

2004

Ethnic Conflict in Plateau State: The Need to Eliminate the Indigene/Settler Dichotomy in Nigeria

Nabila Isa-Odidi

American University Washington College of Law

Follow this and additional works at: <https://digitalcommons.wcl.american.edu/hrbrief>



Part of the [Human Rights Law Commons](#), and the [International Law Commons](#)

Recommended Citation

Isa-Odidi, Nabila. "Ethnic Conflict in Plateau State: The Need to Eliminate the Indigene/Settler Dichotomy in Nigeria." Human Rights Brief 12, no. 1 (2004): 18-21.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Human Rights Brief by an authorized editor of Digital Commons @ American University Washington College of Law. For more information, please contact kclay@wcl.american.edu.

Ethnic Conflict in Plateau State: The Need to Eliminate the Indigene/Settler Dichotomy in Nigeria

by Nabila Isa-Odidi

ON MAY 18, 2004, FOLLOWING APPROXIMATELY three months of ethnic clashes between so-called “indigenes” (indigenous people) and “non-indigenes” (non-indigenous people) in Nigeria’s Plateau State, President Olusegun Obasanjo declared a six-month state of emergency and imposed military rule. He also suspended Joshua Dariye, Plateau State’s governor, for not acting promptly to contain the violence, and replaced him with Major General Mohammed C. Alli, a retired army general. The President’s actions sparked national and international debate, much of which centered on whether the suspension of a democratically-elected state official was constitutional. This focus on the constitutionality of the President’s decision serves to shift attention away from the Nigerian government’s failure to address the underlying causes of the interethnic killings, which have continued despite the state of emergency.

Many international and national groups have attributed the violence in Plateau State and other parts of Nigeria to religious and cultural differences between Muslims and Christians. This speculation stems from the fact that Plateau State’s so-called “indigenes” are predominantly Christian, while the “non-indigenes” or “settlers” are predominantly Muslim. Characterizing the killings as the result of religious conflict is understandable given the increased tension between the country’s Christian and Muslim citizens. However, a closer look reveals the real underlying cause of the conflict to be the use of “indigene” status in determining access to limited employment opportunities and resources, such as land, in Nigeria. Religious differences have only served to catalyze the violence between “indigenes” and “settlers” who are already competing for the same resources.

Both citizens and state officials label “non-indigenes” as “settlers” or “visitors” who do not have a claim to land equal to that of “indigenes.” Justification for such demarcation is based on the idea that “first in time is first in right.” This system of labeling is particularly dangerous in a state where the primary means of livelihood is farming and where some of the “settler” tribes have resided in the region for generations. This article refers to “indigene” and “settlers” only to highlight the flawed reasoning; not to condone the use of such terminology. The relationship between a person’s “indigene/settler” status and his/her access to land is not unique to Plateau State. Rather, it has been the cause of fighting between “indigenes” and “settlers” in neighboring states, such as Nassarawa and Taraba, as well as other parts of Nigeria.

According to the Nigerian Red Cross, killings in Plateau State have caused an estimated 7,500 people to flee the area in 2004 alone. The conflict began when, in May 2004, Muslim Hausa-Fulani cattle-herders and Christian Tarok farmers clashed over local elections, resulting in the deaths of 20 people. In the same month, Christian Tarok militants attacked Yelwa, a Muslim town, killing hundreds. Soon after, international organizations such as the United Nations released statements urging the Nigerian Government to address the situation quickly. Since his appointment as governor, Major General Mohammed C. Alli has taken

positive steps to contain the violence and prevent further killings in Plateau State through a peace program that encourages dialogue among ethnic groups. These actions, however, have not stopped the violence and will not protect against violence after the state of emergency is lifted.

Inconsistent principles within the Nigerian Constitution have contributed to the violence in Plateau State. To adequately address the problem, the Nigerian government must re-evaluate the relationship between indigenous status and the rights to education, property and political involvement/representation under the 1999 Constitution. By reforming the Constitution, the government would take a necessary step in affording citizens the right to equal protection and enforcing



Roger Phillips

A vendor sells her goods on the road to Jos, Plateau State, Nigeria.

the non-discrimination principle enumerated in the Constitution. In addition, Nigeria’s government should ensure respect for the rule of law by applying Constitutional principles equally to all Nigerians. Finally, the government should combine Constitutional reform with educational programming that teaches tolerance and promotes dialogue among all ethnic groups.

