

HOPE BETRAYED?

A Report on Impunity and State-Sponsored Violence in Nigeria



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BY:

WORLD ORGANISATION AGAINST TORTURE (OMCT)

P. O. BOX 21-8, RUE DU VIEUX BILLARD

CH-1211 GENEVA 8, SWITZERLAND

Tel: + 41 22 8094939

Fax: + 41 22 8094929

E-mail: omct@omct.org

Web site: <http://www.omct.org>

AND

CENTRE FOR LAW ENFORCEMENT EDUCATION (CLEEN)

1 AFOLABI AINA STREET, OFF ALLEN AVENUE

IKEJA, LAGOS, NIGERIA

Tel: 234-1-4933195

Fax: 234-1-4935338

E-mail: cleen@cleen.org

Web site: www.kabissa.org/cleen

COORDINATION

Eric Sottas, Director, World Organisation Against Torture
Innocent Chukwuma, Executive Director, Centre for Law Enforcement Education
Anne-Laurence Lacroix, Deputy Director, World Organisation Against Torture
Chidi Anselm Odinkalu, Expert-Consultant

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INTRODUCTION

BY

INNOCENT CHUKWUMA

The last three years of elected civilian government in Nigeria have witnessed an alarming spate of violence and egregious human rights violations. In over fifty separate and documented incidents, over ten thousand Nigerians have reportedly been victims of extrajudicial executions at an average of over 200 executions per incident. Security agents, acting in most cases on direct orders of the government, have been responsible for many of the deaths as well as accompanying rapes, maiming and torture of thousands of women, the aged, children and other defenseless civilians. The International Committee of Red Cross estimates that hundreds of thousands of people have been internally displaced and scattered in several makeshift refugee camps without adequate food and medical supplies, and in most unhygienic and deplorable conditions.¹

This situation, in which many Nigerians now find themselves, presents a reversal of hope from the high expectations and promises that heralded the inauguration of the elected government of President Olusegun Obasanjo on May 29, 1999. In his inaugural speech President Obasanjo promised that his government would not be “business as usual” and pledged to step on the toes of those responsible for human rights violations. He followed his pledge up by freeing known political detainees, putting to trial scores of people for their roles in high profile cases of human rights abuses under the military and establishing the Human Rights Violations Investigation Commission to look into rights violations committed by all previous military regimes in Nigeria. These actions were applauded in and outside Nigeria and more were expected to return the country to international respectability and adherence to rule of law and due process.

However, events in Nigeria since these few measured steps were taken in the first three months of the government, have shown that the government has not only failed to abide by its freely undertaken

1 <http://www.icrc.org/icrceng.nsf/I.../B0FFF6BAB2FB52B7C1256B06003AF018?Opendocument>

obligations under international human rights law but has also continued some of the practices that characterized the dark days of military rule when human rights violations reigned supreme. For instance, many of the security agents implicated in serious human rights violations under the military are not only walking free but have also retained their jobs. In some cases, military officials shown to have been involved in serious violations of human rights have been promoted in the face of credible evidence of their conduct and complaints for redress and accountability. Similarly, the prisons have remained in deplorable conditions, over-congested and over seventy percent of their populations are persons awaiting trial, some of whom have not appeared before any court for years.

To its credit, the Obasanjo government ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, law enforcement officials continue to use “stop and search” powers as instruments for extortion and torture as the main tool for extracting confessions from criminal suspects. In some cases, police officials have resorted to extra-judicial killing of criminal suspects in desperate response to societal pressure to contain the rise in violent crime. On March 11, 2002, Mr. Tafa Balogun, the new Inspector General of the Nigeria Police Force, enjoined members of the force to fire back at criminal suspects if they come under attack.² This order, which is part of a new “Operation fire-for-fire” policy, is expected to exponentially increase the incidence of extra-judicial killings and resort to third-degree policing, given the reputation of the police in Nigeria.

Discriminatory laws and practices continue to undermine the realization of the full potentials of the human person in Nigeria. The worst affected are women and children in the country. Expectations that the government would faithfully respect its obligations under the international human rights treaties ratified by Nigeria have not materialized. The government has failed to either domesticate any of the international human rights treaties

2 This Day Newspapers, Lagos, March 12, 2002, p.1.

ratified by Nigeria or accept the right of individual petition to any of the international treaty monitoring bodies. Nigeria is in severe arrears of its reporting obligations under all the major international human rights treaty regimes applicable to it and the African Charter on Human and Peoples' Rights domesticated by Nigeria is habitually irrelevant to government policy. The economic rights of a majority of Nigerian citizens are greatly undermined by the poor state of the economy and the policies of the government. Despite the country's undisputed wealth, the United Nations Development Programme's (UNDP) annual Human Development Report consistently ranks human life in Nigeria among the poorest in the world.

However, the single most important issue, threatening to tear apart the peace and corporate existence of Nigeria today and its nascent experiment in elected government, is the spate of extra-judicial killings, rape, torture, maiming and destruction of property and livelihood that have followed the over 50 outbreaks of targeted violence that have taken place since the inauguration of the present government in May 1999. The local and international media coverage of these incidents portrays them as ethno-religious in nature. However, our investigations show that this euphemism has helped in obscuring the visible roles of the state and its security agencies in the perpetuation of these egregious violations, thereby shielding the government from full responsibility for their occurrence and recurrence. The role of the state and its security agencies in fueling and participating in these incidents is played in different ways:

Failure to implement the findings of investigations of targeted killings: It has become predictive that whenever there is an outbreak of violence in Nigeria, the Governor of the affected area would often be absent from the state or traveling overseas, usually remaining out of jurisdiction despite an escalation in human toll. After the killings, the Governor and the President would usually visit the affected area, the government would set up a "panel of

enquiry”, “committee of investigation” or “judicial commission” to look into the crisis, with a view to finding out the remote causes, identifying perpetrators and recommending ways of avoiding future occurrences. It is predictive also that no matter the amount of human and material resources invested in the investigations, their findings would neither be made public nor their recommendations implemented. Panels of enquiries have become a tunnel through which the government escapes from its responsibility of protecting the lives and properties of the citizens. The consequence is that the hands of the perpetrators are strengthened and their impunity reinforced. And thus periodically the nation wakes up to behold yet another round of senseless killings, raping, maiming and destruction of properties.

Deployment of soldiers for vengeful operations and killings:

The practice of deploying soldiers (instead of police investigators) to raze down communities where members of the security forces are allegedly harassed, attacked or killed is fast becoming a standard state response mechanism in Nigeria. Since the inauguration of the present government several communities have been completely destroyed in an orgy of state ordered vengeful killings. The President’s often-repeated response is that the measure is necessary to deter communities from killing security officials as a way of pressing for their demands. The President, as Commander-in-Chief, has declined successive demands to ensure accountability for these killings or even apologize for them.

Involvement of soldiers in quelling communal crises: Due to the incapacitation of the Nigeria Police Force by successive military governments in Nigeria, the ability of the police to respond to situations that threaten law and order was greatly undermined. As a result, soldiers are routinely deployed to complement the police in controlling civil unrest. In these situations, the soldiers are given no rules of engagement. In consequence, there are always credible reports about the recklessness of soldiers, with some of them being accused also of being biased or taking sides with parties in

perpetrating violations of human rights. Substantial and recurring questions of oversight mechanisms and responsibility for violations committed by the armed forces in such cases are habitually ignored by the government.

Collusion of government officials: In almost all the incidents of targeted violence and communal killings contained in this report, top government officials have been accused of fueling them. This they do by taking sides to the conflicts, exploiting latent rivalries between communities for selfish political interest or simply refusing to do anything when early warning signals are reported to them. For instance, in the case of the Tiv/Jukun crisis around which the Benue Killings contained in this report occurred, the current Minister of Defense, retired General Theophilus Danjuma, was accused by the Tiv communities of providing military uniforms and arms for the Jukuns who are his kinsmen. The Minister has strenuously denied this allegation. The absence of any credible investigation of the contradictory claims on this question make it impossible for fair minded, independent people to either verify the claims against the Minister or exonerate him.

Arbitrary redefinition of administrative boundaries: In the fifteen years of military rule preceding the inauguration of the present elected government, a total of additional 15 states and over 300 local government councils were arbitrarily created in Nigeria. These creations necessitated re-adjustment of existing local boundaries. However, in the process of redrawing these boundaries the affected communities were not consulted and existing historical demarcations were ignored by state officials who carried out the exercise. A National Boundaries Commission exists in Nigeria. Apart from the tardiness of the Commission's work, its powers are limited to making recommendations on internal boundary questions, recommendations that the government is not obliged to implement. Petitions and protests by affected communities seeking redress for lost assets, including farmlands occasioned by the exercise of creation of new administrative units, were either

ignored or brutally repelled. Consequently, the communities are periodically pitched in violent conflict in an effort to seek local solutions.

Failure to address the citizenship Question: Finally, the citizenship question has been a sour point in Nigeria's history. Successive governments have paid lip service to a situation where citizens of the same country are labeled "settlers" or non-indigenes and subsequently discriminated against in states other than their States "of origin", regardless of how long they have been resident in the area or of their contributions to its growth. This discrimination ranges from denial of jobs in government and the public service, through discriminatory entry requirements and fee structures in educational institutions, to segregation of human settlements around ethnic and religious lines. With dwindling economic opportunities in the country and subsequent high levels of discontent among the citizenry, the so-called "settlers" and their properties are often sitting targets for the "indigenes" whenever there is civil unrest. Politicians are able to exploit these situations for electoral advantage, providing them with a motivation to do nothing about this situation beyond occasional perfunctory condemnation of the violations during times of crisis. And so from time to time, different parts of the country are turned into theatres for killings and sundry violations of innocent persons.

The book is divided into three sections. Section one deals with the overview of targeted killings in Nigeria and the legal framework for holding government, at the federal and state level, accountable for them. Section two presents seven cases studies of targeted killings in Nigeria, selected from the six geo-political zones of the country, to show the epidemiological levels. These are Ife-Modakeke crisis (Osun State), Umuleri/Aguleri crisis (Anambra State), The Odi Killings (Bayelsa State), The Kaduna crisis (Kaduna State), The Jos Crisis (Plateau State), The Benue Killings (Benue State) and The Odukpani Killings (Cross River State). Finally, section three relates the conclusion of the report and recommendations.

**LEGAL FRAMEWORK
FOR HOLDING THE
NIGERIAN GOVERNMENT
ACCOUNTABLE**

BY

CHIDI ANSELM ODINKALU

Introduction

The legal standards applicable to determining the responsibilities of the Nigerian government and its agencies in situations of violence are defined in both domestic and international law. The government is clearly under an obligation to comply with its own domestic laws. International law also creates obligations on the Nigerian government,³ especially where the government voluntarily indicates its intention to be bound by such international law, such as through the act of ratifying an international treaty.⁴ This chapter briefly outlines the bases in both domestic and international law for holding the government of Nigeria and its leaders accountable for the violations reported or established in incidents of so-called intra or inter-communal, ethnic, religious or political violence. It demonstrates that there are clear legal standards defining the responsibilities of the Nigerian government in situations of violence. It also seeks to show that in relation to these situations of violence, the government of the Federal Republic of Nigeria has repeatedly and consistently failed to execute its own obligations under the international and regional standards to which Nigeria has voluntarily subscribed. Even more importantly, the government of Nigeria also failed to comply with its own domestic laws.

- 3 *General Sani Abacha v. Chief Gani Fawehinmi*, [2000] 6 Nigerian Weekly Law Reports (Part 660) 228, 289 D-E. See also *Free Zones of Upper Savoy & the District of Gex*, Judgment, 1932 PCIJ, Ser. A/B, No. 46, 167; *Chile Case*, Report No. 36/96 in Case No. 10.843, Annual Report of the Inter-American Commission of Human Rights 1996, 156, 165; *Velásquez Rodríguez v. Honduras, Compensatory Damages*, Judgment of July 21 1989, Ser. C., No. 7, para. 28; *Aloebotoe v. Suriname, Reparations*, Judgment of the Inter-American Court of Human Rights of 10 September 1993, Ser. C, No. 15, para 44; Communication 102/93, Constitutional Rights Project v. Nigeria, Compilation of Decisions of the African Commission on Human and Peoples' Rights 1994-1999, (Hereafter "African Commission Compilation") 140, 149, Paras 55-56; Communication 105/93 et al. *Media Rights Agenda & 2 Ors. v. Nigeria*, 150, 160-161, African Commission Compilation, Paras 62-64.
- 4 *Unity Dow v. Attorney General of Botswana*, [1992] Law Reports of the Commonwealth (Const.) 623, 670-674 (Per Aguda J.A.).

Domestic law

The legal framework for dealing with breakdown of public order and providing remedies for victims, including ensuring accountability of persons involved in serious and massive violations of the rights of the human person in Nigeria such as is documented in this report, is underpinned by Nigeria's 1999 Constitution. Chapter IV⁵ of the Constitution contains an elaborate Bill of Rights, including guarantees of the right to life, prohibiting expressly the arbitrary deprivation of this right through summary or similar extra-judicial execution,⁶ and the prohibition of torture and other forms of cruel, inhuman and degrading treatment or punishment.⁷ The Nigerian Constitution also prohibits unjustifiable discrimination on ethnic or religious grounds.⁸ Although it contains no provisions concerning torture, Part 5 of the Criminal Code⁹ applicable to the States of Southern Nigeria provides for offences against the person including, among other things, the offences relating to homicide,¹⁰ assaults¹¹ and different kinds of sexual and gender-specific violations such as rape.¹² S. 4 of the Police Act¹³ elaborates the general duties of Nigeria's Police as including "the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property, and the due enforcement of all laws and regulations with which they are directly charged." In addition, Nigeria's President, under S.10(1) of the same Act "may give to the Inspector-General (of Police) such directions with respect to the

5 *Constitution of the Federal Republic of Nigeria 1999*, Ss. 33-46.

6 *Ibid.*, S. 33.

7 *Ibid.*, S. 34(1)(a).

8 *Ibid.*, s. 42.

9 Criminal Code, Chapter 77, *Laws of the Federation of Nigeria, 1990*, [Chapters 25-31, sections 252-369].

10 *Ibid.* ss. 306-329A.

11 *Ibid.*, ss 351-356.

12 *Ibid.*, ss 357-363.

13 Chapter 359, *Laws of the Federation of Nigeria, 1990*.

maintaining and securing of public safety and public order as he may consider necessary, and the Inspector-General shall comply with those directions or cause them to be complied with.”

The Tribunals of Inquiry Act¹⁴ authorises the head of the executive arms of government as the President at the federal level or governors at the state level on subjects roughly symmetrical with the distribution of responsibilities between the federal and state levels, to institute commissions or tribunals of inquiry or investigation at their discretion. Such Commissions generally enjoy the general powers of a superior court of record in compelling the production of evidence, and report to the chief executive that set them up, who also has an absolute discretion in accepting, rejecting or implementing their recommendations. In addition, the Coroners laws in each of the states of Nigeria empower magistrates to perform the task of certifying cause and circumstances of death in situations of violent or suspicious death or of killings involving members of the security agencies or armed forces of Nigeria.

International standards

Internationally, Nigeria is party to the International Covenant on Civil and Political Rights¹⁵ and the International Covenant on Economic, Social and Cultural Rights,¹⁶ both of which it ratified in July 1993. Nigeria has also ratified the Convention on the Elimination of All Forms of Discrimination against Women,¹⁷ the

14 Chapter 447, *Laws of the Federation of Nigeria*, 1990.

15 999 *United Nations Treaty Series*, 171, adopted 16 December 1966, entered into force, 23 March, 1976.

16 993 *United Nations Treaty Series*, 171, adopted 16 December 1966, entered into force, 3 January, 1976.

17 1249 *United Nations Treaty Series*, 13, adopted 18 December 1979, entered into force 22 December 1981.

Convention on the Rights of the Child,¹⁸ as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁹ Nigeria has similarly ratified the African Charter on Human and Peoples' Rights,²⁰ which is also part of its domestic law as the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.²¹ Under each and all of these international treaties, Nigeria undertook obligations to ensure adequate protection of human rights, including, in particular, effective domestic remedies for violations of human rights committed within its territory.

These commitments are supplemented by a considerable body of international guidelines, including the United Nations Code of Conduct for Law Enforcement Officials as well as Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions.²² In situations of extra-judicial executions, Principle 9 of the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, requires the state to conduct "thorough, prompt and impartial investigations....including cases where complaints by relatives or other reliable reports suggest unnatural death... The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death." It shall include "adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide."²³

18 1577 *United Nations Treaty Series*, 3, adopted 20 November 1989, entered into force 2 September 1990.

19 1465 *United Nations Treaty Series*, 85, adopted 10 December 1984, entered into force 26 June 1987.

20 1520 *United Nations Treaty Series*, No. 26, 363; OAU. Doc., CAB/LEG/67/3 rev. 5, adopted 17 June 1981, entered into force, 21 October 1986.

21 Chapter 10, *Laws of the Federation of Nigeria*, 1990.

22 ESC Res. 1989/ 65 24th May 1989.

23 *Ibid.*, Principle 9.

Characterising the obligations

A primary obligation of the State under both national and international law is the protection of the integrity of the human persons within the territory of the state. This obligation is intrinsic in the notion of sovereignty. As pointed out by the International Commission on Intervention and State Sovereignty (ICISS) in its report in 2001, Sovereignty “implies that the state authorities are responsible for the functions of protecting the safety and lives of citizens and promotion of their welfare. Secondly, it suggests that the national political authorities are responsible to the citizens internally and to the international community through the UN.”²⁴ The government on behalf of the State executes this obligation.²⁵ This is a principle of considerable antiquity in public law. As formulated in *Marbury v. Madison*. “[t]he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection.”²⁶

In Nigeria, this principle is recognised in the guarantees of human rights in Chapter IV of the 1999 Constitution. It is also recognised in Article 1 of the African Charter on Human and Peoples’ Rights which is part of Nigeria’s domestic law, as well as in other international treaties on human rights to which Nigeria is party. Article 2(3) of the International Covenant on Civil and Political Rights, for instance, provides as follows:

Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective

24 *Report of the International Commission on Intervention and State Sovereignty*, p. 12 (2001)

25 Communication 83/92, 88/93, 91/93, *Jean Yaovi Degli (on Behalf of Corporal N. Bikagni) et al v. Togo*, 3 *International Human Rights Reports*, 125 (1996).

26 5 U.S. (1 Cranch) 137, 163; 2 L. Ed 60, 69 (1803), Per Marshal C.J

remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities for judicial remedies;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

Under the African Charter on Human and Peoples' Rights, Nigeria as a State Party to the Charter, undertakes an obligation to guarantee the rights in the charter and take measures to give effect to them. This obligation has been interpreted "to mean that the State is in violation of its obligations under the Charter if it neglects to respect the rights in the Charter and it is immaterial in such cases that it does not prove that its agents were directly involved or implicated in the violations."²⁷ These human rights obligations are applicable even in situations of civil unrest.²⁸ Human rights violations are notably committed by the actions or omissions of government or its officials and increasingly as well by the acts of private, non-state actors.²⁹ In the latter situation, as in all cases, there is an obligation on government to ensure availability of and access to adequate and effective remedies.³⁰ It has been clarified that "a remedy is *available* if the petitioner can pursue it without impediment; it is deemed *effective* if it offers a prospect of success; and it is found sufficient if it is capable of redressing the complaint."³¹

27 Chidi Anselm Odinkalu, "The Individual Complaints Procedures of the African Commission on Human and Peoples' Rights: A Preliminary Assessment", 8 *Transnational Law and Contemporary Problems* 359, at p. 389 (1998).

28 Communication 74/92, *Commission Nationale des Droits de l'Homme et des Libertés v. Chad*, 4 *International Human Rights Reports*, 94, at p. 96 (1997).

29 *Uzoukwu v. Ezeonu II*, [1991], 6 *Nigerian Weekly Law Reports* (Part 200) 708.

30 Communications 147/95, 149/95, *Sir Dauda K. Jawara v. The Gambia*, 8 *International Human Rights Reports*, 243 (2001).

31 *Ibid.*, p. 32, paras. 31-32.

Obligation to provide reparation, remedy and redress

Whenever these rights are violated, there is an obligation on the state to provide reparation, remedy or redress. The Supreme Court of Nigeria affirmed this point strongly in *Bello v. Attorney General of Oyo State*,³² citing with approval the dictum of Holt C.J. in *Ashby v. White*,³³ to the effect that:

[I]f the plaintiff has a right, he must have the means to vindicate it, and a remedy, if he is injured in the enjoyment or exercise of it; and it is a vain thing to imagine a right without a remedy; for want of right and want of remedy are reciprocal.

Scope of reparation, remedy and redress

Remedy, redress or reparation in this context means “the range of measures that may be taken in response to an actual or threatened violation of human rights.”³⁴ The nature and extent of the violation determine the scope of a remedy.³⁵ Remedies should redress violations to “the greatest possible extent ...taking into account the particularities of the situation.”³⁶ Reparation is “a generic term that covers different ways (*restitutio in integrum*, compensation, satisfaction, and assurances of guarantees that the violations will not be repeated among others) in which a State can redress” violations committed by it.³⁷

32 *Supra*, p. 889.

33 (1703) 2 Ld. Raym. 938.

34 Dinah Shelton, *Remedies in International Human Rights Law*, 4 (1999); S. Haasdjik, "The Lack of Uniformity in the Terminology of the International Law of Remedies" 5 *Leiden Journal of International Law*, 245 (1992).

35 See *Milliken v. Bradley*, 418 U.S. 717, 744 (1974) (*Milliken I*); *Milliken v. Bradley*, 433 U.S. 267, 280 (1977) (*Milliken II*).

36 See *Davis v. Board of School Commissioners* 402 U.S. 33, 37 (1971); *Louisiana v. U.S.* 380 U.S. 145, 154 (1965).

37 *Suarez Rosero v. Ecuador, Reparations*, Judgment of the Inter-American Court of Human Rights, of 20 January 1999, Ser. C. No. 44, para. 41.

As in domestic law, reparation in international law “must, as far as possible, wipe out all consequences of the illegal act and re-establish the situation which would, in all probability have existed if that act had not been committed.”³⁸ This obligation to provide reparation includes a duty to afford appropriate remedies to victims and facilitate access to such remedies.³⁹ As summed up by the South African Constitutional Court, the concept of reparation allows the state to take into account in redressing violations, the competing claims to its resources but, at the same time, to have regard to the:

untold suffering of individuals and families whose fundamental human rights had been invaded. In some cases, such a family may best be assisted by a reparation which allows the young in this family to maximise their potential through bursaries and scholarships; in other cases, the most effective reparation might take the form of occupational training and rehabilitation... in suitable cases the deep grief of the traumatised may be most effectively assuaged by facilitating the erection of a tombstone on the grave of a departed one with a public acknowledgement. There might have to be differentiation between the form and quality of the reparation made to two persons who have suffered exactly the same damage in consequence of the same unlawful act.⁴⁰

38 *Factory at Chorzow, Merits, supra*.

39 See United Nations Basic Principles and Guidelines on the Right to A Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law, E/CN.4/2000/62, Article 3(d) & (e).

40 See *Azanian Peoples Congress & Others v. President of the Republic of South Africa & Others*, [1997] 4 Law Reports of the Commonwealth, 40, 62, Per Mahomed D.P.

Reparation and redress include obligation to investigate and prosecute

In cases involving violations of the right to life or other serious and massive violations of human rights, the obligation to provide redress includes an obligation to promptly investigate the violations and prosecute those responsible for them.⁴¹ The main violations manifested in the pattern of violence in Nigeria have taken the form of impairment of physical integrity through extra-judicial killings and rape, as well as forcible displacement and associated violations of economic, social and cultural rights. It is necessary now to highlight the obligations that the government of Nigeria has failed to meet with respect to such violations.

Extra-judicial killings and violations of physical integrity

Section 33 of Nigeria's 1999 Constitution guarantees the right to life. An exception to this guarantee is recognised in cases of execution of judicially sanctioned capital punishment,⁴² executed in accordance with and after exhausting all due process guarantees.⁴³ In *Bello v. Attorney General of Oyo State* the Nigerian Supreme Court pronounced all killings other than those permitted under the

41 See *Velásquez Rodríguez v. Honduras, Merits*, Judgment of the Inter-American Court of Human Rights of July 29 1988, Ser. C. para 181; *Aydın v. Turkey*, (1997) European Human Rights Reports, 251, para 103; *Ergi v. Turkey*, Case No. 66/1997/850/1057, Judgment of the European Court of Human Rights of 28 July 1998, paras 97-98; Naomi Roht-Arriaza, "Sources in International Treaties of an Obligation to Investigate, Prosecute, and Provide Redress", in Naomi Roht-Arriaza (ed), *Impunity and Human Rights in International Law and Practice*, 24, 29-30 (1995); Fionnuala Ni Aolain, "The Evolving Jurisprudence of the European Convention Concerning the Right to Life", 19 *Netherlands Quarterly of Human Rights*, 21, 34-40.

42 See *Kalu v. State*, [1998] 13 Nigerian Weekly Law Reports 531.

43 Cf., *Bello v. Attorney General Oyo State*, [1986] 5 Nigerian Weekly Law Reports, 828, 854, 860-861.

Constitution unlawful, illegal and wrongful. According to the Court, “[a]n *unlawful* killing of a human being under Section 315 of the Criminal Code Act is a criminal offence (either murder or manslaughter). *Such unlawful killing is also an illegal act.*”⁴⁴ It goes without saying that the government of Nigeria has an obligation to investigate and prosecute all unlawful killings. Yet none of such killings in the context of so-called intra- or inter-communal, ethnic, religious or political violence has resulted in prosecutions, creating a presumption that they have been at best inadequately, if at all, investigated.

It is well established in international law that there is an obligation to bring to justice persons involved or implicated in violating the right to life. This obligation is a necessary part of the right to life itself.⁴⁵ Such complicity can only be determined through proper investigation of any killing. In its application to Nigeria, the government has a basic duty under its domestic law and international obligations to effectively investigate all unlawful and extra-judicial executions or killings. This duty is also very well established in international law. Principle 9 of the United Nations *Basic Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*,⁴⁶ requires that all extra-judicial killings be investigated in a “thorough, prompt and impartial” manner. This obligation imports a duty to maintain functional institutions –including police and prosecutorial authorities– for investigating such deaths. Such institutions must

44 *Ibid.* p. 885, per Oputa JSC. Italics original.

45 *Baboeram et al. v Suriname*, U.N. Human Rights Committee Communication No. 146, 148-54 of 1983, Para. 16.

46 ESC Res. 1989/65 of 24 May 1989, UNDOC E/1989/INF/7 129-134 gopher://gopher.un.org/00/esc/recs/1989/65%09%09%2B confirmed by UNGA Resolution 44/159 of 15 December 1989 and UNGA Resolution 44/162 of 15 December 1989.

function as bodies capable of determining whether or not criminal responsibility arises from such killings and prosecuting if such responsibility is determined.⁴⁷

Standards applicable to investigation and prosecution

Investigations into extra-judicial executions must be thorough, independent, and effective, and capable of leading to the identification and punishment of those responsible for the deprivation of life. Administrative procedures are insufficient to fulfill this obligation.⁴⁸ The victims as complainants should be assured access to the investigation procedure.⁴⁹ Civil proceedings instituted at the instance of the victims are similarly insufficient.⁵⁰ When the state creates an automatic defence for officers who kill unjustifiably while carrying out their duties, the state breaches its duty to protect the right to life.⁵¹

In relation to Nigeria's obligation under the African Charter on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights has explained that "[i]nvestigations must be carried out by entirely independent individuals provided with the necessary resources and their findings should be made public and

47 See *Velásquez Rodríguez v. Honduras, Merits*, Judgment of the Inter-American Court of Human Rights of July 29 1988, Ser. C. para 181; *Kaya v. Turkey*, 28 European Human Rights Reports 1, paras. 93 & 107; *Shanaghan v. United Kingdom*, Application No. 37715/97, European Court of Human Rights Judgment 4 May 2001, paras., 106-107.

48 *Bautista de Arellana v Colombia*, U.N. Human Rights Committee Communication No. 563 of 1993, Para 8.2, 10, reprinted in 17 *Human Rights Law Journal*, 19 (1996).

49 See Communication 48/90 Etc., *Amnesty International & Others v. Sudan*, 8 International Human Rights Reports 256, para 51 (2001); *Kaya v. Turkey supra*, para 107; *Kelly v. United Kingdom*, Application No. 30054/96, European Court of Human Rights Judgment of 4 May 2001, *supra* para, 154.

50 *Kelly v. United Kingdom, supra*, para 135.

51 *Suárez de Guerrero v Colombia*, U.N. Human Rights Committee Communication No. 45 of 1979, Para 13.3.

prosecutions initiated in accordance with the information uncovered.”⁵² These principles apply not just to extra-judicial killings but to other relatively lesser (but no less serious) forms of violations of the right to life and integrity of the human person.

The Criminal Procedure Act and Code as well as the African Charter on Human and Peoples’ Rights require an investigation of all such homicides for the purpose of determining criminal responsibility. Under Section 4 of the Police Act, this responsibility is that of the Police Force while the office of the Attorney General of the state in which the violations take place has ultimate constitutional responsibility for determining whether or not a prosecution can be mounted and, if it so decides, to initiate and manage such prosecution. As a safeguard against the abuse of the prosecutorial prerogative in such cases, it is now well settled that the decision of the Attorney General not to prosecute is subject to judicial review.⁵³ This right of access to judicial review as a remedy is, however, impossible to exercise where there is not even a police investigation or opportunity of prosecutorial decision on whether or not to prosecute.

Forced displacement

The notion of forced displacement refers to the process, status and consequence of being involuntarily compelled to leave one’s place domicile or habitual abode, and encompasses both refugees and internally displaced persons (IDPs). The Universal Declaration of Human Rights (UDHR) sought to prohibit arbitrary arrest, detention or exile.⁵⁴ It also guaranteed the rights to freedom of

52 See *Amnesty International & Others v. Sudan*, *supra*.

53 See *R. v. DPP ex parte C* (1995) 1 Criminal Appeal Reports, 141; *R v. DPP ex parte Patricia Manning and Elizabeth Manning* (decision of the Divisional Court of 17 May 2000), cited with approval in *Shanaghan v. United Kingdom*, *supra*, paras 67-68.

