknowledging the essential foundations of legitimate government in the popular will expressed voluntarily in credible ballot. This is a requirement of Nigeria’s 1999 Constitution.<sup>29</sup> It is now also well accepted that “governments violate international law where they do not predicate their rule on popular

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<sup>27</sup> *Ibid.* para. 2.1(b).

<sup>28</sup> *Senator Hosea Ehinlanwo v. Chief Olusola Oke, Peoples’ Democratic Party & INEC*, (2008) 16 NWLR (Pt. 1113), 357 at 411.

<sup>29</sup> Section 14 (2) (c) Constitution of the Federal Republic of Nigeria

will.”<sup>30</sup> This is the basis of the human right to participate in government recognised in both the Universal Declaration of Human Rights<sup>31</sup> and the African Charter on Human and Peoples’ Rights which is domestic law in Nigeria.<sup>32</sup> The right to participate in government includes a bundle of other rights, such as freedoms of expression, assembly and association, including the right of individuals to political affiliation, and choice and to organise in expression or support of such choice as part of the democratic process.

53. The Inquiry considered the nature of violence before, during or after an electoral contest and whether what would ordinarily be criminal acts were significantly altered in the context of an electoral campaign and process. The Inquiry similarly also considered whether the motivation of obtaining political advantage by carrying out acts of violence imbued those acts with a qualitative difference. The Inquiry equally took account of the fact that constitutionally protected rights to life, participation, expression, association and assembly are essential foundations to democratic government which deserve special protection if democratic governance is to be sustained. It took special account of the fact that the targeting of persons by reason of their political opinion is itself constitutionally prohibited under the guarantee of freedom from discrimination in Nigeria’s Constitution.<sup>33</sup>

54. The guarantee of freedom from discrimination in Nigeria’s constitution creates certain protected identities or characteristics, such as race,

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<sup>30</sup> Brad Roth., *Governmental Illegitimacy in International Law*, 37-38 (2000).

<sup>31</sup> Universal Declaration of Human Rights, Article 21

<sup>32</sup> See Article 13 of the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria, 2004.

<sup>33</sup> Constitution of the Federal Republic of Nigeria, 1999, section 41.

ethnicity or tribe, sex or gender, political opinion or faith/religion. The existence of protected characteristics, in certain specific circumstances and contexts, make some acts, while criminal of themselves, different qualitatively because it introduces an element of bias or hate into the motive for the crime. In a heterogenous, multi-ethnic society such as Nigeria, such targeted violence not only harms the mandate resulting from it, it could also even further damage national coexistence and political stability.

55. Additionally, political violence makes use of intimidation of the victim and the community within which it occurs. It precludes democratic participation and choice and in so doing has the tendency to delegitimize government and destroy the public good. This is particularly important during elections in which people exercise their right and civic duty to vote and participate in the democratic process.

56. This is why, under the Electoral Act, it is a crime to “directly or indirectly threaten any person with the use of force or violence during any political Campaign”<sup>34</sup> This crime is punishable on conviction with one year in prison or one million Naira fine.<sup>35</sup> The Act also prohibits the use, establishment or maintenance of militias by whatever name called.<sup>36</sup>

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<sup>34</sup> Electoral Act 2010 (as amended), section 96(1). This crime is punishable with up to one year imprisonment or one million Naira fine.

<sup>35</sup> *Ibid.* s. 95(7)

<sup>36</sup> *Ibid.*, s. 95(5)-(6). Specifically, the Act provides that “No political party or member of a political party shall retain, organize, train or equip any person or group of persons for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objective or interests, or in such manner as to arouse reasonable apprehension that they are organized, trained or equipped for that purpose” *Ibid.*, s. 95(5)

57. Under the Electoral Act, it is a crime punishable with up to three years imprisonment to “threaten to make use of any force, violence or restrain” or to inflict or threaten to inflict either directly or through another person “any minor or serious injury, damage, harm or loss on or against a person in order to induce or compel that person to vote or refrain from voting, or on account of such person having voted or refrained from voting.”<sup>37</sup> The crime and prohibition created here extends to post-election violence because it protects persons from violence, intimidation or threats for “having voted or refrained from voting” for someone. Under the Electoral Act, therefore, the substantive and temporal scopes of political violence are not easily separated.

58. Political violence may, thus be targeted as in assassination or attacks on persons defined by political or other identities. It may also equally be arbitrary. The element of arbitrariness in political violence is particularly disturbing because it has the consequence of creating an atmosphere of fear which destroys confidence in security agencies, undermines co-existence and impedes the exercise of democratic participation. In coming to this view of an element of political violence, the Inquiry has also taken account in this context of the laws and practice of other countries and institutions that have grappled with the problem of politically motivated violence. In particular, it has taken account of comparative jurisprudence on the right to democratic participation, including freedom of expression,<sup>38</sup> the close relationship between

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<sup>37</sup> *Ibid.*, s. 131(1)

<sup>38</sup> See for example, In the *Case of Ivcher-Bronstein*, Judgment of February 6, 2001. Series C No. 74, where the Inter-American Court of Human Rights stated in para. 146,

“[Freedom of thought and expression] requires, on the one hand, that no one be arbitrarily limited or impeded in expressing his own thoughts. In that sense, it is a right that belongs to each individual. Its

democracy and participation,<sup>39</sup> freedom of thought and expression in the context of an electoral campaign and the right to political association.<sup>40</sup>

59. Electoral participation and voluntary choice are the bedrocks of democracy. The Inquiry concluded that acts of violence which have the tendency to limit or destroy the exercise of such participation or

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second aspect, on the other hand, implies a collective right to receive any information whatsoever and to have access to the thoughts expressed by others”

<sup>39</sup> For example, in its Advisory Opinion OC-5/85, Cf. *Case of Herrera-Ulloa*, Judgment of July 2, 2004. Series C No. 107, para. 112; and *Compulsory Membership in an Association prescribed by Law for the Practice of Journalism*, (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, para. 70. the Inter-American Court referred to the close relationship that exists between democracy and freedom of expression, when it stated that:

“Freedom of expression is a cornerstone upon which the very existence of a democratic society rests. It is indispensable for the formation of public opinion. It is also a condition sine qua non for the development of political parties, trade unions, scientific and cultural societies and, in general, those who wish to influence the public. It represents, in short, the means that enable the community, when exercising its options, to be sufficiently informed. Consequently, it can be said that a society that is not well informed is not a society that is truly free.

The European Court of Human Rights has also underscored the importance that freedom of expression has in a democratic society, when it stated that:

“[...] freedom of expression constitutes one of the essential pillars of democratic society and a fundamental condition for its progress and the personal development of each individual. This freedom should not only be guaranteed with regard to the dissemination of information and ideas that are received favorably or considered inoffensive or indifferent, but also with regard to those that offend, are unwelcome or shock the State or any sector of the population. Such are the requirements of pluralism, tolerance and the spirit of openness, without which no ‘democratic society’ can exist. [...] This means that [...] any formality, condition, restriction or sanction imposed in that respect, should be proportionate to the legitimate end sought.”

See further, *Scharlach and News Verlagsgesellschaft v. Austria*, no. 39394/98, § 29, ECHR 2003-XI; *Perna v. Italy* [GC], no. 48898/98, § 39, ECHR 2003-V; *Dichand and others v. Austria*, no. 29271/95, § 37, ECHR 26 February 2002; Eur. Court H.R., *Case of Lehideux and Isorni v. France*, Judgment of 23 September 1998, para. 55; Eur. Court H.R., *Case of Otto-Preminger-Institut v. Austria*, Judgment of 20 September 1994, Series A no. 295-A, para. 49; Eur. Court H.R. *Case of Castells v. Spain*, Judgment of 23 April 1992, Series A. No. 236, para. 42; Eur. Court H.R. *Case of Oberschlick v. Austria*, Judgment of 25 April 1991, para. 57; Eur. Court H.R., *Case of Müller and Others v. Switzerland*, Judgment of 24 May 1988, Series A no. 133, para. 33; Eur. Court H.R., *Case of Lingens v. Austria*, Judgment of 8 July 1986, Series A no. 103, para. 41; Eur. Court H.R., *Case of Barthold v. Germany*, Judgment of 25 March 1985, Series A no. 90, para. 58; Eur. Court H.R., *Case of The Sunday Times v. United Kingdom*, Judgment of 29 March 1979, Series A no. 30, para. 65; and Eur. Court H.R., *Case of Handyside v. United Kingdom*, Judgment of 7 December 1976, Series A No. 24, para. 49.) The African Commission on Human and Peoples’ Rights has also ruled similarly in *African Commission on Human and Peoples’ Rights, Media Rights Agenda and Constitutional, Rights Project v. Nigeria*, Communication Nos 105/93, 128/94, 130/94 and 152/96, Decision of 31 October, 1998, para 54

<sup>40</sup> See *Ricardo Canese v. Paraguay* Inter-American Court, Judgment of August 31, 2004, (Merits, Reparations and Costs), paras 88 - 90

voluntary exercise of such choice threaten democracy and are thus to be considered political. This is so even if the authors or perpetrators are not members of any government or political party. Thus to the extent that electoral violence challenges the very fabric of a democratic society, the Commission of Inquiry is minded to consider electoral and politically motivated violence to gain an advantage in the public affairs of the country as acts which adversely affect or impede the voluntary exercise of political rights, howsoever expressed.

*Intimate Violence against Family and the Community*

60. One notable characteristic of the violence investigated by the Inquiry is that it is destructive of family and community relationships which are the bases of organised society. Many of the cases brought to the attention of the Inquiry involved different members of the same family or community on different sides of political violence as victims or perpetrators. In addition to human life, items allegedly destroyed included family assets and homes, documents of title or proof of qualification, sentimental objects, and invaluable heirlooms of historical significance handed down from long deceased common ancestors. In some cases, elements of intra-family dispute appeared present and it appeared that the political season offered an opportunity for sides in some of such disputes to enlist the infrastructure of political violence in order to impose solutions where intra-family or community institutions and processes would have sufficed.

61. It was equally evident from testimony made available to the Inquiry that the intimacy of such political violence has long term adverse effects on the family and community in deepening animosities, undermining



coexistence and degrading the legitimacy of the institutions of community governance, including traditional institutions. In many cases, the witnesses indicated that they were unwilling to report the cases to traditional or community institutions because they believed that those institutions were partisan on one side of the violence or the other. The persistence of such circumstances could have contributed to the sense of helplessness that was in evidence from many of the witnesses heard by the Inquiry, giving the violence a peculiar intimacy and enhancing the sense of persecution.

#### *Persecution*

62. A key component, and consequence, of violence as described in the evidence submitted to, and heard by, the Commission of Inquiry is the notion of persecution. Electoral violence intimidates the persons, victims and communities affected by it. Intimidation, harassment and attacks on persons and property may amount to persecution in the most serious of cases where it is an intentional and severe deprivation of fundamental rights by reason of identity of a group or collectivity on political, racial, faith, gender-based or other grounds related to identity. It forms an integral part of the intimidation of persons.

63. The acts of violence which result in intimidation or constitute persecution may be directed at an individual, their family or other assets or associational interests. These acts may be single acts or a series of acts; the cumulative effect of which may well amount to persecution under certain circumstances.<sup>41</sup>

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<sup>41</sup> De Andrade, Jose H. Fischel, 'On the Development of the Concept of 'Persecution' in International Refugee Law', III Anuario Brasileiro De Direito Internacional, V2, 125ff



64. Persecution is a key notion in the creation of forced displacement, including refugee status.<sup>42</sup> The Commission did indeed receive significant evidence indicating patterns of forced displacement in parts of Rivers State affected by political violence. Under the applicable laws, the bases for persecution may be any of five grounds: race (ethnicity), religion, nationality, membership of a particular social group, or political opinion. This definition of persecution is part of Nigerian law.<sup>43</sup> Whilst it is not codified under refugee law, the definition of persecution and its scope has evolved through doctrinal development and case law and assists the Commission.<sup>44</sup> The notion of persecution and the development of its integral elements are instructive.<sup>45</sup>

65. Persecution has been defined as “the sustained or systemic violation of basic human rights demonstrable of a failure of state protection”,<sup>46</sup> and

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<sup>42</sup> Article 1A(2) of the 1951 Convention relating to the Status of Refugees, defines a refugee as someone who,

... and owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

See United Nations, Treaty Series, vol. 189, p. 137

<sup>43</sup> See National Commission for Refugees Act, No. 52 of 1989.

<sup>44</sup> Two of the three basic characteristics or requirements of the refugee definition are evidently not relevant or applicable to the matter before the Commission. These are the requirements that a person be outside their country of origin or outside the country of their former habitual residence, and are unable or unwilling to avail themselves of the protection of that country owing to a well-founded fear of being persecuted.

<sup>45</sup> See further, and generally for a detailed exposition on the development of the concept of persecution, De Andrade, Jose H. Fischel, *‘On the Development of the Concept of ‘Persecution’ in International Refugee Law’*, III Anuario Brasileiro De Direito Internacional, V2, 114

<sup>46</sup> De Andrade, Jose H. Fischel, *‘On the Development of the Concept of ‘Persecution’ in International Refugee Law’*, III Anuario Brasileiro De Direito Internacional, V2, 114, at 123 citing Hathaway, J.C., *The Law of Refugee Status*, Toronto, Butterworths, 1991, pp104-105.

“...the failure or absence of State protection against a serious harm, including persistent discriminatory acts”.<sup>47</sup>

66. Thus, discriminatory behaviour leading to consequences of a substantially prejudicial nature including serious restrictions on an individual's human rights may amount to persecution.<sup>48</sup>

67. The Commission received credible evidence indicating that harassment, intimidation, violence, and killings accompanied by loss, trauma, fear, together with past, present and future threats to life and property (including interferences with witnesses to prevent appearances before the Commission of Inquiry) have been a regular part of the political experience of individuals and communities in Rivers State for a relatively long period. It was disturbing to hear testimony of the casual and transactional nature of killings with life apparently having little or no value. These acts may be direct or indirect i.e. directed at a family member or destruction of family property. The consequences remain the same; personal fear and physical, psychological and economic harm. The allegations of a pattern of “sustained or systemic violation of basic

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<sup>47</sup> Ibid, at 124, citing Lambert, H. *'The Conceptualisation of 'Persecution by the House of Lords: Horvath v Secretary of State for the Home Department, 13(1/2), International Journal of Refugee Law (2001), p30.*

<sup>48</sup> In an Advisory Opinion, UNHCR set out its interpretation of well-founded fear of persecution:

“... The Handbook notes the general understanding that persecution in any case comprises serious human rights violations. In addition, the Handbook also clarifies that discrimination amounts to persecution if it leads to consequences of a substantially prejudicial nature for the person concerned, including serious restrictions on his/her right to earn a livelihood, his/her right to practice a religion, or his/her access to normally available educational facilities.”

UNHCR, Advisory Opinion, 22 December 2004, at <http://www.refworld.org/pdfid/4551c0374.pdf>, para 8, last accessed 14.5.2015

human rights demonstrable of a failure of state protection'<sup>49</sup> were credible.

68. This was reinforced by evidence indicating a well established and persistent record of failure or neglect by the law enforcement and security agencies in Rivers State to effectively bring the persons responsible for such acts to justice. This provided additional evidence of '...the failure or absence of State protection against a serious harm.'

69. Thus these violations are further aggravated by an ineffective police force in which many people expressed to the Commission little or no confidence or in which people expressed strong perceptions of law enforcement ineffectiveness and/or partisanship. It must be clarified that the Inquiry did not have enough time to verify or indeed make any specific determination as to whether or not the law enforcement and security agencies in Rivers State were in fact partisan before, during or after the 2015 General Elections. The Inquiry did, however, receive credible evidence indicating the existence of significant *perceptions* of partisan law enforcement.

70. The determination of whether these perceptions were in fact well founded in any specific case was beyond the scope of the Inquiry. While, therefore, it may have been impossible to determine the existence of partisanship within the constraints that governed the work of the Inquiry, the existence of this perception itself was troubling because it had an effect on the relationship between the security and law

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<sup>49</sup> De Andrade, Jose H. Fischel, 'On the Development of the Concept of 'Persecution' in International Refugee Law', III *Anuario Brasileiro De Direito Internacional*, V2, 114, at 123 citing Hathaway, J.C., *The Law of Refugee Status*, Toronto, Butterworths, 1991, pp104-105.

enforcement agencies on the one hand and political parties on the other. The affected institutions, including the Presidency, the Governor of Rivers State and the leadership of the security agencies must accord priority to addressing this perception.

71. It is acknowledged, however, that the security agencies in Rivers State operated under severe constraints of personnel, equipment and geography. They also confronted an unusual political landscape in which personnel of the agency were in some cases victims of political violence, which resulted in at least one verified killing of a Police officer and other attacks on senior Police Officers during the period under investigation.<sup>50</sup> The fact that the victim of an attack is a law enforcement or security officer does not, however, detract from the political character of the attack. On the contrary, the failure or inability of the State to bring to account persons responsible for such attacks is itself confirmation of the absence of any remedy to less well placed citizens.

72. Taken together with the issue of bias as a motive in political killings, the failure of the State to protect its citizens from serious and sustained harm and violations of human rights very strongly indicates a situation where many communities in Rivers State may feel and genuinely fear persecution.

### *Impunity*

73. Of concern to the Commission of Inquiry were reports of hesitation or reluctance on the part of the NPF and other security agencies to respond to matters they have identified as political. In different cases from

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<sup>50</sup> In Okrika LGA. Confidential briefing by DSS.