ETHNICITY IN NIGERIA

NIGERIA SHOWS POTENTIAL FOR ACHIEVING a transparent democracy and becoming a leader on the African continent. Before doing so, however, the country must address a number of domestic problems, including inter-ethnic conflict. In 1966, six years after becoming independent of British rule, Nigeria suffered the first in a series of coups d’etat, which resulted in decades of military rule. Thirty-six years later, in 1999, newly-elected president Olusegun Obasanjo ushered in a new age of democracy, and promised political and ethnic reform.

As Africa’s most populous country, Nigeria boasts an ethnically diverse population encompassing at least 200 ethnic minority groups. Nigeria’s ethnic groups are not spread uniformly through-

Nabila Isa-Odidi is a J.D. candidate at Washington College of Law. She is interested in the intersection between intellectual property and human rights law and is also an advocate for constitutional reform in Nigeria.

out the country and have varying degrees of power and influence. Three major ethnic groups constitute two-thirds of the country's population: the predominantly Christian Igbo in the South-East, the Muslim Hausa-Fulani in the North and the religiously mixed Yoruba in the West. Nigeria's long history of ethnic migration complicates any determination of indigene status in particular states.

Plateau State is home to over 30 of Nigeria's ethnic groups and has therefore earned the title of "mini-Nigeria." As the country's self-proclaimed "Home of Peace and Tourism," the state boasts a diverse culture in which various tribes and clans have managed to co-exist peacefully. Until recently, it remained relatively untouched by the ethnic conflict that plagues the rest of the country. Despite the region's peaceful nature, conflict broke out in Jos, the State capital, in September 2001, when a non-indigene Muslim received a job that indigene Christian groups believed belonged to an indigene. In the months that followed, over 1000 people were killed and numerous mosques and churches were destroyed.

These killings, as well as the violence that occurred earlier this year in Plateau State, are the result of the local government's discriminatory allocation of property and other rights. Both the government and indigenes discriminate against long-term resident non-indigenes, making it difficult for them to find work and limiting their access to resources. In addition, non-indigenes are sometimes required to pay higher school fees even though they pay the same taxes as indigenes. Moreover, the use of indigene status is problematic because it fails to account for the high amount of migration within the country or the state boundaries that have changed over time. Unlike the United States, where indigenous people (i.e. Native Americans) were indisputably the first settlers, both indigenes and non-indigenes in Plateau State claim to have settled the region first, thereby further complicating the process of allocating rights based on indigene status.

TREATMENT OF "INDIGINESHIP" AND EQUAL PROTECTION IN THE 1999 CONSTITUTION

NIGERIAN CITIZENS, INTERNATIONAL HUMAN RIGHTS groups and constitutional law experts continue to debate the validity of Nigeria's 1999 Constitution. The current Constitution came into being under the rule of Army General Abu Bakar before the transition to democracy and was drafted without a true democratic process. Critics of the 1999 Constitution argue that it is illegitimate because it cannot possibly reflect the views and ideologies of Nigerians who were left out of its drafting. Even the government's committee to review the legitimacy of the 1999 Constitution has been criticized for being elitist and non-participatory.

The 1999 Nigerian Constitution provides for the equal treatment of all Nigerians irrespective of ethnic origin. Chapter 3 addresses citizenship, but neither mentions nor explains the role that indigene status would play in determining a person's citizenship. Chapter 4 outlines the Fundamental Rights of all Nigerian citizens, including the right to be free from discrimination. Specifically, Section 41(1) gives every citizen the right to "move freely throughout Nigeria and to reside in any part thereof." Section 42 goes on to state that "[a] citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person, be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions [nor any privilege or advantage] to which citizens of Nigeria of other communities, eth-

nic groups, places of origin, sex, religions or political opinions are not made subject." Furthermore, Section 42 states, "No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth." Finally, Section 43 guarantees every citizen "the right to acquire and own immovable property anywhere in Nigeria." There are no constitutional provisions that make these rights dependent on indigene status.