54 Universal Declaration of Human Rights, adopted 10 December 1948, UNGA Res. 217(III), U.N. GAOR, 3rd Sess., 183rd Meeting, 71, U.N. Doc. A/810 (1948) resolution 1948, Article 9.

movement, including the right to leave and enter one's own country,⁵⁵ and the right of everyone "to seek and enjoy in other countries asylum from persecution."⁵⁶

The African Charter supplements the UDHR in providing for a right to "seek and obtain" asylum.⁵⁷ The UDHR also guarantees a right to a nationality, which it also seeks to safeguard against arbitrary deprivation.⁵⁸ Under the 1951 Convention Relating to the Status of Refugees as supplemented by the Protocol of 1967, persons could be recognised as refugees who are the victims of forcible, transboundary displacement resulting from persecution on ground of race, religion, nationality, membership of a particular social group or political opinion.⁵⁹

Persecution has recently been defined in international law. In *Prosecutor v. Tadic*, the International Tribunal for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991 indicated that persecution imports an element of discrimination resulting in an infringement of a person's human rights on such grounds as race, religion or politics.⁶⁰ The Statute of the International Criminal Court defines persecution for the first time in an international legal standard as the international and severe deprivation of fundamental rights contrary to international law by reason of political, racial, national, ethnic, cultural, religious, gender or other grounds recognised as impermissible under international law.⁶¹ The targeting of members

55 *Ibid.*, Article 13.

56 *Ibid.*, Article 14(1).

57 African Charter, art 12(3).

58 *Ibid.*, Article 15(1)&(2).

59 Convention Relating to the Status of Refugees, 1951, 189 *United Nations Treaty Series* 150, Article 1(A)(2) (entered into force April 22, 1954). This Convention is supplemented by the Protocol Relating to the Status of Refugees, 606 *United Nations Treaty Series* 267, (entered into force 4 October, 1967).

60 Case No. IT-94-I-T, para 697.

61 Statute of the International Criminal Court, A/Conf.183/9, adopted 17 July 1998, entered into force 1 July 2002, Article 7(2)(g).

of specific communities in acts of random violence resulting in serious and massive violations of human rights such as occurs in the situations of so-called intra- or inter-communal, ethnic, religious or political violence in Nigeria constitute acts of prohibited persecution on any understanding of that concept.

The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa expands this narrow understanding of the refugee to also cover “every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”⁶² It is not readily known the number of Nigerians that have been forced to flee to other or neighbouring countries as a result of the crises and violence that have become a regular feature of life in the country, especially since the onset of the current elected regime. It is feared that there may be some.

Unlike refugees, IDPs fall into a normative and institutional blackhole.⁶³ They are defined in the UN Guiding Principles on Internal Displacement as

[P]ersons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular, as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or

62 *Organisation of African Unity 1969 Convention on the Specific Aspects of Refugee Problems in Africa*; entered into force June 20, 1974, 1000 UNTS 46, Article 1(A)(2).

63 In his 1998 Report to the UN Human Rights Commission, the Representative of the UN Secretary-General on Internally Displaced Persons, Francis Deng, found that there were ‘few express international legal norms’ against internal displacement. See E/CN.4/1998/53/Add.1, para. 33 (1998).

natural or human-made disasters, and who have not crossed an internationally recognised State border.⁶⁴

Juridically and politically, IDPs being victims of political persecution, systematic discrimination, violence or of ecological or humanitarian catastrophe who have been unable to cross an international frontier, are in many ways in a worse position than refugees. Yet internal displacement is best evidence either of systematic complicity of the state in the violation of its citizens and inhabitants or of an incapacity of the governmental machinery to adequately protect them. It is true that there is currently no continental body of norms or institutions in Africa dealing with IDPs.⁶⁵ This is a necessary consequence of both the concept of internal displacement and the primacy of domestic jurisdiction in the protection of the individual. The African Commission on Human and Peoples' Rights has indicated a readiness in a number of cases to issue decisions against African states that appear unable or unwilling to offer firm protection to their citizens and inhabitants.⁶⁶

The unusually high incidence of internal displacement in Nigeria occasioned by these incidents of violence is surprising in the absence of a more widespread impairment of the political authority of the government through sustained civil conflict, territorial contestation or contested sovereignty. This incidence of internal displacement must be seen as evidence of a systemic and systematic failure on the part of the government to exercise its responsibilities of protecting inhabitants of the territory of Nigeria. This constitutes on the part of the Nigerian government an egregious failure of the responsibilities of sovereign authority.

64 *UN Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Introduction, Principle 2.

65 See *Report of the Representative of the Secretary-General on Internally Displaced Persons*, E/CN.4/2001/5 12-13 (2001).

66 For some of the jurisprudence of the Commission in this respect, see Chidi Anselm Odinkalu, "Analysis of Paralysis or Paralysis by Analysis? Implementing Economic, Social and Cultural Rights under the African Charter on Human and Peoples' Rights", 23:2 *Human Rights Quarterly* 327, 358-365.

Conclusion

It is clear that the government of Nigeria at both federal and state levels has obligations to protect the integrity of the human person in the country under all conditions. The government has systematically disregarded these obligations, especially in situations of the so-called intra- or inter-communal, ethnic, religious or political violence pervading Nigeria. This appearance of official involvement or indifference breeds a culture and cycle of impunity and resulting resentment which fuels the increasing viciousness of successive outbreaks of crises and risks plunging Nigeria into a situation of generalised insecurity and lawlessness.

These failures on the part of the government of Nigeria constitute breaches of domestic Nigerian law. They also breach Nigeria's obligations under international law. Perhaps, even more fundamentally, these failures constitute a breach of Nigeria's sovereign responsibilities. As summarised by the International Commission on Intervention and State Sovereignty (ICISS) in 2001,

Thinking of sovereignty as responsibility, in a way that is being increasingly recognised in state practice, has a threefold significance. First, it implies that the state authorities are responsible for the functions of protecting the safety and lives of citizens and promotion of their welfare. Secondly, it suggests that the national political authorities are responsible to the citizens internally and to the international community through the UN. And thirdly, it means that the agents of state are responsible for their actions; that is to say, they are accountable for their acts of commission and omission. The case for thinking of sovereignty in these terms is strengthened by the ever-increasing impact of international human rights norms, and the increasing impact in international discourse of the concept of human security.⁶⁷

67 *Report of the International Commission on Intervention and State Sovereignty, supra*, p. 12.

These failures on the part of Nigeria's government do not have to continue. On the contrary, they need to stop and be brought to an end. The government has a political interest in ensuring this. More importantly, it also has the legal power and obligation to do so.

THE IFE-MODAKEKE CRISIS

BY

NURUDEEN OGBARA

Introduction

Mutual antipathy between neighbouring communities in Nigeria is not entirely unusual. In some cases, this antipathy lingers into a spiral or cycle of spasmodic violence and insecurity. Ethno-communal crises of this kind have been on the increase in various parts of Nigeria since the inauguration of the current experiment in elected government in May 1999. The seeds of such crises predate the current government and date back to well before the successive post-independence military dictatorships that ruled the country since 1966. However, it was expected that a democratically elected leadership would be more responsive and responsible in addressing concretely the remote and proximate causes of such crises and finding lasting solutions to them. Unfortunately, the current government has not fulfilled this expectation, as the regime appears to be indifferent to, uninterested in or incapable of stemming and punishing the avoidable violations that are usually the results of these crises. It is against this background that the current chapter examines the human rights context and consequences of the recurring crises between the Ife and Modakeke communities in Osun State of southwestern Nigeria.

The term “crisis” in this chapter (as well as its plural version “crises”) is used loosely to include violence and clashes producing such violence. Clashes in turn means “a struggle over values, claims to status, power and scarce resources in which the aims of the “opposing” parties are not only to gain the desired values but also to neutralise, injure or eliminate rivals.”⁶⁸ The word describes a heightened level of intensity in “a sequence of interactions between groups in society, between groups and government and between

68 Adjaho E.K.D., “The Responsibility of the Legislative Power in the Emergence, Prevention and Management of Political Crises”, in *Parliamentarians of West Africa*, Inter-Parliamentary Seminar, 5th Edition, p.28 (1997).

individuals as well.”⁶⁹ Among other things, it could connote tension and insecurity. Corollaries include disputations, disagreement, poor relations, and the criminalisation of “otherness” or manufacture of extended fields of enmity and potential enmity.

Several theories have been advanced to explain the recurrence of unresolved inter-communal crises in Nigeria. One very relevant explanation suggests that such clashes are the result of competition for scarce resources by national or local elite that often co-operate, conspire and collude in pillaging societal resources. Thus where violence breaks out, it has little to do with ethnicity or creed except to the extent that these factors are manipulated by the power elite for selfish ends. In Nigeria, this explanation has been further compounded by the after effects of prolonged military autocracy and the concomitant militarisation of the country in which violence increasingly evolved into the only form of recourse, as avenues for peaceful change were systematically destroyed or denuded of authority.

Background

Ile-Ife and Modakeke are two neighbouring communities in Osun State of southwestern Nigeria. Both communities are so close together that it is said to be impossible to delimit a clear-cut boundary between them. A visitor to the area would hardly know when s/he left one community for the other as both communities have, through long historical interaction, including inter-marriages and extensive business and development partnerships, evolved into a single large conurbation. The two communities belong to the Yoruba nation. Despite this closeness, both communities have a long and surprising history of mutual antipathy that frequently spills over into spasmodic crises and violence.

69 *Ibid.*

The Modakeke community is populated by individuals who migrated from the Old Oyo Empire in pre-colonial Nigeria and who, by all accounts, were well received, welcomed and settled down in Ile-Ife which is, according to legend, the cradle of the Yoruba nation. The stool of the paramount ruler of the Ifes, the Ooni, also doubles as the spiritual head of the Yoruba race. The founding of the Modakeke community was complete by the mid 19th century as the founders of the community were Oyo migrants who were fleeing the invasion of Fulani Jihadists (from Northern Nigeria) around the 1840s during the reign of Ooni Adegunle Abewela who granted them settlement in the land now occupied by the Modakeke community. Not only did Ooni Abewela receive the Modakeke, he also conferred the title of Ogunsuwa (or Ogunsua) on their leader.⁷⁰ According to Jacob Ade-Ajayi, a notable scholar of Yoruba history:

The Ife welcomed Oyo migrants as a source of cheap labour; but soon Ibadan began to use the Oyo settlers to intervene in Ife Politics. In 1851, the Ooni, in trouble with his Chiefs, and relying on the Oyo settlers for support, granted their request for a township of their own outside Ife. The new settlement, named Modakeke, was later used by the Ibadan twice to sack Ife. The second time was in 1882 when the Alerin, the Ooni-elect, had to take refuge in Oke-Igbo.⁷¹

More specifically, there had been some enmity between the Ifes and their closest neighbours - the Modakekes. This enmity relates to the perceived marginalisation by the Ifes on the one hand (of the Modakekes) and alleged insubordination by the Modakekes towards their landlords, the Ifes, on the other. These perceptions engendered occasional mutual recrimination, accusation and

70 Johnson, Samuel (Rev.), *History of the Yorubas*, p. 231.

71 Ade-Ajayi J.F., *Nineteenth Century Wars and Yoruba Ethnicity*, p. 8 (1986).

counter-accusation, culminating sometimes in aggressive disputation and communal clashes.

It is speculated that as time went on, the Modakekes became more prosperous than their landlords, to the envy of the latter. The reign of Ooni Adelekan Olubuse I (the grand-father of the incumbent Ooni, Oba Okunade Sijuade II), which ended in 1910 when he died, witnessed the first ever hostility between the Ifes and the Modakekes due to Ooni Adelekan's relocation and alleged ritualisation of the Modakekes. It took the ascension of Ooni Ademiluyi Ayogun before the Modakekes were recalled back to the original location and assured of their safety and security but this was also short-lived as the Ifes then began to demand payment of rents and royalties from the Modakekes. The crowning of the incumbent Ooni Okunade Sijuade Olubuse II in 1980, whom the Modakekes perceived to be very much like his grandfather, signalled the return of crisis in the relationship between the two communities.

Political manipulation

Contemporary accounts of the relationship between the two communities have been characterised by the manipulation by successive governments and politicians of these tensions. In 1981, for instance, the defunct House of Assembly of the then Oyo State (until the creation of Osun State in 1991, this present area of conflict was part of Oyo State) created 54 additional local government areas (LGAs). It is claimed that the political elite in the Ife community prevented the creation of a separate Modakeke LGA. In reaction, the Modakekes massively decamped from the Unity Party of Nigeria (UPN), then the party of government in Oyo State, to the National Party of Nigeria (NPN), then the opposition party in Oyo State but the ruling party at the federal level. The incumbent Ooni was embarrassed by this and, in reaction decided to rename the streets in Modakeke and downgrade the title and

status of the Ogunsua. This resulted in inter-communal violence between both communities.

A judicial commission of inquiry headed by Kayode Ibidapo-Obe, a judge of the High Court of Oyo State, constituted by the then government to investigate the violence, recommended the creation of a separate Modakeke LGA but the government of the old Oyo State, then under the now late Chief Bola Ige as Governor, declined to oblige. In the general elections of August/September 1983, the Modakekes voted massively for the insurgent candidacy of Chief Victor Omololu Olunloyo of the NPN, enabling him to oust Chief Ige from the governorship of the old Oyo state and plunging the state, again briefly, into another spate of violence.

Another example of this trend was in 1996, following the report of the Arthur Mbanefo Panel constituted by the then Federal Military Government on the creation of additional units of administration at the state and LGA levels and on boundary adjustments. Once again, the panel reportedly recommended the creation of a local government for the Modakekes. It is alleged that Ife elite again influenced the implementation of this recommendation resulting in the siting of the headquarters of the new local government for the Modakekes in Enuowa, site of the palace of the Ooni. The Modakekes protested against this, thereby compelling the federal authorities to return the headquarters to Modakeke. The Ifes saw this as a humiliation for their revered traditional stool, the stool of the Ooni, whose palace fell within the boundaries of the new LGA. Subsequently, a radio announcement on the Osun State Broadcasting Corporation (OSBC) on August 14, 1997,⁷² notified the public of a change in the siting of the headquarters of the new LGA from Modakeke to Oke-Igbo in Ife. This engendered an uprising by the Modakekes in which it was

72 Memoranda were requested in December 1995. The Modakeke memo dated 2nd January 1996 was defended before the Arthur Mbanefo Panel. The intrigues allegedly started thereafter culminating in the announcement by Lt. Col. Anthony Obi, then Military Administrator on August 14 1997.

alleged that the then Military Administrator, Col. Anthony Obi, sided with the Ifes who were also alleged to have received military specification ammunition freely used in the ensuing crisis between the Ifes and Modakekes. It was not possible during the research of this report to conclusively verify these allegations against the former Military Administrator.

The Ife-Modakeke Crisis

In the aftermath of the dispute over the creation of a separate LGA for the Modakeke community, hell was let loose between the Ife and Modakeke communities in August 1997. Tempers rose and the atmosphere within became charged after the Military Administrator announced on August 14 the relocation of the headquarters of the new LGA to Oke-Igbo, which, according to the Military Administrator, was a neutral ground belonging to neither the Ile-Ife nor the Modakeke. The Modakekes, however, claimed that Oke-Igbo was part of Ile-Ife and that the announcement by the Military Administrator was a poorly disguised attempt at maintaining the *status-quo ante*. They accused the Ooni of using his enormous wealth and influence with the then ruling military regime to perpetuate his “oppression” of their community.

In a swift reaction, Modakeke youths organised a protest march but were quickly dispersed with tear gas canisters fired at them by armed Policemen. This signalled the beginning of what was reported in the press at the time as the “Ife-Modakeke War” of August 1997. By August 18 1997, full-scale violence had erupted between the Ifes and the Modakekes. There was significant loss of lives and limbs; houses and properties worth hundreds of millions of Naira were burnt, looted and vandalised. Military specification ammunition as well as other sophisticated and traditional instruments of violence such as machetes, cutlasses, axes and clubs were freely deployed to deadly effect by the antagonists. Policemen were initially deployed from the state Police Command in response

to the crisis and later reinforced with deployments from neighbouring states. However, the Police were out-gunned and outnumbered, managing barely to secure parts of the city-centre, leaving the combatants to continue wreaking mayhem in most parts of the metropolis and the outskirts of the city. Policemen drafted to the scenes of the clashes on August 18, 1997 took to their heels when they could not curtail nor contain the fighting.

Following these events, the Modakekes accused the Police of partiality by arresting “10 innocent Modakeke men” They also alleged that then State Military Administrator, Colonel Obi, came during the night to Ife to sympathise with the Ooni of Ife. However, no proof of these allegations was provided.

The most recent clash between both communities occurred in February 2000. As before, the centrepiece of the disturbances was citizenship rights often framed as a struggle over land ownership between the Ife “landlords” and the Modakeke “strangers/tenants”. For their part, the Modakekes see the Ifes as aggressors and bullies against their bid for autonomy and dignified citizenship. Once again dangerous weapons such as different calibres of guns, machetes, knives, charms, broken bottles, stones, etc. were employed during the clashes.

Neither side admits responsibility for the violations committed but both sides assert provocation by the other while claiming victim status. Since this last outbreak, a large Police presence has been maintained in both communities, especially in Ile - Ife. The palace of the Ogunsua of Modakeke is still being guarded by a phalanx of well-armed mobile Policemen. Apart from the high sense of insecurity and tension evident in both communities, there is also a lingering bitterness occasioned by the perception that successive governments have condoned, taken sides in or, at least, failed to ensure accountability for the violations committed by different sides in the Ife-Modakeke crisis. Some interviewees like a Modakeke Youth Leader, vowed to pass on their “experience to generations unborn.”

Violations of the right to life and other civil and political rights

The crisis between the Ife and Modakeke communities has recorded over 2,000 deaths and several more injuries in the past two decades. Although not without a history, this crisis and the attendant violence seems to have acquired greater intensity in recent times in terms of the quantity and quality of human rights violations associated with it. Concerning the 1997 crisis, one respondent who survived it reports that “for almost two weeks, remains of dead victims were still being recovered from where they were felled by bullets or hacked to death by their assailants. Streets of both communities were similarly littered with congealed blood of the injured. They were gory sights to behold.”⁷³ Awopetu Yekeen Adisa who was caught up in the crisis in 1997 testifies, “many people suffered serious gunshot wounds as well as machete cuts and were sent to the hospital.The sporadic shootings continued until Sunday August 18, 1997.”⁷⁴

In 2000, a respondent from the Modakeke community claimed “when the hoodlums coming from the interior Ile-Ife sighted those of us from Modakeke, they ran towards us to capture us. When they could not, because we too ran for our dear lives, they started throwing stones at us...The second day, the Ifes started attacking with sophisticated weapons from various fronts.”⁷⁵ Ajiboloye Temidayo, another Modakeke resident claimed that Ife youths “used handguns to kill us at the point of our boundary.... and used axes to kills us too.”⁷⁶ The victims have been not only members of both communities but also commuters passing through on their own businesses. Ehile Manasseh, a lawyer, was returning from court-

73 Interview with anonymous respondent, February 2002.

74 Interview with Mr. Awopetu Yekeen Adisa, February 2002.

75 Interview with survivor of February 2000 Crisis, February 2002.

76 Interview with Mr. Ajiboloye Temidayo, February 2002.

related work when he walked into the most recent crisis of 2000. He narrates:

I was shot at from the back and I sustained gunshot injury at Itasin area (in the Modakeke community). They were carrying automatic revolver guns (8 rounds). I heard them shout “kill him, he’s their lawyer’ in Yoruba language.... I was hit at the back by a bullet. I was treated at Ike-Olu Clinic. They killed a lot of people that day. Well, it was somehow a war situation!⁷⁷

Similarly, Albert Babalola, a worker at the Obafemi Awolowo University in Ife testifies that while on his way from work, he was “hit with a brake spring on the head about midnight and sustained a broken jaw, nose and cracked skull while a bag-load of my treasured English translated Russian Magazine (*New Times*) was carted away.”⁷⁸

Internal displacement and other violations of economic, social and cultural rights

In addition to violations of life and physical security, the Ife/Modakeke crisis has made thousands of people internally displaced. During the research trip in February 2002, more than two years after the last active clash between both communities, the research team counted 53 houses on both sides that were totally destroyed and remained to be re-built or rehabilitated. According to Ehile Mannaseh, once again, “on 4 March 2000, my (law) chambers were burnt down. All properties, including law books were burnt when they razed down the Mayfair Shopping Complex around 7.00 a.m.”⁷⁹ Some other of the destroyed houses had been

77 Interview with Ehile Manasseh, February 2002.

78 Interview with Albert Tade Babalola, February 2002.

79 *Supra*.

or were being rebuilt, while many others still remained as relics of the poor relations between both communities. Many other places of abode in surrounding villages were also destroyed thereby compounding the problem of internal displacement. Villages and farm settlements such as Abiri, Aromoko, Atakumosu, Deede, Ogudu, Ogundale, and Toro were reportedly looted and overwhelmed by the combatants. Mr. Opatola, a survivor, testified that the combatants “also went to the villages and hamlets and forcefully took over farms, they burnt houses.”⁸⁰ Initially in 2000, the Obafemi Awolowo University, Ile-Ife, served as a temporary refugee camp for over 10,000 persons displaced as a result of the communal clashes prior to their moving to other neighbouring towns such as Akure, Ibadan, Ilesha, Lagos, and Ondo.

Within both communities the fear of insecurity has a marked and lingering impact on commerce and economic life. The Modakeke market now records scanty trading even on market days. In Ile-Ife, shops are closed as early as 6:00PM. There is no nightlife in both communities. Many businesses have moved out or been ruined and several properties burnt, looted and destroyed.

Gender-specific violations

The killings in the Ife/Modakeke crisis have increasingly acquired an indiscriminate edge. It is estimated that up to 30% of the people killed, injured or assaulted in the crisis have been women. Members of both communities acknowledge that there have been so many inter-marriages between both communities over the years that it is quite difficult and, perhaps, impossible, to discover a family on either side that can successfully claim purity of Ife or Modakeke bloodlines. During the 1997 and 2000 crises,

80 Interview with M. O. Opatola, February 2002.

women who had inter-married were particularly targeted and victimised. In the most recent clashes, there were many credibly attested reports of killing of women for ritual purposes. Rape and sexual assault was freely employed as a means of expressing inter-communal differences. Women who had inter-married across community lines were a focus of the sexual violence.

Violations against children and the aged

Children and the aged have not been spared. Many old people have been killed and victimised during the crises. The wanton destruction of schools has led to the habitual disruption of the academic and educational programmes of children in the affected communities.

State complicity and absence of remedies

Over the years, governments at both state and federal levels have instituted different investigative commissions into aspects of the Ife/Modakeke crisis. Four of the most recent of such commissions include:

- the Justice Kayode Ibidapo-Obe Judicial Commission of Enquiry created in 1981 by the government of the then Oyo State;
- the Arthur Mbanefo Panel into the Creation of Additional States, Local Governments and Boundary Adjustments created in 1996 by the then Federal Military Government of General Sani Abacha;
- the Olabode George Presidential Conflict Reconciliation Committee on Ife/Modakeke, Ife North Local Government communities, created by the Federal Government in June 2000.

- the Human Rights Violations Investigation Commission (HRVIC, otherwise known as the Oputa Panel), which sat between 1999 and 2002, also received and considered evidence on the Ife/Modakeke crisis.

The Oputa Commission only recently submitted its report and recommendations to the Federal Government in May 2002. The first three Commissions/panels were in their respective ways mandated to look critically at the crisis and make appropriate recommendations for resolving it. The Ibidapo-Obe Commission, in addition had a mandate to ascertain responsibility for the violations during the crisis and recommend avenues for ensuring accountability and preventing impunity. All these Commissions reported to the governments that constituted them. In respect of the first three Commissions, their reports were not published and it is believed their recommendations were ignored as they affected the Ife/Modakeke crisis.⁸¹ Many respondents interviewed for the research leading to the preparation of this chapter therefore accused the government of trying to sweep the crisis under the carpet.

Several persons have on different occasions been arrested and detained for their parts in the mayhem that is usually experienced in the Ife/Modakeke crisis but no persons have been successfully prosecuted or convicted for the resulting violations. There has similarly been no verified or verifiable administrative or disciplinary measure against any persons for their parts in the violations. As a result, it is widely perceived in both communities and, in particular, among the Modakekes, that government is partisan in the crisis. This, they argue, manifests in government's reluctance to investigate the crisis transparently or prosecute anyone implicated in such investigation. Government also dismisses any question of compensating the victims. After the 1997 crisis, the then Military

81 The report of the Oputa Commission is still being considered by the Federal Government which recently set up a committee Chaired by Mrs. Elizabeth Pam to study it and advise the government on its implementation.

Administrator of Osun State reportedly declared, “anybody that died during that incident died in war situation and that ends it.”⁸²

Police, political and traditional leadership have all been allegedly complicit in inciting, fomenting and aggravating the crisis. Government officials reportedly appropriated relief materials sent to the victims. The victims similarly accuse the Police of poor, incompetent and biased policing deployments. In the 2000 crisis, the Police authorities and traditional leadership were said to be biased from the first day and were also involved in some cases of alleged extra-judicial execution. One of such cases is of one Jimoh Irewolede killed on the first day of the crisis by men of MOPOL 15, Zone 8.

In response to what they perceive as governmental bias in favour of the Ifes as well as an expression of their disappointment with the failure of the government to respond effectively to the situation, the Modakekes recently declared “internal self-autonomy” for themselves within Ife North LGA. At the time of writing this report, there had been attempts by the government at state and federal levels to “reconcile” both communities through meetings in the Osun State capital, Osogbo, and the federal capital, Abuja. But the question of accountability for the violations committed by both sides remains to be addressed or resolved.

82 Interview with Ehile Manasseh, February 2002.

APPENDIX: SECONDARY SOURCES CONSULTED

- Memorandum on National Security with Particular Reference to Ife-Modakeke Crises.
- NECON's letter of 17/12/96 written to the then Military Administrator of Osun State on Delimitation of Local Government Electoral Wards.
- States Creation (Transitional Provisions) Decree No. 36, 1996.
- Local Government (Basic Constitutional and Transitional Provisions) Decree No. 7, 1997.
- Local Government (Basic Constitutional and Transitional Provisions) Decree No. 36, 1998.
- *Tribune* Newspaper, Monday December, 1995, p. 6.
- *Guardian* Newspaper, Tuesday, April 1, 1997, p. 11.
- *Guardian* Newspaper, Tuesday, October 2, 2001, p. 7.
- *Comet* Newspaper, Tuesday, November 20, 2001, p. 1.

**THE AGULERI
AND
UMULERI VIOLENCE**

BY

KUNLE FAGBEMI & OBY NWANKWO⁸³

Introduction

At different times in September-October 1995 and April 1999, degeneration in relations between the Aguleri and Umuleri communities in Anambra State in south-eastern Nigeria led to crises, resulting in extra-judicial killings and other serious and massive violations of human rights in these communities. The neighbouring community of Umuoba-Anam was drawn into the crisis as a result of the alleged shooting of nine of their sons, one of whom later died, for which incident there was no redress or accountability.⁸⁴ The proximate cause of the 1995 crisis was complaints over access to and ownership of land and allegations of discrimination based on place of origin.⁸⁵ The failure of the government to ensure accountability for the extra-judicial executions and associated, sundry violations and resulting impunity in 1995 led to the 1999 crisis, which appears to have been retaliation for the 1995 incident. The crisis between these communities has a long and complicated history, which deserves re-capping. Before undertaking this, it is important to clarify the objectives of this chapter and the methodology that we have adopted in achieving them.

83 The authors wish to acknowledge the invaluable assistance of Emmanuel Okereke who acted as interpreter during the research trip to Aguleri, Umuleri and Umuoba-Anam between 28 January and 1 February 2002. Barrister S.A.G Umeadi of the Onitsha Bar facilitated the trip, setting up meetings and interviews with the leadership and representatives of all three communities and helping us negotiate our way through the tight security checks in the communities. The authors also wish to acknowledge the co-operation of all three communities in meeting with them and responding to their questions.

84 The Umuleri community claims that the Umuoba-Anam community joined the crisis in exchange for a promise from the Aguleri community for more land after they would have annihilated the Aguleri community.

85 The crux of the problem is on which of the two communities has superior claim over the territory now called Otuocha. There had been series of litigation between the two communities over the piece of land known as "Agu Akor" land; with attendant socio-political schisms which eventually culminated in the 1995 and 1999 violent clashes that led to the loss of lives and wanton destruction of properties.

Background to the Aguleri-Umuleri violence

The violence and animosity between the Aguleri and Umuleri communities of Anambra Local Government Area of Anambra State has origins dating as far back as there is credible history of the two communities. The crux of the problem between them is a dispute over land and indigeneity status. Simply put, the question is which of the two communities first settled where they are now and which of them has superior claim over the territory now called Otuocha. This matter as well as the ownership of a disputed piece of land known as “Agu Akor” has been the subject of repeated litigation between the two communities. In 1933, Umuleri sued Aguleri over Otuocha but lost because they had earlier sold the land to the Royal Niger Company Limited and, therefore, had been divested of their right or title to the land. The court held that the Umuleri had nothing left to justify the court giving them a declaration of title. In 1935 and 1950, Umuleri sued Aguleri claiming exclusive ownership of the Otuocha land. Aguleri lost the 1935 suit on the ground that they could not establish exclusive ownership of the land as evidence disclosed that both communities lived together and cultivated the land side by side.

In 1964 an attempt by the then Anambra County Council to alter the name of the Otuocha Headquarters to Otuocha-Aguleri attracted another suit by Umuleri community. The onset of the Nigerian Civil War between 1967 and 1970 suspended action on this phase of the dispute. After the war, the then East Central State Government restored the name to Otuocha. In 1975, Aguleri again sued Umuleri claiming exclusive ownership of Otuocha. They lost on the same ground as before. They appealed to the Court of Appeal who reversed the decision of the High Court. The Umuleri community appealed to the Supreme Court, which decided that neither community could claim exclusive ownership of Otuocha.⁸⁶

86 These cases include, *Okafor Ebuche & Another (Umuleri) v. Chief Idigo & Another (Aguleri)* (1934) 11 Nigeria Law Reports 140; *George Okafor & Others (Umuleri) v. Eze A.E. Idigo & Others (Aguleri)*, [1984] 1 SCNLR, 481.

The above judgment notwithstanding, the Umuleri and Aguleri communities continued to dispute exclusive ownership of Otuocha with resulting conflicts. No effort was made to interpret the court judgment correctly to the people. The result was that along the same street at Otuocha, signposts bear either Aguleri or Umuleri.