ONELGA and Akuku-Toru,<sup>51</sup> witnesses who appeared before the Inquiry testified that security agents declined to attend to reports or incidents of political violence claiming that they were under instructions not to do so “even if the town is burning.”

74. The failure of security and law enforcement agencies to attend or investigate reports of violence denies the victim of a crime the possibility of a remedy, aggravates the feeling persecution and creates impunity to the perpetrators. Of grave concern to the Inquiry were allegations of collusion or tolerance on the part of the police and security services in certain acts either directly or in failing to act when notified of potential crime, or serious injury. As a result, perpetrators were strengthened by the feeling that they were above the law or, as many witnesses testified, “untouchable”. Also, individuals were reportedly killed, lives were lost and/or property damaged in circumstances directly attributable to failure of the security agencies. All this fostered an overwhelming, disempowering and frightening sense of impunity.

75. A sense was created from considerable evidence received by the Inquiry that crimes of political violence have been allowed to fester because they were not investigated; suspects were rarely apprehended or interviewed; very few were charged with a crime or prosecuted; no one is held to account for them; and perpetrators enjoy the protection of senior political office holders. As a result, victims were denied remedies and the victim and/or community’s rights were run roughshod with the

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<sup>51</sup> Memoranda, PMKC1.035/2015

suspects increasingly cocksure and confident to further intimidate the terrorised communities.

76. Another form of impunity exists in the form of the protection afforded to senior political office holders, aspirants and, in the Niger Delta, even militants and gang leaders, in the facility of a “security details”. These are often police personnel detailed to provide protection and private guard duties. In this respect, the Inquiry reviewed and accepts the position contained in the advisory on pre-election violence in preceding the 2015 General Elections, Nigeria’s National Human Rights Commission which lamented:<sup>52</sup>

Persons occupying these offices enjoy high levels of security protection, especially provided by the Police. In its 2008 report, the Presidential Committee on Police Reform, chaired by former Inspector-General of Police, Mohammed Dikko Yusuf, estimated that over 117,000 police personnel (nearly one-third) of the entire personnel of the Nigeria Police Force were engaged in protection duties for senior political office holders and other persons and complained that “the rich and powerful behave with impunity because of police protection.”<sup>53</sup>

77. The growth of political violence in Rivers State is easily traceable to the growth of impunity for it. It is important to recall that in response to the growing influence of cults, gangs and militias in the political, commercial

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<sup>52</sup> National Human Rights Commission, *A Pre-Election Report and Advisory on Violence in Nigeria’s 2015 General Elections*, page. 33.

<sup>53</sup> Federal Republic of Nigeria, *Main Report of the Presidential Committee on Police Reform, Vol. II*, p. 196 (2006)

and social life of the State, Rivers State enacted a law against cults, gangs, militias and firearms in 2004.<sup>54</sup> Despite the existence of this law, the influence of these groups would in the following years to the point where the Justice Kayode Eso Rivers State Truth and Reconciliation Commission would determine five years later that they had become the “political muscle’ to win elections in Rivers State between 1999 and 2007.”<sup>55</sup> In 2009, the State promulgated legislation to make kidnapping punishable with death.<sup>56</sup> Instead of their capabilities being degraded, the gangs, cults and militias have grown in influence since the passage of these laws in Rivers State. This could only mean that rather than ensure effective enforcement of the law, the political leaders of the State in the intervening years since the adoption of the law chose to provide political cover to violent gangs and militias as part of a bargain – implicit or explicit – in return for their assistance in accessing or retaining power in the State.

#### *Closure of Courts*

78. A major factor in the impunity and sense of popular helplessness that pervaded the State before, during and after the 2015 General Elections, was the fact that an arm of government, the judiciary, had been closed since May 2014 as a result of a dispute over the appointment of the Chief Judge of Rivers State. In the period since 2014, there have been

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<sup>54</sup> Secret Cult and Similar Activities (Prohibition) Law, No 6 of 2004 under which membership is an offence and for which an individual is liable on conviction to ten years imprisonment without the option of a fine under Section 1. Financial and other support, sponsoring, is also criminalised under Section 2 imprisonable for ten years with an additional sanction of removal from office for a public officer, traditional ruler or head of staff of an educational institute. Section 3 provides for an offence of harbouring offenders or permitting cult activities on a premises. Possession of an unlicensed firearm in any gathering is a criminal offence under Section 7(a) imprisonable for five years with no option of a fine

<sup>55</sup> Government of Rivers State of Nigeria, *Report of the Rivers State Truth and Reconciliation Commission*, page 440

<sup>56</sup> Rivers State Kidnap (Prohibition) Law, No 3 of 2009

over five well publicised attacks on courts in Rivers State involving the use of improvised explosive devices (IEDs). In January 2014 for instance, IEDs were used in attacks on the facilities and premises of the High Court of Rivers State in Aboada and Etche LGAs. In particular, the High Court in Okehi, the capital of Etche, was set on fire. In February 2015, the facilities and premises of the High Court of Rivers State in Degema, Isiokpo, and Port Harcourt (the State capital) were attacked. These attacks were intended to and did in fact result in creating a heightened sense of insecurity among judicial personnel in the State which makes the fair dispensation of justice impossible. It is thus possible to describe these as acts of terror within the meaning of Nigeria's the amended Terrorism Prevention Act.<sup>57</sup>

79. It is impossible to over-emphasise the effect that the closure of the Courts in Rivers State has had on the political atmosphere in the State, including access to justice, remedies and impunity. To begin with, as a result of this situation, security and law enforcement agencies have been unable to undertake their work lawfully. Detainees cannot be charged to court or remanded lawfully. This has led to a situation in which detention centres or cells of the law enforcement agencies in the state cannot and do not make any effort to comply with Nigerian law. The agencies are compelled to operate outside or on the margins of legality and choose to use their considerable powers for money making

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<sup>57</sup> Nigeria's Terrorism Prevention Act (TPA) (No. 10) of 2011 defines "an act of terrorism" to include an act an act which is deliberately done with malice aforethought and which is intended to "seriously intimidate a population" or "seriously destabilize or destroy the fundamental political, constitutional, economic or social structure of a country or an international organization". It also includes as the case may be, acts involving attacks upon a person's life which cause serious bodily harm of death; kidnapping; destruction of government or public facility or human life; the manufacture, possession, acquisition, transport, supply or use of weapons or explosives; or "the release of dangerous substance or causing of fire, explosion or floods, the effect of which is to endanger human life", etc. See TPA, Section 1(2) (2011 as amended in 2013)



and subsistence. Serious cases are compounded on the payment of financial inducement and suspects in serious cases of violence could be set free to persist in violence on the excuse that there is no cell space to hold them or court to charge them to even if they were to be apprehended.

80. Additionally, the closure of the courts rendered the members of the legal profession in Rivers State redundant, adversely affecting the livelihoods of the legal profession. In some cases, lawyers lost their jobs and moved more predictable forms of subsistence. Those who remain in practice have been forced to re-examine the pricing of their services to make up for lost revenue. As such, many more people were priced out of access to legal services or remedies, and found self-help or vigilantism more preferable or accessible.

81. The closure of the courts, therefore, sustained and grew impunity by denying remedies to victims and potential victims in Rivers State. It also frustrated the effective and lawful conduct of the work of law enforcement and security service.

82. In the absence of a functional judicial sector, vigilantism was elevated to a way of life. Leaders of the gangs, cults and militias in various parts of the state as well as security and law enforcement agencies, became the ultimate arbiters of disputes that should have been submitted for judicial resolution and management. The closure of the courts thus legitimised the perpetrators of violence in a way that no society should tolerate or accept.

## CHAPTER 3

### METHODOLOGY: BASES FOR FINDINGS

83. The ToRs require the Inquiry to make findings on several things, including:

- i. the number of persons injured or threatened with injury;
- ii. properties destroyed, their owners and the value of such properties; and
- iii. person(s), groups, or institutions who either by acts of omission and commission were directly and indirectly involved or sponsored the violence and killings

84. This raises the question of the standards applicable to or which must govern any findings to be made. The Inquiry is neither a court of law nor a law enforcement agency. It was established as a fact finding body. At one end, the standards of the judicial process are inapplicable to its work. At another end, the investigation by law enforcement agencies and determinations which must precede criminal or other prosecution are unnecessary.

85. As a matter of method, the Inquiry decided to include in its report all essential allegations made before it under oath. However, where it offers any specific views or findings, the Inquiry has applied the standard of credible evidence in assessing the veracity of any evidence before it for consideration. In reaching any such determination, the Inquiry relied on information or evidence from witnesses, including exhibits, site visits and secondary sources in the form of memoranda received attesting to

events on which it is alleged violations have occurred in addition to desktop research.

86. The basis on which the Commission has reached any finding is on an assessment of the reliability and credibility of witnesses, verifying where possible the sources of information and corroborating materials and information received with a view to assessing, whether in the circumstances, it is possible to make a finding, and whether in the circumstances, a person may reasonably be suspected of being involved in committing a crime.

87. This report does not purport to present the final word on any or all of the issues covered. Rather, it is addressed to government at the State and federal levels as well as the security agencies and Nigeria's citizens, political class and parties for further action. The Inquiry has not undertaken any determination of guilt or innocence. Any finding, views or conclusions contained herein are not presented as a judgment as to criminal guilt. It is the view of the Commission that prima facie determination of suspicion for crime can only be made by the necessary law enforcement or prosecutorial agencies and determination of guilt is the function of the courts. Both are beyond the purview of the Inquiry.

#### **SUMMARY OF INCIDENTS REPORTED TO THE INQUIRY**

88. In all, the Inquiry received or considered evidence or information on 97 allegations of killings. Three of those, representing three per cent of the killings reported to the Inquiry, took place before November 14 2014 while 94 or 97% of the killings reported to the Inquiry occurred between

15 November 2014 and 11 April 2015, at a monthly average of nearly 19 killings during the five months of the election period. As indicated earlier in this report these figures are applicable only to the cases in respect of which the Inquiry received evidence. It is quite possible that there were other cases that were not the subject of evidence or memoranda before the Inquiry.

89. 93 cases of injuries were also reported to the Inquiry. Of these, 12 persons representing 13% of reported injuries occurred before the election period while 81 injuries or 87% of reported cases took place during the election period.

90. In total, the Inquiry received evidence or reports of 83 incidents destruction of property, including acts of vandalism or arson on both movable and immovable property. Of this number, six incidents representing seven per cent occurred before the election while 77 incidents representing 93% occurred during the election.

91. The Inquiry recorded no reports political violence after the elections.

92. This evidence supports the conclusion that in terms of quantity, quality and scope, there was a frightening intensity to political violence during the period of the 2015 General Elections in Rivers State.

93. In total 275 different violations involving killings, injuries to persons or destruction were reported to the Inquiry. In terms of their proportions, killings represent 35% of the violations reported to the Inquiry, injuries represent 34%, while destruction of property represent 31%.

94. In all 236 alleged perpetrators were identified in testimonies before the Inquiry. Of this number 120 were named while 116 were unidentified.

95. It is likely that the numbers or tallies on similar incidents maintained or produced by the NPF or other security agencies are different from the pattern indicated here. The Inquiry received ample evidence of indicating that security agencies were unwilling or unable to attend to incidents of political violence or that in some location at least, were overwhelmed by the intensity and frequency of the incidents reported. The attitude of the security agencies that the Inquiry encountered was largely defensive, tending towards avoidance of the subject. This corroborated the perception that most witnesses and victims reported of the existence of institutional indifference, reluctance or avoidance on the part of the law enforcement agencies.

96. The Inquiry equally received evidence that relevant incidents of political violence may indeed have been under-reported. In some cases, human remains of victims of alleged political violence were released to families for burial without proper certification of death, post-mortem or mortuary documentation. There appeared to be no systematised protocols for handling or supporting victims of political violence or handling human remains caused by such violence. Bodies were deposited in both public and private mortuaries, making the collection or verification of accurate data on quantities quite difficult. Neither the State Police Command nor the public health authorities in Rivers State maintained records that could be regarded as offering reasonable assurances of coverage of most cases of political killings. Many victims

also testified to reluctance to report killings or other politically motivated victimisation to law enforcement and security agencies citing fears that they could be inconvenienced or victimised. Ultimately, the numbers offered in this report are limited to those cases brought to the attention of the Inquiry. More serious data collection would be required for purposes of both public health and law enforcement.

97. With reference to spread or footprint of incidents reported to the Inquiry, the Inquiry received or considered evidence of killings from at least 11 of the 23 LGAs in Rivers State, including Abua/Odual, Akuku-Toru, Degema, Eleme, Emohua, Etche, Ikwerre, Obio-Akpor, ONELGA, Port Harcourt, and Tai LGAs.

98. While the Inquiry was provided with sufficient material that enabled it to evaluate the quantities of killings and destruction of property alleged as well as the footprint of such violence, there remained some forms of victimisation which clearly occurred on a significant scale but did not easily lend themselves to quantification. Two notable forms of such victimisation were internal displacement and sexual violence or rape.

### ***Displacement***

99. The Inquiry received considerable evidence from many witnesses who, having no places of recourse or remedy, were forced by the violence to flee their communities into displacement. They fled to different places such as the bush; the state capital, Port Harcourt; or to neighbouring states or communities.

100. In his testimony, the Commissioner for Social Welfare and Rehabilitation, Tai LGA, Mr. Joe Phillips Poroma indicated that displacement was the portfolio not of his Ministry but of a Commissioner for Special Duties. The Inquiry was unable to receive evidence from this department. As such, it was impossible to estimate the extent or size of the population affected by displacement or actually displaced because of political violence.

101. When he testified before the Inquiry, the Rivers State Commissioner for Works, Sir Austin Wokocha estimated that up to about 45% of the population of his own LGA, ONELGA, may have been forced to flee the violence. It was impossible to verify this estimate. Most of the witnesses from all the LGAs in the State however, reported evidence of displacement.

102. Given the nature of political violence, there were no camps established for the victims of such displacement because any such camps could themselves easily have been targets of attack. Instead, witnesses confirmed that most victims fled ultimately into informal networks of family, community, or associates in other communities or neighbouring states or into the state capital, Port Harcourt.

### ***Women and Sexual Violence***

103. Political violence affected men, women, children, families and communities in Rivers State. While most of the victims of killings were men, the Inquiry also did receive evidence or allegations of the killing of women. Moreover, most of the men who were killed left behind female dependents and, in some cases, orphaned children.

104. Incidents of political violence involving sexual violence or rape were not directly reported to the Inquiry. This is not entirely surprising given the stigma that usually attaches to victims of rape.

105. However, when he testified before the Inquiry, the Rivers State Commissioner for Social Welfare and rehabilitations, Mr. Joe Phillips Poroma, reported a high incidence of sexual trauma affecting young women and girls in the state. According to Mr. Poroma, the State had an average daily rate of over 10 cases of rape daily which increased during the election period. He described the incidents of sexual violence as both “intolerable” and “very high”. In response to this, the humanitarian organisation, Doctors without Borders (better known by its French acronym *Medecins sans frontieres* or MSF), which had pulled out of the State at the end of 2012, returned in January 2015 to address the trauma of sexual violence among women and young girls around the election period.

106. The Inquiry is inclined to treat this evidence as suggesting that sexual violence may have been an instrument of political violence in Rivers State during the 2015 General Elections. With reference to sexual violence, the Inquiry was, for the reasons described above, unable to assign find out how many persons were affected.