Chapter 2 illustrates that the framers of the Constitution intended unity to be a central theme. Section 15 (3) outlines the States' duty to promote "national integration." It requires that they: "(a) provide adequate facilities for and *encourage free mobility* of people, goods and services *throughout the Federation*; (b) *secure full residence rights for every citizen in all parts of the Federation*; (c) *encourage inter-marriage* among persons from different places of origin, or of different religious, ethnic or linguistic association or ties; and (d) promote or encourage *the formation of associations that cut across ethnic, linguistic, religious and or other sectional barriers*" (emphasis added). The Constitution, therefore, expressly guarantees every citizen full residency rights, and encourages dialogue and

"The government must demonstrate, at both the federal and state levels, that state officials and individuals will be held accountable for using ethnic origin as a means of discriminating against and marginalizing other citizens."

interaction among Nigeria's ethnic groups. Furthermore, these residency rights are not contingent on indigene status.

Constitutional interpreters and legislators are confused about the Constitutional provisions pertaining to the "Federal Character Principle" and the resulting quota system for electing political officials. In 1976, the Constitution Drafting Committee (CDC) argued that all of Nigeria's minority groups must be adequately represented in government. The 1979 Constitution addressed this concern by including a "Federal Character" provision, which is also included in the 1999 Constitution. It states that the "[c]omposition of the Government of the Federation or any of its agencies, and the conduct of its affairs, shall be carried out in such a manner as to reflect the federal character of Nigeria, and the need to promote national unity, and also to command loyalty, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic groups or other sectional groups in that government or any of its agencies." Nigerian citizens believe that the Federal Character Principle has contributed to a system of citizenship where non-indigenes are marginalized and discrim-

inated against in housing, jobs, educational opportunities and access to social welfare services because they are not seen as reflecting the “federal character.”

The 1999 Constitution, which is an amended version of the 1979 Constitution, states in section 147 (b) that “...the President shall appoint at least one Minister from each State, *who shall be an indigene of such State*” (emphasis added). This “Indigene Clause” is problematic in that it uses indigene status as a factor in Minister selection, but does not explain what it means to be an indigene of a state. Further, it leaves open the question of whether citizens who migrate to a different state can become indigenes after residing there for a number of years. The 1979 Constitution defined an indigene as someone whose parents or grandparents belonged to an indigenous community within the state of residence. The current Constitution, however, omits this definition. Despite this lack of clarity, individuals and communities use the “Indigene Clause” and the “Federal Character provision” as justifications for discrimination against citizens who live in a state other than their state of “origin,” especially when it relates to those citizens’ ability to participate in the political process.

There are, therefore, no proper guidelines for reconciling equal protection for Nigeria’s citizens with the need to maintain “federal character” and promote diverse ethnic representation in the government. This has led to what the Citizen’s Forum for Constitutional Reform has defined as a “multi-layered system of citizenship,” whereby citizens residing in a state in which they are not indigenes are discriminated against, and members of indigenous communities within any State are favored over settlers. Such a system contributes to ethnic conflict in Plateau State and other parts of Nigeria, where communities fight over scarce resources and land. Any solution to these conflicts must therefore include a clarification of conflicting principles within the 1999 Constitution.

NIGERIA’S OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

AS A MEMBER OF THE UNITED NATIONS, Nigeria is party to several applicable international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). These treaties, along with the UN’s Universal Declaration of Human Rights and the African Charter on Human and Peoples’ Rights, require that Nigeria treat each of its citizens equally, regardless of their ethnic origin.