In 1994, Aguleri community decided to establish a Motor Park/Market at a location on the contested Agu Akor land and destroyed the statue of the Blessed Virgin Mary mounted there. They advanced to Otuocha removing all signboards bearing Umuleri and leaving the ones bearing Aguleri. It is credibly alleged that the Aguleris had been planning to attack Umuleri with the support of the then Local Government Chairman who was from Aguleri. The drafting of Mobile Policemen to Otuocha between December 1994 and April 1995 nipped this plot in the bud. Following the re-deployment of the Mobile Police unit out of Otuocha, members of the Aguleri community attacked Umuleri on September 30 1995, unleashing massive destruction of human lives and property.

In 1995, the then military government of Anambra State constituted a 3-person judicial commission of inquiry headed by a retired judge of the Anambra State High Court to investigate the violence between the two communities. As will be seen below, the government declined to implement or accept the recommendations of the judicial commission concerning accountability for the violations committed during the violence. In apparent retaliation for the yet to be redressed violence of 1995, the Umuleris launched reprisal attacks on the Aguleris in April 1999. The reprisal attacks in 1999 took place because of government's disinterestedness in the recommendations of the commission of inquiry. Feedback received during our field research from both Aguleris and Umuleris made it quite plain that the failure of government to implement the white paper of the 1995 judicial commission of inquiry led directly to the subsequent attacks of 1999. The Aguleri community was of the view that the 1999 attack

was initiated by Umuleri to revenge the onslaught of 1995 on them by Aguleri. The Umuleri community's position is that failure of the Government to demarcate boundaries for the two communities led to the subsequent attack on them by Aguleri.

Involvement of Umuoba-Anam community

Umuoba-Anam is the third of the three communities that make up Otuocha. According to information received during the research, they purchased their settlement from Umuleri in 1898 but, following incessant harassment from Aguleri, in 1910 entered into another purchase agreement with Aguleri for the same settlement. The Umuoba-Anam community have always provided a buffer zone between the Aguleris and Umuleris in the spasmodic crises between both communities. Umuoba-Anam also sheltered the displaced people who fled to them for refuge during the attacks. The cause of their involvement in the 1999 conflict is not clear.

It is alleged that they (Umuoba-Anam) joined forces with Aguleri to attack Umuleri. According to the Umuleri community, Aguleri and Umuoba-Anam reached a pact that if Umuoba-Anam joined Aguleri to chase Umuleri out of the area, the Aguleri community would give Umuoba-Anam more land to expand their settlement. On the part of Umuoba-Anam, the story is that Umuleri shot nine of their sons during the initial crisis between Umuleri and Aguleri in 1995 and were treated with disdain by Umuleri when they complained to them about this. This caused resentment within the Umuoba community and in retaliation for the killings they joined the crisis.

Violations of right to life and other civil and political rights

Abuses of rights to life in the violence were mostly characterised by massive killings. The crisis in September/October 1995 led to killings and significant waste of human life. Exact or credible figures for the killings in the violence are unavailable but different estimates put forward by different sources point to quite a significant number of victims of violations of the right to life. From the 1995 incident, the Umuleri community estimated that, “the people who lost their lives number about 160”⁸⁷ and published the names of 40 persons whose bodies were identified.⁸⁸ “On 1st October 1995”, the Umuleri community records “...a man of 80 years and a woman of 86 years were killed. One Joe Nwogbo who ran into St. Gabriel Anglican Church Umuleri was killed inside the church.... After the attack on 3rd and 4th of October 1995, scores and scores of Umuleri people lay dead”. The Government Commission of Inquiry into the 1995 incident only acknowledged that four Umuleri persons were killed.⁸⁹ According to the oral testimony of one of Umuoba-Anam representative, nine boys were shot at and wounded by their Umuleri neighbours, while one of them Aloysius Okoye, a Senior Secondary III student was killed.

Heavy calibre ammunition appear to have been used in the violence. In Umuleri, the team was shown spent bullet casings. In Aguleri, the team was not shown victims of gunshot contrary to what the team observed in Umuleri where four persons among whom was Joseph Ebeatu, Paul Deri and Albert Ononye were shown as victims/survivors of gunshots.

87 *Memorandum By Umuleri Community to the Aguleri and Umuleri Disturbances Commission of Inquiry, 1995*, p. 27 (hereafter called ‘Umuleri 1995 Memorandum’).

88 *Ibid.* pp. 27-28.

89 *Government White Paper on the Report of the Aguleri and Umuleri Disturbances Commission of Inquiry, 1995*, p. 14.

Beheading was a widely reported form of extra-judicial execution employed during the crisis of September 1995. There are also credibly attested incidents of ritual killings practised against some victims whose bodies were cooked and eaten. Most of those killed in Umuleri were beheaded. Among those beheaded were Mrs. Anyaegbunam and Mr. Ozoemena whose heads, a respondent, Okechukwu Mbuesi alleged, may have been ritualised by the Aguleris to enable them to inflict massive casualties on the Umuleri. To buttress his allegations concerning the ritualisation of some of the victims of the violence, Mr Mbuesi alleged that that his brother and nephew (Messrs. Chieke and Anthony Mbuesi) were equally beheaded and their heads carried away and paraded in Aguleri before being used for ritual sacrifice on April 2, 1999 to coincide with the funeral rites of an Aguleri man, Chief Michael Edozie.

Violations of the right to life arising from the violence took different forms. The trauma from the violence induced health problems in some of the survivors. For instance, a man from Umuleri told a story of how he collapsed on sighting the destruction of his house. The team also visited the destroyed premises of one Mr. Egbucha Okorie in Umuleri who was said to have died from heartbreak when he saw the damage to the house - his means of livelihood. Part of the house was his residence while he rented the other parts to several businesses one of which was a printing press. His grave in front of the destroyed house had been defaced in chalk with the word "Aguleri" which was also written on the walls of the destroyed building.

Human security remains a subject of major concern in the communities. Movement in the areas of violence is greatly restricted. At Aguleri, people were still being abducted on their way to schools, markets, farms, and other places of work and worship. Movement between the communities remains unsafe. The number of people disappeared and unaccounted for from the crises is yet to be authoritatively assembled. At Aguleri, interviewees testified that

people were still being abducted on their way to markets, farms etc. It was not safe to move around between the communities. This sense of insecurity is reinforced by the fact that the communities are not necessarily spatially separated. On our field research trip, the present authors observed that the communities actually lived among each other. On several occasions during our visit through the Umuoba community, for instance, a house within Umuoba would be pointed out to the team as belonging to “an Umuleri man.” The inhabitants were restricted to a great extent to their settlement towns for fear of being killed or abducted.

Testimony

“... the way and manner the Aguleris slaughtered our people makes a gory tale only fit for horror films. They were not content with mere killing of our people but revelled in de-humanising and debasing them... The heads of Umuleri people severed from their bodies were held on spikes, they engaged in dancing, gloating and rejoicing along the tarred roads. They dismembered the bodies they carried away from Umuleri villages, cutting the bodies in pieces, cooking and eating them and making merriments (sic).... They killed one Madam Anyaegbunam aged 91 years...They beheaded her and stuck her head on a spike dancing around and gloating with merriment. Her dead body was the first to be eaten ”.⁹⁰

“Our house was burnt down... we ran away. My junior brother Francis Igbelina, was abducted in the night, they killed him, beheaded him and went away with his head. His body was left behind. We identified the body from the wrapper he had on...”⁹¹

90 Umuleri 1995 Memorandum, p. 27.

91 Interview with victim, Afulenu Udemgba, February 2002.

Internal displacement and other violations of economic, social and cultural rights

A major feature of the Aguleri/Umuleri/Umuoba-Anam crisis was the high incidence of destruction of property resulting in internal displacement and other associated violations of economic, social and cultural rights. During the field research, the team saw the destroyed town hall of Umuleri, hospitals, churches, hotels and maternity home, Community Bank and the deserted First Bank. The team also visited the site of the borehole in Umuleri, which was vandalised, and the electric generating set carried away. The team was shown a transformer provided by the Anambra State government to supply electricity to Aguleri town, which was burnt. In Umuoba-Anam, the President-General of Umuoba-Anam Development Union, Chief D.C. Ndife, took the team round the town where it observed the destruction of residential houses, which included the house of Obiora Nneke (one-storey building) and that belonging to Chief D.C. Ndife (one-storey building). The level of destruction in Aguleri and Umuoba-Anam was not unlike what we observed in Umuleri.

The Umuleri community reported that 160 persons suffered loss of property valued at N410, 802,766, ranging from total destruction of private buildings and business premises to looting.⁹² Another 138 persons lost their buildings.⁹³ These were not itemised and valued. The Government White paper on the Report of the Aguleri and Umuleri Disturbances Commission of Inquiry, 1995 stated, "...A lot of houses, household property and personal belongings mostly at Umuleri side (sic) were burnt or looted." In 1999, 200 houses were said to have been damaged in Umuoba Anam⁹⁴ while in Umuleri 1,120 persons lost property including residential buildings, offices,

92 Umuleri 1995 memorandum, pp 32, 48.

93 *Ibid.*, pp 49-51.

94 Memorandum Submitted by the Umuoba-Anam Community, Otuocha to the Seven-man Peace Committee on Umuleri - Aguleri - Umuoba-Anam - Crisis, 1999, (hereafter called 'Umuoba-Anam Community, 1999 memorandum'), p. 3.

business centres and personal effects valued at N2,046,896,900 and another 34 persons lost only household properties with a claim value of N101,621,950.⁹⁵ In the Aguleri community, it was reported that five personal buildings and a clubhouse were destroyed in the attacks.⁹⁶ Clearly, most of the persons whose structures, including a significant number of retirees and aged people who lived in the communities, became internally displaced as a result. This was most pronounced in Umuleri where nearly every structure was destroyed. The community remains deserted with no immediate prospects of reconstruction or re-settlement.

One result of the recurring crises between these communities is the increase in poverty level. In Umuleri the authors met respondents who reported that in the aftermath of the 1995 and 1999 violence, they could no longer afford food. Economic activities in the communities have come to a standstill as people who had investments in the communities have taken them out of the town and security measures within the communities restrict economic activities. Commercial institutions, such as banks,⁹⁷ that were not destroyed totally were vandalised, resulting in their closing shop. The few people remaining in the community were the elderly and frail who were confined to staying at home. The young people had fled town in search of greener pastures. The few in Umuleri who had the courage to return or remain were internally displaced and had neither place to go nor means to go anywhere.

The violence also adversely affects the members of these communities to adequate standards of living and health. Existing health facilities, including hospitals and maternity homes were destroyed during the crisis. The residents of the communities have no access to hospitals. They were said to travel all the way to

95 *Ibid.*

96 "Memorandum Submitted to a 7-man Peace Committee on Aguleri, Umuleri and Umuoba-Anam Conflict, 1999 by Aguleri Community", p. 13.

97 In Umuleri, the local branch of First Bank, the biggest bank in Nigeria, was vandalised and ransacked while the community bank was totally destroyed.

Onitsha, some one hundred kilometres away, for medical attention or forced to rely on traditional healers and herbs. Despite the recommendations of the Nweje Commission of Inquiry in 1995 that Government should rebuild these structures, nothing concrete had been done to that effect in February 2002. The team learnt that this had resulted in palpable increase in mortality in the three communities.

Violations of the human rights of children

Children were not spared in the violations. Many of them, including school children were killed during the violence and many more became victims of internal displacement. Among the institutions and services destroyed in the violence were schools and educational institutions. The team also observed that in Umuleri no single primary or secondary school in the town (both private and public) was spared. They were razed down during the violence, including Obunetiti Primary School, Umuleri, and Government Technical School, Umuleri. Another Secondary School in Umuoba-Anam was partially damaged.

At the Government Technical School, Umuleri, the team observed that a Mitsubishi School bus was burnt, all the buildings housing the school including a laboratory block, dormitory, classroom block and the principal's office were razed. The team was told that the school was burnt in 1995. The community rebuilt it and in 1999 it was razed again. Although the school was in session during the attack, no lives were lost. The team also visited the Obunetiti Primary School, which was totally destroyed. We were told that the school was established in 1941 and was formerly known as the Holy Trinity Central School, Umuleri. Private residences around the primary school were burnt and destroyed. The team learnt and observed that the few schools that have had the courage to start were doing so under trees. The pupils and students come to school with their chairs and have to study under

harsh weather conditions. The authors saw this at the makeshift Obunetiti Primary School. These developments have resulted in the massive denial of the human rights of the children of the affected communities to education. Those few families who can afford it now send their children to schools outside the community. Similarly, infant and paediatric care in these communities have deteriorated as a result of the destruction of and resulting unavailability of medical facilities.

Gender-specific violations

Women were targets of the particular forms of violence during the crises of 1995 and 1999. Particularly targeted were those women who had inter-married across the communities. Many reports of the abduction of women during the violence were credibly attested. In the 1999 crisis, some widows from Aguleri were abducted and married off against their will to Umuleri men. A woman from Umuleri also told a story of how she was abducted by the people of Aguleri; before they released her, they had killed her husband. For those women who had inter-married across the communities, the objective of the abduction was to break their marriages. To achieve this, they were subjected to ritual oaths meant to bind them from returning to their marriages. Many who are still resident with their spouses in such marriages reported threats to their lives. Not a single hospital or healthcare facility now exists in the Umuleri community. This has led to a reported high incidence of mortality generally and maternal mortality among women whose pre-natal and post-natal needs are no longer met.

State complicity and absence of remedies

On October 25 1995, then Military Administrator of Anambra State, Col. Mike E. Attah set up the Aguleri/Umuleri Disturbances

Commission of Inquiry. Headed by retired High Court Judge, Moses Nweje, this 3-person Judicial Commission of Inquiry was required to examine the violent disturbances that erupted on 30 September 1995 between Aguleri and Umuleri communities. Their terms of reference were to:

- inquire into the circumstances that led to armed conflict on September 30 1995 between Umuleri and Aguleri communities
- ascertain the extent or degree of involvement of any person, body of persons etc. in the conflicts and examine roles played by Local Government Caretaker Committee Chairman, Police, traditional rulers, etc.
- ascertain the extent of loss of human lives and damage to or destruction of property as a result of the armed conflict and identify the persons who lost their lives and property and the values thereof
- ascertain the sources and types of arms and ammunition used in the armed conflict.

The communities sent memoranda and appeared through their representatives to give oral evidence before the commission of inquiry.

At the close of their public sitting, the commission found among other things that the attack on Umuleri by Aguleri manifested too much system and method to be otherwise than a carefully planned and executed operation and certainly was not a spontaneous reaction. It also found that Aguleri with prior planning and zeal definitely had the advantage of surprise and numbers, having hired mercenaries from outside Aguleri.

The report of the commission of inquiry indicted the then Local Government Chairman and the Divisional Police Officer (DPO) who did little or nothing to avert the crisis. The Commission made

recommendations on how to avert future crises. It recommended, among other things, that Otuocha be constituted a Local Government Area all by itself and that the traditional Rulers of Umuleri and Aguleri be required to move their palaces to the hinterland where the traditional ceremonies should be held to avoid conflicts. There was also a recommendation to the effect that the personnel of Police at Otuocha be raised to a reasonably sizeable number, fully equipped with vehicles, combat gear and crowd control skills and equipment.

The Nweje Commission of Inquiry found from its site inspection of Aguleri and Umuleri conducted on December 19-20 1995 that a lot of houses, household property and personal belongings mostly on the Umuleri side were burnt or looted. It recommended that all public buildings and property destroyed should be made good by Aguleri community and that rebuilding of private property should be borne by Government. Aguleri being the aggressors should bear their own costs. Government in its white paper rejected this recommendation, directing state and local Governments instead to channel public projects more to Umuleri than Aguleri. It directed the Police to prosecute those found to have aided or taken part in the armed conflict. Finally the Commission recommended that the Government should endeavour to reduce to the barest minimum areas of conflict and therefore friction between Aguleri and Umuleri and in addition to the urbanisation of Otuocha, the boundary between Aguleri and Umuleri should be demarcated with large screaming beacons.

In 1996, the government issued a white paper in response to the report of the Nweje Commission of Inquiry. The white paper acknowledged the recommendation of the Commission of Inquiry that Otuocha be constituted a LGA by itself in principle but stated that “in view of the likely problems to be encountered in getting the Federal Government to constitute Otuocha into a separate Local Government Area, Government decided that Otuocha be constituted into and administered as a township that is an urban

area ...”.⁹⁸ Government accepted the recommendation of strengthening the Police at Otuocha and said it would refer them to the Police authorities for consideration and implementation. Government in its white paper noted the recommendation to reduce areas of conflict and accepted the recommendation on demarcating the boundary between the communities. The most important recommendations concerning ensuring accountability for the violations committed in the communities were inadequate and, in any case, not implemented by the government. For instance, the most senior government official indicted by the Commission, the Chair of the Local Government Council during the 1995 violence, was only recommended to be severely reprimanded.⁹⁹ Even this inadequate recommendation does not appear to have been carried out by the government.

Again following the 1999 violence, the Anambra State government instituted another commission of inquiry with terms of inquiry similar to those of the 1995 commission. The report of the 1999 commission had not been published at the time of writing. However, in 1999, the Anambra State House of Assembly passed a law –the Otuocha Communal Clash Victims Fund and Relief Law 1999. This law established a fund to assist in the reconstruction of the communities and rehabilitation of the people. The government has taken no steps to implement this law.

The Police and other security agencies such as State Security Services (SSS) were known to have conducted their own investigations with no resulting prosecutions of perpetrators or redress to the victims. In effect, there has been no accountability for the gross violations of human rights visited on these communities and government appears committed to ensure that there is no such accountability or redress. The failure of the government to publish the report and recommendations of the

98 Government White Paper para 2:08 (i).

99 *Ibid.*, p. 7.

commissions constituted by it to inquire into the crises frustrates any effort to verify or monitor implementation of measures designed to ensure accountability for the violations committed in these communities. At the federal level, President Obasanjo, shortly after his inauguration in May 1999, visited the affected communities and invited their representatives to the State House in Abuja shortly thereafter. There has been no follow through on these contacts.

THE ODI KILLINGS

BY

EDEM EFFIONG

“There was no ethnic or religious crisis in Odi. The case of Odi was a case when the government of the country, instead of protecting its own people, went to war against them.”¹⁰⁰

Introduction

Odi is a town situated along the Portharcourt/Warri Motorway in Bayelsa State in the South-South zone of Nigeria. Until its invasion on 20 November 1999, Odi was the second largest town in Bayelsa State, one of the states of Nigeria’s troubled Niger Delta region. The problem in Odi is reported to have started on or about 2.00 a.m. on November 20, 1999 when the might of the Nigerian armed forces invaded the community and occupied it for fourteen days. At the end of their sojourn the town was utterly destroyed and a lot of people, with their lives and property were laid waste. A fair assessment of the events in Odi requires a background in the antecedents to the crisis, including the longstanding crisis in the Niger Delta region of Nigeria within which Odi is located.

Context: Problems in the Niger Delta Region of Nigeria

The problems in the Niger Delta region in Nigeria could be dated to the discovery of petroleum in the region in 1958, two years before Nigeria’s independence in 1960. The history of the current difficulties in the region dates at least to the early seventies with the oil boom in Nigeria, which brought about the exploitation of the communities in the Niger delta for the liquid gold, that made Nigeria a country to be reckoned with as one of the major oil

100 Interview with a respondent in Odi, February 2002.

producers in the world. The advent of the boom attracted transnational corporations who explored for petroleum in the region with adverse consequences for the communities, their environment and lifestyles as seismic operations, poor oilfield practice and attendant spillages and blow-outs rendered farmlands unproductive and killed the fish in the rivers that the communities depend upon for their livelihood as farmers and fishermen. This rendered a large percentage of the inhabitants unemployed. In a manner of speaking, these communities watched people become wealthy from the resources generated from their environment with no benefits accruing to them as the people whose sources of livelihood had been laid waste through the processes of exploring for and exploiting petroleum. This realisation spurred various groups to begin agitating for a change in the situation.

This situation reached a climax with the Ogoni demand for an autonomous entity as the Ogoni nation in order to harness their resources, develop their area, and alleviate the problems in their communities. The Ogoni agitation was interrupted by the murder of four leaders of the Movement for the Survival of the Ogoni People (MOSOP), in the aftermath of which Ken Saro-Wiwa and eight other leading Ogoni leaders were executed for alleged complicity in the murder. They were executed despite public and international interventions on their behalf for clemency, after a manifestly unfair trial and the absence of evidence linking them to the killings for which they were charged.

The problems in the Niger Delta area soon took a new dimension in the late 90s with the current foray into elected governance by Nigeria. Politicians promised unemployed youths a solution to their problems in exchange for support in ensuring that the political ambitions of the politicians were met. These youths helped local politicians into power, but the politicians failed to fulfil their promises to these youths, who in turn became embittered and reacted by making themselves into a nuisance to government and the trans/multinational organisations. The Odi

Killings are one of the results of this failure. In this sense, the Odi Killings are, ironically, a product of the circumstances of transition from military dictatorship to elected government, culminating on 29 May 1999 in the inauguration of a civilian administration in Nigeria.

Background to the Odi crisis

The crisis in Odi was predated by and is directly traceable to another incident in September 1999 at the Yenegoa Black Market. The youths that worked to put certain individuals in government became a source of embarrassment to them; hence they were denied access to the government of the day. This resulted in their becoming bitter and causing disturbances at the Yenegoa Black Market, where the government ordered the Police and some security agents to flush them out. In September 1999, youth organisations in Rivers State drew public attention to alleged human rights violations of the people of Yenagoa by security operatives and called for an investigation of their allegations.

The Ijaw Youth Council (IYC) had reported a shooting of 100 Ijaws by Nigerian soldiers deployed by government to quell riots at the Yenagoa Black Market and after this shooting corpses were reported to have been seen floating down the Ecole and Nun Rivers. Other victims, including women and children, were reported to have received treatment for gunshot wounds at the Yenagoa General Hospital.

The Deputy Speaker of the House of Representatives, Prince Chibudom Nwuche, called on the Police to begin a full investigation of these killings. The Bayelsa State government in a press statement denied these allegations and the state Police Command in a statement dated 28 September 1999, denied the killings, claiming that they arrested criminals who attempted to release armed robbery suspects during a court proceeding. The

Police statement claimed that the Police carried out an operation “Keep Yenagoa Metropolis and Bayelsa State Clean and Free of Criminals”. Live interviews conducted by the Civil Liberties Organisation (CLO) contradicted these claims by the Police.

The “Governmental Flushing Exercise” resulted in the migration of some of these youths to Odi. As they had four residents of Odi in their membership, these youths decided to make Odi their place of residence and base for operations. These boys later came to be known as the “Asawana Boys”. In Odi, the activities of these Asawana boys included terrorising members of the Odi community and harassing commuters on the Warri-Port Harcourt expressway. They were also allegedly involved in snatching of cars, especially targeting governmental functionaries on the same road. According to Chief Thankgod Saware of Ubaka community, Odi LGA, a survivor of the Odi Killings:

The so-called hoodlums resident in Odi only had four members who were of Odi origin and they are now in prison. These boys were driven away from Yenegoa Black Market, so they camped in Odi. They were harassing people and seizing their property and snatching government vehicles for operations (armed robbery). They were terrorising the community and they were armed. The government was aware of the situation. The group of people was also known by the government, yet the government did nothing about them. Eight of the gang were initially arrested to Asaba (in neighbouring Delta State) and were brought back to Bayelsa and released by the government before the crisis broke out.¹⁰¹

Chief Ishmael Eti of Ebereze community, Odi Local Government Area of Bayelsa State is Chief Adviser to the Amadaowei, the paramount ruler of the Odi community. His house,

101 Interview with Chief Thankgod Saware, February 2002.

all his compound and property were looted in the Odi Killings. He found one box of his belongings spoilt and destroyed on the road rather than burnt, suggesting that his items had been stolen or looted but not burnt. Chief Eti narrated:

A group of rebel boys known as the “Asawana Boys” led by an Odi boy “Kenny” started this movement. The elders called them to Chief Etete’s house to tell them that they don’t like what they were doing; that it was not good. They pretended to agree, but when they left, they went into theft and robbery. They were called and advised for five days to no avail. They started chasing cars and snatching properties. The leaders spoke to them and they refused. The next thing we heard was that soldiers were coming; that government was coming in. When the government troops came, they were the people who first ran.¹⁰²

During this period there were stories of members of the O’Odua Peoples’ Congress (OPC) attacking Ijaws at a wake keeping in Ajegunle, Lagos, southwestern Nigeria. When the stories filtered into Odi the young men decided to prepare for “war”. Their activities culminated in the kidnap, torture and death of eight Police officers in November 1999, including the Area Commander and Divisional Police Officer (DPO) for Kaiama LGA under which Odi was. The DPO was recognised by one of the youths as the man who led the team that tortured and flushed the youths out of the Yenegoa Black Market.

As the story goes, the Police Area Commander who was also the Divisional Police Officer (DPO) in Kaiama local government led a team of Policemen to Odi to counter the disquiet. The mobile Police (MOPOL) unit who were at Odi junction advised them not to enter the town because the boys had gone into the main road in

102 Interview with Chief Ishmael Eti, February 2002.

a procession. The MOPOL unit felt it was not safe as the atmosphere was a bit rowdy. The DPO and his team ignored this advice and went in. They were ostensibly going to the Police post in Odi. When they got into the town, the Police team did not report their presence to the Amadaowei of Odi, whose residence was by the road. They simply went on but had to stop near the bank as the heavy rains from the season had made the roads leading to the Police post impassable. It was on this road that the boys in their procession met them. Incidentally one “Romeo” (who was later killed by the Police in Port Harcourt) identified the DPO as the man who led the operation to drive them out of Yenegoa and asked him “so you are here again after you tortured us”. The youths disarmed the Policemen, beat and tortured them, seven in number, including the Area Commander and DPO of Kaiama, before killing them. This incident led directly to the invasion of Odi.

It is thought that the killing of the Policemen and the invasion of and killings in Odi that followed it would have been averted if the Police team had taken the Amadaowei of Odi into confidence, because he would have been able to protect them or, in any case, defuse the situation.

The Odi Killings

Following the killings of the Policemen, the presidency wrote a letter to the Governor of Bayelsa for the arrest of the culprits within fourteen days, failing which a state of emergency would be declared in Bayelsa. But just after a week, while the state government was making efforts to round up the culprits the Army moved in. It is worth pointing out here that although governors are both chief executive and chief security officers of their respective States, policing in Nigeria’s federal structure falls within the exclusive legislative list. The Nigeria Police Force (NPF) under both the 1999 Constitution and the Police Act is a federal institution under the direct line management of the President. Previous and current

advocacy for decentralisation of command and control of the NPF has been firmly resisted and rebuffed by the President. As such, the President did not have to direct the Governor of Bayelsa State as to what to do in the circumstance when he could have requested the Police as an institution to perform its constitutional and statutory functions of detecting crime. The fact that the victims in this case were Police officers was enough incentive to the Police to do their job efficiently. As it was, the State Governor was in Abuja at the invitation of the Presidency when the attack on Odi began.

Led by one Colonel Agbabiaka of the Nigerian Army, the troops who invaded Odi were reportedly required to “shoot at sight anything that moved.” The invasion began on November 20 1999, around 2:00 hours. It started from the East-West Road, which is the major road off the Port Harcourt-Warri Motorway to Odi. Some of our respondents were of the opinion that Army approached Odi on November 19 while the actual invasion started on November 20. Others said it started on November 20 and their own area was invaded on November 21 1999. While the beginning of the invasion may be in some doubt, its consequences were not. As reported by Chief Eti, “when government started shooting nobody could stay here again. Even though there was no resistance, government kept on shooting for 14 days and burning the houses of the people, while people were dying and starving (sic) in the bush.”

The most commonly identified perpetrators of the Odi crisis were the Nigerian armed forces. Not all of the residents actually saw or can make a positive identification of the armed forces that invaded the community. Most of them heard the sound of shooting and general commotion that followed the invasion and fled. A few who had direct encounter with the military were blind so could not see what they wore or were illiterate so their description of these perpetrators ended at “*na Soja*” (they were soldiers) and “*na Army uniform dem wear*” (they were dressed in military uniform). Some residents, however, reported that it was the might of the Nigerian armed forces that faced the residents of Odi. Among the

individuals interviewed, one claimed to have clearly seen soldiers at work. He claimed that he observed them from the bush. Because of the nature and timing of the invasion, none of the victims got close enough to the soldiers to identify them by name, although the commanding officer of the operation was subsequently identified as a serving Colonel in the Nigerian Army.

At the end of the invasion the soldiers left standing in their wake only three buildings apart from the bank, church and health centre. Soldiers from the invading force scrawled graffiti on the burnt out walls that they left behind, reflecting some of their thoughts as follows:

“Shame on your juju *Egbesu*”, “Bayelsa will be silent for ever”, “We will kill all Ijaws”, “Egbesu why you run?”, “Our power pass *Egbesu*”, “Next time even the trees will not be spared” and “This land is for *Soja* not Ijaws”.

On December 14 1999 Abdul Oroh, Executive Director of the Civil Liberties Organisation, in a press conference summed up his impression of Odi after the invasion as thus: “we saw no single livestock, poultry or domestic animals except a stray cat. The community’s 60,000 inhabitants had fled into the forest... been arrested or killed...” As summed up by one of our respondents, “there was no ethnic or religious crisis in Odi. The case of Odi was a case when the government of the country, instead of protecting its own people, went to war against them.”

Violations of right to life and associated civil and political rights

The armed forces spent fourteen days in Odi and at the end of their invasion, they left behind raped women and a death toll of over 1,000 men, including women and children of varying ages ranging from four years old to eighty-six years old. There were

reports of families who lost up to six children to the invading soldiers while some children became orphaned by the situation. Many people died escaping or hiding from the invading soldiers as those that did not die in the hands of the soldiers lost their lives to the hard conditions in the bush. Those who survived and came back only returned to discover their sources of livelihood had been destroyed. Sources in the community report that between January and March 2000, over 500 people died from the hardship in Odi. The death toll from the residual effects of the killing will probably never be properly recorded.