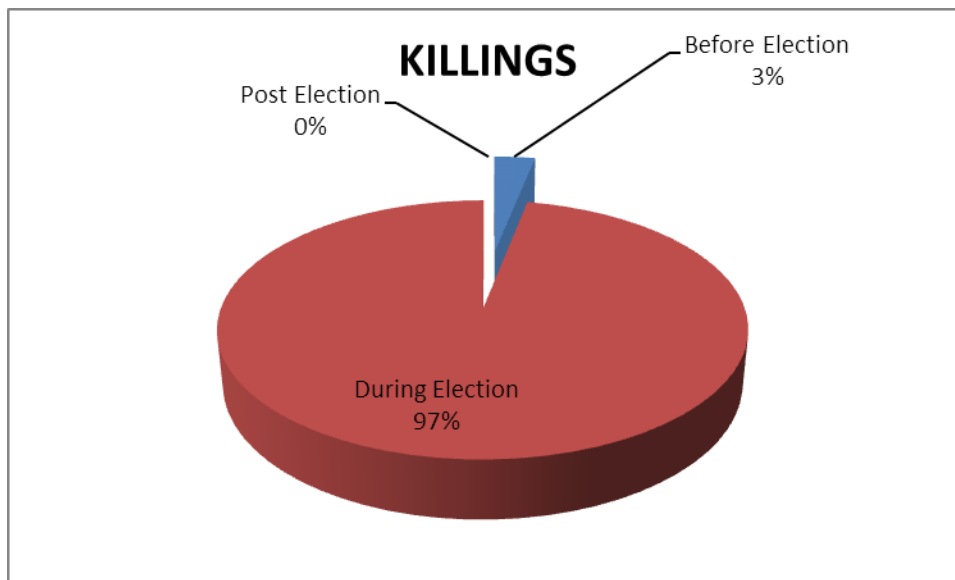


## Analyses of violations by electoral cycle (before, during and post election)

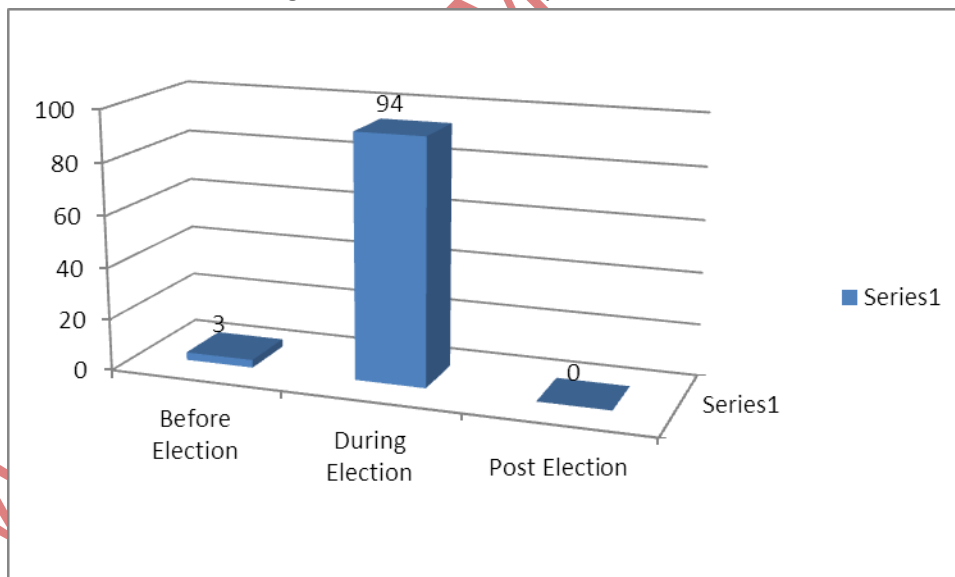
### A. Violations by Electoral Period

#### 2. Politically Motivated Killings (PMK)

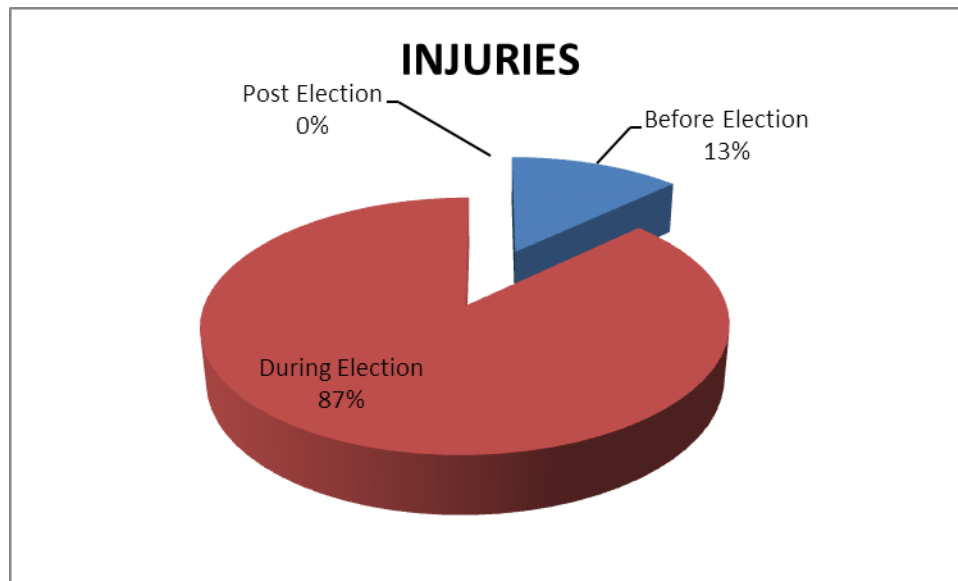
##### g. PMK Before , During and After Election by % :



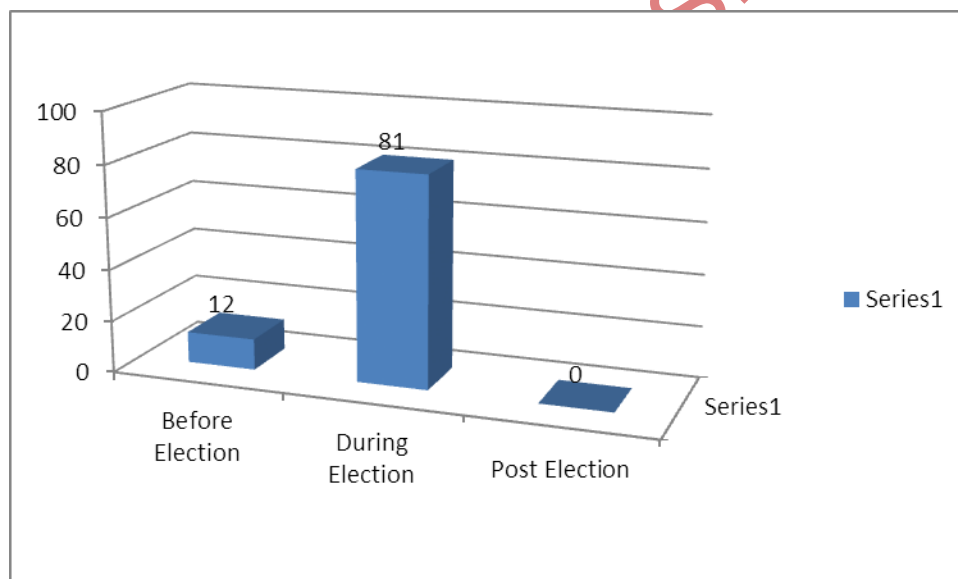
##### h. PMK Before , During and After Election by number :



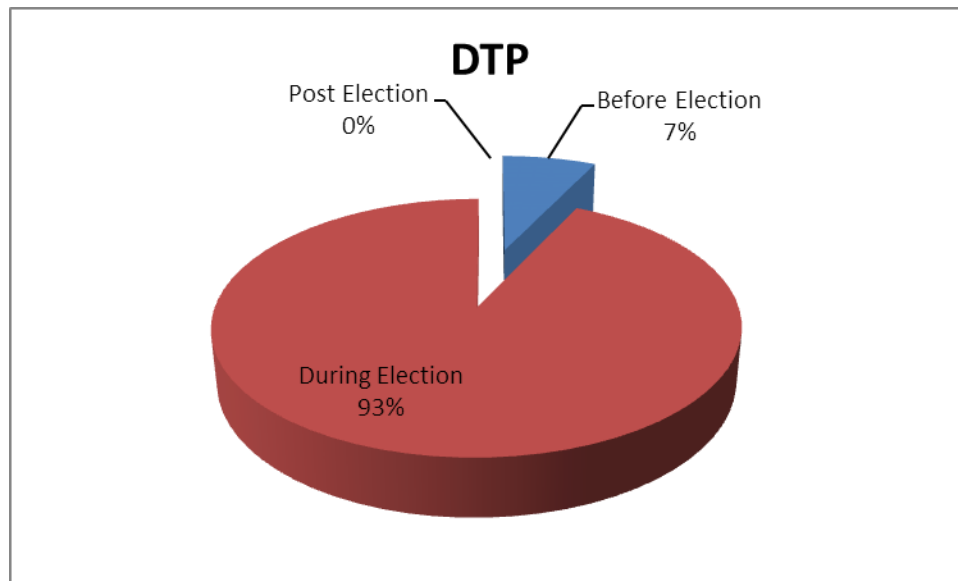
##### i. Injuries Before , During and After Election by % :



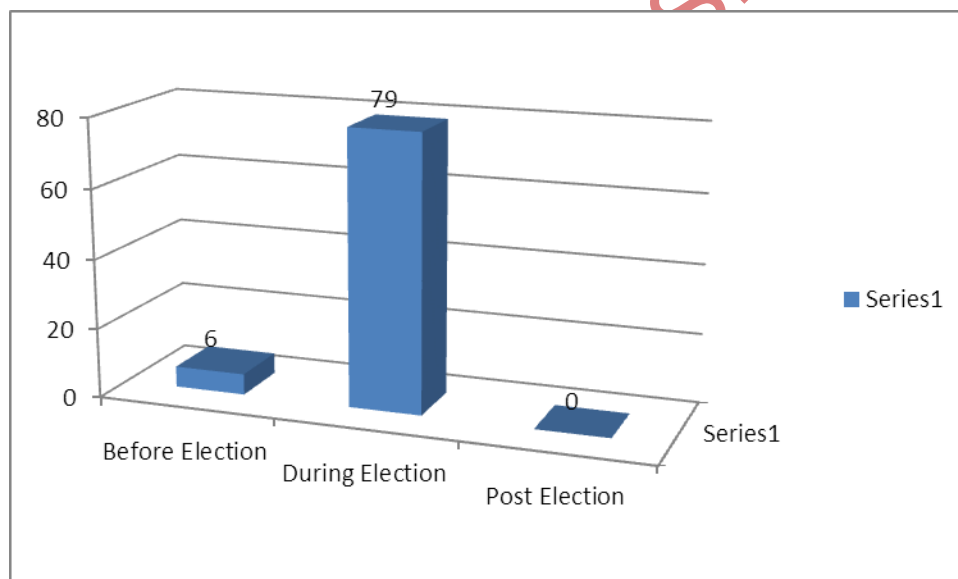
j. Injuries Before , During and After Election by numbers:



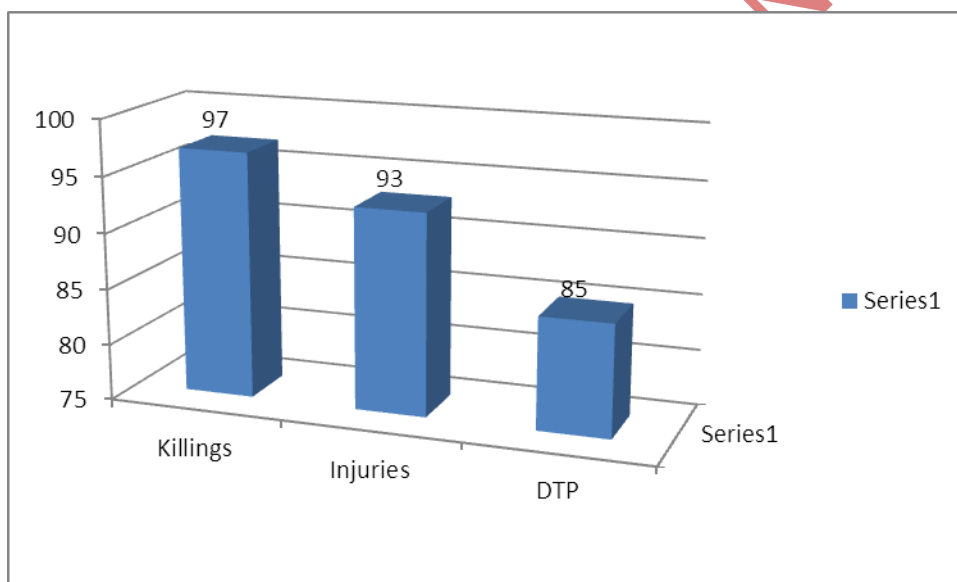
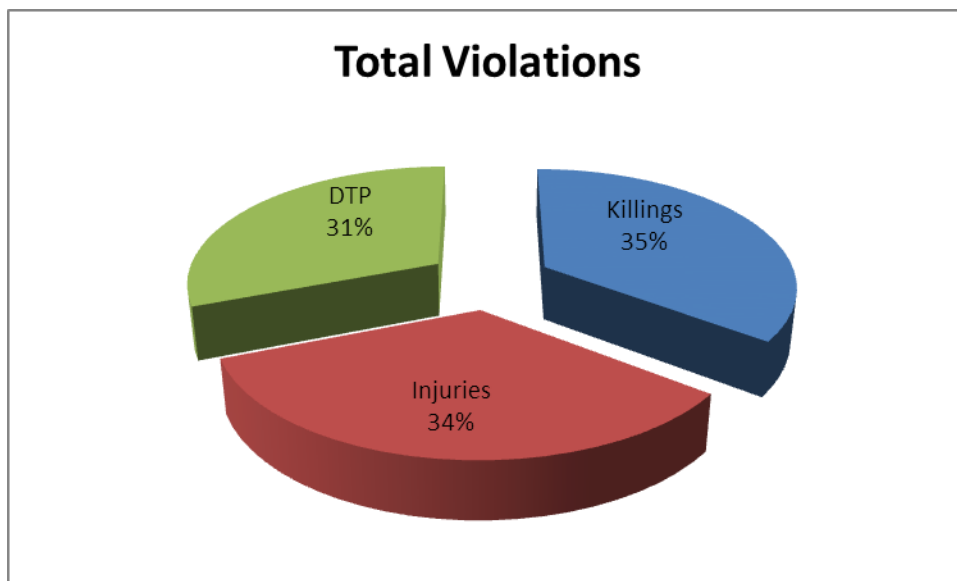
k. Destruction to Property (DTP) Before , During and After Election by %



I. Destruction to Property (DTP) Before , During and After Election by numbers:

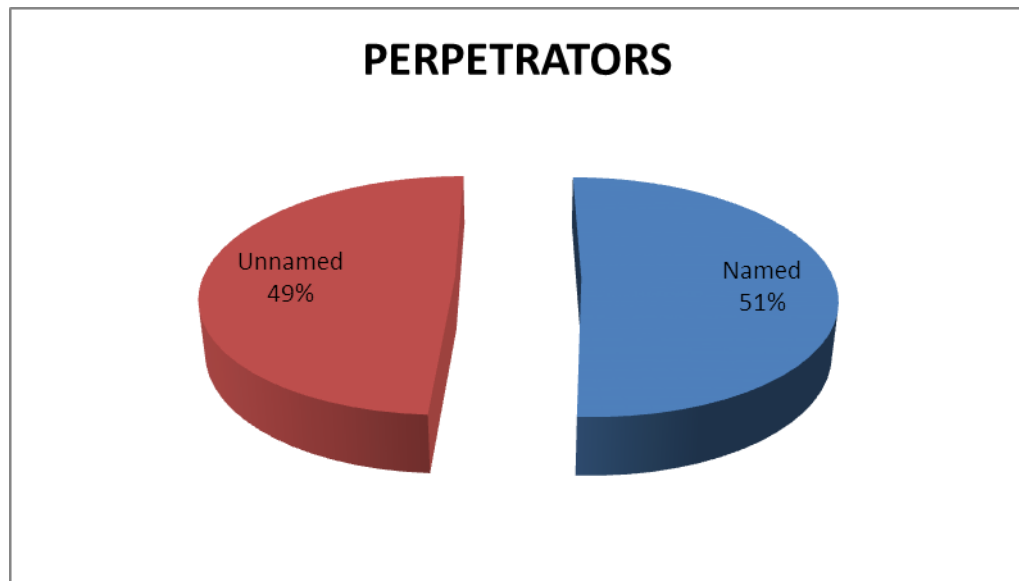


B. Total Violations :

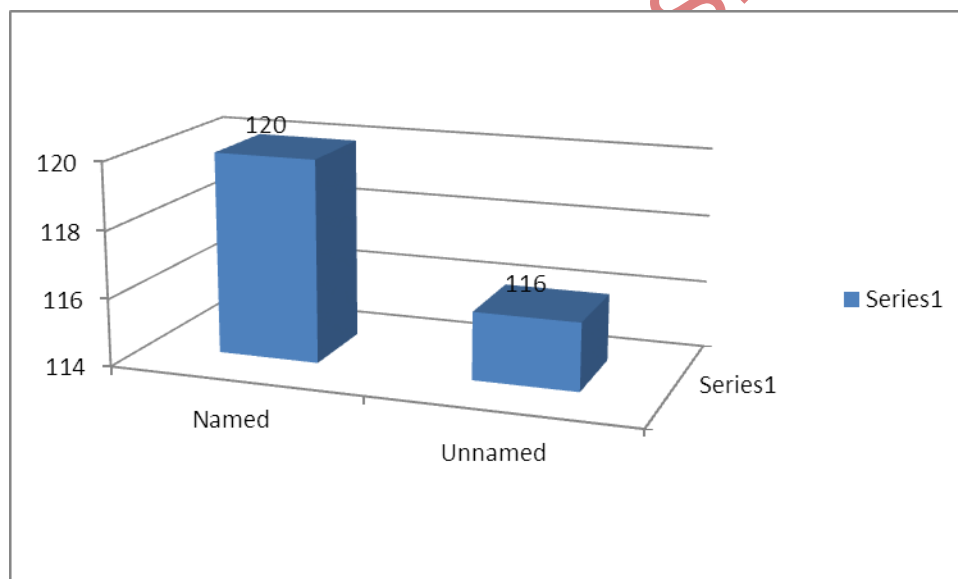


C. Pepertrators:

c. Pepertrators by %:

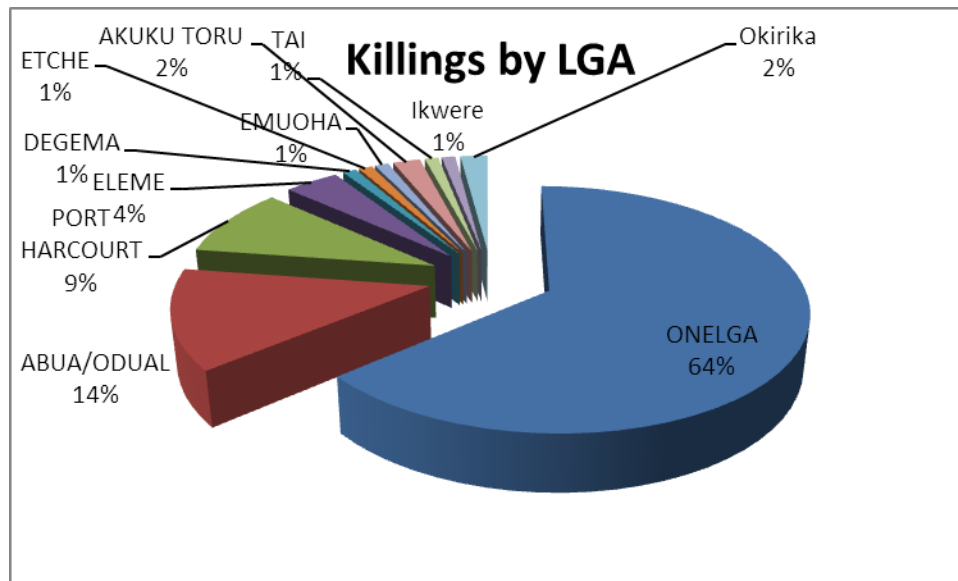


d. Perpetrators by numbers:

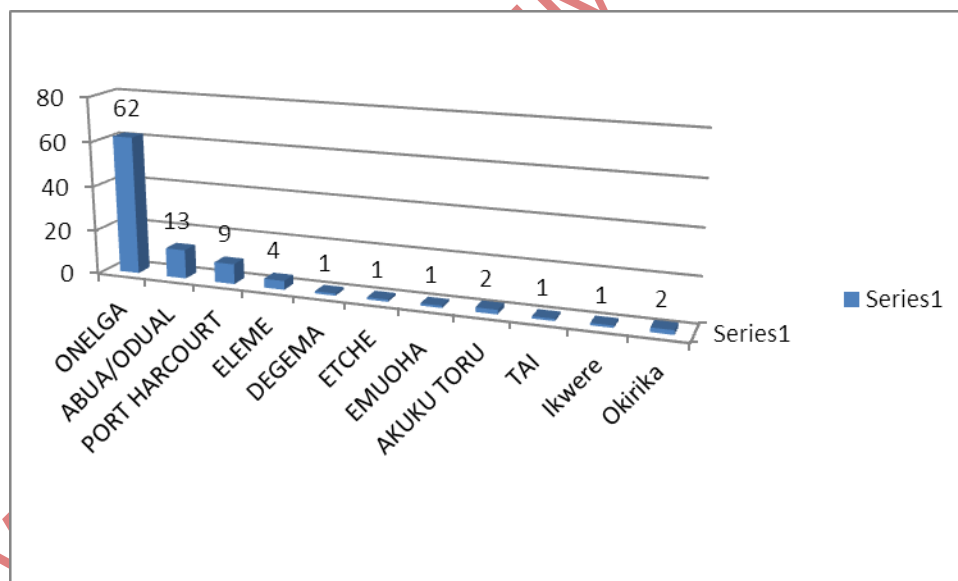


D. Violations by LGA

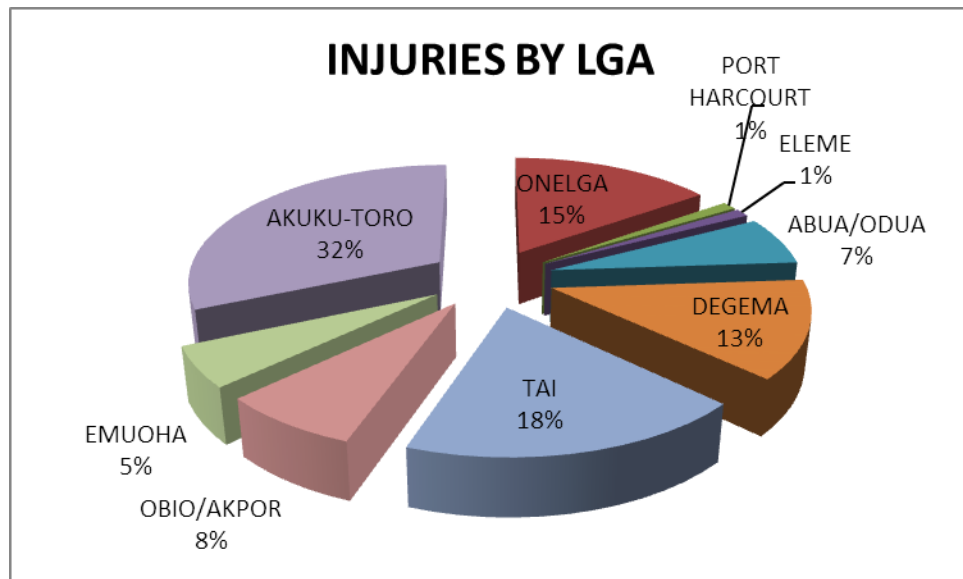
g. PMK by LGA in %:



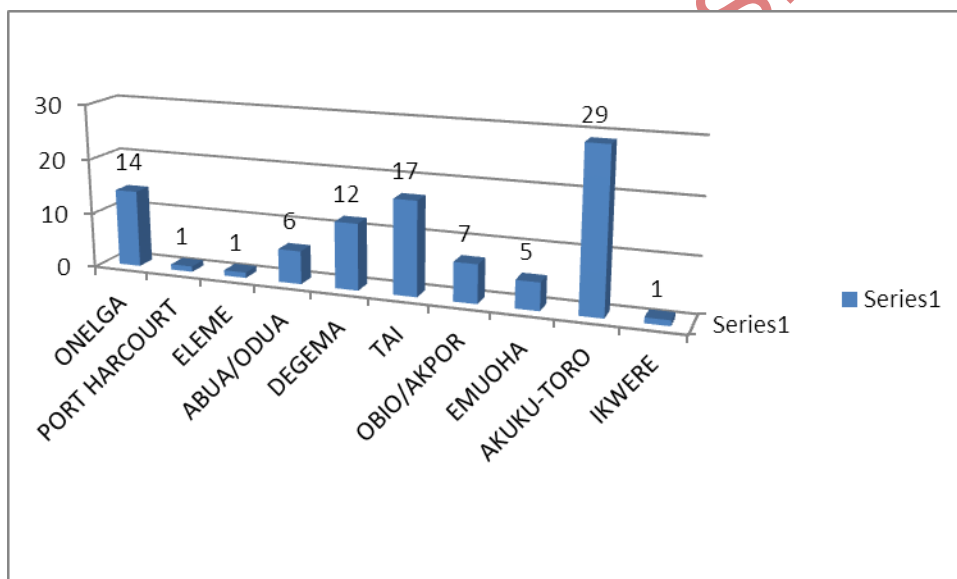
h. PMK by LGA in numbers:



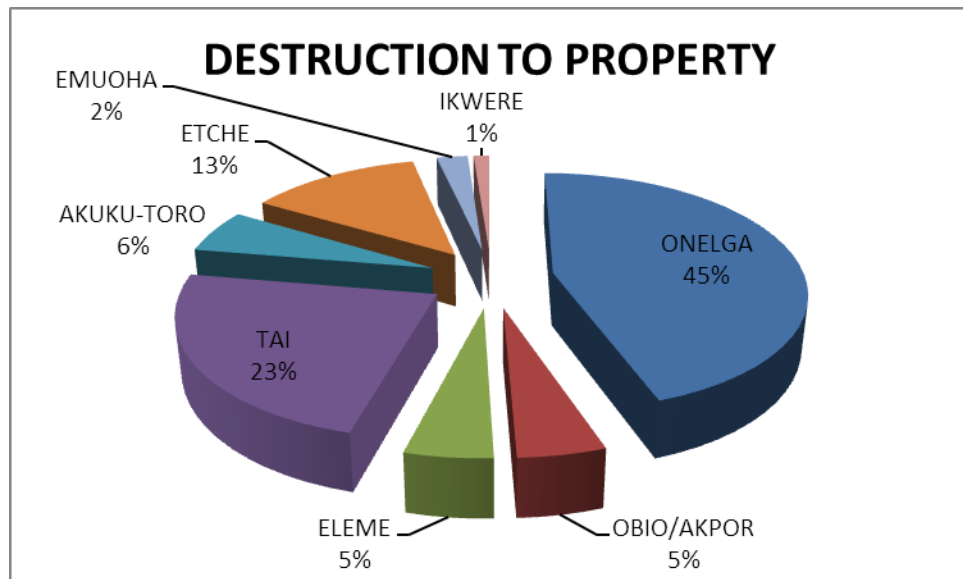
i. Injuries by LGA in %:



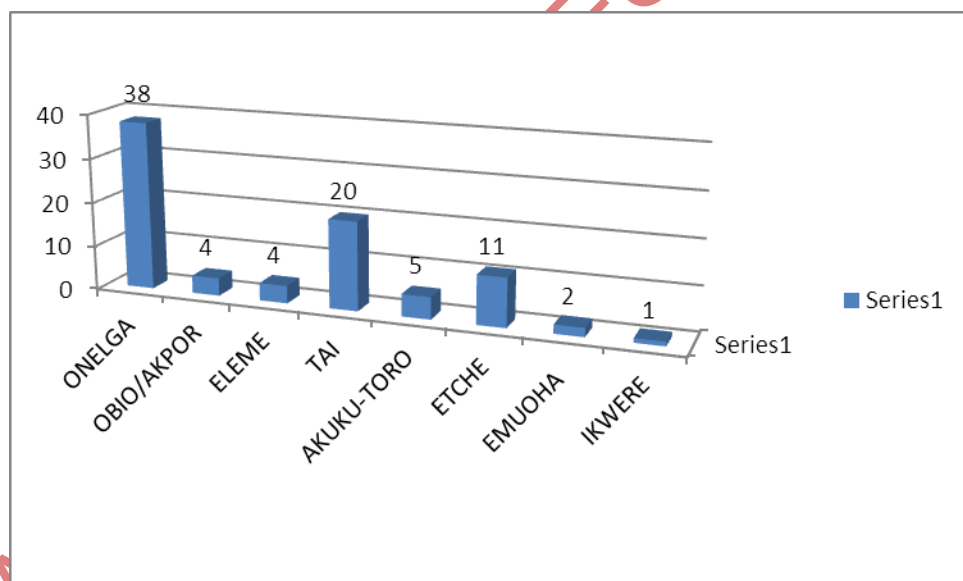
j. Injuries by LGA in numbers:



k. DTP by LGA in %:



I. DTP by LGA in numbers:





## CHAPTER 4: REMOTE CAUSES

### ***C. Contextual Framework***

107. In this section, the Inquiry considers the remote and immediate causes of political violence in Rivers State. In doing so, the Inquiry has taken account of both evidence adduced before it as well as secondary material in mostly official documents brought to its attention or within its knowledge.

108. In assessing the immediate and remote causes of the politically motivated violence before, during and after the 2015 election, the Inquiry considered aspects of the geo-political history of the communities of River State to enable it to take a view on what factors may be relevant so that it may properly contextualise the relevant issues, identify what is material and to enable it to make relevant recommendations.

### **About Rivers State**

109. Rivers State was created on 27 May 1967, one of the 12 states of the Federation. It is now also one of the states in the South-South geo-political zone. Rivers State is made up of riverine and upland areas, consisting of 23 local government areas (LGAs).<sup>58</sup> Of these six are entirely riverine (Bonny, Akuku-Toru, Asari-Toru, Ogo-Bolo, Degema, Opobo-Nkoro). Ahoada-West, Ahoada-East, Andoni, Okrika and Abua/Odual are partly riverine and land areas and the remaining local government areas are land areas.

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<sup>58</sup> These are Ogba/Egbema/Ndoni (ONELGA), Ahoada-West, Ahoada-East, Abua/Odual, Akuku-Toru, Degema, Asari-Toru, Emohua, Ikwere, Etche, Omuma, Obio/Akpor, Oyigbo, Khana, Gokana, Opobo/Nkoro, Adoni, Bonny, Ogo-Bolo, Okrika, Tai, Eleme, and Port Harcourt.

110. Having boundaries with Abia, Akwa Ibom, Bayelsa, and Imo States as well as the Atlantic Ocean, Rivers State sits on multiple frontiers in Nigeria's political geography. It is at the boundary between the South-South and South-East geo-political zones and also the boundary between ecologically fragile Mangrove and rain forest zones of Nigeria. As a result, Rivers State is also home to the tensions between sedentary, land-based farming (Upland) communities on the one hand and peripatetic, water-based (Riverine) communities on the other. It comprises at least six different linguistic communities<sup>59</sup> and is home to over thirteen ethnic groups.<sup>60</sup>

111. The territory currently comprised in Rivers State was a major centre in the struggles for minority rights in colonial Nigeria under the Calabar, Ogoja, Rivers (COR) Movement originally formed in Uyo (presently in the territory of Akwa-Ibom State) in 1953. This agitation led to the creation in 1957 by the colonial government of a Commission of Inquiry into the Fears of the Minorities, which was headed by Sir Henry Willink. The Willink Commission Report led to the incorporation in 1959 of a Bill of Rights in Nigeria's constitution whose effect was to, among other things, prohibit discrimination. The Report, however, fell far short of stopping the agitation for creation of states in the Delta or guaranteeing equitable exploitation of its resources. This agitation recorded another milestone with the creation of Rivers State in 1967.

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<sup>59</sup> Ijoid (eastern Ijaw, including Bile, Kalabari, Ibani, Nkoro, and Okrika ), Lower Niger, Ogoni, Central Delta, Edoid and Lower Cross. See Government of Rivers State, *Report of the Rivers State Truth and Reconciliation Commission*, Ibadan, Evans Brothers (Nigeria) Ltd., p. 9-10 (2009)

<sup>60</sup> These include in the State include Abua, Eleme, Etche, Ekpeye, Ibani, Ikwerre, Kalabari, Ndoni, Odual, Ogoni, Okrika,

112. Rivers State was, therefore, already in existence when Nigeria first voted in Presidential elections in 1979. In 1996, the military government of General Sani Abacha created “a distinct state, to be known as Bayelsa State.... The Old Brass Division was thus carved out to become Bayelsa State.... and so the present Rivers State has existed since 1996.”<sup>61</sup>

### **Natural Resources and Political Violence in the Niger Delta**

113. It is important to situate political violence within the context of the consolidation of democracy in Nigeria. In the context of the work of the present Inquiry, it is equally important to examine the subject of political violence in Rivers State within the wider significance of Rivers State to the political of Nigeria and of the Niger-Delta.

114. Prior to the emergence of petroleum as the centerpiece of Nigeria’s economy, the territory presently or historically known as Rivers State was also the heart of the pre-colonial Oil Rivers Protectorate as well as the colonial-era and post-colonial movements for both minorities’ rights and natural resource agitation in Nigeria.<sup>62</sup> Since the discovery of crude oil in Oloibiri in 1956, Nigeria’s economy has grown to be increasingly dependent on petroleum found mostly in the states of the Niger Delta.<sup>63</sup> These agitations have come to be widely referred to

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<sup>61</sup> Government of Rivers State, *Report of the Rivers State Truth and Reconciliation Commission*, p. 7

<sup>62</sup> *Ibid.* pages 5-7

<sup>63</sup> The Niger Delta has two meanings: geo-political and statutory. The geo-political Niger Delta comprises the six states of the South South geo-political zone. The statutory Niger-Delta comprises the nine states of the Niger Delta Development Commission (NDDC), namely: Abia, Akwa-Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, and Rivers States

among the communities of the Niger Delta in a short-hand as “the struggle”.

115. The political economy of Rivers State is dependent on natural resources. It has the highest concentration of on-shore oil fields and is reputed to host “more than 40% of Nigeria’s crude oil production.”<sup>64</sup> The state has been described as “the nerve-centre of the famous Nigerian oil industry and over ninety industrial concerns, including the Shell Petroleum Development Company of Nigeria Limited, AGIP, Texaco, Elf<sup>65</sup> to mention a few.”<sup>66</sup> As such, the politics of contemporary Rivers State has been closely tied to and indeed “shaped by the geopolitics of crude [oil].”<sup>67</sup>

116. Thus, economically, hydrocarbons remain the mainstay of the economy and are found in almost all the Local Government Areas (LGAs) of the State. Most communities either have oil wells or oil pipelines crossing them as a result of which there is a large presence of oil companies in almost all the communities of the state. As a major oil producing state, the expectation of the communities is that they ought to be the primary beneficiaries of the resource that mostly finances the country. Instead, historically, they have been at the receiving end of the adverse effects of oil exploration and exploitation, including severe environmental degradation arising from bad oilfield practice including flaring, spillages, blowouts and compulsory acquisition of their lands. Without access to competitive skills, youth unemployment is high,

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<sup>64</sup> *Ibid.*, p. 11

<sup>65</sup> Now Total/Elf.

<sup>66</sup> *Ibid.*, p. 7

<sup>67</sup> Michael Peel, *A Swamp Full of Dollars: Pipelines and Paramilitaries at Nigeria’s Oil Frontier*, p. 4 (2010)

thereby creating a dependency economy in which young people largely depend for their subsistence on the informal economy. Failures on the part of government - federal and state - have resulted in parts of the communities resorting to self-help with a concomitant rise in violence and armed insurgency to leverage participation in, and benefit from, oil production in the communities.

117. Peaceful activism and advocacy, within the rule of law, around issues of socio-economic injustice, under-development and minority rights in the mid-1990s, partly attributable to oil exploration and oil exploitation and partly attributable to the state's failures in development of the political economy, was largely unsuccessful and brutally repressed by the military government of the day. The agitation for resource equity in the Niger Delta has a long history and has been the subject of considerable interest beyond the terms of reference of the present Inquiry. For present purposes, however, a significant milestone in the evolution of the political economy of the Niger Delta occurred with the execution in November 1995 of then President of the Movement for the Survival of Ogoni People (MOSOP) Ken Saro-Wiwa and eight other members of the Ogoni community associated with advocacy for more responsible exploitation of petroleum resources in Ogoni land.<sup>68</sup> As the dispute between the MOSOP and the then military government of General Sani Abacha evolved, the word "terrorist" crept into the agitation in the Niger Delta. By 1994, the activists of the National Youth Council of Ogoni People (NYCOP) were described in some quarters as "terrorists". The Internal Security Task Force (ISFT)

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<sup>68</sup> They were executed for alleged involvement in the killing of four senior Ogoni Chiefs in Giokoo, Ogoni land, in January 1994.

established in the same year by the government to address the situation in Ogoniland was reportedly authorized to undertake “wasting operations coupled with psychological tactics”, a euphemism for State terror, including extra-judicial killing of civilians.<sup>69</sup> 21 years later, the Task Force today remains in operation in the Niger Delta as the Joint Task Force (JTF).