Article 26 of the ICCPR states that “[a]ll persons are equal before the law and are entitled without any discrimination to equal protection of the law.” This article further stipulates that “the law shall prohibit discrimination and guarantee...equal and effective protection against discrimination on any ground such as...national or social origin...” Article 7 of the ICESCR guarantees all workers “[f]air wages and equal remuneration for work of equal value without distinction of any kind.” As a member State of the African Charter on Human and Peoples’ Rights, Nigeria is obligated to “undertake to adopt legislative or other measures to give effect to” the rights and freedoms guaranteed to citizens “without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin...birth or other status.”

Nigeria’s obligations under international law are consistent with the anti-discrimination protections afforded by Section 42 and Section 43 of the 1999 Constitution. However, they are inconsistent with the Federal Character principle carried over as a remnant of the 1979 Constitution, which in practice has served as a means of deny-

ing non-indigenes equal protection in their state of residence. By continuing to give indigenes within a state preferential treatment, Nigeria puts itself at risk of violating its obligations under the aforementioned international treaties. Therefore, the government must amend the 1999 Constitution to resolve these conflicts and to ensure that Nigeria complies with its obligations under international human rights law.

RECOMMENDATIONS

THE NIGERIAN GOVERNMENT SHOULD establish a system in which constitutional rights are based on residency, not on origin or indigene status. The 1999 Constitution should be amended so that the Federal Character provision can no longer be used to deny so-called settlers access to crucial resources and fair political representation. Specifically, the requirement in section 147 (3) of the Constitution that the President appoint at least one minister from each state who is an indigene should be changed so that residency, not indigene status, is the determining factor. Additionally, what it means to be “from a state” in section 14 (b) should be clearly defined so that minister selection is based on residency and not indigene status. These amendments will prevent members of indigene communities from using the Federal Character Principle to deny settlers their equally protected rights. Furthermore, the Constitution should require that all residents in a State pay the same amount in taxes and have equal access to political positions, education, and work opportunities. Finally, the government should codify a reasonable number of years that a person must live in a particular state in order to gain residency status.

In order to successfully implement any Constitutional amendments, the Nigerian government must establish a system of accountability and respect for the rule of law. “Rule of law” symbolizes a dedication to equal protection for all citizens and ensures that human rights are guaranteed both in theory and in practice. Respect for the rule of law is integral to promoting and maintaining civil society, especially in new democracies such as Nigeria. Accountability is an essential part of guaranteeing this respect, and disparate application of the laws in Nigeria will lead to further skepticism of the democratic process among the country’s citizens. Citizens must be able to trust their government to make fair decisions on their behalf. This trust can only be obtained through an expressed respect for the rule of law. When this is achieved, citizens will not feel the need to take matters into their own hands, as seen in the recent conflicts and bloodshed.

The government should also employ a system of checks and balances to ensure that citizens and officials, both at the state and federal level, act in accordance with clear, fair residency requirements. In the context of the situation in Plateau State, temporary affirmative action programs would ensure that so-called non-indigenes have equal access to jobs and education opportunities. Additionally, local governments should police land ownership rights so that residents do not “take back” land through illegal and violent means. Finally, the federal government should reward States that take active steps toward guaranteeing equal treatment for their residents (e.g., by providing program funding and additional resources). This positive reinforcement will give States incentive to build communities where ethnicity is not used to deny the constitutionally protected rights of certain groups.

Education and open dialogue are also important means of effecting change in Nigeria. Local governments should educate members of their communities about how ethnicity is in part a social construct, and how colonialism helped shape the way in which Nigerian tribes relate to one another. Also, educational pro-

grams should emphasize that the residency requirement will not be used as a means of undermining the importance of an individual ethnic identity in Nigeria. Finally, the federal government should work with state officials and traditional rulers to encourage continued dialogue between ethnic communities in order to emphasize peacekeeping and prevent further violence.