Testimony

There were reconnaissance flights; the navy boats moved in from River Niger and the artilleries were shelling from Patani and Imbrama. Saladines (sic) were moved in and a Naval boat moved in from Warri as if they were fighting a war. The government spent 180 million dollars and 500 million Naira to invade Odi. Incidentally they did not catch any of the boys. Police on information caught the boys in Port Harcourt. Some were caught in Warri. It took the military 2 weeks to go from house to house looting. When they were tired of carrying things, they burnt the house. At Bori camp in Yenegoa (military base) there was a market called "Odi Market" because they were selling loot from Odi town.¹⁰³

103 Testimony of Chief K.O Warikoru, retired Shell Petroleum Engineer of Ebereze Community in Odi.

Internal displacement and violations of other economic, social and cultural rights

Over 95% of the Odi population were displaced by the invasion and to date at least 90% of the population live in temporary structures. Some lucky ones have been able to rebuild or live as squatters in some rooms in primary school buildings and partially completed buildings built by the Bayelsa State government to house some of the displaced individuals in Odi. Many inhabitants of Odi who managed to escape the invasion spent the fourteen days of invasion and its immediate aftermath hiding in the bush and living under the elements. Others managed to flee to neighboring towns and villages for the entire period. On their return home most of them found themselves homeless and had to live under open canopies for weeks until they were able to relocate into classrooms, uncompleted houses or makeshift shelter made of wood, roofing sheets or mud depending on the availability of the building materials. A typical account is provided by Maudlin Yopele, a 60-year-old housewife from Yanmaoma quarters in Odi who reported:

I was in the bush when it started. I never saw any soldier but heard the gunshots and ran away. I had no canoe to enter so I trekked to Ogbure. One old man in my family cannot (sic) run so he died. When we came back all the properties were destroyed. We are now 5 living in one room. People from abroad brought us food and clothes and the little they brought was not enough, but it was all we had.

Gender-specific Violations

Many of the victims of the Killings in Odi were women. Reports of systematic rape by the soldiers that invaded Odi were widespread. Within the community, it is very widely and credibly

alleged that the soldiers raped as many women and girls who had not fled the community as they could find.

Violations against Children and the Aged

There was no difference in the treatment of children from adults by the armed forces. Like adults found within the community, children were routinely shot to death and burnt. According to Ezra Ikati a 25-year-old farmer from Ubaka quarters in Odi:

The Army were in Odi for fourteen days. After they left I returned only to find they had burnt inside my house and all my property. They also shot and burnt my little boy and he was only four years old.

Mrs Irorogha Gidiogha, a seventy-two year old woman, watched her husband John, an ex-serviceman in his eighties get shot and killed by the soldiers. There were reports of some elderly and disabled people who could not run who were roasted alive when the soldiers set their houses on fire. According to Angus Agborowei a blind old man of over eighty years old:

The soldiers came they shot and killed two of my sons as they tried to run away. I was hiding under the bed, they collected all the money I had in the house, took away my mattress carried me out of the house and burnt everything inside my house and left.

State complicity and absence of remedies

The responsibility of Nigerian soldiers for the Odi Killings is not in doubt. A delegation of the Senate that visited Odi in December 1999, shortly after the killing, was reportedly too dumbstruck for

words. Invited to address the community on the visit, then Senate President, Chuba Okadigbo, was quoted as having said that there was no one left to talk to.

Following the killing, the President reportedly did not want to talk about Odi; he did not want to see, or hear about Odi. Members of the Federal Cabinet were reportedly ordered not to talk about Odi and none of them visited Odi before the President whose visit came nearly four months after the killing in March 2000. On his visit to Odi on March 15 2000, President Obasanjo admitted that the Army contingent that was deployed to Odi exceeded their command. However, he did not find it necessary to do anything to appease the people; rather he insulted them. According to Chief K.O Warikoru, the President is reported to have claimed that the Odi Killings were a lesson to all Ijaw speaking communities, including Odi, that their children had offended the federal government. As if to bear this out, there has not been any form of investigation of the Odi Killings by the Federal government. Despite public outcry for accountability following the killing, Col. Agbabiaka who led the operation was promoted from Lieutenant Colonel to full Colonel after the killings. Several national and international non-governmental organisations have, however, documented the Odi Killings.

The only avenue for remedy at the moment lies in a 50 billion Naira suit instituted by some prominent citizens of Odi against the President, the Attorney General of the Federation, the Chief of Army Staff, the General Officer Commanding the Third Division of the Nigerian Army, the Minister of Defence and Col. Agbabiaka who led the Odi killings deployment team. The case is still pending at the Federal High Court in Port Harcourt over two and a half years after it was instituted.

**ETHNIC
AND RELIGIOUS CRISIS
IN KADUNA**

BY

HUSSAINI ABDU

AND

DR. LYDIA UMAR

Introduction

Kaduna is known to be a volatile state. But Kaduna metropolis did not have or deserve a reputation for frequent susceptibility to violent ethno-religious crises until February and May 2000.¹⁰⁴ Unlike most cities of Northern Nigeria, Kaduna is quite complex. Its ethnic, religious and cultural diversity with Christian and Islamic values sometimes inter-mixing with traditional values, provides a veritable ground for differences that, if not properly mediated, could easily lead to violence. Also, unlike most of its neighbouring cities in Northern Nigeria, Kaduna has its peculiarities. Against the exclusive nature of most old cities of Northern Nigeria, such as Zaria, Sokoto, and Kano, where “indigenous” communities are separated from “settlers”, lasting inter-penetration across ethnic and religious lines is evident in Kaduna. It is, however, possible to find conurbations or settlements where Christians or Muslims predominate. There is also social differentiation and settlements based on economic and political status. Kaduna has its fair share of high-density areas, with high levels of joblessness; hardship and unemployment, mixed with low-density areas inhabited by the cosmopolitan and economically well off. As will be seen shortly, these demographic peculiarities of Kaduna metropolis were to play a major role in the patterns of violence in the 2000 crisis.

Notwithstanding the foregoing, the degree of unease and mutual suspicion between Christian ethnic groups of southern origin and Hausa-Fulani Muslims made the Kaduna crisis when it occurred of little or no surprise. To be fair, there have been long historical animosities between these two communities arising from the pre-colonial political structure of Hausa land and the character of the colonial and post-colonial Nigerian State. It remains true, however, that recent resurgence of these crises show clear evidence of political manipulation and state irresponsibility. These crises

104 See Hussaini Abdu, “The Millennium Ethno-Religious Crisis In Kaduna”, *Legal Rights Monitor*, Human Rights Monitor, Kaduna, Vol. 4, No. 13. October, 2000.

have also been reinforced by the political and economic imbalances between the two communities dating back to the colonial period. The peoples of southern Kaduna complained of persistent and deliberate neglect by the Emirate officials who until the 1976 local government reform also dominated the system of native administration. However, official explanations attribute the underdevelopment of southern Kaduna to the sparse population of the areas, and their lack of viable internal sources of revenue.¹⁰⁵

These socio-cultural and political differences sometimes escalated into violent crises since the colonial period. In 1942, the Kaje ethnic group of Zangon Kataf district protested over perceived domination and discrimination by the Native Authority administration. Between 1946 - 1966, there were violent demonstrations by the “Katafs and other related groups in Southern Zaria province over certain oppressive features of the emirate system, particularly the headship of the Fulani ruling families over predominantly non-Fulani districts.”¹⁰⁶ Throughout these periods the crises always had a mix of ethnic and political dimensions but lacked any discernible religious under- or overtones.

Since the 1980s, however, political violence and crises in Kaduna State have assumed the additional dimension of a Muslim versus Christian dichotomy. Examples of the development and escalation of this trend can be seen in the crises in Kasuwar Magani (1980), Zangon Kataf (1984), Kafanchan and Lere (1987), as well as Zangon Kataf and its spill over to Kaduna, Zaria etc (1992). The crises in Kafanchan in 1999 and in Kaduna metropolis in 2000 represent the crescendo of this development.

105 For detail see Rotimi Suberu, *Ethnic Minority Conflicts and Governance in Nigeria*, Ibadan. Spectrum Books, 1996.

106 Rotimi Suberu, *Ibid.*

Background to the Kaduna 2000 crises

It is difficult to isolate the crises in Kaduna in 2000 from the previous crises in Kaduna State. The immediate cause of the 2000 crises was the attempt to introduce Islamic legal system, “Shariah” as part of the criminal law in the state. Shariah law, it needs to be clarified, was always part of the personal law of Nigeria’s Muslims and Shariah Courts (including Shariah Courts of Appeal) with jurisdiction to adjudicate questions of Islamic personal law, have a secure foundation in Nigeria’s legal history and constitutions.

The inauguration of civil rule on May 29 1999 provided the democratic space for the expression of previously suppressed identities and injustices. There began to emerge diverse ethnic and religious demands and contestations across the length and breadth of the country. The quest for Shariah can be located in the context of these demands and contestations. Overt agitation for the introduction of Shariah started in Zamfara State. It was climaxed by the launch on Wednesday October 27 1999, of Shariah criminal law in Gusau, the Zamfara State capital, by the Executive Governor of the state, Alhaji Ahmed Sani. This event significantly changed the political temperature of Northern Nigeria and Nigeria at large. Religion has once again become a very combustible political issue. Following the example of Zamfara, many states in the North of Nigeria also began to introduce Shariah. Around the country, there were series of debates for and against the introduction of Shariah criminal law.

Controversy associated with Shariah is not a new political development in Nigeria. Shariah has always been a contentious issue in all of Nigeria’s previous constitution making processes. The constitution making processes in 1978-79, 1989, and 1995 were all engulfed by controversy associated with the extent to which Shariah should be part of Nigeria’s legal system. Following each controversy, the arrangement whereby Shariah was limited in application to the personal law of Muslims was reaffirmed. The recent controversy

over Shariah is, however, much deeper than the previous ones. 1999 was the first time a state House of Assembly legislated to introduce Shariah into the body of the criminal law. While the Christians condemned the Zamfara State government for the implementation of Shariah and feared persecution of Christians in the state, the government received massive support and praise from the Muslims.

Amidst this controversy, the embrace of Shariah moved to Kaduna State, indicating a movement from states with clear Muslim predominance like Zamfara, Niger and Kano, to places with relatively strong Christian populations, like Kaduna. In December 1999, the Kaduna State House of Assembly constituted an 11-person committee to examine the applicability of Shariah criminal law in Kaduna State. This singular action polarised the House of Assembly across religious lines. The Christian members of the House of Assembly argued that the motion was not properly passed, and accused the Muslim members of having a hidden agenda. The Committee in fact comprised only Muslims. The Muslims, in turn, argued that Shariah is purely a Muslim affair that had nothing to do with Christians. They also maintained that there was nothing wrong with the way the motion was passed, pointing out that two Christian members nominated to participate in the committee declined their nominations.

The Christian Association of Nigeria (CAN), Kaduna State branch protested to the House on the issue. They expressed their fears concerning what they perceived as an attempt to “Islamise Kaduna State” and the possibility of such action generating crisis in Kaduna. While the Christians continued to protest, the Muslims were strongly behind the State Assembly, using every opportunity to express their solidarity with the House.

The committee began work shortly after it was constituted. It demanded memoranda from the public and began its public hearing in January 2000. The Christian community refused to appear before the committee. They argued that it was biased and

the process of its constitution was illegal. Muslims from various local governments in Kaduna State trooped to the House of Assembly to present their memoranda and express solidarity with the House of Assembly. Both Muslims and Christians organised rallies and lectures to educate adherents of the religious groups on their differing points of view.

On 29 January 2000, The Christian Association of Nigerian (CAN) held a Seminar at HEKAN Church, Katsina Road, Kaduna to “enlighten Christians on the implications of adopting Shariah on Christians and Christianity.”¹⁰⁷ Different eminent personalities were invited to present papers at the occasion. The National body of *Jama’atul Nasir Islam* also organised a programme on Shariah at Arewa House around this period to which some Christians were invited as speakers.

Both Muslims and Christians used their worship centres to pass commentaries on Shariah. While this was going on, the Kaduna State government constituted an inter-religious committee consisting of equal numbers of Muslim and Christian leaders, all in an attempt to calm the political temperature. After the public hearing of the committee of the State House of Assembly, CAN Kaduna Branch, organised a public protest against what they called the “planned introduction of Shariah in the state.”¹⁰⁸ The peaceful protest later turned violent and led to mass killings of people. While this crisis was under investigation, another one broke out between May 22 and 23, 2000.

107 See the "Memorandum submitted by CAN Kaduna branch to the Judicial Commission of Inquiry in to the Crisis", 2000 p. 3.

108 CAN memorandum *Ibid*.

Causes of the 2000 crises

A majority of our respondents attributed the crisis to the long socio-political rivalry and acrimony between the Hausa-Fulani majority in Kaduna State and the significant but minority Christians. Others believe that the “planned introduction” of Shariah in the state was the main cause of the crises. One of our interviewees observed: “there was no Shariah when Kafanchan erupted in 1987. It was not Shariah that led to the killings of Zangon Kataf. The 1999 crisis in Kafanchan was not Shariah; and all these crises involved Muslims and Christians.”¹⁰⁹ On the contrary, another respondent believes that the crisis “was a result of the activities of some religious zealots who insist on Islamising Kaduna State through Shariah.”¹¹⁰ Like most crises in Nigeria, different interpretations were given depending on the religious, ethnic and political persuasions that the respondents belonged to. A majority of Christian respondents hold that Muslims masterminded the crisis; the Muslims believe that Christians were responsible. For a much clearer understanding, the causes of the crisis can be divided into two broad categories: the remote and immediate causes.

Remote factors

The February and May 2000 crises cannot be divorced from the spate of crises between the Muslim Hausa-Fulani and other ethnic Christian groups in the state. As indicated earlier, the historical rivalry between these two groups predates Nigeria’s independence. The differences over political control, culture, religion and resource distribution have often escalated into violent agitation and confrontations. In the 1950s, many representatives of these ethnic

109 Interview with Dr. Haruna Yerima, Lecturer, Department of Political Science, Nigerian Defence Academy, Kaduna, 2001.

110 Interview with Ishaya Musa, a Civil Servant based in Kaduna and a Victim of the crisis.

minority groups in Southern Kaduna complained before the Willink Commission on Minorities that Hausa-Fulani were contemptuous of them and called them Arna, meaning pagans or infidels.¹¹¹ There is therefore a latent feeling among the minority Christian communities of unfair domination by Muslim rulers that have been imposed upon them. The result of this is a multiplication of confrontations in which religion is regularly pressed into service against one another. This historical condition coupled with the economic measures of the Structural Adjustment Programme (SAP) and its resultant implications have promoted many of these crises.¹¹²

The first in recent times was 1987, in Kafanchan. This crisis arose from a campus disagreement between Muslim and Christian students. The fight escalated to Kafanchan town, and later spread to places like Zaria, Katsina, and Funtua. In January 1992, another crisis erupted in Zangon Kataf over the relocation of a market. The crisis was again between those who call themselves “indigenes” and the 17th Century Hausa-Fulani “settlers” of Zango. This resulted in killing and maiming of Hausa-Fulani and consequent reprisal attacks on Christians in other Hausa-Fulani dominated towns like Zaria and Rigasa in Kaduna. In 1999 another crisis erupted in Kafanchan over the installation of a new Emir (Fulani) of Jama’ a Emirate. The February and May 2000 crises in Kaduna can, therefore, be traced from these spates of crises between Muslims and Christians in the State.

111 See Jibrin Ibrahim, *The politics of Religion in Nigeria: The Parametres for the 1997 Crisis in Kaduna* (1987).

112 Many Nigerian scholars have done elaborate studies on the impact of Structural Adjustments on Ethnic and Religious Identities: Jega, Attahiru (Ed) 2000 *Identity Transformation and Identity Politics Under Structural Adjustment Programme in Nigeria*, Uppsala Nordiska Afrikainstitutet, Egwu, Sam. (1998) “The Political Economy of Ethnic and Religious conflicts in Nigeria”, In Okoye F (Ed) *Ethnic and Religious Rights in Nigeria*, Human Rights Monitor, Kaduna, Toure, Kazah Toure (1999): “The Political Economy Of Ethnic Conflict and Governance in Southern Kaduna, Nigeria: (De) Constructing a Contested Terrain”. *African Development*. Vol. xxiv, No. 1& 2 Toure, Kazah Toure (1995): “Inter-Ethnic Relations, Conflicts and Nationalism in Zangon Katab Area of Northern Nigeria: Historical Origin and Contemporary Forms”. Paper Presented at the 8th CODESRIA General Assembly.

Immediate Factors

The immediate causes of the crisis are generally associated with the Shariah controversy and the demonstrations and counter-demonstrations in the state. The Shariah controversy divided Kaduna State and the nation at large along ethno-religious lines. The pro-Shariah Muslim groups and individuals expressed concern and fear over what they considered to be the domination of Christian culture in Nigeria established by the colonial state. For these Muslims the posited separation of state and religion is unacceptable and the legal framework governing their lives should be Islamic.¹¹³ The Christians on the other hand are worried about what they regard as the threat of Islamisation of the State and the imposition of Shariah on non-Muslims as “it was done during the pre-colonial and colonial periods”.¹¹⁴ They argued that the introduction of Shariah criminal law amounts to the Islamisation of the state against their interest, as the state resources would be used to promote Islam. As a result of these differences, Christians naturally stood against Shariah while Muslims called for it.

The Kaduna crises of February and May 2000

How the Monday February 21 Crisis happened remains one of the most difficult things to pinpoint. Depending on the ethnic or religious affiliation of the respondents, it is claimed, either that the Christians started it or that the Muslims provoked Christians. All parties agree that that the crises started while Christians were protesting against the introduction of Shariah criminal law. Many Muslims believe that Christians’ demonstration of Monday February 21 2001 was planned to be violent. “They held series of

113 See Dr. Jibrin Ibrahim, "God Save us from "Religious" Laws" *Weekly Trust*, 24 December 1999 and many other publications of the author on ethno-religious identity.

114 Interview with Ishaya Musa, *op. cit.*

meetings in the church and planted people in various locations of Kaduna. Their intention was to annihilate Muslims completely,” claimed Mallam Salisu Musa.¹¹⁵

While they were demonstrating, they harassed us, asking us to say “no to Shariah” which many Muslims refused to pronounce; of course no Muslim will say that, they hit any Muslim who refused to obey their command. They smashed the windscreen of Muslim motorists until Muslims began to react in self-defence. I saw how they beat one man along Kasuwa because he refused to say “*Ba Shariah*” (no to Shariah).¹¹⁶

Generally Muslims pinned down the issue to what they called “molestation and harassment of innocent Muslims who are doing their legitimate businesses”.¹¹⁷

The Christians on the other hand accused the Muslims of intolerance. “After they had demonstrated for several weeks without any harassment, they refused to allow us do our own peacefully.”¹¹⁸ They argued that Muslims provoked them. “They started stoning us even though we did not provoke them.”¹¹⁹ According to a Christian, Ibrahim Ayuba, who claimed to have participated in the demonstration:

We started peacefully because we were told to be peaceful in our demonstration. As we continued with our procession along Ahmadu Bello Way, Hausa people along Kasuwa began to stone us, calling us names we ignored them. We went to the Government House, laid our complaints and proceeded to Hassan Usman Katsina House, along Unguwar Sarki and Unguwar Kanawa where

115 Salisu Inuwa is a Kaduna based trader who was a victim of the crisis. This view captured the views of most Muslims interviewed.

116 *Ibid.*

117 *Ibid.*

118 Interview with Ibrahim Ayuba, Sabon Tasha, Kaduna.

119 Interview with Ishaya James, *op. cit.*

another set of Hausa people began to throw stones at us. Before we reached our destination the situation had escalated.¹²⁰

The Christian Association of Nigeria, Kaduna State branch in its memorandum submitted to the judicial commission of inquiry on the crisis, argued:

On 21 February 2000, the Christian Association of Nigeria from earlier resolution staged a peaceful demonstration against the impending imposition of Shariah. Several weeks before the Christian Association of Nigeria's peaceful demonstration, the JNI held workshops, seminars etc. for Muslims. The workshop/seminars for Muslim women particularly preceded the peaceful demonstration and major roads/streets were blockaded. The NTA and other Media gave wide publicity to these programmes. However, the Kaduna State Branch of CAN decided that a single procession be held to express the position of Christians on the issue. Just one rally/procession was held to the several ones by the Muslims, in order to disabuse the minds of the general public and the Government from concluding that Christians had consented to the adoption/implementation of Shariah in Kaduna State. During this peaceful procession, Christians were ambushed and killed by Muslims. Their Churches, business premises, houses and other properties were stolen, vandalised and burnt down.¹²¹

The memorandum submitted by the Kaduna State Commissioner of Police traced the immediate cause of the crisis to

120 Ibrahim Ayuba claimed to have participated in the demonstration of Monday 21 February 2000.

121 For detail see the memorandum submitted by CAN Kaduna Branch.

what he called “illegal demonstration carried out on Monday 21st February 2000.” According to the Police Commissioner

The immediate cause of the riot one could say, is the illegal demonstration carried out on Monday Morning 21st February without permit and without prior knowledge or enough notice to the government, the security agents or even to religious leaders on both sides of the divide. The hijacking of the procession by some hoodlums could also be one of the immediate causes of the riot.¹²²

The crisis started in the morning of February 21 2000. It spread to all parts of Kaduna except the low-density Government Reserve Areas (GRA). The crisis was more in high-density areas with high population of uneducated and unemployed youths like Rigasa, Tudun Wada, Sabon Tasha, Television, Kakuri, Barnawa, Narayi, Hayin Banki, Badarawa, Unguwar Dosa, Abakpa, Kabala Doki, Malali, Unguwar Rimi, and Kawo, bearing out the contribution of economic and social exclusion to the violence. There was also destruction along some major roads in the city, like Constitution Road, Ahmadu Bello Way and Nnamdi Azikiwe Road. Incidentally some of these high-density areas have a predominance of one religious group against the other. The settlements in southern Kaduna metropolis like Kakuri, Narayi, Sabon Tasha, Unguwar Boro, Television etc., are predominantly Christian. In these areas, Muslims were overwhelmed and many of them were killed and their properties destroyed. The settlements in the northern parts of the city like Rigasa, Tudun Wada, Abakpa, Kawo, Hayin Banki etc. on the other hand are predominantly Muslim. In these areas Christians were attacked, killed and their properties destroyed. The killings and destruction were not restricted to only Hausa-Fulani Muslims and the southern Kaduna ethnic minority Christians. Virtually all the ethnic groups in Kaduna were affected or involved.

122 See the memorandum submitted to the Judicial Commission of Inquiry by the Kaduna State Police Commissioner.

On Wednesday 23 March 2000, the crisis spilled over to outlying LGAs, particularly Kachia and Birnin Gwari. In Kachia LGA, Muslims were attacked. Their residential houses, shops, clinics, courts, filling stations and the market were destroyed. It later spread to neighbouring villages like Sakainu, Katul, Adadgai, Slowai, and Gumel. At the end of the crisis about 350 residential houses were destroyed in Kachia LGA alone, displacing about 25,000 people. Hundreds of people were killed. Many of those displaced trooped to NASA Army Barracks for safety. In Birnin Gwari, Mararaban Jos, Gadan Gaya etc. Christians were attacked. Their properties were destroyed and many of them were either killed or displaced. Several Churches and residential houses were also destroyed.

According to President Obasanjo, the crisis was the worst he had seen since after the Nigerian Civil war. His reaction:

As I went round, and from the briefs of the Deputy Governor (Acting Governor), I was speechless and I wondered, “how long had people been planning this?” Was it pre-planned or was it the work of hoodlums who hijacked a peaceful demonstration? But one thing is clear: whatever religion we proclaimed, our leaders have failed.¹²³

Violations of the right to life and other civil and political rights

The Police, religious groups, government, and the civil society provide contradictory information on the number of deaths and related violations recorded during the crises. The *Jama'atul Nasir Islam* (JNI) reported 797 Muslims killed, while the Police reported a

123 The President made this statement on his visit to Kaduna to assess the extent of damage and 'sympathise' with the people of Kaduna.

total of 609 deaths.¹²⁴ At the end of its assignment, the Judicial Commission of Inquiry into the crisis reported 1,295 persons killed and an unspecified number missing.¹²⁵ Over 10,000 persons reportedly sustained injuries of different degrees and there was also an unspecified profusion of cases of illegal arrests, torture and maltreatment of detainees and other persons.

Testimony

*I did not go to school on that day. My father told me he was going to Church. When the crisis started it was only my mother and my brothers that were at home, my father later came home. Throughout the day we did not go out. The next day some people came to our house, they killed my father, I joined other neighbours to run, we stayed with some Muslims and later ran to 44 Barracks. After the crisis I went home only to find my mother and my father's corpse being eaten by our pigs. I am sad. I am 10 years old.*¹²⁶

Internal displacement and other violations of economic, social and cultural rights

Over 63,000 people were displaced within Kaduna and its surroundings. This excludes thousands of others that fled to their places of origin or fled to live with relatives elsewhere. It is

124 See memorandum submitted by the Jama'atul Nasir Islam and that of the Police, Kaduna state command to the judicial commission of Inquiry.

125 Report of the Judicial Commission of Inquiry into the Kaduna crisis.

126 This incident happened in Rigasa, Kaduna. The interview was conducted a few days after the crisis. For details see Hussaini Abdu, "The Millennium Ethno-Religious crises in Kaduna", *op. cit.*

estimated that up to 75% of those displaced were women and children. More than twenty refugee camps were opened in military barracks, Police barracks, private residences, schools and churches. Individual as well as corporate properties were destroyed.

The Police reported 1,944 houses including business centres and hotels destroyed. Other figures providing evidence of the scale of the destruction include:

- 746 vehicles of various descriptions reportedly burnt down by irate mob;
- 123 Churches and 55 Mosques reportedly burnt in various locations like Barnawa, Kawo, Sabon Tasha, Sabon Gari, Kakuri, Tudun Wada, Kurmin Mashi, Rigasa, Kachia, Birnin Gwari, and Zaria;
- Maraban Jos Police outpost under Rigachikun division burnt down.

At the end of its assignment, the Judicial Commission of Inquiry reported that “from the report of Engineers, Quantity Surveyors and Architects, the Commission found that individuals collectively suffered loss of N4,927,306,603.00 while organisations suffered loss of N1,445,881,115.00.”¹²⁷

Gender-specific violations

Women were direct and indirect victims of the crisis. Many of those that were killed in the crisis were women. Some of them sustained injuries of varying proportion and descriptions. Many others lost their breadwinners, spouses and children. About 75% of those displaced were women. There were reported cases of women given birth in refugee camps under deplorable conditions of living.

127 See the *White Paper on the Report of the Judicial Commission of Inquiry*, 2001.

Although there are no gender disaggregated statistics on the crises, there are widely reported and credibly attested cases of rape, and sundry assaults on women committed by both law enforcement agents sent to police the crises as well as protagonists on both sides.

Violations against children

Many children lost their parents. Thousands of them were also displaced. Many schools were closed down or used as refugee camps. Many of the children displaced by the crises were forced to change environment, as they relocated to other parts of the country. This disrupted their social networks. Thousands are unable to continue with their education because they lost their parents and have no available or surviving sponsors. In this way, they suffered a denial of their rights to basic education and a diminution of their future prospects and standards of living. Many children were killed while some of them sustained injuries of varying degrees. Most of those arrested were children; they were detained in congested Police and prison cells in poor hygienic conditions where many of them were reportedly maltreated and some contracted different ailments.

State complicity and absence of remedies

The Kaduna crises were largely the result of official insensitivity and negligence as is shown by the inaction of the responsible governmental agencies before, during and after the crises. Police response to the crisis was at best lack-lustre. There were widespread and credibly attested reports of Police turning victims and displaced persons away who had sought refuge in Police stations back to places where they were then killed, in many cases in full sight of the Police officers. On the first day of the crisis, many

Policemen were seen sitting in their respective stations while killings were taking place in their neighbourhoods.

On that day in our area, the Police were looking while these children were burning down houses, looting and killing innocent people. They refused to take any action. When we ran to the Police station for safety, some of the Police officers told us that they were not given instruction to act.¹²⁸

Operational disagreements between the military and the Police postponed joint action by these agencies at a point when the crisis could have been contained and the loss of lives minimised. The report of Kaduna State Police command captured this as follows:

At about 1900hrs, the GOC came to the state Police Headquarters where he met the Assistant Inspector General of Police in charge of Zone One, Mr. Tafa A. Balogun AIG, and they tried to explain to the AIG that the situation was beyond the joint operation and suggested the Police hand over to the military as the normal procedure does not call for joint operation. The AIG tried to explain to the GOC the need to sustain and continue with the joint operation but the GOC and his officers ... In the end the GOC told the AIG and the CP that he was withdrawing his two platoons from the operation which he earlier promised to deploy. The Kaduna Police command that Monday evening was left to battle it up (sic) with the rioters with the assistance of fifty Air force men...¹²⁹

As a result of this disagreement, many places like Tudun Wada, Rigasa, Sabon Tasha and a host of others, were left without the intervention of law enforcement agents until the next day. This situation provided opportunity for many youths disguised as military personnel to launch attacks on other people perceived to

128 Comment by a victim in Tudun Wada.

129 See the Police Commissioner's memorandum, *op. cit.*

be their enemies. Both Muslims and Christians complained of this. When the Police and the military finally intervened on the second day, there were also reports of killings done directly by law enforcement agents or by persons dressed in uniforms or camouflage of the security agencies or armed forces.

Complaints of bias of security officers and public officials were also rampant. The Muslims blamed both the state and federal government of bias against Muslims. They argued that Nigeria is a “Christian state”, alleging that the state has always suppressed the Muslims’ rights to their religion. Salisu Inuwa, a Muslim respondent claimed: “Obasanjo is a Christian. They don’t want Shariah, and anytime there is crisis of this nature they use the Police and the soldiers who are predominantly Christians to kill us.”¹³⁰ Christians on the other hand also accuse the state of being biased in favour Muslims. “Since the colonial times, the state has always acted in support of Hausa and Muslims. In the 1979 Constitution, Shariah was included all in an attempt to please Muslims. They are the majority in the Police force and the military. The government is always defending them.”¹³¹ The Jama’atul Nasir Islam in its memorandum to the Judicial Commission of Inquiry alleged:

The Police and military men are killing Hausa/Fulani, the Muslim majority, randomly and with impunity. Whenever there are any disturbances, it is a windfall opportunity of reducing the Muslim population. Whenever there is any disturbance you will never see or hear any cold-blooded shooting and killing of any Christian but always Muslims are the victims of the Christian Police and Army killers. Specific instances of deliberate and unprovoked (no offence committed) shooting... happened at Malali low cost housing estate

130 Salisu Inuwa, *op. cit.*, Similar view was expressed by the JNl in its memorandum to the judicial commission of inquiry.