### **Cults and Arms Influx**

118. As with most parts of the federation, there is a large problem with youth unemployment in the Niger Delta, including Rivers State. With the devastation of land, destruction of the environment, degradation of fishing stock and agriculture, which was hitherto the mainstay of the communities, food production has suffered and subsistence is a problem for many families. In this context, an alternative economy has developed, initially to fight perceived social and economic injustices in mid 1990s.

119. Following the execution of Ken Saro-Wiwa, peaceful advocacy lost any appeal that it may have had for most of the youths of the Niger Delta and an incentive system emerged which made violence appealing to them. It is indisputable that there has been a proliferation of arms in the state. Peaceful activism having failed, action on critical issues morphed into armed militancy targeted initially at oil activities in the Niger Delta. The arms remain in circulation with the security forces unable or ineffective in controlling their proliferation.

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<sup>69</sup> See generally, Matthew Hassan Kukah, *Witness to Justice: An Insider's Account of Nigeria's Truth Commission*, (2011)

120. Various referred to as “Youth” groups or networks of “boys”, “gangs” and “cults”,<sup>70</sup> these groups appear to operate through pre-existing social groups, formed on the basis of age rank, social rank, community locale rank, or various other affiliations determinable by them. The Commission received extensive evidence showing the long standing and growing influence of cults, gangs and boys on the politics of Rivers State. The various sides that testified before the Justice Kayode Eso Truth and Reconciliation Commission in 2008-2009 accused one another of hiring or involving these groups to unleash violence against their enemies. Similar allegations were made before this Inquiry.<sup>71</sup> In its report, the Kayode Eso Commission made a specific finding that:

The Commission was presented with enough evidence to justify its conclusion that these cultists were in all probability used as “political muscle” to win elections in Rivers State between 1999 and 2007. The obvious conclusion was that at that time, political “thuggery” was part and parcel of the electoral process in Rivers State.<sup>72</sup>

121. The evidence received by the Inquiry confirms these conclusions in every essential way. The only difference, if any, is in the intensity and scope of influence that these groups now wield in the politics of Rivers State. The evidence is also consistent with the conclusion that these groups enjoy or operate under a cloak of impunity, creating the

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<sup>70</sup> The Commission heard evidence that a youth was someone between 1 and 50 years old.

<sup>71</sup> As with the Justice Kayode Eso Commission, the identities of the cult and gangs identified included: Bush Boys; Deebam; Deewell; Eleganface; Niger Delta Peoples’ Volunteer force; Niger Delta Vigilante; Outlaws; Greenlanders; Icelanders; Vikings.

<sup>72</sup> Government of Rivers State of Nigeria, *Report of the Rivers State Truth and Reconciliation Commission*, pages 440-441

impression that their leaders and members are untouchable, beyond the law or in control of the legal process.

122. Their operation is opaque and by their very nature their membership and operating procedures are not a matter of public knowledge. Testimony provided to the Commission, suggested that the initial formation and influence of these groups (also referred to interchangeably as cults) in Rivers State and much of the neighbouring States of the Niger Delta began in the universities of Port Harcourt (UNIPORT) and the Rivers State University of Science and Technology (RSUST) in the 1980s. The limitation on numbers in the initial membership fostered a sense of power, exclusivity and elitism within university structures consequently resulting in the creation of other competing social groups to challenge these monopolies. As the student members of these groups moved into professional and commercial ventures their influence cross-fertilised the mainstream economy, politics, business and professions. With the expansion of this influence over the years outside of the formal tertiary educational institutions, competing groups expanded their recruitment from 'the streets' of Port Harcourt and surrounding settlements.

123. The operation of these cult groups appears to have moved seamlessly over the years into the mainstream of the political economy, permeating all aspects of life evolving into the provision of a variety of services on a transactional basis in the informal and even formal sectors of whatever is required of them.



124. Thus, the creation of the present day cults is the result of an amalgamation of a number of factors comprised variously of groups involved in the resource struggle, environmental struggle, student politics and political struggle to name a few, each with their own competing interests, leadership challenges, territorial battles and quest for supremacy which continues to manifest regardless of provision of services to political actors.

125. Political power enables control of state resources. Nigeria has been described as having a mono-economy; oil. Rivers State, as a major oil producing state is of great strategic and economic importance to the federation. Historic environmental degradation, poor development in the state - with the perception that the benefits of the country's main source of wealth was being diverted elsewhere within the federation - and increasingly chronic youth unemployment created a situation where self-help became the only effective principle of operation. The oil companies were the initial targets of these groups to ostensibly achieve the amelioration of the economic situation of various communities, and for their benefit. Whilst there are genuine issues within the Niger Delta including socio-economic under-development and criminal justice issues that require urgent policy action, there is a division between those who took up arms for change and those who saw a business opportunity.

126. With the return to democracy in 1999, the conflation of politics and disaffected communities, the quest for control of resources, and power, made Rivers State an important player on the political landscape. To garner the support of a variety of stakeholders, politicians courted various youth groups or cults who could deliver a sizeable demographic

to them in the quest for power. The Commission was informed that the political linkage increased the proliferation of arms in the Niger Delta. Control of a major oil producing state politically meant power at national level; the achievement of which continues to be sought using all necessary means. This includes, the Commission was told, the *ad hoc* informal employment of youths as armed security operatives for political aims with questionable tactics of harassment, intimidation and ultimately resulting in serious harm to others. This has facilitated the delivery of various wards to the politicians and the leaders of the groups capitalised on this by creating cells within their territories, introducing an additional competitiveness to the cult groups.

127. The Commission received three pieces of information to illustrate the growth in the influence of cults, gangs and militias in the politics of Rivers State in 2015. First, ahead of the primaries, a well-known militia leader, Chief Ateke Tom, indicated serious interest in contesting the Governorship primaries on the platform of the ruling PDP and even flew into Abuja with his supporters to collect governorship application forms. It appeared that Chief Ateke was compelled to drop his interest at the last minute following appeals of senior political and security sector leaders. Second, following the conclusion of the primaries and ahead of the elections, it was credibly alleged that both leading party candidates for the Governorship of Rivers State as well as senior politicians from surrounding States met on more than one occasion with militia leaders to appeal for their assistance and support. These encounters with the militia leaders continued until the eve of the governorship polls of 11 April 2015. Third, the militia leaders themselves confirmed that about

ten leading members of their network were elected into the Rivers State House of Assembly during the election of 11 April 2015.

128. There are also indications that participation in cult activity has historically played a key part in the evolution of the various conflicts in the state which have now carried over into aspects of the polity. The split in the ruling PDP in 2013 with the consequent factionalisation was only the latest phase in the evolution of this very combustible politics to maximise control of petroleum resources, excluded youths, an impoverished underclass, arms and political influence. As a result, politics in Rivers State appears to have become a zero-sum game infused with endless rancour.

#### **Criminalisation of Politics**

129. The approach of the Abacha regime to the Niger Delta produced two lasting consequences. First, it had the long term consequence of supplanting civic advocacy with armed groups. Many young people whose political memories were formed in the 1990s can only recall the fact that while Ken Saro-Wiwa, whose advocacy was largely peaceful, was quickly hanged at the end of a flawed trial that did not afford him any right of appeal, the militant leaders who emerged thereafter in the Niger-Delta by contrast now enjoy appearances of opulence, political patronage and influence, and impunity. They also enjoy the privileged company of Presidential jets, Presidents, Ministers, Governors, security chiefs and high level politicians. This has removed any incentive structures for peaceful civic life.

130. Second, it created a conflict economy in which politicians, security sector managers, and armed groups developed an appetite for

profitable, open-ended armed operations. This would render the courts and similar pacific mechanisms of dispute resolution unappetizing. Over time, these two developments inspired a deeper criminalization of the political economy that has not only democratized access to the means of mass violence in the Delta but also compromised essential rationale of the claim of the Nigerian State to a monopoly of the means of violence – the defence of those who live within its territory.

131. This system has created the double bind of a political economy that favours the maintenance of a system of violence in many ways. Objectively, the system offers no incentives to those involved in conflict economy to get out of violence. By way of explanation, oil field practice and exploitation in the Niger Delta has not always complied with the applicable laws. To maintain this system and service their operations, the operators have relied significantly on the support of a parallel security economy dependent on informal security contractors who are armed, paid or supported by the petroleum sector operators many of whom are poorly educated but highly armed. This creates a system in which money is cheap, and the armed young people who make have access to it feel powerful with no incentive to acquire any other marketable skills beyond violence. Buttressing this point, Rivers State Governor, Chibuike Rotimi Amaechi, had complained in his testimony to the Justice Kayode Eso Rivers State Truth and Reconciliation Commission about the “lure of easy money such as proceeds obtained from illegal

bunkering of oil, youths would prefer to be illegal bunkerers than to earn steady income...”<sup>73</sup>

132. Subjectively, this system does not encourage political leaders to offer the young merchants in violence any pathways to legitimate life because they need the violence to retain access to power or ensure that their candidates win in elections. The result is a political system in which impunity is essential to protect perpetrators of political violence and protect political office holders who profit from such violence. This political economy is essential to understanding the long term trajectory of political violence in Rivers State and the wider Niger Delta. Over the years, since the return of Nigeria to elective civilian government in 1999, political violence and impunity for it has been a constant in the Niger Delta. What has changed is the intensity of the violence, the identity of the victims, and the footprint of those who have access to impunity for violence.

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<sup>73</sup> Government of Rivers State, *Report of the Rivers State Truth and Reconciliation Commission*, Ibadan, Evans Brothers (Nigeria) Ltd., p. 52

## CHAPTER 5

### LAWS APPLICABLE TO POLITICAL VIOLENCE

133. This section of the report broadly summarizes and categorises the evidence adduced before and considered by the Inquiry with reference to the relevant or applicable laws in Nigeria. The relevant evidence is presented after a summary of the applicable legal standards.

134. The ToRs require the Inquiry to, among other things, “[i]dentify person(s), groups, or institutions who either by acts of omission and commission were directly and indirectly involved or sponsored the violence and killings.” In order to undertake this task, it is necessary to understand the scope of crimes, if any, implicated in political violence and the bases for attributing responsibility to any identified persons.

135. Most of the allegations presented to the Inquiry are crimes under Nigerian law. The Inquiry heard testimony and received memoranda on allegations of numerous violations including, killings, threats to kill,<sup>74</sup> assault and bodily injury,<sup>75</sup> kidnap,<sup>76</sup> blackmail, damage to property (vehicles, buildings, personal possessions), arson,<sup>77</sup> theft<sup>78</sup>, electoral offences such as theft of election materials as well as allegations against the police comprising broadly failure to protect issues, serious abuse of

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<sup>74</sup> See Chapter 27, Sections 306-328 of Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990, dealing with homicide and threats to kill.

<sup>75</sup> This amounts to a crime under Section 253 of the Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990. See further also, Sections 351-356.

<sup>76</sup> See Section 364 of Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990. Kidnap is also criminalised pursuant to Rivers State Kidnap (Prohibition) Law, No 3 of 2009 with the death sentence one of the penalties.

<sup>77</sup> Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990. Prohibited pursuant to Section 443.

<sup>78</sup> *Ibid*, See Sections 382-387 and Sections 401-407.

power and violations of the human rights of citizens.<sup>79</sup> The Inquiry heard testimony of people being driven away from their homes under duress or who were compelled to flee following the violence meted out on them or their communities.

136. The Government of Nigeria (including the constituent states) has a duty under the constitution and international law to guarantee the safety and security of all persons in the country.<sup>80</sup> Thus Nigeria's 1999 Constitution declares that "the security and welfare of the people shall be the primary purpose of government"<sup>81</sup>; and that "governmental actions shall be humane."<sup>82</sup> Additionally, the African Charter on Human and Peoples' Rights requires government to adopt measures to give effect to the rights, duties and freedoms enshrined in the Charter.<sup>83</sup> This includes ensuring effective accountability for and prevention of political violence as a form of systematic violation of human rights. Government at both federal and state levels, has the obligation to not only investigate complaints of election violence but also to ensure remedies to victims for the injuries suffered, and take other necessary steps to

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<sup>79</sup> Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 sets out the fundamental protections for all citizens. Applicable provisions in this regard include Section 33 on the protection to a right to life, Section 35 on entitlement to personal liberty, the deprivation of which must only be in certain prescribed circumstances, such as in execution of the sentence or order of a court in respect of which that individual has been found guilty and other accommodation clauses, Section 38 on the entitlement to freedom of thought, conscience and religion, Section 39 on freedom of expression, including the freedom to hold opinions and to receive and impart ideas and information without interference, Section 40 on the entitlement to assemble freely and associate with other person, and form or belong to any political party, trade union or any other association for the protection of his interests,, Section 41 on the right to free movement throughout Nigeria and Section 42 on the non-discriminatory application of these protections.

<sup>80</sup> See International Covenant on Civil and Political Rights, arts. 1, 6 and 25; African (Banjul) Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 27 June 1981, art. 4; African Charter on Democracy, Elections and Governance, 30 January 2007, arts. 4 and 6.

<sup>81</sup> Constitution of the Federal Republic of Nigeria, 1999, Section 14(2)(b)

<sup>82</sup> *Ibid.*, Section 17(2)(c)

<sup>83</sup> African (Banjul) Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 27 June 1981, art. 1.

prevent reoccurrence of the violation.<sup>84</sup> In effect, government has an obligation to ensure zero-tolerance for political violence and eliminate impunity for this. This report, like the report of the Federal Government Investigative Panel on 2011 Election Violence and Civil Disturbances,<sup>85</sup> shows how government at both federal and state levels has tolerated such crimes and afforded their perpetrators impunity, while senior political figures directly or indirectly benefit from it. In this way, political violence in Nigeria has become a network crime in which multiple actors share different objectives and common benefit in the perpetration or continuation of criminal enterprise.<sup>86</sup>

137. Government also has a duty to protect individuals against violations of their human rights under international law.<sup>87</sup> This responsibility extends to the police as agents of the state. It includes the requirement to take positive steps to ensure that, where a potential violation has been brought to their notice, government and public institutions, through their agents, for example, the police and relevant

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<sup>84</sup> See *Ibid.*, art 1; see also Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, Principle 1, United Nations Commission on Human Rights, UN Doc. E/CN.4/2005/102/Add.1, 8 February 2005, <http://www.derechos.org/nizkor/impu/principles.html>.

<sup>85</sup> Federal Republic of Nigeria, *Main Report of the Federal Government Investigative Panel on 2011 Election Violence and Civil Disturbances*, Vol. 1, p. 8 (2011)

<sup>86</sup> In a report issued in January 2015, Nigeria's National Human Rights Commission said that elections in Nigeria "have historically been akin to organised crime. This is because during Nigerian elections, multiple actors pursue pre-determined outcomes through common enterprise rather than allowing the people's vote to determine the country's political leadership." See National Human Rights Commission, *An Independent Review of Evidence of Gross Violations of the Rights to Participate in Government, to Public Service, and to Fair Trial Through the Election Petition Process in Nigeria 2007 & 2011*, (January 2015), para 1:01

<sup>87</sup> In addition to human rights guarantees under the Constitution, Nigeria is a party to the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), Convention on the Protection of the Rights of All Migrant Workers and their Families (MWC), Convention on Rights of Persons with Disabilities (CRPD), International Convention for the Protection of all Persons from Enforced Disappearance.



security apparatus, take effective steps to act, insofar as possible, to avert or prevent that violation. The state thus has the duty to investigate allegations of political violence, ensure that those implicated are held to account and the victims are protected from further harm. Contrary to this, the Inquiry heard allegations from many witnesses who testified on oath that when they complained to the security agencies about acts of political violence, they were met with indifference or by agencies that appeared unwilling and/or unable to act against or even investigate such allegations.

138. It is thus incumbent on the state to ensure that there are mechanisms to provide persons affected by political violence with a remedy; that is enabling prosecution through the criminal justice system or in the case of a death in certain prescribed circumstances, holding an inquest; and ensuring that the courts are kept open and functional for these purposes. Instead, in Rivers State, Courts were themselves the targets of acts of political violence and were shuttered during the 2015 elections. They were similarly shut for more than six months before the commencement of the formal election period, suffered notable acts of political violence during the period before and during the elections and have remained shut even after the elections. This is an inexcusable violation of the responsibility of government to ensure availability of remedies for political violence.

139. Under the constitution, the National Judicial Council (NJC), a federal institution, and state governments are jointly responsible for ensuring that the judicial branch functions in Rivers State. In Rivers

State, rather than look after the best interests of the institution and its users, both the State government and the Federal government through the NJC appeared to have allowed a party political dispute to compromise the functioning of the judiciary as a mandatory third branch of constitutional government. They must also jointly be held responsible for paralysing the courts in the state and for contributing in this way to the exponential rise of political violence in the state during the 2015 elections.