CONCLUSION

THE RECENT CONFLICT IN NIGERIA'S PLATEAU STATE signals a need for the government to address the indigene/settler dichotomy by implementing long-term legislative and policy changes. The Constitution should be amended so that citizenship is based on residency and not on indigene status. Predictably, the successful applica-

tion of any constitutional amendments hinges on the citizens' beliefs that the new laws will be applied fairly. The government must therefore demonstrate, at both the federal and state level, that government officials and individuals will be held accountable for using ethnic origin as a means of discriminating against and marginalizing other citizens. Furthermore, Constitutional reform should be coupled with locally implemented educational programs aimed at promoting inter-ethnic awareness and tolerance, and an understanding of the colonial origins of "them" versus "us" ethnic relations in Nigeria today. Ultimately, these changes are necessary in order for Nigerians to see themselves as equal citizens instead of ethnic groups pitted against each other in a struggle to secure land and political power. **HRB**

"Never Again," Again: continued from page 10

second genocide in a decade. If this reaction model had existed in the early 90's, a rapid reaction force could have saved hundreds of thousands of lives in Rwanda and tens of thousands could have been saved in Darfur. The world demands at least a serious discussion of the merits of armed intervention.

HUMANITARIAN INSTITUTIONS SHOULD BE FUNDED AT CRISIS LEVELS IN ADVANCE

The humanitarian reaction to Darfur has been hampered by the failure of many nations to fulfill their commitments. On the ground, refugees and internally displaced persons who have already experienced the horrors of genocide still lack adequate food, clean water and basic supplies. In the UNHCR camps in eastern Chad, new arrivals still must wait up to a month for a tent, living unprotected in areas where the temperature can soar above 110 degrees. Rains and a reliance on ground delivery of goods along poor roads hamper shipments of humanitarian aid.

It does not have to be this way. The world needs to fund humanitarian agencies at crisis levels and replenish those resources while a crisis is occurring. There should be no excuse for illness or death when the money to prevent it has been promised but not yet delivered.

THE FUTURE OF DARFUR

THE WORLD MAY ACT TO PREVENT A FUTURE GENOCIDE, but what of Darfur? Concrete steps still need to be taken to halt the genocide and return the civilian population to pre-conflict conditions of life.

IMMEDIATELY FULFILL HUMANITARIAN COMMITMENTS

Clearing barriers to aid delivery can save hundreds of thousands of lives. The UNHCR and other aid agencies badly need funds to ensure that aid can be provided and delivered to the 2.25 million Darfurians in need. The United States has largely fulfilled its commitments, but other major actors need to deliver on aid promises.

ADEQUATELY SUPPORT THE AFRICAN UNION PROTECTION FORCE

The African Union has answered the call that the rest of the international community ignored in terms of committing troops and protecting monitors. Now that the AU force is projected to

reach a still-inadequate level of 3,000 troops, the United States and other major powers should support the force with financial and logistical support. Helicopters, transport planes, and vehicles are badly needed.

The United States and other world powers also should discuss planning and resources in anticipation of a larger AU force. While the increase to 3,000 troops is welcome and necessary, it is not sufficient to protect the 2.25 million Darfurians still at risk of direct conflict and a lack of humanitarian aid.

In addition, other multilateral organizations, such as the new EU rapid reaction force and NATO, should provide assistance to the AU force to establish a united international response to the security situation.

SEPARATE GENOCIDE FROM THE ABUJA PEACE PROCESS

Many major powers, including the United States, have provided at least tacit support for the Abuja peace process between the Darfuran rebels and the Sudanese government. While the resolution of this conflict is essential to a return to normalcy for Darfur, the peace process should be treated as wholly separate from genocide and humanitarian needs. A response to genocide should not and cannot wait for a diplomatic resolution between the two parties.

PRESS KHARTOUM FOR THE RIGHT OF RETURN

While the humanitarian crisis in Darfur is paramount, pressure must be placed by the UN and major powers on the Sudanese government to ensure the right of return for Darfuran civilians to their home areas with security. If the right of return is not secured early and enforced, the genocide will be a success.

CONCLUSION

WITH GREAT CRISIS COMES GREAT OPPORTUNITY. The Rwandan genocide left a legacy of empty promises. The world again stands at a crossroads with genocide, but this time the world can establish permanent institutions that can adequately prevent a future crisis. In ten years, the legacy of Darfur should be seen as the point where the world stopped dispensing rhetoric and started acting to prevent its most heinous crime. After all, the focus should never be on what we can do, but rather on what must be done. **HRB**