131 Discussion with Haruna Yahaya in Tudun Wada, Kaduna 2002.

just about 200 yards from Malali Police station on Wednesday 23rd day of February 2000 at about 9.00 am.¹³²

What this goes to show is that the State had refused to act promptly before the crisis. When the controversy over Shariah started in 1999, the government took a rather contradictory position. In the first place, President Obasanjo while on official visit to the United States said the introduction of Shariah in some states was unconstitutional. On arrival, contrary views began to emerge. The federal government has refused to take a categorical position on the issue and the controversy continues to spread. According to the Christian Association of Nigeria,

The Executive...shied away from making any categorical statement on the issue not until after the attack on Christians when the Acting Governor said that no decision had been taken on the issue of Shariah. At the end of the crises, Alhaji Ahmed Mohammed Makarfi, while recuperating in a Hungarian Hospital made an inflammatory statement to the effect that Shariah issue was irreversible.¹³³

The Muslims on the other hand believe that the Acting Governor, Stephen Shekari, encouraged the crisis. This thinking is reflected in the response of one Muslim respondent who claimed: "As a Christian he was aware of the impending crises. His brothers have briefed him. The man is only pretending. Their intention is to kill Makarfi and have a Christian Governor"¹³⁴.

The Police reportedly conducted an investigation into the crises and are reported to have made some arrests. Although no statistics of arrests were published, it is credibly attested that few people were in fact arraigned. Those who were arraigned were discharged in short order for want of evidence.

132 See memorandum of the JNI to the Judicial Commission of Inquiry.

133 See the memorandum of CAN *op. cit.*

134 Haruna Yahaya *op. cit.*

For its part, the Kaduna State government constituted a judicial commission of inquiry into the crisis. Headed by High Court Judge, Dalhatu Ja'afaru, the Commission was charged to, *inter alia*,

- (a) inquire into and investigate, ascertain and identify the immediate and remote causes of the riots.
- (b) identify individuals, organisations and other associations that might have contributed to the build-up to the riot by way of broadcast in the print and electronic media, organising seminars, workshops, conferences etc.
- (c) assess and determine the extent of loss of lives and properties and other forms of damage caused during the riots and disturbances as well as identify the perpetrators of the dastardly acts.
- (d) in the light of the commission's findings, recommend appropriate legal actions to be taken against those responsible for the riots and or disturbances.
- (e) recommend appropriate steps to be taken by government to forestall future occurrence of the riots and or disturbance; and
- (f) examine any other matter or issue incidental to any of the terms of reference.

The Commission received memoranda from various groups and individuals. After several weeks of public hearing the Commission reported to the Kaduna State government which declined to make the report public. However, the Kaduna State government has issued a White Paper. The commission identified some of the immediate and remote causes of the crisis as enumerated earlier. It accused some religious leaders of instigating the crisis and recommended their prosecution. This was however turned down by the government in its White Paper in the "interest of peace".¹³⁵

135 For details see the Government's White Paper, *op cit*.

Christians, particularly CAN, criticised the report of the commission and denied complicity in the crisis. They accused the members of the commission of bias.

There was widespread displeasure with the response of the government, which was criticised for, among other things, for refusal to compensate victims or ensure accountability for the violence. Those who received anything say they were given “token that cannot resettle anybody that has been displaced.”¹³⁶ This attitude of the state and federal governments is evidence of the kind of insensitivity and indifference that not only escalated the crises but also ensured that it was badly managed to produce maximum casualties. To its credit, the state government instituted various “peace making” mechanism; it created Chiefdoms and is encouraging dialogue between Muslim and Christian leaders. There remains to date no adequate response from the federal government.

136 Many victims claimed that what was given to them, as compensation was too meager for anything serious.

THE JOS CRISIS

BY

IDRIS BAWA

AND

VICTORIA IJEOMA NWOGWU

Introduction

Plateau State was always referred to as the “Centre of Peace and Tourism”, and it had stoutly lived up to its name until the afternoon of Friday September 7, 2001, when peace temporarily left Jos metropolis, the state’s capital city. Violence broke out on that date in Jos between the “non-indigenes” and the “indigenes”. According to reports, it all started when a woman walking through a street in an area in the capital city of Jos known as “Congo-Russia” encountered a barricade set up by Muslim worshippers to prevent vehicular and other movements during their Friday *Juma’at* prayers. When the woman reportedly insisted on her freedom of movement, a brawl ensued, escalating into full-scale war when some youths responded to the woman’s call for help.

The violence spread very fast with large-scale killings and burning of residents in every quarter of the city. Both sides burned down numerous Churches and Mosques. Cars, residential houses, businesses and other invaluable items of property were also destroyed or burnt, and hoodlums cashed in on the situation to loot shops before destroying them. Sophisticated military weapons were freely used in the killing.

As the fighting raged, thousands of displaced people sought shelter in Police or Military Barracks enduring fear, hunger, disease and unsanitary environment. A semblance of normalcy was restored to the city and its environs, with the intervention of soldiers. Counting the losses, the Plateau State Government placed the number of the dead and wounded at 51 and 500 respectively, while the Red Cross put the estimate of those who lost their lives on the first day of the crisis at 165. The exact casualty figure will never be known but initial estimates compiled by local human rights groups, religious communities and other organisations indicate that more than one thousand people were killed in the six days that the violence lasted. The crisis also left in its wake mental trauma and a permanent suspicion among the city’s dwellers. Three months after

the crisis, people were still reluctant to go back to their homes for fear of being attacked. The dwelling areas in the city have been divided along religious and ethnic lines as people sought safety in communities where they felt least vulnerable to future mass violence.

Background to and history of the Jos crisis

Unlike other parts of Nigeria, which have experienced periodic outbreaks of indiscriminate violence with tragic regularity, Jos was always viewed as a place of peace and beauty until September 2001. It was thus an easy haven for people fleeing violence in other neighbouring areas. This regular influx of populations bearing testimonies of the atrocities that they left behind from clashes in Kaduna, Bauchi, Taraba and Nasarawa States may have inadvertently contributed to an atmosphere of fear in inhabitants of Plateau State. The resulting increase in population in Jos escalated economic and demographic pressures, leading in turn to the scarcity of goods and increase in tension.

Plateau State has a majority of Christian inhabitants with Muslims constituting a significant minority. It also consists of several ethnic groups, which fall into two broad categories: those who consider themselves “indigenes” or original inhabitants of the area –among them the Birom, the Afizere and the Anaguta– and those called “non-indigenes” or “settlers” composed in large part of Hausa-Fulani, Igbo, Yoruba and members of other ethnic groups predominantly found in other parts of Nigeria. Some of the “settlers”, notably the Hausa-Fulani have lived in the area for several generations. Christianity is the dominant religion among the “indigenes”, while Islam is the dominant religion among the Hausa-Fulani “settlers” in particular.

The strain between “indigenes” and “non-indigenes” is most visible in Jos in the competition for political posts. In 1994, there were the first signs of violence and attacks on religious institutions

following the appointment of a Muslim as sole administrator of Jos North LGA. There were equally tensions over other public appointments in 1996 and again in 1998. Ironically for a crisis whose causes were partly economic exclusion, the incident that contributed largely to the outbreak of hostilities in September 2001 was the appointment of the Poverty Eradication Co-ordinator in Jos North in August 2001, a few weeks before the crisis. The appointment of Alhaji Mukhtar Muhammed, a Hausa-Fulani Muslim was controversial. In December 1998, during the transition to civil rule, he had been forced to stand down as chairman of the newly elected Jos North LGA after he was accused of falsifying his credentials. His subsequent appointment to the coveted post of Poverty Eradication Co-ordinator was seen by some as a provocation and was strongly opposed by Christian groups. The protests escalated into ugly exchange of abuse and death threats on Mukhtar Muhammad. In the days leading to September 7, further inflammatory leaflets were circulated by “indigenes” and “non-indigene” organisations.

Causes of the Jos crisis

There is agreement concerning the incident that triggered what eventually became the Jos crisis. However, underlying this trigger incident is a long history of animosities, governmental manipulation and indifference that can be identified and described in clusters as immediate, intermediate and remote causes. The failings of the government, which were contributory in causing the crisis, are treated separately.

Trigger incident

The immediate trigger of the September 7 Jos carnage as is now common knowledge was a skirmish between a young Christian

woman and some Muslim devotees during a Friday *Juma'at* Prayer. The young woman at the centre of reports on the immediate trigger for the crisis goes by the name of Rhoda Haruna Nyam. On that fateful Friday, she had, as was her usual practice, left her place of work to go home for lunch. Her usual route passes in front of the Mosque located at the Congo-Russia junction. Prior to September 7 2001, this had not been a problematic exercise for her. All this changed on that fateful day as she was accosted on her way back to the office from her house by members of the boys' brigade who asked her to go back home and take another route until after the prayers. Ms. Nyam refused. An angry exchange of words ensued, which attracted other worshippers. Suddenly a man from the crowd struck her resulting in a free-for-all fight. How this assumed monstrous proportions is still a hazy confusion of events, claims, counter-claims and two judicial commissions of inquiry. What is known, however, is that from these hazy beginnings the quiet streets of Jos town were turned into a "battle ground" as Christian and Muslim youths took up arms against each other. Within six days over 1,000 people were reported dead.

Intermediate causes

The intermediate causes of the violence on the other hand were many and varied but eventually all contributed to fuel the violence. In reality the crisis was more political and economic than religious. The violence stemmed from a longstanding battle for control of political power and economic rivalry between different ethnic groups and between those labelled as "indigenous" and "non-indigenous" inhabitants of Jos. As grievances built up over time, all sides appealed to religious sentiments to manipulate popular emotions and eventually to inflame the situation to a level where it could no longer be controlled.

Another major causal factor in the Jos crisis was institutionalised discrimination and government's refusal to heed calls for its

redress. In terms of access to resources and opportunities in day-to-day life, the distinction between “indigenes” and “non-indigenes” is critical. In practice the two groups effectively have different rights, resulting in discrimination and inequalities of access in many fundamental areas of life and human well being. The impact was and remains particularly felt in education and employment, where an informal two-tier system operates. For example “non-indigenes” have to pay higher fees to enter good public schools. While paying the same taxes as “indigenes”, “non-indigenes” complain of discrimination and harassment in their search for employment especially in the civil service and in federal institutions, where many senior positions are seen as effectively reserved for “indigenes”. It is claimed that some “non-indigenes” have been repeatedly threatened, apparently in a bid to make them resign or to discourage them from seeking appointment or further promotion in the public service. The case of Alhaji Mukhtar Muhammad is illustrative here as he was issued with several death threats and urged to vacate the position of Poverty Eradication Co-ordinator by “indigenes”. Clearly the September 2001 conflict in Jos can be attributed directly to competition and bitterness over perceived advantages and disadvantages between “indigenous” and “non-indigenous” populations of Jos.

Prior to the violence, there had been a lot of rhetoric, incitement, threats and counter threats concerning the appointment of Alhaji Usman Muktari Mohammed, considered to be a Hausa-Fulani “settler”, as the Co-ordinator of the National Poverty Eradication Programme (NAPEP) for Jos North LGA of Plateau State. This, it was alleged, did not go down well with the “indigenes” who could not understand “how a settler will come from Bauchi State or Kano State to alleviate our [their] poverty.” The “settlers” on the other hand insisted that they remained “indigenes” of Plateau State with equal rights and responsibilities as those calling themselves indigenes.

Besides, there was a report that the Muslim Hausa-Fulani, operating under the aegis of Jasawa Development Association (JDA) issued a statement calling on the people of Jos North Local Government of Plateau State to vote for a Muslim as the council Chairman in the next local government elections. The National Secretary of JDA had disassociated the group from this claim. He, however, maintained that members of his group, as indigenes of the local government, had equal rights like members of Plateau Youth Council (PYC) to present candidates for elective positions in the Jos North LGA or elsewhere in Plateau State. He argued that the Hausa-Fulani arrived in the area today known as Jos North LGA before those claiming to be indigenes. The Plateau Youth Council did not take kindly to the claims of the JDA.

The PYC accused the Hausa-Fulani of not only making ridiculous claims, but also fanning the embers of religious crisis. According to the Chairman of the PYC, “it is funny and insulting (sic) that a Hausa/Fulani man from Bauchi, Kano, Katsina and other states who is looking for trade settled in Jos among the indigenes of Afizere, Anaguta and Birom only to wake up one day to lay claim to a place leased to them for peaceful co-existence.” He further called for the removal of the Turaki of Jos, Alhaji Inuwa Ali, from the Jos Traditional Council and the scrapping of all Hausa-Fulani traditional or chieftaincy titles in all traditional councils in the state. To worsen matters, on August 8 2001, the Executive Council of the Church of Christ in Nigeria issued a communiqué signed by its president, Alexander Lar, condemning the blocking of major roads in Jos during Muslim Juma’at prayers in the predominantly Christian environment as “unacceptable”.

Legal and constitutional issues

Fundamental flaws in the Nigerian Constitution of 1999 have not helped matters. The federal character provision in the Constitution was intended to give all Nigerians a stake in the

government as well as a sense of belonging and representation. It was also intended to redress the consequences of certain imbalances such as greater political representation of Southerners who historically, have had better access than Northerners to formal education. Section 14(3) of the 1999 Constitution therefore provides:

The composition of the government of the federation or any of its agencies 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 national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other sectional groups in the government or any of its agencies.

The constitution however leaves open the question of who is considered to be “from” a particular state. Likewise, the constitution does not include a definition of “indigeneity” when it uses the term “indigene” in s.147 (3) as a criterion for presidential appointment of one minister from each state. It is the entrenchment of indigeneity and the absence of a clear, legal or policy guidance on the operation of the concept that has led to the inconsistency of its interpretation in different parts of Nigeria, often leading to discrimination against perceived “non-indigenes” on one hand and favouritism for “indigenes” on the other.

Governmental failures and other factors

It is strongly believed and widely expressed that the violence was both foreseeable and avoidable but government authorities failed to take action to prevent it. The Plateau State government adopted a passive attitude and appeared not to take seriously the numerous, explicit threats issued by both “indigenous” and “non-indigenous” groups in the weeks leading up to the crisis. Despite its failures that

contributed to the crisis, the Plateau State Government speaking on the Jos carnage, declared:

Although the causes of this senseless crisis are not fully understood by the Government, it is necessary to state that the riots were not a simplistic Christian versus Muslim fight as has been reported by the media... the underlying tension that had earlier gripped the city over some political developments with ethnic dimension now quickly played into the situation.¹³⁷

It comes as no surprise, therefore, that most people in Plateau State hold the Plateau State Government responsible for the crisis and its aftermath.

Other factors that led to the escalation of the Jos crisis include, poverty, unemployment and scarce resources. As stated earlier, the influx of internally displaced persons from other places of crises in northern Nigeria had placed a strain on goods and resources and increased economic pressures on the state. In addition, there were widespread but unverified reports of involvement of foreigners in the crisis and the use of sophisticated weapons.

Violations of the right to life, association, civil and political rights

Official or authoritative figures on the killings in Jos have yet to be published. It is estimated, however, that over 1,000 people were killed. According to the International Committee of the Red Cross, ICRC, after the first day of the violence “hospitals reported 165 people killed and 928 injured.”¹³⁸ The killings had a sectarian edge

137 Press statement by the Plateau State Commissioner for Information, Mr. Amos Azi, New Nigerian newspaper, September 11, 2001 pp1-2.

138 <http://www.icrc.org/icceng.nsf/I.../B0FFF6BAB2FB52B7C1256B06003AF018?Opendocument>

with Christians and Muslims being the targets in different parts of the city inhabited mostly by persons of the opposite religion.

One of the areas worst hit by the crisis was a village at the outskirts of Jos town called Dilimi. Muslims inhabited the village predominantly. The entire village was razed and the Muslim settlers were either killed or displaced. The surprisingly confirmed low death toll of nine lives in the village was ascribed to the foresight of the Muslims in evacuating their families at the first sign of trouble. Of the nine people killed six were men, two were women and the last a three month old baby boy who was beaten with sticks while on his mother's back. He died six hours later. Three of the men, Baba Jenja, Mallam Abdu, and Mallam Musa, were killed as they were trying to escape. Tsoho Mohammed died in hospital. The exact circumstances of the death of Yakubu Abubakar are not known. The body of Mohammed Abdullahi, a cattle rearer in his late thirties, was discovered two weeks after the end of the crisis. The two women who died were Hajia Lemoji Abbas, aged about fifty and Mrs. Mohammed aged about thirty. Both women were attacked as they were trying to flee from Dilimi with a large group of other women and children. They were intercepted by a group of Birom young men who asked them to surrender their male children. When the women refused they killed Mrs. Mohammed and seriously injured Hajia Lemoji Abbas on the head and arm, she died ten days later. In addition to the nine people killed, many were injured.

In Angwan Rogo Village on the other hand, Christians bore the brunt of the onslaught. The area is predominantly Muslim and is situated near the University of Jos. Christians living in the area fled between September 7 and 8. Those who were not so fortunate to leave died in the crisis. A twenty-seven year old Christian woman from Angwan Rogo Jos recounted thus:

I saw people being killed. I also passed a lot of corpses in the street and people who had been burnt in their houses. The corpses were mainly men and a few

women. People were using cutlasses, axes and guns. ... They were picking Christians out, whether indigenes or not ... as I was leaving I tried to count the bodies but I couldn't.

Another victim recounts her ordeal thus:

On Saturday Muslims were attacking Christians in Angwan Rogo and we were at the middle of the attack. We heard reports that the University of Jos was attacked on Friday. I was going to see a friend that Saturday morning. He promised to assist me with some money. When I got to the junction in Angwan Rogo a group of Muslim youths stopped me and asked me what religion I belong to? In order to save my life I told them that I was a Muslim. They then asked me to recite a portion of the Holy Qur'an and fortunately enough I was able to recite a verse and they allowed me to go, but other people they caught with me were not so lucky as they were beaten to a state of unconsciousness. One university student had her ear chopped off with a knife. She was taken to the University clinic thereafter.

The violence spread to the University community in Jos where several persons were reportedly abducted and killed just outside the university gates. His neighbour who narrowly escaped being killed witnessed the killing of one Mr. Okoye, a lecturer at the University of Jos. 23 prisoners were shot dead while allegedly trying to escape from Jos prisons during the crisis. In addition to killings during the crisis, thousands were left wounded or maimed.

The Police were also themselves directly responsible for human rights violations during the crisis. There were eyewitness accounts of the Police and the military personnel involved in acts of extra-judicial executions, indiscriminate shooting and ill treatment. There were reports of the Police shooting unarmed people who were not engaged in any criminal acts. There were also numerous

reports of “fake soldiers” among the mobs, of civilians dressed in military uniform, making it impossible at times to make a clear distinction between uniformed and non-uniformed merchants of violence. The military men in particular were alleged to have carried out indiscriminate shooting, thereby killing some innocent people in their homes. Mustapha Abdulmalik, victim, was reportedly killed in front of his home in Jos by soldiers. One of the most serious human rights violations by security forces during the crisis was the extra-judicial killing of 23 prisoners at the Jos Prison. The prisoners who had been detained for various periods (three of them for as long as eight years and one for seven years) awaiting trial were shot as they allegedly broke out of their cell and attempted to escape from the prison on the night of September 9.

Testimony

The youngest credibly attested victim of the killings in Dilimi was a 3 month-old child who was beaten with sticks while strapped on his mother’s back. He was killed while his mother survived.

We managed to run into the bush but we were stopped on the way. They told us to go back to the village. I said, “No let the women pass.” They said that we should leave the children behind and they would kill any male child. I have a baby boy. I disguised him as a girl by putting a cloth over his head. Then I knelt down to say my last prayer I told the others that they should go, that I would sacrifice myself. A man hit me on the shoulder with a piece of wood, I did not feel the pain at the time. They started arguing amongst themselves and I took advantage of this and escaped.¹³⁹

139 Interview with 40 year-old woman who escaped from Dilimi.

Internal displacement and other violations of economic social and cultural rights

There was also widespread wanton destruction of property running into millions of Naira. The combatants routinely burned several churches and mosques across the town. Shops and other business premises were equally destroyed in the mayhem, while residential houses were not spared. Daben Moses a 34-year-old teacher claimed losses of over N111, 740.00; his house was burnt down with all his properties and he only managed to escape with the clothes on his back. A car company at Farin Gada Jos containing over 200 exotic cars in its compound was completely razed along with its entire stock of exotic cars. Few businesses had insurance cover for this kind of experience, ensuring that all persons affected by this were economically ruined.

Authoritative figures of internal displacement in the Jos crisis are difficult to locate. Over 50,000 people were displaced in the Jos crisis, most of them to military Barracks, Police buildings or school buildings. The ICRC reported that “thousands of people fled the violence, including 6,000 people who sought refuge in Police stations and Army barracks.”¹⁴⁰ By September 18, it had begun “distribution of non-food items (blankets, sleeping mats, plastic sheeting, soap and kitchen utensils) to 15,000 people who had lost all their possessions.”¹⁴¹ These numbers exclude persons who may have re-located or escaped from Jos to reside with relatives in other parts of Nigeria. Also thousands of homes, buildings and other property were destroyed.

140 <http://www.icrc.org/ihceng.nsf/1.../B0FFF6BAB2FB52B7C1256B06003AF018?Opendocument>
141 *Ibid.*

Dilimi village on the outskirts of Jos town suffered the most intense destruction. Inhabited mostly by Muslims, virtually the entire village was razed to the ground. The only buildings left standing were those belonging to Christians and “indigenes”. In all, about four thousand houses, eleven Mosques, and two schools all belonging to Muslims were systematically destroyed in Dilimi. Some residents of Dilimi are still living in a displaced person’s camp in Gangare Primary School in Jos. The entire Muslim population of the village had to be relocated there.

In Angwan Rogo on the other hand houses belonging to Christians were all burnt and their property destroyed. Churches in the area were also destroyed. At the time of writing this report, life had not fully returned to normal. Nearly all those interviewed here were mainly Muslims. There were no signs of Christians in the community or any non-Muslims that had returned to the area. A schoolteacher stated that no Christian in his right frame of mind would live in Angwan Rogo any more. He claimed that there is a street called “Shariah Line”, which came about as a result of this crisis. One of the traders who brought in their stocks to sell in the market daily similarly alleged that they were afraid of coming back to the area because of what they experienced. He narrated thus:

I was born in Jos. My parents lived here all their lives. I do not have any place I can call my home. Because of the incident that happened last year, I am forced to trace my steps back to my place. I was in my shop on Friday, 7 September, when the whole thing started but we thought it would be all over and the law enforcement agency would take control. It was not to be. My whole shop was burnt down.

The crisis also resulted in widespread hunger as shops and market places were either closed or destroyed. One victim of the crisis described how people queuing up to buy bread at a bakery that happened to be open during the incident ended up in fisticuffs out of desperation.

Gender-specific violations

Most of the victims of the Jos crisis were men but there were also many women and children among the casualties. Reports were that in some cases entire families were killed in their homes. Hajia Dada Sangei, a woman aged about ninety was killed in Riyom along with several other members of her family including a thirteen-year-old boy. Two of the nine people killed in Dilimi were women. These were Hajiya Lemoji Abbas, aged 50, and Mrs Mohammed, aged about 30. Both women were attacked as they were trying to flee from Dilimi with a large group of other women and children. A third woman, Hajiya Almajira, also aged about 50, was still in hospital several weeks after the crisis with machete wounds on her head and hands. Hajia Dada Sangai, aged about 80 years, was killed in Riyom with other members of her household. Some female students of the University of Jos were reportedly raped in their off-campus residence, though no one was willing to confirm the reports.

Violations against children and the aged

Age made no difference in the violence. An elderly Hausa-Fulani Chief survived an attack by some youths by hiding in the bush through the night. He narrated how he survived the attack:

The attack started on Sunday at about 10 a.m. I was in my house. I noticed Birom local residents surrounding the place. When I came out I saw about three cars on fire. I asked the Biroms: "Why is this happening after we agreed not to fight?" One man came with a spear and threatened to attack me. An elderly man intervened to stop him. The Birom were saying: "We are ready to fight the Hausas, the Hausas should vacate the village." As I made my way to meet the community leaders, a Birom woman stopped me

on the way and sent me back warning me that I would be killed. I managed to pass through but another group surrounded me. There were about ten of them, young men. They had bows and arrows, a dagger, a sword and locally made weapons. They said to me: "Say your last prayers, we are going to kill you." When I knelt down, two Birom women intervened. They implored the attackers not to kill me and said that otherwise they should kill them too. One of the Birom women saved me; she took me to a Birom man's house. They locked me in a room and I hid there for 12 hours. At about 11 p.m. I left. I was afraid that if I went out after daybreak, I was more likely to be killed". I went into the bush in the night. I came to a house near the Air force base. The house was empty. I stayed there until daybreak. In the morning, I found my people gathered at the Air force base: they thought I had been killed.

Some others were not so lucky. A man in his seventies was attacked once in the morning and initially spared because of his age. Later in the day he was killed along with his three children and set ablaze in their home in the Nassarawa area. Alhaji Baba Wase aged 80 was killed in Riyom with guns and machetes.

Perhaps the youngest recorded victim of the crisis was a three-month-old boy who was beaten with sticks while on his mother's back. He died six hours later. There were reported killings of other young children. Of the 171 detainees arrested in connection with the crisis by the Police, 26 were confirmed to be under-18, some as young as 10 or 11 years old. It is alleged that the figures of children arrested was much higher than the Police admitted. Many of the arrested children were beaten by the Police or military. Many children reported being beaten and severely assaulted while in custody. A thirteen-year-old boy among those arrested narrated his ordeal at the hands of soldiers:

I was inside the Mosque at Yanshanu. There was peaceful

atmosphere. After the 4 p. m. prayers, the congregation had just finished, when soldiers came into the Mosque. There were about seven soldiers carrying guns. They arrested us. They lifted the mats to check for weapons but there was nothing there. They made us lie down outside. Seventeen of us were taken outside, including me and my younger brother and some adults. They beat and kicked us with their boots. I was kicked on my face, above the eye, and on my shoulder. My brother was also beaten very hard.

Absence of redress and accountability

The Jos crisis was clearly caused and escalated by failure of both political leadership at the state and federal levels and operational leadership in the security agencies. In the aftermath of the violence, the government of Plateau State was criticised mostly for its inaction and negligence in the management of the violence. In the days leading up to September 7, tension had risen to dangerous levels due to protests by “indigenes” on the appointment of a “non-indigene” to the post of Poverty Eradication Co-ordinator. Despite death threats being peddled back and forth in the state, the Governor travelled abroad just one week before the crisis. He only returned several days after the outbreak of the violence to urge the people to get on with their normal activities.

Predictably, the Governor of Plateau State, Joshua Dariye, came under fierce criticism for inaction before, during and after the crisis. It was alleged by leaders of both the Christian and Muslim communities that they wrote separately to the Governor in the days leading up to the crisis to warn him of impending violence and request his urgent action. In response to these warnings, the Governor failed to take any positive action. Besides, he was criticised for travelling out of the country a week before the crisis

started even when it was clear that the atmosphere was tense, and for failing to abort his overseas trip and return after the outbreak of the troubles.

Similarly, the Federal Government did not respond adequately to the crisis. After the Jos crisis, the Federal Government instituted a Commission of Inquiry headed by Federal High Court Judge, Suleiman Galadima. This commission was mandated to investigate the circumstances leading to the death of the 23 prisoners at the Jos Prison. At the State level another Commission headed by recently appointed Supreme Court Justice, Niki Tobi, was constituted by the Plateau State Government to investigate the causes of the crisis. At the time of this report the Niki Tobi Commission was still sitting. Though the sitting was public, recording of proceedings was not allowed and efforts to get some of the petitions submitted to the commission did not yield any fruit.

The government has also been credibly accused of mismanaging the relief effort after the crisis. A large number of victims of the crisis are still living in centres for displaced persons all over Plateau State as well as in neighbouring states. An example of this is an unmarked uncompleted structure in Toro Local Government of Bauchi State located along the Jos/Bauchi expressway housing over a hundred displaced persons. Victims also claim that relief materials sent in for their welfare from overseas organisations as well as governments and institutions across Nigeria were diverted by public officials for personal use. Neither the Federal nor the Plateau State governments have made any efforts to resettle internally displaced persons in the state. Victims, who may have lost their properties, livelihood, loved ones or limbs in the crisis are yet to receive any forms of compensation. There have been neither prosecutions for the acts of mayhem and gross violations of human rights committed during the Jos crisis nor administrative procedures for the failings of the security agencies in managing or failing to manage it.

Omissions by security agencies

The Police Force in particular committed serious violations of human rights in the crisis through acts of indifference, omission and commission. Lack of Police presence and intervention during the crisis as well as their failure to ensure protection and security of the population contributed to the great number of lives lost in the crisis. Some of the violence could have been prevented or at least curtailed had the Police intervened earlier. It was only the intervention of the military from September 8 that eventually put a stop to the mayhem. The Police were unable to enforce a curfew imposed by the government from the evening of September 7. Respondents in the state deplored the role played by the Police in the crisis. They commented that in the few cases where the Police were present they were ineffective, inadequately equipped, unarmed or outnumbered by the antagonists.

The absence of the Police was particularly noticeable at the University of Jos, where the violence was fiercest. One student reported, “the Police never came to the University at all. Only the military came.” Another student said: “We lost total confidence in the Police. They were not there. Until today they are not here.” The Vice-Chancellor of the University first called the Police for help on the afternoon of September 7 but could not get a reply for more than half an hour. He then called the Central Intelligence Bureau and asked to speak urgently with the Commissioner of Police. He was told the Commissioner was not there and there was nobody in the office. He resorted to calling the military who eventually arrived at University by 23:00 hours that night.

Like the Police, the military were also guilty of gross dereliction that may have contributed to escalating the crisis. Military intervention is widely credited with having saved the situation but during the early days of the crisis the military merely patrolled the streets and issued threats. In the words of a University student: “The military appeared on Friday at about 23:00 hours. They were just

patrolling. At one point they left during an attack”. A Muslim, resident of Jos also recounted, “At about midnight, I saw a military vehicle: a group of soldiers stopped in front of my house. I heard the soldiers say: “In five minutes everyone must be inside their house or we will start shooting.” But then they just left so people just came back out and the rampage continued until about 1.00 p.m.”

It must be clarified that it is unclear what the rules of engagement for the security agencies were in the early stages of the crisis. We were unable to verify that they were given any clear rules of engagement in the early phases of the deployment. This fact may have contributed to the failures and dereliction reported. Far from excusing the security agencies from culpability for the avoidable carnage traceable to their omissions, the absence of clear rules of engagement in such a situation is evidence of a failure of leadership that should have been promptly investigated and appropriately punished.

The Police put the failures ascribed to them down to the fact that they were both out-numbered and under-resourced. In some areas on the outskirts of Jos, such as Pankshin, some residents fleeing the violence took refuge in the Police Station, but there was no Police there. In one case a Hausa man tried to save a Christian man by taking him to the Police station near Angwan Rogo on September 7. The Police told the men they could not do anything to help them and advised them to go to the University of Jos campus. On the way there a group of armed Muslims attacked and killed the Christian. The Armed Forces were subsequently deployed on September 8 when the government also imposed a curfew on the city.