140. Under the constitution, the National Judicial Council (NJC), a federal institution, and state governments are jointly responsible for ensuring that the judicial branch functions in Rivers State. In Rivers State, rather than look after the best interests of the institution and its users, both the State government and the Federal government through the NJC appeared to have allowed a party political dispute to compromise the functioning of the judiciary as a mandatory third branch of constitutional government. They must also jointly be held responsible for paralysing the courts in the state and for contributing in this way to the exponential rise of political violence in the state during the 2015 elections.

141. Allegations of political violence against the police and law enforcement agents are considered particularly serious because they undermine the credibility of the police as an impartial provider or guarantor of public safety and security. With the clear presence of a state actor in the police, such allegations also involve human rights violations. Such violations of human rights such as detention without

just cause, these may amount to unlawful detention, false imprisonment and possibly misfeasance in public office. Where unreasonable or disproportionate force was used by the police this may amount to assault.

142. Primary responsibility for preventing and ensuring accountability for political violence under both the Constitution and the Police Act, lies with the NPF. Established under the National Security Agencies Act, the Department of State Services (DSS) is responsible for, among other things “the prevention and detection within Nigeria of any crime against the internal security of Nigeria.”<sup>88</sup> This extends to crimes of political violence. Both the NPF and the DSS are federal agencies under the direct operational command and control of the President.

143. The relevant laws under which prosecution may take place could be federal or state. Applicable federal laws include the Electoral Act, for instance. An important piece of federal legislation is the Terrorism Prevention Act of 2011 which was amended in 2013. Nigeria’s Terrorism Prevention Act (TPA) (No. 10) of 2011 defines “an act of terrorism” to include an act which is deliberately done with malice aforethought and which is intended to “seriously intimidate a population” or “seriously destabilize or destroy the fundamental political, constitutional, economic or social structure of a country or an international organization”. It also includes as the case may be, acts involving attacks upon a person’s life which cause serious bodily harm or death; kidnapping; destruction of government or public facility or human life;

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<sup>88</sup> National Security Agencies Act, Cap N.74, *Laws of the Federation of Nigeria*, 2004, s.3(a)

the manufacture, possession, acquisition, transport, supply or use of weapons or explosives; or “the release of dangerous substance or causing of fire, explosion or floods, the effect of which is to endanger human life”, etc.<sup>89</sup> It is clear that in terms of both intent, consequence and essential elements, most acts of political violence fulfil the requirements for the crime of terrorism under the TPA and should be treated as such.

144. Most crimes of violence such as murder, manslaughter, kidnapping, rape or sexual assault and other forms of assault, are almost invariably also State crimes. The effective investigation and prosecution of such crimes, therefore, requires close co-operation between state and federal authorities. In the absence of such co-operation, mutual obstruction could ensue in which both state and federal authorities work at cross purposes to undermine accountability rather than reinforce it. This seems to be the situation presently.

145. In most cases, the testimonies also included allegations of responsibility against named individual, groups, networks or entities. Where individual are involved in the commission of crimes, they may be held individually responsible in law under the relevant criminal law provisions. Legal persons may also be held responsible as corporate entities for crimes attributable to them. Criminal networks lack legal personality and cannot be held accountable as such. However, the country has an interest in and duty to eliminate or degrade such criminal network. To this extent and for this purpose, the Criminal Code provides

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<sup>89</sup> TPA, Section 1(2) (2011 as amended in 2013)

bases for members of such networks to be held personally accountable for crimes in which criminal networks are involved.<sup>90</sup>

146. The Commission equally heard testimony indicating that in addition to those who actually perpetrated acts, there were others who may be also responsible directing and instructing the commission of those acts. These may include senior public officials, some of whom may enjoy immunity whilst in office pursuant to constitutional provisions.<sup>91</sup> These are the persons with reference to whom the ToRs speaks of as being “indirectly involved or sponsors” of such crimes. Where constitutional immunity does not arise, criminal law provisions on joint criminal enterprise may be applicable and appropriate in ensuring accountability.<sup>92</sup>

147. Many of the witnesses who appeared before the Commission gave the names of both persons whom they alleged to be direct perpetrators as well as the alleged sponsors. Sponsors of political violence are themselves as responsible for such acts as those directly involved under the theory of joint criminal enterprise (JCE) or as accessories to the crime.<sup>93</sup>

148. Election violence is a crime under Nigerian law, violating the right to life, safety and security of the person and to democratic

<sup>90</sup> See Criminal Code Law, Rivers State, section 7.

<sup>91</sup> Constitution of the Federal Republic of Nigeria, 1999, Section 308. The immunity applies to the President, Vice-President, all Governors and deputies, for instance.

<sup>92</sup> See Section 7-9, Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria, 1990.

<sup>93</sup> JCE has been extended to cover cases where an individual intended to contribute to a common criminal purpose, and although an individual member of the group committed a crime that was not intended under the group's plan, it was foreseeable that a member of the group could commit such a crime. See *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, International Criminal Court, ICC-01/09/01/11, 23 January 2012, paras. 187-196, 320, 324 and para. 220.

participation.<sup>94</sup> The Commission heard testimony of use of force and violence, use of militias or cults, presence of arms during the campaign and on the actual election days. The Electoral Act<sup>95</sup> regulates the conduct of elections and prohibits the threatening of any person with the use of force or violence during any election campaign,<sup>96</sup> and, amongst other provisions, prohibits the use, establishment or maintenance of militias<sup>97</sup>, howsoever called.<sup>98</sup> The Commissioner of Police in each state is required to provide adequate security at all political rallies in the states,<sup>99</sup> possession of an offensive weapon or missile outside of a lawful duty is prohibited,<sup>100</sup> and there is an explicit prohibition on the use of force or violence during political campaigns.<sup>101</sup>

149. The Commission thus had before it testimony of allegations of serious violations which engage criminal acts and violations of human rights for which there is existing provision under the law for redress. The following section sets out a summary of the testimonies and memoranda presented before the Commission for its consideration and its findings.

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<sup>94</sup> See further generally The National Human Rights Commission of Nigeria Report, "A Pre-Election Report and Advisory on Violence in Nigeria's 2015 General Elections, 13 February, 2015.

<sup>95</sup> The Electoral Act 2010 (as amended).

<sup>96</sup> *Ibid*, Section 95(7).

<sup>97</sup> Rivers State has promulgated legislation on its books prohibiting secret cults under the Secret Cult and Similar Activities (Prohibition) Law, No 6 of 2004 under which membership is an offence and for which an individual is liable on conviction to ten years imprisonment without the option of a fine under Section 1. Financial and other support, sponsoring, is also criminalised under Section 2 imprisonable for ten years with an additional sanction of removal from office for a public officer, traditional ruler or head of staff of an educational institute. Section 3 provides for an offence of harbouring offenders or permitting cult activities on a premises. Possession of an unlicensed firearm in any gathering is a criminal offence under Section 7(a) imprisonable for five years with no option of a fine.

<sup>98</sup> The Electoral Act 2010 (as amended), Section 95(5)-(6).

<sup>99</sup> *Ibid*, Section 94(1)

<sup>100</sup> *Ibid*, Section 94 (2). This is punishable on conviction to two years imprisonment or a maximum fine of N2,000,000 or both.

<sup>101</sup> *Ibid*, Section 96, punishable with 1 year's imprisonment or N1,000,000 for an individual and in the case of a political party N1,000,000 in the first instance and N500,000 for subsequent offences.

## SUMMARY OF FORMAL ALLEGATIONS AND PETITIONS RECEIVED BY THE INQUIRY

### 1. PMKCI/001/2015 VINCENT CHIJOKE OGBUAGU (Heard)

On 3/4/2015, Vincent Chijioke Ogbuagu's relation, Daniel Okiridu, his house and two cars were burnt completely. A section of Emmanuel Uche Ogbuagu's house and his two vehicles were also burnt. The security guard of Emmanuel Uche Ogbuagu, Ezekiel Thompson was shot and killed. On 3/4/2015, Christopher N. Adube was murdered with his three children and four other relations. Felix Obuah and Elemchukwu Ogbowu had threatened Adube some days earlier. On 3/4/2015 the APC ward secretariat was burnt down and a member shot dead in the premises.

Alleged perpetrator(s) - Felix Obuah, Elemchukwu Ogbowu, Nathaniel Uwaji and Ejima Charles Igwedibia amongst others. Chidi Nweke, Vincent Orji, Messiah Eluozo, Julius Amadi, Ernest Eze, Henry Ozoemela Wokocha and Gift Dappa were also mentioned and accused.

The security agents, especially NPF, were also accused of covering or aiding the perpetrators of these crimes.

#### **Recommendation:**

- a. *The allegations of the crimes of murder, arson, possession of firearms and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

**2. PMKCI/002/2015      AUSTIN      AHIAMADU      (CHAIRMAN  
OGBA/EGBEMA/NDONI LGA) (heard)**

On 3/5/2014 Felix Obuah with some cult elements closed down the LGA Secretariat. On 6/12/2013 and 7/12/2013 the LGA Headquarters office of the APC at No. 188 Ahoada Road was vandalised. On 14/1/2014, Godspower Ahiadu and his family were attacked and his properties vandalised. Tony Okanu and Godspower Ahiadu went to the Police station to make a report and were detained by the police and transferred to Force Headquarters PH. On 12/4/2014 and 13/4/2014 more attacks on the APC headquarters office. On 28/11/2014, Godspower Ahiadu an APC leader was murdered. On 28/1/2015, Chukwuma Okoro Isaac's house was attacked with gun shots, his properties destroyed and his little daughter hit by a bullet. On 29/1/2015, there was heavy gun shots in Omoku, APC headquarters at no. 13 Ahoada Road Omoku was destroyed with dynamites. Gift Wokocha's house was attacked and his bus destroyed. Okechukwu Okirie's house was damaged. Monday Elenya's house was damaged. Daddy Okito's vehicles were damaged. Augustine Wokocha's home was attacked and part of it was destroyed. On 24/3/2015, the house of Sampson Obuah was burnt down. On 24/3/2015, Sampson Oreke was murdered in Okposi town. On 25/3/2015, George Eweh and Nwabueze Robinson were murdered in Obizimini community. On 3/4/2015 the house of Christopher N. Adube was attacked and Christopher Adube, Joy Adube, John Adube, Lucky Adube, Ikechukwu Ogarabe and Samuel Chukwuonye were killed while Ruth Adube, Paul Adube, Mr. Chuks (security man) and Ikechukwu (security man) were critically injured. On 25/3/2015, the house of Emenike Okorie was burnt down. On 3/4/2015



Vincent Ogbuogu's house and two motor vehicles were completely burnt, Daniel C. Okiridu was burnt beyond recognition. On 4/4/2015, Chibueze Owoto's office was vandalised and bullets ridden. On 4/4/2015 Okwu Osia, a paramount ruler was murdered. On 11/4/2015, Clever Orukworu, Ndubuo Obinna, Japhet Kingdom, and Ndidi Ebere were killed. Isreal Okere's house was destroyed and APC offices at Okposi, Akabuka and Omoku were destroyed. On 21/4/2015 APC office in Omoku was destroyed.

Alleged perpetrator(s) - Felix Obuah was alleged to mastermind these activities with Ejike Ejima Igwedibia aka Don Wani as his agent.

**Recommendation:**

- a. *The allegations of the crimes of murder, arson and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

**3. PMKCI/003/2015 GEORGE A. ORERHIME(heard)**

A native of Delta State, George Orerhime was attacked on the 10/1/2015 at No. 319 Ikwerre Road, a venue of an APC meeting, with machetes.

**Recommendation:** *The allegation of criminal assault should be referred to the NPF for further investigation.*

**4. PMKCI/004/2015 UCHE IKE(not heard)**

On the 28/11/2014, his brother, Mr. Eze Akio was shot and killed by gunmen because he said he is a member of the APC.

**Recommendation:**

- a. *The allegations of the crimes of murder and illegal possession of firearms should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

5. **PMKCI/005/2015 IJEOMA MBAMALU (heard)**

On 3/4/2015, gunmen in army uniforms entered her house and murdered her husband.

**Recommendation:**

- a. *The allegation of crime of murder, illegal possession of firearms and impersonation should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

6. **PMKCI/006/2015 PATIENCE ADUBE(heard)**

On 3/4/2015, some gunmen about 6 in number, entered their home, shot and killed Christopher N. Adube, Joy Adube, John Adube, Lucky Adube, Ikechukwu Ogarabe and Samuel Chukwuwinye. Ruth Adube, Paul Adube , Chuks(security man) and Ikechukwu (security man) were injured by the gun shots.

**Recommendation:**

- a. *The allegations of the crimes of murder and illegal possession of firearms should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

7. **PMKCI/007/2015 AHIAIDU KENEDY ACHULIKE(heard)**

His father, G. O. Ahiaidu Achulike was murdered on the 28/11/2014 by Don Wanne after the father was attacked by Chi Boy on the 14/1/2014.

Alleged perpetrator(s) - The petitioner claimed that the attacks were sponsored by Felix Obuah.

**Recommendation:**

- a. *The allegations of the crimes of murder and criminal assault should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

**8. PMKCI/008/2015 CHRISTAIN ALALI (heard)**

Gunmen got to his house, pulled down APC banners, destroyed his properties and killed one of his tenants.

**Recommendation:**

- a. *The allegations of the crime of malicious damage and murder should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

**9. PMKCI/009/2015 GLADES EMEKA**

On 28/11/2014, her brother, Emenike Obulor was shot and killed at Ogbakata Community.

**Recommendation:**

- a. *The allegations of the crimes of murder and illegal possession of firearms should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

**10. PMKCI/010 AUGUSTINA WILSON**

Her husband was shot and killed on the 28/11/2014 at Omoku.

**Recommendation:**

- c. *The allegations of the crimes of murder and illegal possession of firearms should be referred to the NPF for further investigation.*
- d. *A coroner's inquest into the alleged killings should be convened.*

**11. PMKCI/011/2015 PATIENCE IDUMO (not heard)**

On 9/12/2014, her husband, Idumo Micheal, was shot and killed on the spot.

**Recommendation:**

- a. *The allegations of the crimes of murder should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

**12. PMKCI/012/2015 AUGUSTINE WOKOCHA (Heard)**

On 22/3/2015, a group of gun men led by Ejima Charles Igwediba in the company of Bright Ake, Anayo Orji, Onyeka Nwabali and Dr. Orji started shooting at the APC party office for three hours , destroying properties. D.P.O Lucky Vonchir Abu and the JTF Commander, Capt. Bala were called but none responded.

Alleged perpetrator(s) - Sponsors of the shootings are alleged to be Felix Obuah, Ken Nwabochi, Azubuike Nwaokansu, Lucky Ajie, Courtis Ajie, Dike Ogwe and Gideon Ewoh of the PDP.

On 24/3/2015, the gunmen shot at Austin Wokocha's house and destroyed his properties and shot Sampson Orike for saying he is a

member of the APC. On 5/4/2015, Okwu J. Osiah was murdered in Egbeda town.

About 45% of the people in these communities have fled from their homes.

**Recommendation:**

- a. *The allegations of the crimes of murder, arson and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

**13. PMKCI/013/2015 OBUA SAMPSON (heard)**

On 19/05/2014 Obua Sampson was kidnapped. On 24/3/2015, his house and his property were razed down.

Alleged perpetrator(s) - He still receives threats from Ejima Charles Mark Igwedibia and Bright Ernest Ake allegedly of the PDP.

**Recommendation:** *The allegations of the crimes of kidnapping, arson and malicious damage should be referred to the NPF for further investigation.*

**14. PMKCI/014/2015 ALL PROGRESSIVES CONGRESS RIVERS STATE CHAPTER.**

On 8/1/2015, the All Progressives Congress office in Okrika Local Government was razed down with dynamites. A policeman was shot and killed during an APC campaign rally. On 16/1/2015, the APC office in

Ukwa town in Ngo, Andoni was razed by thugs of the PDP. Numerous forms of violence were alleged against the PDP.

**Recommendation:**

- a. *The allegations of the crimes of murder, illegal possession of firearms, arson and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

**15. PMKCI/015/2015 ELEME LGA**

On 28/03/2015, Marcus Tetenwi demanded to see results sheets at polling unit 6 in Ward 1 Eleme when Olaka Nwogu arrived in a Hilux with Police and military personnel who chased him to his house and shot at his official vehicle several times.

On 28/3/2015, Walter Olaka was with some APC members at the polling unit when Joel Oluka of the PDP pointed at them and one of the armed Policemen in mobile Police uniform, took an aim at the with his gun, shot and killed Chris Eneji.

On 16/4/2015, Walter Olaka saw a group of armed youths coming to his house and hid himself.

Alleged perpetrator(s) - Amongst the group, he identified Obele Eke from Agbonchia, Brian Emere Gokpa from Aleto, Cyprus Okochi and Obo Nwaka from Ogale all of PDP. This group of people vandalized his house.

**Recommendation:**

- a. *The allegations of the crimes of murder, possession of firearms and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened.*

**16. PMKCI/016/2015 ABUA/ODUAL LGA (Heard)**

AKOPHE AHMED CALEB's husband, Ahmed Caleb, a member of the APC was shot several times in the chest in February, 2015.

SUNDAY OKOTO's wife was shot and killed along with her grandson Kikpoye Okoto on the 1/12/2014. She was a APC supporter.

WISDOM AKARI was severely beaten. He now moves around in crutches as a result.

DAVID AKIO and his supporters were harassed and attacked by thugs led by Owolobi Ofori of the PDP. His cars with registration nos. DL465PHC and KHE144FL were attacked and damaged by the thugs led by Owolobi Ofori on the 28/8/2015 and 11/4/2015 respectively.

AKANI SULEIMAN was attacked on the 11/4/2015 by Fred Asawo, personal assistant to Henri Ogiri of the NDDC who arrived at the polling unit leading armed thugs, riot policemen and army officers in camouflage. Apart from sustaining injuries, he lost N270,000.00 (two hundred and seventy thousand naira).

KAKIMUN M. NOAH, a collation agent for Ward 1 on Obuah/ Odual and of the All Progressives Congress was beaten by Magnus Brother with his thugs while Policemen and Army personnel watched in support.

**Recommendation:**

- a. *The allegations of the crimes of murders, attempted murder, illegal possession of firearms and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened*

**17. PMKCI/017/2015 DEGEMA LGA**

Biobele Karibi was severely beaten while registering on the 6/2/2014 and 27/3/2015 and lost his properties in the process.

Andy Amaibi Horny was shot dead in Fouche Community.

Otonyemie Kuna, Truman Agiobu, Solomon Yellow, Success Braide, Kunle and Omuo Sunday all members of APC were arrested on 14/1/2015 on trumped up charges by the Police and detained during the period of the election.

Okes Benibo was beaten up severely for registering with the APC. Igbikioyibo Oruobu was beaten up severely. Benjamin Orugbani's house was partly demolished. Ibigoni Daddy Pokima was kidnapped and beaten. Also beaten were Friday Emine, Okeidiari Owuje, Otonye-Mieba Ekine and Origbemba on the eve of 28/3/2015. Sweiken Foin, Sweiyi Iganran, Grace Robinson, Amadi Esau, Mercy Amos, Etutumase Brown, Lovette Isiki, Senibo Otuka, Lolo O. Elliot were all attacked by unknown



assailants with gun shots targeted the presidential campaign vehicle of the APC. They all sustained injuries. Paul Belema Davies was attacked and beaten on 27/3/2015 by PDP members and lost some property in the process.

**Recommendation:**

- a. *The allegations of the crimes of murder, attempted murder, illegal possession of firearms, criminal assault and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

**18. PMKCI/018/2015 CHIEF ORUKWOWU N. ISAAC (heard)**

Clever C. Orukwowu was shot dead at his polling unit on the 11/4/2015.

**Recommendation:**

- a. *The allegation of the crime of murder and illegal possession of firearms should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

**19. PMKCI/019/2015 AHIKWO UGOCHUKWU(heard)**

Mr. Aniakwo Ugochukwu, who claimed to be a youth leader of the APC in Omoku town alleged that on the 10/2/2015, about 20 armed youths came to his house, destroyed his car, a Toyota corolla, while shouting that since he refused to denounce APC he will not have peace. He has fled the town.

**Recommendation:** *The allegations of the crimes of malicious damage should be referred to the NPF for further investigation.*

**20. PMKCI/020/2015 GINIWA L. LEYII (TAI LGA) (not heard)**

On 28/3/2015, Lekia Nkirinee was shot and killed.

On 9/3/2015, Alex Nkebutor was cut several times with machetes by thugs led by Barinua Nneedam aka California. Lucky Obizi's house was razed down rendering him homeless.

11/4/2015, the houses of Felicia Barizasi Taneh, Barinua Piawah, Thankgod Nwiaga, Lucky Nkeenam and Mandus Gba were badly damaged. Felicia Lekpa Nbornee and Pu-ue Claphas were attacked and beaten with severe injuries to the right eye and ear.

Zorbari Oke Nkoo was beaten on the 11/2/2015 and cut on his left hand and head with a machete by alleged PDP thugs led by Damka Nkpune.

Melubari Nnakie's house amongst others was damaged on the 8/4/2015.

Alex Nkenkputor was attacked on 9/3/2015 by thugs ( Neol Nedam Barinue, Paatoo Lucky-sam, Damka Tambari Nkpune, Sorbari Dimkpa, Sordum Promise, Nwiima Poromuse and Nkirine) who beat him up severely and his properties destroyed. Kenude Dimkpa's house and properties were damaged. Johnjerry Abie's house was damaged on the 11/4/2015.

**Recommendation:**

- a. *The allegations of the crimes of murder, arson and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killings should be convened*

**21. PMKCI/021/2015 PROMISE AMADI(heard)**

On the 10/3/2015 while at the venue of APC's rally, PDP's members attacked by shooting guns at the APC members. The petitioner escaped with injuries.

**Recommendation:** *The allegations of the crimes of attempted murder, criminal assault and illegal possession of firearms should be referred to the NPF for further investigation.*

**22. PMKCI/022/2015 VICTOR AMADI (Heard)**

On 20/3/2015, his father's house, Godwin Amadi and Late Elder Edward Amadi's houses were burnt down by thugs of the PDP.

**Recommendation:** *The allegations of the crimes of arson and malicious damage should be referred to the NPF for further investigation.*

**23. PMKCI/023/2015 KENNETH NWUCHEGBUO (heard)**

His house was burnt down by alleged PDP thugs on the 19/3/2015.

**Recommendation:** *The allegations of the crimes of arson and malicious damage should be referred to the NPF for further investigation.*

**24. PMKCI/024/2015 MONDAY ODION(heard)**

Monday Odion alleged that on 10/2/2015, his building at Obosi, Omoku town, which he rented to the APC was destroyed by unknown persons including his personal properties. His room was burgled and his electronics vandalised. The sum of N800,000.00 (eight hundred thousand naira) was also allegedly stolen from his room. He has fled from the town.

**Recommendation:** *The allegations of the crimes of malicious damage and stealing should be referred to the NPF for further investigation.*

**25. PMKCI/025/2015 SUNNY OKWUDIRI AHIKWO(heard)**

Mr. Sunny Okwudiri Ahiakwo, who claimed to be a youth leader of the APC in Omoku town alleged that on the 10/2/2015, about 20 armed youths came to his house and destroyed his car, a V-boot Mercedes. He has fled from the town.

**Recommendation:** *The allegations of the crimes of malicious damage should be referred to the NPF for further investigation.*

**26. PMKCI/026/2015 CHIBUZOR OWOTOR (not heard)**

On the 3/4/2015, Chibuzor Owotor was shot at sporadically and his properties damaged.

**27. PMKCI/027/2015 GODSPOWER ASOR OPURUM(heard)**

His house was burnt down on the 19/3/2015.

**Recommendation:** *The allegations of the crimes of arson and malicious damage should be referred to the NPF for further investigation.*

**28. PMKCI/028/2015 EMOHUA LGA (not heard).**

10.30pm of 28/3/2015, the building housing the INEC office was blown up with explosives. On 28/3/2015, Ezebunwo Nnebuchi Enyi, an APC agent for Ndata unit 022 was kidnapped and kept in the house of Sergeant Chidi Awuse in the presence of Military and Policemen.

On 12/4/2015, four(4) APC supporters, Paul Ozuru, Ovunda Ogonu, Owadiegu Eziwhuo and Humble Duru were shot at the Registration Area Center in the presence of the security agents. Ikekwem Iwedi's house was badly damaged and his son, Enyindah Iwedi severely beaten up by Achinike Mini, Chimezi, Mini, Ogechi Ogbonna all from Rumuobasi, Rumuche, Emohua and members of PDP.

**Recommendation:** *The allegations of the crimes of arson, possession of firearms and malicious damage should be referred to the NPF for further investigation.*

**29. PMKCI/029/2015 FLORENCE OKAFOR OGECHUKWU (not heard)**

Complains of discrimination at home and work. Does not belong to a political party.

*Recommendation: Not under the terms of reference of this Commission.*

**30. PMKCI/030/2015 ISREAL O. OKIRIE(not heard).**

10/4/2015 - sporadic shootings at his residence and destruction of his properties in Omoku.

**Recommendation:** *The allegations of the crimes of arson, possession of firearms and malicious damage should be referred to the NPF for further investigation.*

**31. PMKCI/031/2015 FELIX EJIECHI (OGBA, NDONI & EGBEMA LGA)(heard)**

Alleges that acts of intimidation, destruction, murder, arson, maiming and vandalization of properties against APC members were carried out by Felix Obuah of the PDP while using Ejike Ejima Igwedibia as leader of the killer squad.

**Recommendation:** *The allegations of the crime of murder, arson, illegal possession of firearms and malicious damage should be referred to the NPF for further investigation.*

**32. PMKCI/032/2015 LOVEDAY ONUNWA (heard)**

Their houses were burnt down by alleged PDP thugs on the 19/3/2015.

**Recommendation:** *The allegations of the crimes of arson and malicious damage should be referred to the NPF for further investigation.*

**33. PMKCI/033/2015 MR. JOHNSON CHIDI ONUOHA (heard)**

His house was burnt down by alleged PDP thugs on the 19/3/2015.

**Recommendation:** *The allegations of the crimes of arson and malicious damage should be referred to the NPF for further investigation.*

**34. PMKCI/034/2015 BLESSING NWUCHEGBUO (heard)**

His house was burnt down by alleged PDP thugs on the 19/3/2015.

**Recommendation:** *The allegations of the crimes of arson and malicious damage should be referred to the NPF for further investigation.*

**35. PMKCI/035/2015 AKUKU-TORU LGA (heard)**

Sotonye Georgewill was murdered by Zaga and Kalio Max (aliases). Ominini Bibi was attacked and injured critically. Ineye Jack was attacked and injured by Omona-a Oliver aka Doin Doin with phone no. 08066048416. Diepreye Krukrubo, Tamunokuro Young-Jack, ThankGod Samuel, Ebuye Briggs and Ipalibo Jack were attacked by thugs. Dr. Tammy Danagogo, Rowland Sekibo and Major Jack were alleged to have sponsored the attacks. Aboiyaa Bob-Fubara distributed machetes to the thugs for some of the destructions. Diepreye A. Briggs, Victor and Asawo sustained injuries from attacks by the alleged PDP thugs. Godspower E. J. Briggs was killed.

On 28/3/2015, Ominini Bibi was attacked by the PDP members. On 28/3/2015, Isobo Jack and the DPO of Abonema Police were beaten up

by the PDP thugs led by Rowland Sekibo, Daibi Don-Pedro and Aboiya-a Bob-Fubara. Kurotamunoye Briggs was also beaten up on the same day. Nicholas Ikiriko was beaten up by the same thugs. Sulu Bob-Manuel was beaten up and cut with machetes on 28/3/2015.

On 10/4/2015, Stanley Benibo and Lokoloko Teme were and beaten up attacked by thugs led by Tienepelaba Graham in the presence of the DPO of Abonema Police Station who was assisting the thugs. Prince Tubobanimi Dabiri of Elem Sangama was also beaten up. On 10/4/2015, Tamunokuroma Jack was beaten up by PDP thugs led by Aboiya Bob-Fubara, Ogbete Jack, Telema Jack and others. Samuel F. Georgewill was also beaten up on the 10/4/2015. Many other unreported cases.

On 11/4/2015 killings, beatings and looting of properties. Alambo kitchener, Boyo and his mother, Ezenwain, Sokari Graham-Douglas, Ladi Douglas, and Eziody were beaten up and their properties looted. Okinaye Briggs was beaten up severely and died a week later. Many more horror cases occurred on the 11/4/2015.

On 25/4/2015, Otete Douglas, his wife and baby of seven (7) months were attacked and severely beaten up by PDP thugs. Ibiba J. Briggs was allegedly beaten up.

Godspower E. J Briggs was murdered on 5/2/2015 by PDP thugs led by Omonaa Oliver, Boma Daobu, Senibo Woah and others.

On 11/12/2014, Telema Young Jack instructed thugs to kill Konbonimi Briggs. He was severely beaten up.

**Recommendation:**

- c. *The allegations of the crimes of murder, attempted murder arson and malicious damage should be referred to the NPF for further investigation.*
- d. *A coroner's inquest into the alleged killings should be convened.*

**36. PMKCI/036/2015 INNOCENT OGBUEHI(heard)**

His brother, George Ogbuehi, an APC member was shot dead by three gun men on the 11/4/2015 by 8.00am.

**Recommendation:**

- a. *The allegation of the crime of murder and illegal possession of firearms should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

**37. PMKCI/037/2015 ALL PROGRESSIVES CONGRESS**

**OBIO/AKPOR LGA CHAPTER**

On 6/2/2015, Ogbonda Chibuchi was allegedly attacked and shot by Eric Chioma, Tamunosiki and others of the PDP.

On 20/3/2015, the members of the PDP unleashed mayhem on the APC members, attacking them with machetes, and other weapons. Aleruchi Amadi Omenka was cut with a machete and his wedding ring, car keys, necklace and the sum of N120,000.00 (one hundred and twenty thousand naira) stolen from him. Tasie Wike was cut on the head and stomach with a machete. One hilux van was stolen from the caretaker Chairman of the LGA on the same day. The houses and properties of APC members were vandalised on the same day.



On 23/1/2015, Peoples Democratic Party members inflicted machete cuts on All Progressives Congress members including Oluchi Omunakwe. In January 2015, the house and properties of Hon. Innocent Worgu was attacked by Peoples Democratic Party members. His properties were destroyed.

On 27/3/2015, the homes of Stanley Orlu and other APC members were attacked with gun shots etc.

**Recommendation:**

- a. *The allegations of the crimes of attempted murder, illegal possession of firearms, stealing and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened*

**38. PMKCI/038/2015 STEPHEN POROMA(heard)**

On the 28/3/2015 at about 6.15am, thugs of Monday Nabor and PDP led by Bob 2 Nkue started shooting at his house, killed Lekia Saturday Nkirine and continued shooting at the properties.

**Recommendation:**

- a. *The allegations of the crimes of murder, attempted murder, illegal possession of firearms and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened*

**39. PMKCI/039/2015 JOE PHILLIP POROMA(heard)**

On the 28/3/2015, while in Joe Poroma's house, Lekia Saturday Nkirine, a party agent, was shot by Nwinemene Sunday and killed. One of the bullets pierced the door and hit Gbaraka Nna. Bariton Mbake vandalised the windscreen of Joe Poroma's Land Rover Jeep and Toyota Hilux Truck. Houses belonging to Baride Dickson, Peter Nkoo, Adolphus Nabor, Letura Peter, Barisua Nyone and other APC members' properties were also vandalised by the PDP members.

**Recommendation:**

- a. *The allegations of the crimes of murder, attempted murder, illegal possession of firearms and malicious damage should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

**40. PMKCI/040/2015 UZODINMA SILAS**

On 11/4/2015, Silas Uzodinma, a polling agent of the APC was severely beaten at Polling Unit 001 at Unyengala by PDP members. Animisa Fyneboy Mark, and Ezekiel Gomiluk Nte were also beaten for demanding for results sheets at the polling unit. Nnanta Alali of the PDP led the thugs in the attack. Also attacked were Paul Isreal, & Micheal Kpenunpoogaak-Awaji Monday.

**Recommendation:** *The allegation of the crime of criminal assault should be referred to the NPF for further investigation.*

**41. PMKCI/041/2015 EZEKIEL GOMILUK NTE (heard)**

Ezekiel Gomiluk Nte was severely beaten by Nnanta Alali and thugs of the PDP.

**Recommendation:** *The allegation of the crime of criminal assault should be referred to the NPF for further investigation.*

**42. PMKCI/042/2015 BESTMAN NNAH ( APC, IKWERRE CHAPTER, RIVERS STATE(heard)**

Bestman Nnah, a ward chairman of the APC in Ward 11 Ozuoha Town, in Ikwerre LGA alleged that on 28/3/2015, the results sheet was missing from the electoral materials and while arguments were going on, the INEC staff took off with the electoral materials to the house of Chukwuemeka Agadi, an alleged PDP leader in town. Hon. Kerian Wobodo and Chimekwa Wobodo were then attacked with matchets by Chukwuemeka Agadi and some thugs. Chukwuemeka Agadi, Anthony Obisike, Divine Woke and Obinna Mark Wali afterwards brought some men in Army uniform who shot at a gathering of APC members at polling Unit 003 and killed one Uchenna Chinnah.

One Wagu Chimene Chima was also shot by PDP members at Omuana town on the 11/4/2015.

**Recommendation:**

- a. *The allegations of the crimes of murder, attempted murder, illegal possession of firearms and impersonation should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

**43.PMKCI/042/2015 ANDREW ONYEBULE (APC, IKWERRE CHAPTER, RIVERS STATE (heard)**

Andrew Onyegbule, on 28/3/2015 was an agent of the APC in Unit 007 in Ipo town of Ikwerre LGA. After they discovered that Form EC8A( the unit Results Sheet) was missing from the electoral materials, the party agents refused to continue with the election and a heated argument ensued. A member of the PDP accused Ikechi Dimkpa of the APC of stealing a bag and mobile phone from a lady and started beating him up with the assistance of the other members of the PDP present at the polling unit. One Kelvin Ikechi Onyegbule, a PDP member then shot Ikechi Dimkpa and the rest of the PDP members continued beating him to death. His corpse is at Pamax Mortuary, Omagwa.

**Recommendation:**

- a. *The allegations the crimes of stealing and murder should be referred to the NPF for further investigation.*
- b. *A coroner's inquest into the alleged killing should be convened.*

**44.PMKCI/043/2015 HIGH CHIEF VINCENT NNAMDI OTTO(heard)**

High Chief Vincent Nnamdi Otto, who claimed to be a chieftain of the APC of Obio/Akpor alleged that, a member of the PDP, Mr. Progress Akujuru, used his position as the road project manager supervising the construction of the Rumuokoro axis of the East/West Road to demolish his motel after demanding N8,000,000.00 (eight million naira) bribe. He also alleged that Mr. Emmanuel Ngodo Chinda and Hon. O.K. Chinda invited Jonathan Ehoru, allegedly a member of a gang to prevent him from entering his land because he belongs to the APC.