At the University of Jos campus, one of the scenes of the fiercest battles during the crisis took place on the September 7 and 8 as students made every attempt to defend the University grounds from being infiltrated by the fighters. The Vice-Chancellor of the University had called on the Commissioner of Police to protect the

University but received no response whatsoever. It took the arrival of the Armed Forces about 23:00 hours on the night of the 8 September to save the day.

The residents of Jos town were loud in their condemnation of the absence of security forces during the crisis period. Our respondents were unanimous in the belief that the violence could have been avoided if the security operatives were deployed early enough to arrest the situation. The apparent ineffectiveness of the Police in particular led to the deployment of soldiers to maintain law and order in Jos. Even then, credible allegations of selective protection of certain groups of the population trailed the deployment of the military.

THE BENUE KILLINGS

BY

IJEOMA NWACHUKWU

AND

ISIOMA OJUGBANA

Introduction

Violent clashes have been a recurring decimal on Nigeria's landscape since the rebirth of elected government. Since May 1999 when the present civilian administration assumed office, frequent bouts of sometimes pre-meditated or spontaneous bloodletting have left heavy casualties in different parts of the country.

Nigeria's Middle Belt has been the scene of violent clashes for decades between the Tiv and Jukun ethnic groups. In terms of loss of life and property, internal displacement of persons, and sundry related violations, the Tiv-Jukun crises in Benue and Taraba States arguably ranks second only to the Nigerian Civil War. As will be shown below, the Benue Killings owe their origins, in part to the related crisis in neighbouring Nassarawa State which reached its own crescendo in June and July 2001, and preceded the Benue Killings by three months.

The region has experienced crises for years, provoking little interest in government and the media, until the events of October 2001. Before then, the massive loss of lives and property in the Middle Belt was treated as a footnote in Nigerian history. By October 2001, the escalation of crises in the Middle Belt overwhelmed the Police and prompted intervention by the Army, ostensibly deployed to the area to stem the tide of violence and of internally displaced persons flowing from the crises. In a very brutal incident that October 19, soldiers were abducted and killed, allegedly by Tiv militiamen. The Army responded with the most devastating reprisal attack on towns and villages in the area, rounding up and killing unarmed civilians, before torching entire settlements. At so heavy a price, the world finally acknowledged the deep divisions and urgent issues at the heart of the Middle Belt crises.

This chapter chronicles the dynamics and consequences of the recurring violence in rural agrarian communities scattered across

the Benue Valley. The political and social landscape of this part of the Middle Belt has changed significantly over time. Today that landscape includes new traditional and religious institutions, as well as western-style local, state and federal government structures. Inter-communal violence in the Middle Belt is now defined according to whole sets of emerging interests, which are apparent in the accounts below. Eyewitnesses, victims and third parties to the violence shared with the authors (in oral interviews) experiences of change in which inter-ethnic interests and relations are all but harmonious.

Context to the Benue Killings

The Hausa-Fulani in the north, the Yoruba in the southwest and the Igbo in the southeast dominate Nigeria's national scene. However, the broad characterisation of a Muslim Hausa-speaking north, and a Christian south made up of two dominant ethnic groups-the Yoruba and Igbo is a vast oversimplification. Over centuries people have moved around what is now modern Nigeria. The Middle Belt, which runs west to east between and separating Nigeria's north and south, comprises the Tiv, Jukun and numerous minority ethnic groups and communities. Apart from being the food basket of the country, this region also has the largest concentration of officers and men of the Nigerian Armed Forces. Over the years, traditional warriors from the Chamba, Alago, Mumuye, Egon, Fulani and other minority ethnic groups in the region have been drawn into violence against one another, but none on so brutal and protracted a scale as that between the Tiv and Jukun.

The violence between the Tiv and Jukun, coexisting in Benue and Taraba States has numerous causes, affecting populations of both ethnic groups in neighbouring Adamawa, Plateau and Nassarawa States. The violence relates to disputes over land, traditional rulership, political authority, and fears of domination

and marginalisation. Central to the violence, however, is the constitutional issue of citizenship rights encapsulated in the explosive dichotomy between “settlers” and “indigenes”. There is competition for access to resources between those that consider themselves “indigenes” (the Jukun) and those that are considered as more recent “settlers” (the Tiv). The Middle Belt happens to be one of the last parts of Nigeria to be brought under central governmental control, and one of the last to be offered modern education and public services. This has made the struggle for access to resources, be it access to farmland, electricity, employment or political power, fierce in the extreme. Despite the country’s vast oil wealth, the narrowing of economic opportunity has produced a frustrated and angry underclass of unemployed youths. It is to this disempowered group that politicians look for support, with disastrous consequences in the region as in other parts of Nigeria.

A history of inter-ethnic animosities in the region spawned ethnic militias on both sides. Respondents gave accounts of atrocities perpetrated by the militias on all sides of the crises. The horrors of inter-ethnic violence in the Middle Belt defy imagination: mass murder, rape and the wanton destruction of places of worship and schools; indiscriminate roadblocks where “the enemy” is identified then matcheted or shot to death in the bush; pregnant women disembowelled, their foetuses carved out and left to die; homes, barns and public buildings torched by “warriors”; crops and livestock uprooted, slaughtered or simply looted. The devastation evident on the scenes of battle and beyond it defies words or description. Respondents attribute sophistication of many of these attacks to the presence of elements from both the Army and Police in militia groups as mercenaries, sons of the ethnic group and lately, agents of state. Tiv survivors of violence at Dooshima in Ibi LGA, for instance, say that officers from the Dooshima Police post joined in the looting of property and attacks on Tiv in Dooshima. In many cases, displaced persons identified their attackers as soldiers. This is not surprising given that the Middle Belt has always been a major recruiting ground for the Nigerian Army.

In seeking answers to the situation in the Middle Belt, Nigeria shifts from a colonial and military past where “peace” among “warring peoples” is simply imposed through suppression of violence with superior military might. This avoidance-denial approach only complicates the issues and, in the Middle Belt, delays the achievement of just and equitable society. More than this, it deprives the government of legitimacy as an uninterested and fair guarantor of the rights and well being of its citizens.

Historical records show that the Tiv and Jukun co-existed peacefully in pre-colonial times. They are even said to have fought wars together against a common enemy. The *Aka Uka* (the Jukun King) was the only paramount ruler to whom everyone owed allegiance. The Tiv worked the land as rural farmers and did not interfere with Jukun administration. The Jukun were inclined to fishing and were in no competition with the Tiv for land. By 1900, the Tiv and Jukun populations had taken firm root in the Benue valley. The Tiv population grew drastically, outnumbering the Jukun, and with it their need of land. There is no evidence to suggest that the Jukun perceived the Tiv as a threat.

According to its policy of indirect rule, the British colonial administration ruled through the *Aka Uka* being the existing, identifiable, political institution. In the course of colonial occupation, the British first made contact with the Jukun at Ibi on the River Benue. This gave the Jukun an early start in western education and advancement in the colonial and post-colonial bureaucracies. The British delineated Wukari a sphere of Jukun influence and discouraged the influx of Tiv farmers into Wukari. The Jukun regard Wukari as their political and ancestral homeland. The Tiv in Wukari were placed under the jurisdiction of the *Aka Uka* following Lt. Governor Palmer’s argument that Jukun influence extended into Tiv territory under the ancient Kwararafa Empire. In Wukari, the colonial government promoted Jukun ascendancy over and above the Tiv. Tiv areas such as Katsina-Ala, Zaki Biam and parts of Kwande were administered under Wukari Division.

The *Aka Uka* was chairman of the Wukari Federation Local Council, which was constituted by representatives from the Chamba, Jukun and Kuteb ethnic groups. The Tiv were excluded. The rationale was that Wukari was not a sphere of Tiv influence even if the Tiv made up a significant part of the population. The colonial regime represented by the Lt. Governor, Richard Palmer, reasoned with the Jukun that the Tiv were immigrants in Wukari and had no grounds to feel that as immigrants, they qualified for representation. “The Tiv were clearly cast as an “inferior” group to the Jukun.”¹⁴²

The colonial government only created the Tiv division in 1933, carving Katsina-Ala out of the Wukari Division and placing it under the Tiv Native Authority in Gboko, in the current Benue State. As a consequence of these new Divisions, segments of Tiv clans were left in Wukari division under the authority of the *Aka Uka*. The boundary separating Tiv Native Authority Division and Wukari (which became known as the Wukari Federation) fragmented homogenous Tiv villages such as Gbeji, Vaase, Abako, Sai, Chachangi and Kashimbila. Conflicting delimitation documents fragmented some districts and clans. The boundaries were so indiscriminate that in many cases, members of the same family were divided some in Tiv Division, others in Wukari Federation.

The Tiv were not only a large group; their population expanded faster than their neighbours. In some areas in Tiv territory, such as Kwande and Vandekya to the south, population pressure was acute, rising in 1927 to about 190 persons per square mile as at 1927. In 1952, some areas in Shangev were reported to have over 600 persons per square mile.¹⁴³ The Tiv farming system of slash and burn and shifting cultivation accentuated this pressure on land. The combination of population pressure and farming system led the Tiv to expand into territory of their neighbours in search of

142 NAK//SNP/17/K.2441.

143 NAK/Makprof 4545.

virgin land. The expansion of the Tiv into Idoma territory to the southwest and Ogoja territory to the south was resisted, leading the colonial administration to encourage Tiv migration “in the northerly and easterly directions”.¹⁴⁴

A “*Munshi Wall*”¹⁴⁵ had been erected to the south and west. This marked a shift in colonial policy. Henceforth, the Tiv were encouraged to migrate into Jukun territory. Colonial perceptions changed. Economically and demographically, the “superior” Jukun, with their history of a centralised state, was not expanding as swiftly as the “inferior” Tiv. Colonial officials wrote:

Tiv expansion is not due to land hunger or the results of uneconomic methods of farming but to a “traditional code demanding expansive advance in a predetermined direction”. Such a demand for *lebensraum* and the population movement in which it results are difficult to control....¹⁴⁶

Since Tiv growth and expansion had a direct bearing on the capacity of the colonial state to raise tax revenue, Wukari came to represent a “decaying population” while the Tiv were Superior in every way to all peoples by which it is surrounded - totals now about 500,000 souls - has a percentage of about 40 children per 100 of the population. The food producing capacity of the tribe is perhaps the greatest per head of population of any tribe in Nigeria, but it is clear that unless provision is made for their expansion, the land available to them will not continue to support them....¹⁴⁷

The “hardworking” Tiv were encouraged to move into the territory of the “lazy” Jukun and the other groups east and north.

144 NAK/SNP17/9.

145 *Munshi* was the colonial name for the Tiv.

146 NAK/Makprof 4545.

147 NAK/Makprof 2403.

Tiv settlements were established in such areas as Muri, Shendam, Lafia and Wamba. The Tiv came to form an absolute majority of the entire population of Wukari Local Government. Not only were the “strangers” more wealthy than their “hosts”, they now had a population base sufficient to gain political ascendancy. Following years of Tiv agitation for inclusion in the political affairs of Wukari, in 1957 the Tiv were given representation within the Wukari General Purpose Council of the Federation Native Authority. When the British left in 1960, the Tiv were expelled from the council.

Administrative boundaries

A description of the evolution of administrative and territorial units in the Middle Belt facilitates an understanding of spatial and territorial issues in which the crises described in this chapter took place. Territory has become a factor in the management of political communities in Nigeria. Quite apart from its relationship to land and resource control and distribution, territory is also firmly connected to the political questions surrounding political violence in Nigeria generally, nowhere more so than in the Middle Belt.

In 1967, seeking to dilute the political influence of then quite powerful regions and manage the tensions that led to the Nigerian Civil War, the regime of then Lieutenant Colonel Yakubu Gowon increased the constituent territorial units in Nigeria from four regions to 12 states. State creation by the Yakubu Gowon regime in 1967 left the Jukun and Tiv living peaceably in what became known as Benue-Plateau State. In 1976, General Murtala Mohammed, successor to General Gowon, in creating an additional seven States to bring Nigeria to 19 States, split the Benue-Plateau into two different states and created a third state –Gongola– in which the Jukun became the dominant ethnic nationality. The Tiv in Wukari and environs, then in Gongola State, requested inclusion in Benue State on the grounds of discrimination and exclusion from political

affairs by the Jukun. A judicial commission on boundary adjustment headed by former Supreme Court Justice and President of the Court of Appeal, Mamman Nasir, rejected this petition and recommended that the Wukari Tiv be left in Gongola State. In 1992, General Babangida dissolved then Gongola State into different states creating Taraba and Adamawa States. Nassarawa State was added to the Map shortly thereafter by General Sani Abacha mostly from the territories of Plateau and a little of the territory of former Kaduna State. The Tiv and Jukun have since existed in Taraba as two strange bedfellows. In addition, the Tiv are also present in varying numbers in Benue, Nassarawa, Plateau States and Kogi States.

The Jukun reportedly regard Benue State as the homeland of the Tiv and consider Tiv presence in Taraba State as an invasion of Jukun identity and territory. The fact that Tiv came to dominate the population charts of Taraba and Nassarawa States, coupled with the reality of the electoral might of the Tiv majority, only intensified this notion among minority nationalities in the region. According to Chief Daniel Oronya a respondent,

The Tiv and Jukun were not fighting so bitterly until Taraba State was created and democracy came in 1999. Jukun people believe that Taraba State is their own, like Benue is for the Tiv. But see the Tiv people they have chased from Taraba. They are strangers here [Agasha, Benue State]. It's only Taraba they know. All because of elections. The Jukun are afraid that if the Tiv remain in Taraba they will outvote them in the coming elections. So they say, each one to their own state. It is unfortunate...¹⁴⁸

148 Interview with Chief Daniel Oronya, February 2002. A few kilometres from Agasha village where we met Chief Oronya, is the Abinsi community, a Jukun community on the borders of Benue State.

The explanations for the long history of violence and crises are diverse, sometimes contradictory and nearly always dripping with evident bitterness. According to Danteh Agbo, a leader of the Jukun Youths Cultural Association:

This country is a creation of colonialists. That's why I always say this is a country of indigenes not settlers. The way forward is when you go to a place and stay with them you respect their views, their tradition and their culture and not try to take over their land because you're more in number. Interestingly, they (the Tiv) refer to Taraba as their farm and Benue their home.¹⁴⁹

He adds-

The indifference of the Jukun to the settlers is the cause of the problem. Jukun are very indifferent to their corporate interest and, the Tiv, because of their numerical advantage are taking advantage of that. We have neighbours who are articulate and who are local colonialists with expansionist tendency. Their philosophy is "give birth and dominate your neighbours" as propounded by one of their sons in his doctoral thesis I came across in the university. They have been so unfair to us because we have been so kind to them.¹⁵⁰

Dr. Shekarau Angyu Masa Ibi Kuyvo II located the root of the crises in an alleged expansionist tendency of the Tiv. He remarked: "They (Tiv) came here to farm, we allowed them; gave them chieftaincy titles...Now that their population has increased, they believe they are many enough to colonise us".¹⁵¹

The Tiv do not agree that they are settlers on Jukun land. They claim to be co-landlords with the Jukun. According to the Tiv,

149 Danteh Agbo, a member of the Jukun Youths Cultural Association.

150 *Ibid.*

151 The *Aka Uka* of Wukari, a traditional ruler of the Jukun.

Wukari is a corrupted form of the Tiv word *Waka* believed to be the centre of a ritual and traditional religious practice called *Aseta*. The Tiv claim to have settled in Wukari while the Jukun were some eighty kilometres north inhabiting the ancient Kwararafa Empire. Historical records by Professor Webster (1775) and Dr Erim (1981) indicate that with the fall of Kwararafa, the Jukun state moved its capital to Puje, which was also soon abandoned until a final capital was established at Wukari around 1840. By this time the Tiv were already entrenched in this area, which they called *Waka*. Interestingly, the Wukari area and most agrarian communities in Taraba and Nassarawa States had a heavy concentration of Tiv farmers. With the advent of colonialism, the Tiv claim to have retreated from an increasingly urban Wukari to rural farm settlements. That was when the colonialists came to create new political boundaries. Other accounts suggest that in the course of migration the Tiv and Jukun occupied Wukari and surrounding lands simultaneously.

Causal factors in the Benue Killings and Middle Belt crises

In this section, the authors identify factors that are implicated in the developments leading to the Benue Killings and other related crises in the Middle Belt. The directions of these crises, it will become obvious shortly, are inexorably determined mostly by these factors.

Citizenship and identity

The settler-indigene dichotomy still defines political relations and exacerbates differences between the communities of the Middle Belt. Rather than legislate this dichotomy out of existence, successive national constitutions have recognised, legitimised and

encouraged it. Some respondents say that the military governments that have ruled Nigeria for over three decades of its independence were not interested in deconstructing the settler-indigene dichotomy, as “divide-and-rule” (as practised by the colonialists) fitted their agenda.

General Abdusalami Abubakar’s transitional government endorsed the 1999 Constitution of the Federal Republic of Nigeria (CFRN). Chapter III of the constitution provides for Nigerian citizenship by birth, registration and naturalisation. Qualification for electoral posts is stated as open to citizens of Nigeria by birth. It contemplates citizenship at a national level. The ambiguity steps in where the word “indigene” appears in constitutional guidelines for the appointment of Ministers at the federal level when it provides: “The president shall appoint at least one minister from each state, who shall be an indigene of such state...”.¹⁵² Constitutional lawyers explain that this provision is meant to ensure that no state is marginalised, but represented, in the federal cabinet. Yet it perpetuates a notion of “indigeneship” with exclusive rights and claims based on it. No attempt is made to harmonise this concept with overriding national citizenship such that it has become the tool of desperate politicians who use it to stoke the flames of ethnic conflict.

To demonstrate how this affects and fuels violence, Jukun respondents in Ibi Local Government told the authors that the fight in Sarkin Kudu and Dooshima villages began when they received leaflets urging them to drive off “the settlers”, the Tiv, who threaten to dominate them politically and socially. The leaflets reportedly invited them to reclaim their birthright by the “rejukunization” of their land. Following these leaflets was a cycle of violence spanning six days. Between October 4 and 10 2001, scores of Tiv villages were attacked resulting in the death of dozens. On Sunday September 30 2001, Mr. Samuel Uzer of the Natural

152 S.147 (3), 1999 Constitution.

Resources Department, Ibi LGA, and Sebastian Lanem of the Adult Education Department, Ibi LGA, both Tivs, were reportedly killed by Jukun militias and their bodies thrown into the River Benue.

Obioma Chibuna, 30, who hails from southeastern Nigeria and has lived in Ibi LGA for fifteen years says the violence followed rumours that the Jukun were coming to drive the Tiv away because “the Tiv are becoming too many, they are taking up major posts in the government, and dominating trade in the market”.¹⁵³ The perpetrators were identified as Jukun militiamen. Obioma sent his family back to his village in southeastern Nigeria until, he says, “this place cools down”. On the cause of the crisis, this third party, observer/victim points to long-standing “jealousy” between the Jukun and the Tiv. Solutions, he thinks, will come when government shares things equally among people in the area. When it chooses to do so, the government will have to contend with a psyche steeped in the settler-indigene dichotomy, a phenomenon that, it has to be said is not exclusive to the Middle Belt.

Land tenure and the Land Use Act

Land has always been the starting point of aggression between the Tiv and Jukun. Most Tiv say that land has never been the principal cause of the ethnic conflict but only a convenient excuse to vent political tensions. For the Jukun, land is a major factor in the conflict. The spread of burgeoning Tiv populations into lands historically regarded as Jukun territory worries the Jukun. The Tiv are said to have taken possession of Jukun lands without due process. Traditional laws of land tenure require the Tiv to obtain permits from clan heads, village heads, district heads or paramount rulers, as the case may be before occupying Jukun land. Yet, Jukuns

153 Obioma is neither Tiv nor Jukun. His wife is from Ibi and his children were born in Ibi. During the October 4-10 fighting one of Obioma’s haulage trucks was burnt alongside his wife’s trading store.

claim, Tivs often bypass this process and occupy lands that they never return to the rightful owners. In Taraba and Nassarawa States, Tiv farmers occupy an estimated 75% of agrarian lands, a statistic which unsettles the Jukun. The Jukun point to the trend of large-scale migration of Tiv populations from Benue State into neighbouring states where they settle and possess Jukun farmland. This portends a future where the descendants of the Jukun are stripped of their heritage in ancestral land. This fear of domination and marginalisation is fuelled by reference to a document titled, *A Short History of the Tiv*, a portion of which reads:

The main economic pursuits of the people, for example farming, seems to have dictated the political decision to acquire more lands. The people are basically farmers. They normally acquire plenty of land to till and grow different crops...There was apparently no group capable of threatening their existence as a group or halting their colonisation of more lands. Colonisation for instance was carefully and systematically planned and brilliantly executed.¹⁵⁴

In response to the Tiv threat, the Jukun canvass “Operation *Patswen*” (operation take back your land) which the Tiv in turn see as a long-drawn campaign to evict them from their farmlands. Cross accusations and mutual suspicion characterise relations between the groups, each describing the other as “aggressive and wicked”. Paul and Laura Bohannan’s famous work on the Tiv describes a system of shifting cultivation and constantly creeping settlement, which expanded by belligerence against landholders in its path. This adaptive strategy became known as “predatory expansion”. However, this study was based on interior Tivland where most farmers were obliged to push into neighbours’ land since their own land was also under threat. North of Tivland, in an agricultural

154 Published in *The Tivs of Central Nigeria* 1953, HMSO London.

frontier, the Tiv have highly stable settlements. Glenn Stone¹⁵⁵ recently studied a Tiv frontier village that has not moved since 1939. Tiv priorities and land use here are not oriented towards expansion, but rather towards protection of their large land base from groups such as the Kofyar.

Violence inspired by land claims is an ongoing problem because the legal basis in Nigeria for land rights is utterly ambiguous. The Nigerian Land Use Act (1978) is based on colonial misconceptions, which leaves control of most rural lands to “customary law” enforced by local customary courts. This assumes that there is a single community in an area and totally disregards the population movements and cultural mosaics in places like the Middle Belt. Besides, local courts are weak and corrupt. In the circumstance it is only natural that land disputes escalate to violent conflict and create opportunity for political manipulation. Respondents state that tactics ranging from mischief to terrorism often precede full-scale violence over land. The Jukun accuse the Tiv of making a point of displaying their presence and authority over land which is not theirs to begin with, trashing fields and crops, stealing animals and property, and even the use of cassava hedge on farm borders to lure and kill goats belonging to the Jukun. The pressure on land from the Tiv, it is claimed, stems from an innate Tiv passion for subsistence agriculture and their rapidly expanding population of over three million, which outnumbers the Jukun threefold. For their part, the Tiv claim that since 1990, prominent Jukun systematically took over Tiv land with the connivance of local courts and official titles of ownership were backdated. Both groups accuse the other of renaming lands seized from the other in an attempt to demonstrate local hegemony and establish territory.

155 Glenn Davis Stone, *Predatory Sedentism: The unexpected rules of Tiv settlement*. Paper presented at a symposium on “Ethnoarcheology of Subsistence and Settlement”, SAA meeting, New Orleans 1996.

Party politics

Party politics has contributed profoundly to this estrangement. Interviewees on both sides suggest that politics is in fact the root cause of the violence. In various elections since 1954, the Jukun and Tiv have supported different political parties. In the 50s the Tiv were supporters of the United Middle Belt Congress (UMBC) led by the late Joseph Tarka while the Jukun largely supported the ruling Northern People's Congress (NPC). The Tiv Riots of 1959-60 began as violent clashes between supporters of the UMBC and NPC. A grave rift in relations between the parties began when Charles Tangur Gaza, a Tiv candidate on the UMBC platform defeated Ibrahim Sangari, the Jukun NPC incumbent, in the 1959 elections and represented Wukari Federal Constituency in the House of Representatives. The Jukun political class considered Tiv participation in the political affairs of Wukari as a threat of domination. The UMBC's stance on preserving Tiv identity served to deepen this suspicion. The political advances of the Tiv people in the old Wukari Federation (covering Wukari, Ibi, Donga, Takum, Ussa) worried the Jukun since in colonial times Wukari was considered Jukun territory. The Tiv Riots were born of these rifts. The slogan in Tiv was *nande-ior* meaning "arson and burning down of houses". Supporters of the UMBC killed hundreds of NPC supporters and burnt down their homes. Most NPC supporters were Jukun.

Nande-ior was provoked by Tiv fears of political marginalisation and the discrimination they suffered in the hands of the ruling NPC. In 1964 came the "head breaking" violence, the targets of which were again supporters of the NPC being largely the Jukun and Hausa Fulani. According to many Jukun, it was these rounds of massive killing and destruction by Tiv UMBC supporters that antagonised the Jukun to resistance against "the Tiv scourge" lest the Tiv overwhelm them on their own land. The Jukun say they considered it a case of fight or be overrun.

During the Second Republic between 1979-83, crises followed on the heels of Tiv political advances. Mr. Simon I. Musa, a Tiv, was appointed Caretaker Committee Chairman of Wukari Local Government Council by the Abubakar Barde administration in then Gongola State, a definitive blow in the face of the Jukun political class. Hitler Gbaanondo and Hon. Tsetim Gwaikyaa represented Takum and Donga Federal Constituencies respectively in the House of Representatives. In gratitude for the Tiv vote, Alhaji Bamanga Tukur, Governor of Gongola State (now Taraba State) appointed Dr. Samuel Tor-Agbidye and Emmanuel Yawe, both Tivs, as Commissioner for Health and Chief Press Secretary respectively. From this time onwards, the political and ethnic battle lines were drawn. Open hostilities were, however, suspended during periods of military rule: 1966-79 and 1983-87. Party politics was on the ebb although the question of traditional rulership was high. The Jukun regard their king, the *Aka Uka*, as divine and were unwilling to grant the Tiv representation within the traditional council. Tiv efforts to gain entrance into the Wukari Traditional Council for instance were interpreted as an affront to Jukun culture by ambitious rural settler-farmers.

The climax of political tensions came in 1987 when the Hausa and the Tiv won the Wukari Local Council elections as Chairman and Deputy respectively. The Jukun political community expressed its outrage in markedly violent confrontations with Tiv “settler-immigrants” who were believed to have no stake in political affairs in Jukun land. The conflict only heightened when, at this inopportune time in Jukun political calculations, Governor Jolly Nyame appointed a Tiv, Orbee Uchiv, as Special Adviser to the state government.

The elections of 1990 organised by the Babangida administration witnessed low participation by the Tiv who claim to have been weakened by Jukun policy aimed at keeping them out of the political processes of Taraba State. Some Tiv respondents in Wukari say that Tiv lands were violently confiscated without redress

at this time and then renamed by the Jukun. The Tiv fought this policy from 1990 to 1993 and allege that they were denied registration, election materials and in some cases their votes were physically destroyed in order to subvert their participation in the 1990 elections. Following the “Tiv-Jukun war” of 1990-1992, hundreds of Tiv were displaced from Wukari and environs. Tiv hospitals, schools, home and public facilities were closed, many destroyed. People of Tiv origin also lost positions of employment in the area and appointments in the local government system.

In 1993, the federal government intervened to broker temporary stability between the groups. The result of this was a ten-point plan of action, which included reintegrating the Tiv into the political process in Taraba. The Tiv blame the non-implementation of the ten-point agenda for the lingering crisis. Peace efforts at the local government and state level before this time were scuttled by overwhelming hostilities and the political instability introduced by series of military *coups-d'état*. The military response to the conflicts has always been repressive, leaving little room for dialogue on the deep issues that divide both communities.

The Nassarawa Crisis

The Benue Killings were preceded and presaged by a crisis in the neighbouring state of Nassarawa which resulted in considerable loss of human life, damage to property and livelihoods, displacement and other gross violations of human rights.

Background to the Nassarawa Crisis

The cause of the crisis in Nassarawa is apparently rooted in fears of political domination and marginalisation. The settler-indigene factor comes in where ethnic groups within the state suggest that

the Tiv are settlers in Nassarawa and as such should curb their political ambition. When the administration of Alhaji Abdullahi Adamu appointed two Tiv persons, one as Special Advisor to the state government and the other as Permanent Secretary in the public service of the state, the administration was accused in some quarters of favouring Tivs. The Tiv claim that as early as March 10, 2001 the Tiv Youth Organisation of Nassarawa State addressed a letter to the state government calling its attention to the incessant terror inflicted on the Tivs living in Azara and Awe Chiefdoms, home to the assassinated Alhaji Musa Ibrahim, *Sarkin Azara* (the traditional Prime-Minister of the Azara Chiefdom). Before this, displaced persons from Nassarawa say that on February 4, 2001, Tiv villages around Agyaragu in Obi Local Government Area were raided and 11 persons killed, homes and property burnt and looted. Government's attention was drawn to this but no response was forthcoming or any arrest made.

By March 27, the wildfire of ethnic conflict spread to communities in Kundum, Quanpam LGA of Plateau State and quickly spread into Awe LGA sweeping across Wuse, Akin, Tangwa, and the entire Azara chiefdom. The Tiv insist that in spite of several distress calls, the Nassarawa state government simply stood by and ignored the complaints.

The Nassarawa crisis

The Nassarawa crisis was at its climax in June-July 2001. The crisis started on Tuesday June 12, when unknown persons assassinated the traditional ruler of Azara Chiefdom in Awe LGA, Alhaji Musa Ibrahim, who was also Special Adviser to the government of Nassarawa State. This must have been the killing Dorcas Terfa, a displaced woman from Nassarawa State referred to when she said that rumours reached her community that a "big man from Nassarawa State was killed by Tiv people". Hon. Abdul

Alu Aku, the Obi Local Government Supervisor for Education, points accusing fingers at Tiv youths over this crime. He, however, produces no evidence to back up this claim. Aku says that prior to the incident, relations between the Jukun and Tiv in Tudun Adabu, Nasarawa State had been cordial. He recalls: “The only time that such a thing almost occurred was in 1991 when one of them stabbed one of our young men over an argument and the case was well handled among the elders.”¹⁵⁶

On the June attack on Tudun Adabu, Aku tenders a leaflet entitled “STATEMENT OF ‘TIV YOUTH VANGUARD’ IN REACTION TO THE ON-GOING KILLINGS OF TIVS IN PLATEAU AND NASSARAWA STATES.” The document is neither signed nor dated and contains statements to the following effect:

We know all the ethnic groups that are killing our people in Nassarawa State and in Plateau State. We also know their sponsors and those who brought in foreign mercenaries to kill our people. Specifically to the sponsors, wherever you go we will catch you, your millions of Naira will only provide the weapons to kill but will never protect you.

Aku appears to link this leaflet with the killing of Alhaji Musa Ibrahim that followed its release. Ibrahim was killed with six others on his way from Azara to Lafia, the Nassarawa State capital. The killing sparked the climax of the ethnic violence, which began in the state in December 2000. Aku describes measures taken by the Jukun of Tudun Adabu in the currency of the crisis:

We shared our men into groups to keep vigil on the entire entrances in the town. When one set of people is sleeping, the others stay awake to raise an alarm in case they sight any danger. Before our experience last Tuesday we heard that some people known as Tivs were attacking

156 Hon. Abdul Aku.

people in other villages but we did not expect that we would be victims.¹⁵⁷

Did they report to the Police?

Some of our people who ran to seek refuge with the Police at the station here were shocked when they saw even the policemen running for dear life. The Police merely told us that their weapons were not as sophisticated as those that were with our assailants. What was most surprising is that the people that have been together here with us for a long time are the same people that started attacking us.¹⁵⁸

The dead included the village head of Tudun Adabu, Alhaji Akparan (87). Also a Policeman was killed and four others wounded in Adudu village. Villages like Alosi and Giza both in Keana LGA of the state were also not left out in the mayhem. The death toll in the Nassarawa crisis was estimated in the high hundreds, with about 80,000 displaced to neighbouring states including Taraba, Plateau and Benue States. Eight persons were reportedly lost in the first week of July 2001 and one hundred and nine persons were officially receiving treatment in the Specialist Hospital, Lafia by the end of the first day of the fracas. 140 homes were reportedly torched occasioning further property loss.

The inter-ethnic crisis in Nassarawa led to retaliatory action between the Tiv and other ethnic nationalities in Awe, Keana and Obi LGAs. Raids and sporadic invasions were carried out at Agaza and Owena in Keana LGA and Adudu and Tudun Adabu in Obi LGA.

On 26 June 2001, at midnight I heard wailings and gunshots. I quickly woke my wife and children and using the backdoor we ran into the bush. Unfortunately for us

157 *Ibid.*

158 *Ibid.*

our 3-month old baby who could not stand the harsh weather condition started crying. That attracted the militiamen to us, who inflicted wounds on me using machete. My wife and children escaped because I had to remain with the baby just to stop them from going after my family.¹⁵⁹

Aftermath of the Nassarawa crisis

The resolutions of the joint peace meeting held in Lafia on Friday June 29 2001 sought to provide a framework for the restoration of peace in the affected communities. Among others, the meeting called for the cessation of hostilities, the return of displaced people to their homes and the establishment of joint patrols by the Police commands from both states. The resolution called for the establishment of joint peace and reconciliation committees at the inter-state, local government and district levels. On July 3 2001, the Nassarawa State government set up an inter-state peace and reconciliation committee to monitor the process of reconciliation and settlement of displaced persons. The committee comprises their Royal Highnesses the Emir of Lafia, the Tor Tiv, the Commissioner of Police of Benue and Nassarawa States, the Commissioners of Information, Local Government chairmen, and chairmen of traditional councils of the affected local government areas.

Most respondents voiced that the effect of this committee was merely cosmetic. No investigations of the carnage have been undertaken, nor trials held. No government resources were made available for reconstruction or rehabilitation of the victims. When the federal government finally stepped in, it merely sent troops to restore “law and order” without clearly articulated rules of

159 Mr. Sunday Yoo.

engagement or a community relations strategy. At a point, the Tiv were required, as part of a peace deal brokered by the federal government, to register their land interests with the local government so as to settle the land issue. The Tiv claim discrimination in the process of compliance with this requirement, stating that local government officials were biased against them. The officials comprise mainly the Jukun and other ethnic minorities. The latter reportedly insist that the Tiv claim to mistrust the process because they fear that they cannot prove their claims to the land in question. Despite the various peace initiatives sponsored by the government and civil society, the underlying demographic and political issues remain unresolved because no attempt has been made to address the cycle of impunity enjoyed by those who feel called upon to resort to violence as the only means of recourse under the nose of the Nigerian State.

The Benue Killings

On October 10 2001, soldiers from the 23rd Armoured Brigade, Yola, Adamawa State arrived in the village of Vaase, a settlement along the border between Benue and Taraba States. Vaase had been a flash point in the age-long inter-ethnic crises between the Tiv and Jukun. Many Tiv respondents attribute the deterioration that followed in the few days following this deployment to the influence of retired Lieutenant General Theophilus Danjuma, Nigeria's Defence Minister, a Jukun from Takum in Taraba State. The soldiers were ostensibly deployed by the federal government on a peacekeeping mission. If so, this had neither been communicated to the leadership of the host communities nor the LGA. The Tiv in the area report that there were victims of "certain people coming from Taraba in soldiers' uniform" to fight them. According to Professor Hagher:

The Nigerian Army uniform is no longer sacrosanct. The uniform is the only thing that differentiates a soldier

from a non-soldier. And you have seen how in every crisis in the country we are being told by the combatants that other people come in Army uniforms to kill other people. So, in a way, seeing anybody with a soldier's uniform now is not a guarantee that the person is actually a soldier. He could be your enemy.¹⁶⁰

The 19 soldiers were captured as the enemy in disguise, then driven 50 kilometres away to Zaki Biam where they were handed over to the Police. The captives identified themselves to the Police as men of the Nigerian Army drafted from the 23rd Armoured Brigade on orders to keep the peace. Meanwhile, a massive crowd of over 10,000 persons grew outside the Police station causing the Divisional Police Officer (DPO) to seek the intervention of the traditional head of the Zaki Biam community, Mr Zahan, the Ter Ukum of Iangba Zahan. The Ter Ukum says that he told the DPO to come with him to the Police station. It was on the way back that they saw the mob chasing the soldiers. The Tiv militia captured and detained the soldiers in the community primary school. On the morning of 11 October, the soldiers were brutally killed.

Many in the Zaki Biam community say they were horrified to hear over the national network news that evening that about 16 Nigerian soldiers were missing. This number soon rose to 19 when on October 12, the hacked and mutilated bodies of the men were discovered. The Army was outraged. In Zaki Biam community and environs the fear of a reprisal attack from the military sparked off a chain of exodus from the area. People had begun moving as early as July that year to escape the violence in Taraba and Nassarawa States. It was to end this cycle of violence, which had clearly overwhelmed the Police contingents in the Middle Belt that the Army was deployed. The federal government subsequently claimed that the soldiers who were so brutally killed on October 10 were a deployment of its peacekeeping mission to the affected areas. Haz

160 Interview with Professor Iyorwuese Hagher, a member of Committee for Conflict Resolution, February 2002.

Iwendi, Police Commissioner and Public Relations Officer of the Nigeria Police Force explained the difficulties of the Police in responding to the violence as follows:

It is like guerrilla warfare. The scenario is different. It degenerated into a condition where you do not see anybody at the scene of the crisis. What they do is attack and withdraw. If it was a crisis on one-on-one, we could be there. But now, people are being killed daily by masked youths who set up uncountable roadblocks and are armed with sophisticated weapons. That is why the Army came to clear the obstructions. Police were not able to cope with the situation after it snowballed into guerrilla warfare. Moreover, the Governor of Benue State had to seek permission from the Presidency for the Army to patrol the area before some of them (soldiers) were killed.¹⁶¹

At a National Security Meeting on Monday October 15, the Army sought permission to deal with the matter on its own terms. By Wednesday, October 17, the Defence Headquarters (DHQ) announced the establishment of an intelligence committee to track down the killers of the soldiers. The Army also confirmed the deployment of troop reinforcements to Benue State. The Senate backed the involvement of the Army in tracking down the perpetrators of the murder. Sponsoring a motion on the incident, unanimously adopted and passed by the Senate, Dalhatu Sangari, PDP Senator from Taraba State, said: “This act, if left unpunished has the propensity to create dangerous impression.”

In his statement that fateful week George Akume, Governor of Benue State, attempted an explanation in these words:

The Governor and People of Benue State deeply regret the tragic death of military personnel deployed on lawful

161 Mr. Haz Iwendi, Force Public Relations Officer, Nigeria Police Force.

duties within the borders of Benue State... By our tradition and orientation we are lovers of the Army as an institution. Given the active participation of our sons and daughters in the military and their loyalty to their fatherland, our people cannot deliberately undertake dastardly acts against military personnel. Against this backdrop, the unfortunate incident, which took place in Benue, was a case of mistaken identity.

Dennis Gbeji, the only surviving member of the Zakwor Gbeji family, picks up the narrative from Saturday, October 20:

The soldiers appeared in Gbeji town in a convoy of 4 armoured cars and nine personnel carriers. They told the villagers that they were on a peace mission at the instance of the State Governor, George Akume. The villagers hosted their guests; the town elders prepared foods and bought drinks for the soldiers and even gave them tubers of yam. After the entertainment, the Major who led the team appealed to the Gbeji people to co-operate with his men who will be assigned to the village for peace-keeping operations. Before he left for Zaki Biam, the local government headquarters, he demanded to know when the village's market day was. He promised to be back on the market day, which fell on Monday October 22 for another meeting with the elders of Gbeji and Tse Gube, a neighbouring village. The Major told the elders that a market day was ideal for the meeting as most of the villagers would be present when he would address them.¹⁶²

On Monday, October 22, at the National Cemetery in Abuja, the Federal Capital Territory, a state funeral for the 19 soldiers killed around Vaase took place. At the state funeral, the President

162 Dennis Gbeji a victim of the Benue crisis.

energetically and properly condemned the killing of the 19 soldiers and demands answers. President Obasanjo also “directed security agencies to track down and bring perpetrators of the act to book to make sure that it does not repeat itself.” As wreaths were laid at Abuja that day, the military machine set in motion in Benue.

The soldiers returned for the “meeting” at Gbeji village in Ukum Local Government Area, Benue State, with three armoured cars and seven personnel carriers. The soldiers were identified as men of the 23rd Armoured Brigade of the 3rd Armoured Division, Nigerian Army. According to the villagers, one armoured tank and two personnel vehicles had already been stationed along Afia Road, a point of exit from Gbeji village. The people of Gbeji were then asked to assemble at the market square for the “peace meeting” scheduled for that day. The market square was already full since it was the official market day. The village elders, men, women and children converged to hear the soldiers. Then the Army Major commanding the deployment asked all women and children to leave the venue, as the discussion was for men alone. On the pretext of going to call his Commanding Officer to address the crowd the Major is said to have gone to the borders of the village where he ordered that all commercial motorcycle operators stationed in the vicinity be shot. The killing had begun.

Violations of the Right to life and other civil and political rights

At the sound of the bullets, villagers at the square were asked to lie face down on the ground. Soldiers opened fire on the crowd indiscriminately, poured petrol on the victims then set them ablaze. Some women and children fleeing into the bush in panic were reportedly shot. Homes and farms in Gbeji village were levelled, destroyed as the soldiers moved on. The soldiers killed as they advanced to the villages of Vaase, Ayiine, Ugba, Sankera, Kyado and Zaki Biam. In the following two days there was widespread killing,

maiming, and destruction of property and buildings in these villages, even after terrified residents had abandoned their homes and fled into the surrounding foliage. In Gbeji village alone, over 200 people were killed. The avenging soldiers sacked nearly all villages and settlements in Ukum, Katsina-Ala and Logo LGAs.

At Katsina-Ala, the country home of former Chief of Army Staff, General Victor Malu (Rtd.), lay in ruins among dozens of mud huts destroyed in the military campaign on Tse-Adoor Village. Three of the General's relatives - Pa David Pev Adoor (family head), and his wives Rebecca Doom Pev Adoor and Kutser Pev Adoor - were extrajudicially executed. There is no suggestion that they could have participated in the killings of the 19 soldiers. Tse Adoor village is located more than 60 kilometres from the Benue-Taraba border where the invasion began. As reported by one respondent:

The soldiers came into Katsina-Ala. So while they were in Katsina-Ala, they were so brutal, so aggressive and unnecessarily annoyed as to be beating everyone, even the displaced people. Somewhere like this in Katsina-Ala you will see them take off somebody's own clothes. He will be naked and he will be compelled to lie down on the road in this hot sun. They molested a lot of people, beat a lot of people and at the end they shot their guns into the air. A lot of people got themselves wounded...¹⁶³

Testimony

"On getting to the market square, the meeting venue, I was shown a seat by a sergeant among the soldiers to sit. I obliged and sat near the market overseer who is already dead. When they saw that many people had gathered, they signalled their commander who gave order to fire. I was not

163 Jacob Akosun, a member of Tse-Adoor community.

*shot but fell on the ground and those who were shot fell on me and there was blood all over me but I was conscious and was watching all that was going on. The Commander then ordered for the sprayer which was used to spray petrol over the heap of the shot people and then set ablaze. There was fire all over me but I was not hit by a bullet. I could not move. I had to choose between the fire and gun shots...*¹⁶⁴

*"I was in the farm when I heard gunshots. I quickly strapped my baby to my back and started running home because my other children were at home. On my way home, some soldiers accosted me and demanded for money, I had no money on me so I offered taking them home where I could raise money. The soldiers followed me but on our way, we met another set of soldiers who insisted on having my both hands chopped off instead of wasting their time going home with me..."*¹⁶⁵

*"I was stopped at Katsina-Ala by the soldiers, I showed them my I.D card. One Major Effiong ordered that my car should be broken. I came out. They dragged me into their truck. They were smashing me with their guns, boots and belts...I reminded them of Kyado which was burnt. I told them my mind. Then the soldiers said they were sent on contract to burn Jottar, Ayiin, Kyado, Zaki Biam and Vaase. They let me go after maltreating me. They pulled my cassock off. They did not wear their nametags but I have the number on the guns. One was 072/A/B31, and the other was 72/A/355".*¹⁶⁶

164 Testimony of Albert Abega Grandeur 35, a primary school teacher with 9 children who was present at the meeting with the soldiers.

165 Testimony of Mrs. Elizabeth Isaac, mother of 8 children in the killings.

166 Reverend Father Richard Iyaghijba.

One of our respondents who only gave his name as Albert survived with severe burns on his face, hands and toes. Permanently disabled, this former teacher can no longer cater for his family of nine, having lost his home and all his belongings to the killings. He narrates: “I came back from Afia and saw the Army with people at the motor park in the market square. I rushed there because my father was also there. Then I heard gunshots from the Commander and that was all I recollect. A bullet hit my head”.¹⁶⁷ The October killing in Tiv villages sparked off students’ protests in Makurdi town. The protests turned violent and six persons were killed and dozens injured.

Internal displacement and violations of economic, social and cultural rights

In addition to lives, livelihoods were also destroyed. Zaki Biam lay in ruins after the invasion. In addition to torched and deserted homes, Dan Anyacha, reputedly Nigeria’s largest yam market, was also completely destroyed. The stalls remained closed to business when we visited six months later. A respondent described what happened at the market:

On Tuesday, about 11a.m., soldiers invaded the market, shooting people and burning houses. On Wednesday, many were killed here. Inside the main market too, they burnt many houses. All the houses burnt here was (*sic*) on Wednesday. Even the soldiers who were here to protect us joined them in killing and maiming us. More than 100 people were killed here. They packed our yams and went away with it (*sic*).¹⁶⁸

167 Aondongu Msugh 22, operates a commercial motorcycle business in Gbeji.

168 Ayeg, a yam seller.

Mr. Agye, a former lecturer in the Benue State University, claims:

They (soldiers) burnt volumes of books worth 5 million Naira. Nobody was killed in my house. The people who came to my house are armed robbers who came in Army uniform. They destroyed the local government area secretariat at Sankeera and the two local government guesthouses. What has that got to do with the rivalry between the Jukun and the Tivs?¹⁶⁹

Displaced persons are one of the saddest legacies of inter-ethnic conflict between the Tiv and Jukun and the recent military campaign in the Benue. As at August 2001 the Tiv-Hausa violence in Nassarawa State had bred over 100,000 displaced persons scattered across camps in Benue State. The numbers apparently overwhelm the National Commission for Refugees. It is impossible to assemble credible statistics on displaced persons fleeing the Benue/Taraba violence and the Army reprisals. The entire population of displaced persons is spread across camps in Benue State, including Agasha, Daudu, Yelwata, Ukpian, Udei, Torkura, Kyato, Jootar, Chito and Kaseyo camps.

Summarily, the ICRC registered a total of 3,035 families (17,000 people) in the four main towns of Jalingo, Mutum Biu, Wukari and Bali in Taraba State alone. The Benue State government reportedly registered another 10,000 and facilitated the evacuation of another 1,700 families from Gboko to Makurdi, the two biggest towns in Benue State. At Daodu camp, researchers were informed that the camps had registered 4,027 internally displaced persons. Deaths in the camps as a result of the poor conditions in which the IDPs were living as well as voluntary departures, and the departure of orphaned children or some others who departed to join their relatives reduced the occupancy of the camps to 2,623. The death rate in the camps was reportedly high as a result of poor hygienic conditions and lack of health care facilities and personnel.

169 Za-Ayem Agye, a former lecturer in Benue State University.

The authors visited Agasha camp, located in a primary school about 45-minutes from Makurdi the Benue State Capital. The misery is unspeakable. Most of the displaced persons in Agasha are originally from the Ibi L.G.A, Wukari, Dooshima, Donga, Gasau and parts of Nassarawa State. The conditions on the camp are unsanitary owing mainly to the dense population. There have been outbreaks of cholera. Medical supplies are lacking, critical for about a dozen women including one Dorcas Terfa (displaced from Jangwa, Nassarawa State) who gave birth in the camp. Dorcas, like most women in the camp, lost her husband and male relatives in the killings. Having been displaced from their farms, these women cannot earn a livelihood. The Benue State Government, charitable individuals and organisations (particularly the churches and the Red Cross) provide food. For the teeming population of the displaced, this amounts to one meal a day. Resettlement efforts are non-existent, with the consequence that children are increasingly released to outsiders on adoption or to serve as domestic servants.

Most of the displaced persons trekked to the camps through the bush. They had to find refuge in the absence of immediate post-conflict assistance. Most victims have never heard of the National Emergency Relief Agency. Mbawan Shizun did the trek from Dooshima. Suwa Vurun walked from Gassol in Taraba with her family of 10. Suwa's husband died escaping the Killing because they had no aid to lift him. He was old. Persons she identifies as Jukun attackers burned the family house immediately after they set off. After 3 weeks in the bush she reached Agasha with surviving members of her family. The displaced persons were unanimous in their insistence that government should intervene to make peace between the Tiv, their Jukun neighbours and the Army. Confidence in the Army as guarantor of security is almost non-existent among the displaced persons. Many claim that "the Army and the Jukun" were waging war against them. The trek to the camps is said to have been characterised by checkpoints where the Army and Police systematically extorted money from the displaced persons: 10 Naira here, 20 Naira there, small sums that mean the world to the dispossessed.

In addition to internal displacement, the killings and associated violence threaten livelihoods in and beyond the Middle Belt. Most of the persons who remain in the ravaged communities plead for security and humanitarian assistance in the wake of continued, yet under-reported, violence and the food shortage occasioned by the farms and infrastructure destroyed in the violence. Trade in yams and other foodstuff has been disrupted by the tension in the Middle Belt, a tension that threatens the food security nation-wide. Cattle dealers from Borno, Gombe and Adamawa States have abandoned the Zaki Biam/Katsina-Ala trade routes to eastern Nigeria. The National Secretary of the National Association of Amalgamated Cattle Dealers, Alhaji Iliyasu Bulama states that 35 cattle traders had been killed and 15 trailer loads of cattle seized at different times by the two warring factions in the Tiv-Jukun crises.

Gender-specific violations

The violation of the right to dignity of human person has remained one of the most engaging pastimes of the military in Nigeria. At Gbeji, soldiers added another inglorious feather to their cap by recording what are perhaps the worst incidents of rape in recent Nigeria history. Women were direct victims of the extra-judicial executions in Benue. Many of them also lost entire families, including their spouses and children. There were also other forms of gender-specific violations. An eyewitness account has it that a pregnant woman was disembowelled and her foetus carved out in the bush where they were hiding between Gbeji and Agasha on their way to the camp. The following report is a sad tale of Nigerian women being turned into spoils of war waged by government against its own people.

My sister was raped by seven soldiers in my presence. We were travelling on a motorcycle when they stopped us and told me to go aside. They took her to a building near a

roadblock. My sister cannot walk freely on our streets again because the news spread all over the town....¹⁷⁰

Serina Achi, 50, lost 5 members of her family (three brothers-in-law, a son and a daughter) to the Tiv-Jukun violence in Wukari, Taraba State. The incident took place in September 2001 when she was in the farm. She saw her house burning from a distance and ran into the bush for safety. She says she does not know the cause of the violence, adding that the Tiv and Jukun had been living peacefully prior to the incident. The perpetrators: “soldiers and Jukun”. News reached her that all the yam and guinea corn in her farm had been uprooted and destroyed. She says she feels helpless in the circumstances given that violence persists in the area. She cannot return. Emissaries sent to survey have not returned and she does not know what government is doing about the situation.

Violations affecting children and the aged

Many children were shot and extra-judicially executed. 12-year-old Luke who survived with bullet wounds tells his own experience as follows:

My mother had my kid brother who is 7 months old strapped to her back. They removed the child from her before killing my mother. My 25-year-old brother was killed and burnt in my presence. That same day, my 90 year-old uncle was shot dead in his house.

The primary schools in the affected areas were converted into emergency camps for the IDPs. To achieve this, the pupils were made to evacuate the classrooms, and thus denied their right to education.

170 Account of Gwanga Ooyor, a 17-year-old boy. Interviewed in February 2002.

Absence of redress and accountability

People of the invaded communities and civil society groups consider the federal government's response too slow and too weak in comparison to the atrocity of the military campaign. An outraged Tiv community alleged genocide. The Igbo, Hausa-Fulani and other ethnic groups living in close quarters with the Tiv also lost lives and property to the invasion. Most victims of the invasion were Tivs, who accused President Obasanjo of collaborating with his long time friend and Minister of Defence, Major General Theophilus Danjuma, a Jukun, to use the Army to wipe away the Tivs. In the absence of a credible and independent investigation of the killings and the events surrounding them, it is impossible to support or discredit the allegations against the Defence Minister.

The Tiv requested an independent judicial commission of inquiry to look into the killings and associated violence, including compensation and reconstruction for the affected communities. Rather than condemn the action of the soldiers, President Obasanjo was quoted as saying in a conversation with journalists on the "Presidential media chat" on television and reported in the press:

Whatever else soldiers are taught to be or not to be they are taught to fight in self-defence. I don't know what you mean by any action against those who carried out the destruction. Military men have their orders, what they do and should not do: if the soldiers are injected into operations and things go wrong, you blame them for nothing. That is not their training....¹⁷¹

171 "Kill soldiers, invite disaster, say Obasanjo" *ThisDay*, October 28, 2001; "President Obasanjo explains role of military in clash hit states" *The Guardian*, October 29, 2001.

The Chief of Army staff also told a news conference:

The troops will fight back in self-defence. We cannot allow the soldiers to fall again. When you send troops out, you give them instructions on what to do. Even if it fails, if nineteen soldiers are killed and we keep quiet, a whole battalion can be wiped out. We have to make it clear. You can't kill people who work for government. You must not make the mistake of attacking them.¹⁷²

The federal government was quick to set up a judicial commission to look into the inter-communal crises between the Tiv and Jukun communities. The Commission has the following terms of reference, *inter alia*:

- Examine the immediate and remote causes of the crises between the communities within and across the affected states;
- Identify basic issues and the causes of the prolonged tension and conflicts between the communities and advice on strategies for lasting peace;
- Identify groups and individuals that might have contributed to the prolonged crises and recommend appropriate sanctions where necessary;
- Examine the roles of states and local governments in the management of the crisis and the facilitation of prolonged peace and recommend appropriate measures to be taken by government (federal, state and local) to forestall future occurrence of the disturbances.

The terms of reference of the Commission have been widely and rightly criticised on the grounds that they preclude an inquiry into the conduct of the armed forces in the Benue Killings. The federal

172 "Thousands hide in bush after Nigerian Army killings" Reuters, October 25, 2001; Army refutes report of reprisal killings in Benue, *The Guardian* October 31, 2001.

government also failed to condemn the Army's action in Benue. President Obasanjo set up the panel after meeting with leaders from Benue and three other states of the Middle Belt. The Commission is to collect testimony from the public and submit a report, suggesting possible solutions, in three months. The Senate has instituted an ad-hoc Committee on Riots, Crises and Conflict headed by Dr. Chuba Okadigbo, former President of the Senate. Victims and survivors of the Middle Belt crisis have been urging the use of public hearings in the commission's fact-finding but this has yet to be granted.

Since the crisis heightened about a ten years ago, the Federal Government has made efforts through its National Boundary Commission to deal with the boundary issue by delineating, demarcating and surveying disputed areas between the Benue and Taraba borders. Pursuant to this, the states have held several Joint Consultative meetings, often with a federal officer in attendance. At a Joint Consultative meeting held in Jalingo in July 2001, Taraba State maintained that it would stand by the colonial boundary definition of 1923, which leaves a large population of Tiv in Taraba where they fear social and political ostracism. The boundary settings made and remade during the colonial era remain difficult to determine or justify, leaving full integration of all ethnic groups in their place of abode as perhaps the only realistic, peaceable alternative. Observers recommend adequate policing of the disputed territories as a way of preventing boundaries from becoming occasion for the escalation of conflict.

Post-script

Peace efforts supported by the Arewa Consultative Forum (ACF) and the Conference of Northern Emirs led to the January 2002 agreement between the Tor Tiv, Alfred Torkula, and the *Aka Uka* of Wukari to cease ethnic hostilities. The parties, supported by delegates from Benue and Taraba States, agreed to communicate

peace and reconciliation to their various people. However, the communiqué did not state objectives beyond the immediate cessation of hostilities. It does not address issues of integration, displaced persons or compensation. A further meeting involving political and traditional authorities in both states was proposed in order to address these concerns. Till then, they remain outstanding and a ready excuse for renewed fighting.

In conclusion, it is not far fetched to say that the violence in the Middle Belt had now taken a new dimension. Allegations of importation of sophisticated arms, use of mercenaries and collusion of the military and security agencies are freely traded with varying degrees of credibility. If these worry the government, it is not showing it. The Benue Killings was, however, a clear case in which government whose responsibility it is to keep the peace became an outlaw. As a result, government became in the Middle Belt sorely delegitimised as mediator in crises and guarantor of the safety and security of its citizens. This is becoming a nationwide trend.

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**THE VIOLENCE
IN ODUKPANI LGA
OF CROSS RIVER STATE**

BY

OBO EFFANGA JR.

Introduction

To most Nigerians, the expression, “Calabar” is synonymous with everybody from Cross River and Akwa Ibom States, or at least, the southern Cross River State and the whole of Akwa Ibom State. To such people also, the difference between Efik and Ibibio (two major ethnic groups found in these states) is akin to the proverbial six and half dozen. These reasons make the inter-ethnic violence that recently erupted in the area difficult to comprehend. This chapter briefly documents the circumstances that gave rise to ethnic violence in Odukpani Local Government Area (LGA) of Cross River State as well as the attendant impunity, governmental inaction and failures that engendered those human rights violations.

Context and background to the crisis

Prior to 23 September 1987, Cross River State comprised the present Cross River and Akwa Ibom States of Nigeria. The two states are part of what is known as the South-South geo-political zone or the Niger-Delta area of Nigeria. From its creation in May 1967, the state was known as South Eastern State until 1976 when the name was changed to Cross River State. On the creation of Akwa Ibom State on September 23, 1987 the federal government, under then military “president” Ibrahim Babangida, announced the distribution of LGAs between both states. Itu and Odukpani became the border LGAs in Akwa Ibom and Cross River States respectively.

Before this time, both Itu and Odukpani had passed through different phases of local administrations and boundary adjustments. For instance, prior to the creation of South Eastern State in 1967, the entire area of the crisis together with the rest of present Cross River South Senatorial District¹⁷³ and the present

173 Each state in Nigeria has three senatorial districts with a senator representing each district.

Akwa Ibom State made up the Calabar Province. After the state creation exercise in 1967, the areas fell under Uyo and Calabar Divisions. After the change of name to Cross River State in 1976, Itu emerged from Uyo and Odukpani emerged from Calabar Divisions. The divisions later became known as LGAs.

That the boundary issues did not boil over then may have been due to the fact that the communities all belonged to the same state and Efik and Ibibio languages or dialects spoken in the boundary area are understood by all. In addition, most people were still basking in the euphoria of “their own state” carved from the former Eastern Region. Also, the fact that the Efik ethnic settlements were on both sides of the Cross River (the river from which the state derived its name) and were sandwiched, west of the river by the Ibibio ethnic group made it difficult to rely upon or insist on any artificial political boundary. After all, there were historically and cross-cultural ties and interactions between both groups.

However, on the creation of Akwa Ibom State, it seemed the basis for the relationship was broken. The age-long animosity between both ethnic groups suddenly de-hibernated. The pioneer Vice-Chancellor of the University of Calabar, Professor Ayandele, had once referred to the old Cross River State as “an atomistic society perpetually at war with itself.” This observation was now to play itself out when the “atomistic” society itself became divided into two.

The creation of the new state was greeted with considerable passion and sentiments on both sides. Each group claimed to have been liberated from the other. Suddenly, the new Cross Riverians wanted the Akwa Ibom people to return to their state while the latter believed their past contributions to Cross River State should not and could not go unacknowledged and uncompensated. The assets of the old state were shared in the ratio of 55 percent to 45 percent in favour of Akwa Ibom State. This sharing formula took into account the population of the state respectively as well as the personnel of the two states in the public service of the extinct state, among other factors.

Another effect of state creation was that while many vacancies emerged in government offices in Cross River State, their Akwa Ibom counterparts had a problem of placements due to their numbers and the limited positions available in their state. The result? Some Akwa Ibom indigenes claimed to be indigenous to Cross River State to either retain their jobs in the latter state or apply for newly advertised jobs. Given its proximity to Akwa Ibom State, Odukpani was naturally the easiest area to lay claim to in such a situation.