He claimed that Emmanuel Chinda and Ugweze Wodi conspired with Jonathan Ehoru, a known gang leader to kidnap 6 children from his School, The Standard International College at Elenwo. As a result, parents withdrew their wards from the school leading to loss of business. That the PDP led Federal Government through their members in the Ministry of Niger Delta Affairs refused to enumerate his properties affected by the road construction for the purpose of paying compensation because of his political affiliations.

**Recommendation:**

- a. *The records produced by the petitioner showed that he had been paid N50m (fifty million naira) compensation for the demolition. Any complaints relating to the demolition should be pursued before regular courts.*
- b. *The allegations of cultism and kidnapping should be referred to the NPF for further investigation.*

## CHAPTER SIX

### RECOMMENDATIONS

150. The ToRs require the Commission to, among other things, “make recommendations in the light of its findings and other recommendations which the Commission may consider in view of its findings.”

151. In formulating its recommendations, the Commission is reminded that while the timing of the incidents covered by it may be unique, the subject matter of violence in Nigeria and agency responsibility for preventing and ensuring accountability for it have been the subject of various previous inquiries at both state and federal levels. Between 2005 and 2009, Professor Tekena Tamuno led an Inquiry into violence in Okrika (2005) while Justice Kayode Eso led the Truth and Reconciliation Commission in Rivers State.<sup>102</sup>

152. Political violence implicates the responsibilities of government at community, local, state, and federal levels. Any recommendations even for a state-specific situation, such as the subject of the present Inquiry, must recognise that public safety and security in Nigeria is the primary responsibility of the Federal Government.

153. Political violence equally impedes and violates the exercise of choice as the bedrock of democratic participation. In this connection, Nigeria’s Supreme Court emphasized in 1983 that “voters must be

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<sup>102</sup> See, Government of Rivers State, *Report of the Rivers State Truth and Reconciliation Commission*, Ibadan, Evans Brothers (Nigeria) Ltd., (2009)

allowed to freely go to the polling booths and cast their votes unmolested. Free and fair election cannot, therefore, tolerate thuggery or violence of any kind.”<sup>103</sup>

154. Despite this clear statement of the applicable law, political violence in Nigeria appears pervasive around elections. The federal government’s panel of investigation into the post-election violence that followed the 2011 General Elections (headed by Sheikh Ahmed Lemu), disclosed that all elections in Nigeria since 1922 had been beset by violence largely because many political competitors in the country “embrace or resort to self-help and vengeful tactics in settling their grievances.”<sup>104</sup> Among the major factors in the violence, the Panel identified what it called “security lapse”,<sup>105</sup> including poor “physical security coverage of many areas in various states, inter-agency rivalry between some security agencies.... Lack of synergy in information sharing and inadequate coordination among security agencies”,<sup>106</sup> as well as “perceived political partisanship of the security agencies”<sup>107</sup> and, the dwindling capacity of the security agencies, particularly, the Nigeria Police.”<sup>108</sup>

155. Many of the issues addressed by the Sheikh Lemu Panel have equally been the subject of many other official or high level Inquiries before and since then. Particularly notable are the reports of various presidential and some state level inquiries on the reform of the security

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<sup>103</sup> *Ojukwu v. Onwudiwe*, 3 *Election Petition Reports*, 850 at 892 (1983)

<sup>104</sup> Sheikh Lemu Report, Vol.1, para. 2.7

<sup>105</sup> *Sheikh Lemu Report*, Vol. 1, para 8

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

<sup>108</sup> *Ibid.*

sector whose performance or lack of it is central to the trajectory of political violence in the country.<sup>109</sup> There have also been complementary studies and Inquiries on the pacification of the Niger Delta.

156. All these Commissions of Inquiry issued reports with recommendations addressed to government at the federal and state levels which address proposals for long term reform of the institutions of public safety and security as well as pacification of the Niger Delta and its politics. Few of these recommendations were ever implemented. To begin with, this Inquiry calls attention to the pressing need to review and implement the reports and recommendations of previous Inquiries on various aspects of violence in Rivers State or the Niger Delta; election-related or political violence in Nigeria; and on the reform of the institutions of public safety and security, which have historically been neglected.

157. The recommendations contained in this report, therefore, focus on short- to-medium term measures. They are designed to address specific issues of strategy and interventions to address both political violence and some of its underlying causes. There is also the need to ensure accountability for political violence; attack the culture of

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<sup>109</sup> These include: Government of Kaduna State, *Report of Kaduna State Peace and Reconciliation Committee*, p. 217 (Jan 2013); Federal Republic of Nigeria, *Main Report of the Federal Government Investigative Panel on 2011 Election Violence and Civil Disturbances* (2011); Federal Republic of Nigeria, *Report of the Presidential Committee on Electoral Reform*, (Chaired by former Chief Justice of Nigeria, Muhammed Lawal Uwais) (2008); Federal Republic of Nigeria, *Presidential Committee on the Reform of the Nigeria Police Force* (chaired by Alhaji M.D. Yusuf, retired Inspector-General of Police) (2008); Federal Republic of Nigeria, *Report of the Presidential Committee on Police Reforms*, (Chaired by Muhammadu Danmadami, retired Deputy Inspector-General of Police) (2006); Federal Republic of Nigeria, *Report of the Judicial Commission of Inquiry into the Affairs of the Federal Electoral Commission (FEDECO) 1979-1983*, (chaired by Hon. Justice Bolarinwa Babalakin) (1986).



impunity that has led to the growth of vigilantism and violence in the politics of Rivers State; address the incentive structure that makes violence appear profitable for the young people of Rivers State; ensure access to remedies for victims of such violence; and restore inter-governmental collaboration among the arms of government at both federal and state levels in doing these.

158. Accordingly, all the recommendations formulated below are designed to be implemented within the framework of existing laws. The Commission believes that there are more than enough laws to tackle political violence in Nigeria generally and Rivers State in particular and that with administrative imagination, political will, commitment, and capable institutions this is very possible.

#### **Taking Partisanship out of Political Violence: A Role for the Council of State**

159. In tabling these recommendations, the Commission acknowledges that while partisanship is inherent in political contest, guaranteeing the safety and security of Nigeria's institutions and inhabitants is the most important job of political leaders and is beyond politics. The record of most political leaders over the period since the return of Nigeria to elective government in 1999 has failed to foster public confidence in the capability of elected leaders to protect the best interests of all Nigerians. In Rivers State, partisanship at the level of both the federal and state governments undermined the performance of institutions of law enforcement in ensuring accountability for crimes of political violence.

160. To address political violence in Nigeria effectively, it is necessary to restore credibility to and public trust in the role of elected political office holders in protecting protect the public good. Given this problem, the Commission recommends that the National Council of State should play a significant role in restoring public confidence in state security agencies to be able to effectively deal with cases of political violence.<sup>110</sup> The constitutional role of the Council is essentially to “advise the President whenever requested to do so on the maintenance of public order within the Federation or any part thereof”,<sup>111</sup> which is broad enough to cover the subject of political violence. As part of this role, the Council should set national priorities and goals on political violence as part of an enhanced role in guaranteeing public order and stability in the country and providing mentorship to elected and serving political office holders. Periodic public communications on the Council’s deliberations on this subject as well as progress in the implementation of their advice, would be a necessary complement in evolving this role.

#### *Growing the Political Culture within Parties*

161. In the absence of independent candidacy in Nigeria, political parties exclusively mediate political competition for access to public office. This is a high constitutional responsibility to which they have not always brought the requisite culture or political maturity. The internal

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<sup>110</sup> Established by s. 153 of Nigeria’s 1999 Constitution, the Council of State comprises the following: the President, who shall be the Chairman; the Vice-President, who shall be the Deputy Chairman; all former Presidents of the Federation and all former Heads of the Government of the Federation; all former Chief Justices of Nigeria; the President of the Senate; the Speaker of the House of Representatives; all the Governors of the states of the Federation; and the Attorney-General of the Federation. Among its functions, the Council of State advises the President with reference to the INEC, and is also empowered to “advise the President whenever requested to do so on the maintenance of public order within the Federation or any part thereof and on such other matters as the President may direct.” See Constitution of the Federal Republic of Nigeria, 1999, 3<sup>rd</sup> Schedule, Part 1(b)

<sup>111</sup> *Ibid.*

culture of political parties is essential in framing the tone of political contest in the country. Presently, the culture of imposition of aspirants and candidates within political parties eliminates internal democracy in the parties, denudes the process of candidate selection of competition or fairness, and denies the parties the standing to argue for the application, in the wider polity, of standards of fairness that they themselves are unwilling to apply in their internal contests. This makes political violence nearly inescapable. The Commission of Inquiry, therefore, recommends that:

- (a) The Council of State may also offer non-partisan standards or guidance for mediating cultures of internal democracy in political parties. Such non-partisan standards may become a reference point for advocacy groups seeking to monitor or measure compliance by parties to hold them accountable for conduct likely to result in political violence.
- (b) Political parties should, within the framework of the need to renew and grow cultures of internal party democracy, establish clear conventions that will deny party political platforms for persons accused of crimes of political violence who have not yet cleared their names or of supporting or working with groups, entities or networks that are involved in political violence. The parties should evolve a consensus that politicians with pending criminal indictments or who are named suspects in criminal proceedings should not be allowed to present themselves for office nor continue to hold public office while such charges are pending.

### **Addressing the Capabilities of the NPF**

162. Lack of accountability and impunity for offences was a recurring characteristic of the testimony and information put to the Inquiry. It is therefore critical that steps are taken to address this. The independence, autonomy and capacity of the police force needs to be significantly and urgently addressed to tackle the problem of impunity for criminal acts and violations of human rights. Any existing institutional problems within the police force – whether in terms of equipment, training and orientation – has been magnified by perceptions of partisanship in the electoral process.

163. It is impossible to prevent, investigate or prosecute political violence without a capable Police organisation. In Rivers State during the period covered by the present Inquiry, the NPF proved far from effective in containing political violence or ensuring accountability for it. Even worse, it was also widely perceived as partisan. This perception inflicts considerable reputational damage to the NPF, fosters helplessness among citizens and encourages vigilantism and self help. While the constraints of the NPF are many and well advertised, it is also the case that its institutional ineffectiveness is increasingly a national security problem.

164. The Nigeria Police Force, through the Inspector General of Police, is under operational and political control of the executive at the Federal level. The President appoint the Inspector General of Police. Contingents

of NPF stationed in states of the federation are under the control of the Commissioner of Police of that state who may defer orders of the Governor to the Presidency. With the complicated procedures for constitutional amendment, this constitutional position is unlikely to change in the short term. Political differences, such as those that existed in Rivers State during the period covered by the present report can result in obstruction in effective policing to the detriment of accountability mechanism and the provision of a remedy to citizens. Short term administrative adaptations can nevertheless be implemented to enhance the record of the NPF on political violence. The Commission of Inquiry, therefore, recommends that:

(a) The Inspector-General of Police should develop and issue for the NPF a clear doctrine of zero tolerance for and clearly spelling out the kinds of acts or circumstances which the Force would regard as political violence. Such Force Order should also contain clear instructions, protocols and procedures to be followed by all personnel of the Force when confronted with reports of political violence. Within the text of such a Force Order, it should be made clear the circumstances in which crimes of political violence may be treated as crimes within the TPA.

(b) Reflecting the seriousness of crimes of political violence, the Inspector-General of Police should designate an officer of a rank not below that of Commissioner of Police with responsibility at the federal level to lead the operationalisation of this Force Order and the development of a new Force disposition on political violence.

(c) There should be established at the federal level under the authority of the Council of State, an inter-agency Task Force on political violence to be co-ordinated by the Honorable Attorney-General of the Federation (HAGF). Participation in this would include the INEC, NPF, DSS and other security agencies, the National Human Rights Commission, National Emergency Management Agency (NEMA), and the National Refugee Commission with some independent observers from civil society, the private sector, and academic institutions. This structure should be mirrored at the state level. This task group would collate information on measures of accountability for crimes of political violence. This Task Force should report annually on progress on political violence to the Council of State and the National Assembly. Its reports should be made public and should be accessible under the Freedom of Information Act.

(d) Additionally, the conflation of politics and criminality has been a huge contributor to the culture of impunity within Rivers State and should be tackled in a specific manner. The Commission of Inquiry recommends the establishment of a Political Crimes Prosecutions Unit (PCPU) in the office of the HAGF and in all state Ministries of Justice with specialised prosecutorial assets dedicated to addressing accountability for crimes of political violence in co-ordination with the task force recommended above. Reports of the work of the PCPU will be included in the annual reports from the Task Force to the Council of State.

(e) Subject to the implementation of measures to restore public confidence in the NPF's capability and institutional desire to effectively address crimes of political violence in Rivers State, the Inquiry recommends that the Honorable Attorney-General and Commissioner for Justice should refer to the NPF for further investigation and necessary action, the report of this Inquiry together with the specific allegations of crime contained in the petitions addressed to the Commission of Inquiry.

### **Addressing Impunity**

165. The Commission of Inquiry considers it important to confront directly the problem of impunity for crimes of political violence. Over the course of its work, the Inquiry received many allegations against several persons alleged to have been involved in crimes of political violence in Rivers State during the 2015 General Elections. These allegations were generally of uneven quality. However, there was a small pool of alleged perpetrators against whom there was a consistent pattern of allegations that was both compelling and too serious to ignore. It is not within the purview of the Inquiry to determine guilt or innocence. However, the Commission of Inquiry would be failing in its duty if it failed to bring these persons to the attention of the necessary authorities for appropriate action.

166. The Commission of Inquiry acknowledges the need to balance action against impunity for political violence on the one hand against the constitutional imperative of the presumption of innocence on the other.

In striking a balance between these two values, the Commission of Inquiry decided to deliver the report to both the Governor of Rivers State and the National Peace Council through its Chairman and former Head of State, General Abdulsalami Abubakar, whom it invites to assume a role in guaranteeing fair, impartial and prompt investigative action on these cases.

### **Addressing Youth Violence, Small Arms and Cults**

167. In much of the Niger Delta, as exemplified by the situation in Rivers State, violence is casual, transactional and profitable. Youth involved in it acquire an intoxicating sense of power and wealth. Education and profitable skills are not embraced to them. They also seem unwilling to explore other avenues for dignified existence. In the manner that it was administered, the Amnesty programme initiated during President Yar'Adua's government and intensified under the administration of President Goodluck Jonathan created the impression that violence pays in the Niger Delta. Creating a different orientation will require the collaboration of both the State and Federal Governments. The Inquiry recommends for this purpose an independent review of the Amnesty Programme with a mandate to rethink how the priority investments by the programme can be changed from cash transfers to the transfer of skills and involvement in building an understanding of civic responsibilities.

168. Such a re-think must be complemented by a commitment to demobilisation the youth militias in the Niger Delta. The Amnesty Programme failed to demobilise the militias or take arms out of their



hands. On the contrary the Inquiry heard evidence that ahead of the 2015 General Elections, politicians increased access to and supply of small arms and light weapons in the hands of the militias. This proliferation has intensified the mutual dependency of politics and the militia and violent crime networks in Rivers State and the wider Niger Delta. The Inquiry therefore strongly urges the Government and the security to make all necessary effort to mop up arms from cultists and militants, through a buy-back system if necessary.

169. Accordingly, the Commission of Inquiry recommends the implementation of time-bound programme of demobilisation and reintegration of the cult/youth/militant groups. As part of this programme, the Federal Government should de-criminalise bunkering and ultimately tax it. Such policy will curb the activities of the militias in the creeks and reduce the consequential criminal activities attendant to illegal bunkering.

### **Re-opening the Courts**

170. Another major factor in the pervasive sense of impunity in Rivers State is the closure of the courts. The Commission urges the Government to take all steps to resolve the impasse that led to this state of affairs and re-open the Courts without further delay.

### **Social Challenges**

#### *Civic Education*

171. Civic education should be strengthened in our schools to re-orientate the youths on the sanctity of life. They should be made to

understand that no one should destroy what one cannot create. The virtues of responsible citizenship should also be inculcated in the youths.

#### *Intensify Peacebuilding Programmes*

172. Peace building activities should be encouraged to enhance togetherness and communal life. Projects and programmes such as school sports competitions, debates and even festivals that will bring persons of different persuasions together should be encouraged. This will enhance peaceful co-existence.

#### *Migration/internal displacement*

173. The Commission recommends that the Government of Rivers State cooperates with and seeks the cooperation of the National Emergency Management Agency (NEMA) for an assessment of the situation and provision of necessary assistance to those affected.

174. The Commission of Inquiry equally recommends that Rivers State Government should establish a functional State Emergency Management Agency (SEMA) to complement NEMA in the state.

#### *Widows/children*

175. The Commission recommends the provision of assistance to widows and children during the present cycle of political violence. For those widows who may be dispossessed because of security issues as a result of the loss of the breadwinner in the family, the Commission recommends that the Government take steps to provide alternative secure accommodation. For those of school age, scholarships should be

provided to those children up to and including the completion of university education for those who are accepted into university.

#### *Traditional System*

176. Traditional rulers should be encouraged to enforce cultural sanctions on all that spill blood. To evolve better citizens, traditional rulers should be encouraged to enforce our cultures.

#### *Compensation for destruction*

177. In order to promote peaceful coexistence, the government of Rivers State should favourably consider the payment of compensation to persons affected by various acts of political violence subject to appropriate valuation and proof. To assist this process, the Commission of Inquiry arranged the valuation of some of the properties allegedly destroyed in different LGAs of the State. A copy of the valuation report is attached as Appendix D.

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