Ethnic Composition/Identity

The Ibibios constitute the predominant ethnic group in Itu LGA, a predominance they enjoy in Akwa Ibom State as a whole. Odukpani LGA is predominated by the Efiks and other groups such as Qua/Ejagham, Kiong and other ethnic groups who are also found in other LGAs in Cross River State. Sandwiched among the Ibibios of Itu LGA is Ikot Offiong (a.k.a. Ikorofiong), a community of Efik ethnic group. The Ikorofiong occupy both sides of the Cross River, southerly of the Itu Bridge. They and other Efik settlements in that area make up Mbiabo, one of the seven Efik royal branches. As proof of their ethnic origin, the traditional heads of Ikorofiong sit on the Etubom's Traditional Council in the palace of the Obong of Calabar and grand patriarch of the Efiks. Although found in Akwa-Ibom State, the Ikorofiong are heirs to the Efik throne which is based in Calabar, Cross-River State. Given that they are a minority in Akwa-Ibom and the fact that the majority of their kin are in Cross River State, members of the Ikorofiong community may sometimes not be reckoned as belonging to Akwa Ibom while some indeed claim Cross River State, to which they do not belong, a classical problem of cross-border ethnic groups in Nigeria. Their problem is akin to that of the Tivs in the North Central area of the country, even though on a smaller scale. This again lends credence to the fact that:

....political boundaries, be they state or local governments were artificially and arbitrarily created for political and administrative reasons. But in reality, a member of any ethnic nationality is better off in the place where majority of his/her kin are found. Little wonder then why some of them, as a natural survival instinct, would lay claim to such geo-political divisions where the majority of their people belong. Often too, their kin in those locations deny them full rights because they are from other locations.¹⁷⁴

Many have wondered the reason for such intense fighting and what appears to be long-standing antipathy between the Efiks and the Ibibios. Here again, there is the recurring tale of the indigene-settler dichotomy found in most parts of Nigeria. Historically, the Efiks claim to have migrated from Palestine. They trace their migratory route through several locations including Arochukwu (in present Abia State) and Uruan (in Ibibioland in present Akwa Ibom State) before finally settling in their present location.¹⁷⁵ The Ibibios on the other hand claim to have inhabited their present location for a long period of time such that the date of their first settlement cannot be determined. It is important to note that the reason for the migration of the Efiks from Uruan was a misunderstanding with their Ibibio hosts. This incident of settlement in Uruan has led some to claim that the Efiks are offshoots of Ibibio.¹⁷⁶ The Efiks vehemently resist this claim.¹⁷⁷ According to literature put out by the Uruan Community:

In the 13th century, the Iboku people of the Eburutu tribe came to Uruan and they were hosted by Uruan in their (Uruan) villages for over two centuries. During the

174 Obo Effanga Jr., "The Dilemma of Cross-Border Ethnic Nationalities", *Law Enforcement Review*, December 2001.

175 E. U. Aye, *The Efik People* (Calabar, APELLAC 2000); Hope Waddell, *Twenty-nine years*, London, 1863, p. 309; Hugh Goldie, *Dictionary of Efik Language*, Edinburgh, 1874 p. 356.

176 Consul Hutchinson *Impressions of Western Africa*, London 1858, p. 167.

177 Aye, *supra*.

period, inter-marriages, cultural borrowings and trading business took place between Uruan and the Iboku...Later, however, there were social misunderstandings between Uruan Inyang Atakpor and the Iboku people of the Eburutu tribe who were nicknamed “Efik”. The problem resulted in the Uruan-Efik conflict which, of course, was not a war.¹⁷⁸

The Efiks had the privilege of early contacts with the European merchants and church missionaries before their neighbours. This placed them in an advantageous position to imbibe western taste, culture and education before such neighbours. They are thus perceived as treating others around with disdain. The Efiks were said to consider their culture superior to others and were generally perceived to have carried on with airs. This is despite their small population in relation to that of their immediate neighbours. Many saw the state creation as an opportunity to bring the perceived Efik hegemony to an end.

Administrative boundary problem

As stated earlier, the LGAs in the old Cross River State were shared such that Itu and Odukpani belonged to Akwa Ibom and Cross River States respectively. As straightforward as the apportionment seemed, a controversy soon arose as to where the exact line of demarcation was. On the one hand, the border was alleged to be the Cross River as a natural feature separating both LGAs and by extension, states. On the other hand, some in Akwa Ibom State asserted that the border lay at a point further eastward of Cross River, at Okpokong River, which is about five kilometres away. They claimed that the purported inclusion of some communities in the disputed areas in Odukpani LGA was a nullity

178 *Souvenir Programme of the Coronation of HRH Edidem Atakpor Okon Udo Ekpe, Nsom of Uruan*, Saturday October 13, 1993, p. 12.

as the Cross River State Variation Order #2 or the Local Government Creation Law #5 of 1983 had been repealed by Decree #1 of 1984. It must be clearly stated that given either of the two arguments as to the boundary of the two states, Ikot Offiong would still be in Akwa Ibom State.

Root causes of the violence

The present crisis is a fall-out of an internal crisis in Itu LGA of Akwa Ibom State. But even that earlier crisis pre-dates the present polity called Nigeria and has a lot to do with a crisis of ethnic identity between the Ibibios and the Efiks. According to an elderly respondent from Ikorofiong, the disputes between Oku Iboku (Ibibio) and Ikorofiong (Efik) predate the entity called Nigeria. He traces it to 1892 “on the return of Etubom Asuquo Ekanem from overseas.” It recurred in 1901 “over the issue of destruction of land by cows”. Another dispute was settled by a Presbyterian missionary, Dr. Cruickshank around 1908. He said the 1908 dispute led to a suit in court, which the Ikorofiong community won in 1913 just as they won yet another suit in 1921 on the ownership of two islands in the area. The respondent claimed that Ikorofiong has won a total of 12 court cases against their neighbours, the most recent one being about 1999. However, the immediate causes, as gathered in this research, include the following:

Natural resources: Many of our respondents expressed the belief that the disputed area between the two states has petroleum deposits, although this could not be ascertained. Also, the now moribund Nigerian Newsprint Manufacturing Company, NNMC, in Oku Iboku relied heavily on its major raw material (gmelina trees) from east of the Cross River. The Ikot Offiong community allege that their opponents have since planted gmelina trees on the land from which they were sacked for the purpose of providing raw materials to the NNMC when it is reactivated.¹⁷⁹

179 “Renewed border clash claims lives in A’Ibom”, *Vanguard*, December 8, 2000, p. 6.

Non-definitive boundary demarcation: The failure of the federal government to decide with finality, the boundary between Akwa-Ibom and Cross-River States since 1987 has negatively impacted on life in the area. As far back as 1988, the federal government had already set up a panel to decide on the boundary¹⁸⁰ yet the outcome is still unpublished.

Ikot Offiong's cross-border ties with the Calabar Stool: It is claimed that the Ikot Offiong have refused to accept the reality that by virtue of state creation, they belong to Akwa Ibom State and not Cross River State even though majority of their Efik kin are from Cross River State. Some of our respondents claimed that the Ikoroffiong community were thereby fomenting trouble.

Soon after the creation of Akwa Ibom State, some citizens of that state erected a "Welcome to Akwa Ibom State" sign at a point beside Okpokong River.¹⁸¹ This sparked off violent reactions then. Eventually, the concrete sign was blown down overnight with what was suspected to be dynamite by people of Cross River State. Tensions kept rising, boiling over and cooling down on a regular basis.

As if the problem in Itu/Odukpani was not bad enough for both states, another dispute arose at another location called the Bakassi Peninsula between both states sometime in the 1990s. The federal military government of Sani Abacha decided in favour of Cross River State by constituting the disputed area into a local government area in that state. The angst following that action spilled into the present civilian era with a call by Akwa Ibom for a reversal. This, however, seems a fait accompli since such provision has been enshrined in a schedule of the Constitution.¹⁸² It can only come by way of a constitutional amendment. The entire scenario above meant that it was just a matter of time before the bottled up emotions would explode. And explode they did.

180 "Border towns warned against disputes", *The Punch*, November 10, 1988, p. 1.

181 "Federal government urged to settle border crisis", *Nigerian Chronicle*, September 5 1989, p. 11.

182 First Schedule-Section 3, *Constitution of the Federal Republic of Nigeria*.

The crisis

The Itu LGA incident

Sometime in early 2000, according to some respondents and newspaper reports,¹⁸³ some unknown persons suspected to have been deployed from Oku Iboku attacked Ikot Offiong, razed property and sacked the community. Unconfirmed reports say scores of people were killed in that incident. An ancient Presbyterian Church in Ikot Offiong that became a refuge for fleeing residents was equally razed. Ikot Offiong inhabitants became internally displaced and ran across the Cross River to their Efik kin in Cross River State. That attack was in response to a decision of an Akwa Ibom High Court, which ruled in favour of Ikot Offiong in a land dispute with their Oku Iboku neighbours.

The crisis in Odukpani LGA

Following the crisis in Itu LGA and the influx of displaced people into Odukpani LGA, the Cross River State government kept promising the displaced people of its willingness to provide a proper settlement for them, with the assistance of the federal government, but this has yet to arrive or be received.

On December 18-19 2001, armed militia entered Usung Esuk in Odukpani LGA of Cross River State and attacked the village and their harboured visitors, Ikot Offiong. Lives and property were destroyed and many rendered homeless. A Calabar-based news correspondent with one national newspaper said he was a witness to some of the scenes during that clash. On 18 December, he travelled to Aba, in neighbouring Abia State. On his return that evening (about 16:00 hours), the Police Mobile Force (MOPOL) stopped him and other travellers at Itu Bridge and informed them that

183 "Renewed border clash claims lives in A'Ibom", *Vanguard*, December 8 2000, p. 6.

there was a fight in Odukpani. They waited until the fighters started returning toward Itu with TVs, radios, fans, motorbikes and household items which he believed to have been looted. According to the journalist, a MOPOL officer even collected a bottle of drink from one of the returning fighters but no arrest was made. He adds however that these fighters carried dangerous weapons. He said after this, they (the travellers) were escorted by the MOPOL to continue with the journey. The Police led with an APC (armoured personnel carrier), followed by about 65 vehicles in the convoy. Getting to the scene of the clash, they were attacked by persons alleged to have come from the Usung Esuk community, forcing them to retreat to Itu where they spent the night.¹⁸⁴

Violations of right to life and other civil and political rights

The most recent ethnic violence may be traced back to sometime in early 2000. According to some respondents and newspaper reports,¹⁸⁵ some unknown persons suspected to have been deployed from Oku Iboku attacked Ikot Offiong, razed property and sacked the community. Unconfirmed reports say scores of people were killed in that incident. Ikot Offiong took temporary settlement Usung Esuk, Odukpani LGA of Cross River State. On 5 December 2000, Ikot Offiong community was again attacked in their place of temporary resettlement.

By December 2001, information had filtered to the Usung Esuk community that Oku Iboku was planning to attack their village since they were harbouring the Ikot Offions. On December 18-19, 2001, Usung Esuk village was actually attacked.¹⁸⁶ There are no confirmed figures of extra-judicial executions during the crises although several persons are known to have died in them. Apart

184 Testimony of a respondent to research interview on January 29, 2002 in Calabar.

185 "Renewed border clash claims lives in A'Ibom", *Vanguard*, December 8, 2000, p. 6.

186 "Akwa Ibom, Cross River in cross border war", *Vanguard*, December 21, 2001, p. 43.

from a woman in labour said to have died from gun shot wounds during the December 2001 incident, the number of persons killed in the various skirmishes could not be verifiably ascertained. Worthy of note is the fact that sometime ago, the Vice Chairman of Itu LGA, Bassey Edet Ekanem from Ikot Offiong went missing and has yet to be found. Given the circumstances of his disappearance two years ago, the logical conclusion is that he was killed.

Testimony

“They fired sporadic shots to scare people. Our women and children ran off. Some of our boys were shot, a woman under labour died from gun shot wounds, they razed down houses and looted property. They came in several vehicles including a jeep...The vehicle carried arms and was used in carting looted items and personal effects.”¹⁸⁷

“On getting to Usung Esuk, we met a road block. The fighters from Cross River State stopped us. Mine was vehicle #3 behind the MOPOL vehicle. We tried to pass through and witnessed people coming from the bushes who attacked us by shooting. Stampede ensued. We rushed out before our vehicles were burnt. I cannot say whether they were burnt deliberately or due to heavy shooting. We went back to Itu.”¹⁸⁸

187 Testimony of a respondent to research interview on January 29, 2002 in Usung Esuk.

188 Testimony of a respondent to research interview on January 29, 2002 in Calabar.

Internal displacement and other violations of economic, social and cultural rights

The entire Ikot Offiong community has been displaced twice: first from their ancestral home in Itu LGA in Akwa Ibom State and next in Usung Esuk, in Odukpani LGA of Cross River State where they had gone for refuge. For Ikot Offiong, the entire village was destroyed and has been rendered uninhabitable with the alleged planting of gmelina in the area. It would perhaps require extra efforts to resettle them on the same spot as many of them insist on going back to their ancestral home in Akwa Ibom State. With the local government and presidential elections due soon, the Ikot Offiong community and its members individually, still being displaced are unlikely to exercise their rights to vote or be voted for.

Today the internally displaced persons from Ikot Offiong are harboured in an abandoned housing estate in Ikot Ekpo, Calabar Municipal LGA, a property that the new owners the Nigerian Export Processing Zones Authority (NEPZA) are threatening to take possession of soon. This serial displacement has precluded the Ikot Offiong community from carrying out their traditional fishing and farming. Their children are also no longer able to continue their education. In Usung Esuk and the neighbouring communities, about 42 houses were burnt. The crisis also adversely affected the security of the travelling public in the neighbourhood. It is reported that several vehicles belonging to innocent members of the travelling public were destroyed during the 2001 crisis.

In Usung Esuk, many houses were destroyed and property looted. Some can still be repaired while others may require rebuilding. Some of the property owners have since returned to the village to begin rehabilitating their lives and property. Several buildings were destroyed in the attack, including those of Chief Nya Ita Nya, a retired Major, Etinyin Itam Bassey Effiong, the late former paramount ruler of Odukpani LGA, Bishop Ekpo Essien of Temple of God Church in Calabar and the family house of Okokon

Ukpanyang, the news correspondent of Federal Radio Corporation of Nigeria in the state. This research confirmed that many well to do indigenes of Usung Esuk, and indeed most of the communities in Odukpani only have their country or family homes in the areas but live and carry out their businesses in Calabar.

Gender-specific violence

The violence in Odukpani was indiscriminate along gender lines. The serial displacement of the affected communities has adversely affected maternal health care among the women in the communities. One credibly attested victim of extra-judicial execution in the crisis of 2001 was a pregnant woman who died from gun shot wounds.

Violations against children and the aged

As a result of the serial displacement of the Ikot Offiong community, the children of the community are no longer able to undertake or enjoy their right to education. Healthcare and nutrition in their places of displacement are also reportedly poor. These have adverse consequences on the development of both the children and their communities.

Absence of redress and accountability

By December 2001, when information filtered to the residents of Usung Esuk about a planned attack of their village since they were harbouring the Ikot Offiongs, they informed the Divisional Police Officer, DPO, Odukpani; the State Security Adviser, SSA, to the state governor and the commanding officer of the Nigerian Army formation in Calabar. The state authorities failed to act on this

information. On December 18-19, 2001, Usung Esuk village was actually attacked. Among the weapons used in the crisis the community recovered 7.62mm calibre bullets, which are widely known to be military specification ammunition. The attackers during the crisis allegedly passed through the Calabar-Itu Federal Highway including a tollgate at Itu and three checkpoints mounted by the Police Mobile Force, MOPOL. Questions have been raised as to how they passed those points without resistance and what the Police did to restrain them. This has fuelled suspicions that the Police were biased and led some to allege complicity by the Police, raising suspicions about the impartiality of the force.

In the series of crises in this area since 1987, the federal government has not in any way investigated the crises or their human consequences. The state government has provided occasional relief to the affected communities but has also taken no steps to ensure accountability for the violations reported. The closest interest shown by the federal government was the Senate Committee on Riots, Crisis and Violence headed by Chuba Okadigbo which recently visited the area. The Committee is yet to publish its findings.

The failure of the federal government to decide with finality the boundary between both states since 1987 has negatively impacted on life in the area. As far back as 1988, the federal government set up a panel to decide on the boundary¹⁸⁹ whose conclusions remained unpublished.¹⁹⁰

Some victims of the incident believe that the Akwa Ibom State government had a hand in the attack. They allege that the Akwa Ibom deputy governor visited Oku Iboku hours before the attack in Odukpani and that the attackers were not only Ibibios, but also that

189 "Border towns warned against disputes", *The Punch*, November 10, 1988, p. 1.

190 An 85-year old respondent, Chief Ekanem Ekanem Ita Young said that between 11-13 November 1998, they attended a forum with the Boundary Adjustment Commission of the federal government and wondered why the findings of this body have not been published.

some spoke Annang dialect, meaning they may have been recruited from other parts of that state since Annang is not indigenous to Itu LGA. There is yet another claim that one of the vehicles that brought the attackers had the insignia of Obot-Akara LGA of Akwa Ibom. These claims could not be verified or proved.

Post-script

In December 2001, the newly installed Obong of Calabar and paramount ruler of the Efiks conferred on several Nigerians with honorary chieftaincy titles. Some of the notable non-Efiks so honoured were from Akwa Ibom State, including that state's governor and the secretary to the federal government. The idea it appears was to foster harmonious relations between the Efiks and their neighbours in Akwa Ibom State. Recently, the Obong of Calabar, HRH Edidem (Prof.) Nta Elijah Henshaw, constituted a committee of eminent persons (primarily the new chieftaincy title holders) from both states to look into the crisis with a view to resolving the issues. The committee held its first full meeting in Calabar in February 2002.

On March 11 2002, the National Boundary Commission published the "Federal Government's Statement on Akwa Ibom/Cross River States Boundary Dispute."¹⁹¹ The statement clearly puts Ikot Offiong in Akwa Ibom State. How far this belated step goes to douse the tension in the area will be seen in the days ahead. Indeed, a recent radio news report quoted the Deputy Governor of Akwa Ibom State, Chris Ekpenyong, as saying that his state government rejected the publication of the National Boundary Commission and would rather support the initiative of the Obong of Calabar. This raises a lot of interests given that the Obong of Calabar is the head of the Efiks, one of the two ethnic groups in the centre of the crisis.

191 *Vanguard*, March 11, 2002, p. 27.

CONCLUSIONS
ET
RECOMMENDATIONS

This study investigated the spate of targeted violence in Nigeria in the last three years and indicates that in the period since an elected civilian administration was installed in Nigeria in May 1999, there have been over fifty incidents of so-called intra- or inter-communal, ethnic, religious or political violence around the country. Each incident has resulted in multiple and, nearly always, gross violations of human rights. The pattern of violations includes well established cases of extrajudicial executions, sundry violations of the integrity of the human person resulting in the death of cumulatively well over 10,000 persons, displacement of hundreds of thousands more, reported rape of thousands of women and other associated violations. In some well-advertised cases, such as the Odi and Benue Killings, uniformed officers of the security agencies orchestrated the killings and other violations.

Using seven specific case studies of targeted violence, drawn from the six geographical regions of Nigeria, the study established that despite their apparently random and episodic nature, the incidents of focused killings in Nigeria display, on closer analysis, a consistent pattern and method. In most cases the acts or omissions of public officials and security agencies helped the course of violence and violations. Yet, no one has been prosecuted, administratively disciplined or in any other way been sanctioned in relation to any of these crises and violations associated with them.

In those cases where the government instituted commissions of inquiry, it failed to publish or implement their reports. No person has been prosecuted for any of these egregious violations. This failure sustains a culture of systematic impunity that fuels a culture and cycles of further violations. In most cases, there are credible allegations of official involvement of and complicity by government and its agents in perpetrating these violations. In some cases such as Odi and Benue, there are grounds for credible allegation of possible crimes of universal jurisdiction against known members and formations of the Nigerian armed forces. In all cases, there is official complicity in inciting and fomenting the violations or failing to halt this spiral of impunity and egregiousness. Notwithstanding this, it appears that the public consciousness erroneously fails to see these incidents as engaging governmental responsibility.

The study established the bases in both domestic and international law for holding the government of Nigeria and its leaders accountable for the violations reported or established in these incidents of so-called intra or inter-communal, ethnic, religious or political violence. The government is clearly under an obligation to comply with its own domestic laws. International law also creates obligations on the Nigerian government,¹⁹² especially where the government voluntarily indicates its intention to be bound by such international law, such as through the act of ratifying an international treaty.¹⁹³ The study also shows that in relation to these situations of violence, the government of the Federal Republic of Nigeria has repeatedly and consistently failed to execute its own obligations under the international and regional standards to which Nigeria has voluntarily subscribed. Even more importantly, the government of Nigeria also failed to comply with its own domestic laws.

- 192 *General Sani Abacha v. Chief Gani Fawehinmi*, [2000] 6 Nigerian Weekly Law Reports (Part 660) 228, 289 D-E. See also *Free Zones of Upper Savoy & the District of Gex*, Judgment, 1932 PCIJ, Ser. A/B, No. 46, 167; *Chile Case*, Report No. 36/96 in Case No. 10.843, Annual Report of the Inter-American Commission of Human Rights 1996, 156, 165; *Velásquez Rodríguez v. Honduras, Compensatory Damages*, Judgment of July 21 1989, Ser. C., No. 7, para. 28; *Aloebotoe v. Suriname, Reparations*, Judgment of the Inter-American Court of Human Rights of 10 September 1993, Ser. C, No. 15, para 44; Communication 102/93, Constitutional Rights Project v. Nigeria, Compilation of Decisions of the African Commission on Human and Peoples' Rights 1994-1999, (Hereafter "African Commission Compilation") 140, 149, Paras 55-56; Communication 105/93 et al. *Media Rights Agenda & 2 Ors. v. Nigeria*, 150, 160-161, African Commission Compilation, Paras 62-64.
- 193 *Unity Dow v. Attorney General of Botswana*, [1992] Law Reports of the Commonwealth (Const.) 623, 670-674 (Per Aguda J.A.).

Recommendations

■ To the Nigerian Government

Ensure that Federal and State commissions of inquiry that have been set up to look into incidents of inter-communal violence are provided with the adequate resources to carry exhaustive, independent and impartial investigations into the human rights violations that occurred, and make their findings and recommendations public with no further delay. In the interim, the government should publish and ensure public access to the reports of all previous commissions of inquiry.

Arrest and prosecute those found responsible or indicted by the Commissions of inquiry and other investigations already concluded by the government and apply to them civil, penal and/or administrative sanctions provided by law without delay.

Establish a standing and independent body to undertake the investigation of all cases of violence and prosecutions resulting from them as a guarantee against impunity and cyclic recurrence of violence.

Ensure the prompt investigation of all cases of unnatural or accidental deaths, including deaths in custody or involving members of the security or law enforcement agencies. For this purpose, undertake proper training and education of all magistrates in the implementation of their powers as coroners.

Ensure that police and other security agencies are adequately trained and provided with rules of engagement when deployed to restore law and order in situations of civil unrest or communal violence.

Guarantee and ensure that victims have access to redress, rehabilitation and compensation and, for this purpose that institutions for redress such as the judiciary and the national human rights commission are adequately funded and respected.

Guarantee that internally displaced persons are provided with humanitarian assistance (shelters, resettlement). Accordingly, also ensure that relevant legislation - such as the Otuocha communal clash victims fund and relief Law 1999 - be implemented without delay.

Ensure that a strict control over arms possession be guaranteed, while local manufacturing should be rigorously monitored.

Facilitate and support the immediate implementation of inter-communal accords for peace and/or amity where communities have voluntarily initiated such measures.

Ensure that all Nigerians enjoy equal protection of the law and are not subject to discrimination of any kind (on the basis of membership of a particular community, ethnic group, place of origin, sex, religion or political opinion (Section 42 of the 1999 constitution of the Federal Republic of Nigeria).

Invite a joint mission of the Special Rapporteurs of the United Nations and the African Commission on Human and Peoples Rights on extrajudicial, summary and arbitrary executions, torture and violence against women to conduct their own independent investigation into the allegations of official complicity in systematic extra-judicial killings and possible crimes against humanity in Nigeria.

Recognise the competence of the Committee against Torture, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, and the Committee on the Elimination of All Forms of Discrimination against Women to receive and consider petitions of human rights violations in Nigeria.

■ To the United Nations

- (1) To request the United Nations Special Rapporteurs on Summary, Arbitrary and Extra-Judicial Executions, Torture, Violence Against Women and Independence of Judges and

Lawyers to undertake a joint investigation of violence, extra-judicial executions and related violations in Nigeria and to request the government of the Federal Republic of Nigeria to accede to the conduct of such an investigation.

■ To the African Commission on Human and Peoples' Rights

- (2) Request its Special Rapporteurs on the Human Rights of Women, on Summary, Arbitrary and Extra-Judicial Executions, and on Prisons to undertake a joint investigation of violence, extra-judicial executions and related violations in Nigeria and to request the government of the Federal Republic of Nigeria to accede to the conduct of such an investigation.
- (3) To consider under the procedures authorized by Article 58 the allegations of serious, massive and systematic violations the provisions of the African Charter on Human and Peoples' Rights contained in this report.

■ To the Commonwealth Ministerial Action Group (C-MAG)

- (4) To consider at its next meeting and, in any case, at its earliest opportunity, the allegations of serious, massive and systematic violations of the Harare Principles as supplemented by the Millbrook Declaration, against the Federal Republic of Nigeria.

PROFILE OF RESEARCHERS / WRITERS

NURUDEEN OGBARA

Nurudeen Ogbara holds a bachelor's degree in Law from the Obafemi Awolowo University, Ile-Ife, and is a member of the Nigerian bar. After pupillage in several law offices, he set up his legal practice, Nurudeen Ogbara and Co. in Ikorodu, Lagos State. He consults for the Friedrich Ebert Foundation in Lagos and is currently the Executive Secretary of the National Association of Democratic Lawyers and the Public Relations Officer of the Ikorodu Branch of the Nigerian Bar Association. Ogbara is a member of the Lagos State Advisory Council on the Prerogative of Mercy; member of the African Bar Association; member of the Committee for the Defence of Human Rights and an Associate Member of the Nigerian Institute of Management.

HUSSAINI ABDU

Hussaini Abdu holds a bachelor's degree in Political Science from Bayero University, Kano and a master's degree in Political Economy and Defence Studies from the University of Jos. A former student activist, he has been involved in several civil society activities in Nigeria. He has contributed to academic journals and books on civil society and democracy; ethnic and religious conflicts; and Women and Politics. He is with the Centre for Human Rights and Investigatory Journalism (CIHARJ), Kaduna.

OBO EFFANGA JR.

Obo Effanga is programme manager with the Network on Police Reform in Nigeria, NOPRIN. He holds a bachelor's degree in Law of the University of Calabar, and is a member of the Nigerian bar. His first calling was in Mass Communications where he holds a national diploma. Effanga was into law practice until he got into the human rights work as programme officer (human rights) with Gender and Development Action, a women's rights organization in 1999. He had a brief stint as a Special Assistant in the National Assembly before his present job. His interests include community development and humanitarian work.

KUNLE FAGBEMI

Kunle Fagbemi is a seasoned political scientist, a graduate of the Universities of Benin and Ibadan. He came on board with the wealth of research experience from the media and the now defunct MAMSER (Nigeria's mass mobilization and social orientation agency) where he was actively involved in the mass mobilization and the political education of the citizenry and the political class. He is a trained Conflict Resolution and Facilitative Mediation expert; an Associate Member of the Nigerian

Institute of Management; and member of other distinguished professional and scholastic societies.

EDEM EFFIONG

Edem Effiong is head of research, training and documentation at the Nigeria Youth AIDS Programme, NYAP, Lagos. She holds a bachelor's degree in Mass Communications of the University of Lagos, where she is currently pursuing a master's degree. She has attended courses and trainings organized by the Population Communication Service of the Johns Hopkins University USA, British Council International Networking Events London and the Independent Television Producers Association of Nigeria. Her career focus includes youth development, policy advocacy, women's reproductive rights and community development. Effiong consults for several local and international organizations.

VICTORIA NWOGU

Until recently joining the International Human Rights Law Group Abuja, as Programme Associate (Trafficking in Humans & Women's Inheritance Rights), Victoria Nwogu was the Director of Penal Reforms/Senior Research Officer with the Human Rights Monitor, Kaduna. She holds a bachelor's degree in Law and Master's in International Affairs and Diplomacy from the Ahmadu Bello University, Zaria in northern Nigeria. She has to her credit, two academic publications and several articles and papers on international laws, women's rights, penal reform and juvenile justice system. She is a member of several professional and advocacy groups such as the Nigerian Bar Association, International Federation of Women Lawyers, FIDA, League of Democratic Women, Civil Liberties Organisation and the Nigerian Society of International Laws.

ISIOMA OJUGBANA

Isioma Ojugbana is the Project Officer, Human Rights Education with the Civil Liberties Organisation in Lagos. She holds a Bachelor of Science degree in Microbiology from the Enugu State University of Technology and practiced that profession until she made an entry into human rights work.

LYDIA UMAR

Lydia Umar holds a PhD in Curriculum and Instruction of the Ahmadu Bello University, ABU, Zaria and is a principal lecturer at The Kaduna Polytechnic. As a gender and women's rights activist, she consults for the National Centre for Women, the Federal Ministry of Women Affairs, Youth and Social Development and the House of Representatives Committee on Women, Youth and Social Development. She is currently the President of the National Association of University Women and heads an NGO called Gender Action Team in Kaduna.

IJEOMA NWACHUKWU

Ijeoma Nwachukwu is a graduate of Law from the Abia State University and a member of the Nigerian bar. She is currently the Project Officer, Law Enforcement at the Civil Liberties Organisation. She previously worked as presenter with Channels Television, a private TV news station in Lagos.

IDRIS BAWA

Idris Bawa holds a first degree in Law from the University of Maiduguri and has been called to the Nigerian bar. His present job as legal officer with the National Human Rights Commission, Abuja has given him immense experience in investigation and verification of human rights abuses. He previously worked as staff attorney and programme officer with the Prisons Rehabilitation and Welfare Action, PRAWA, a Lagos-based NGO.

OBIAGELI NWANKWO

Obiageli Nwankwo is a lawyer by training and the executive director of the Civil Resources Development and Documentation Centre based in Enugu, Enugu State. She has been at the forefront in the promotion of women's human rights in Nigeria and has written extensively on the subject.



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World Organisation Against Torture
P.O. Box 21- 8, rue du Vieux Billard
CH 1211 Geneva 8, Switzerland
Phone: + 41 22 8094939/Fax: + 41 22 8094929
E-mail : omct@omct.org



Centre for Law Enforcement Education
1 Afolabi Aina Street, Off Allen Avenue
P.O. Box 5456, Ikeja, Lagos, Nigeria
Phone: +234 1 4933195/Fax: + 234 1 4935338
E-mail: cleen@cleen.org