

Nigeria: Peace Building Through Integration and Citizenship

**Edited by
Uchenna Emelonye**

**Series Editor
Robert M. Buergenthal**



International Development Law Organization
Organisation Internationale de Droit du Développement

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International Development Law Organization (IDLO)

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Note on the cover: The Riyom Rock is popularly known as '3' stones. It is an unquestionable art of nature depicting beauty in diversity.

Acknowledgments

There exists a legal nexus between citizenship, religion, integration and ethno-religious based conflict in Nigeria – a pluralistic society where ideals of federalism and constitutionalism are still in transition. Conflict arising from ethno-religious tensions is not foreign to Nigeria, but the frequency and the toll on human lives and properties of recent conflicts make them more challenging to address.

In Nigeria, the spirit of federation and nationalism is expected to override all ethnic, tribal or religious affiliations. Unfortunately, this is not the case as most ethno-religious conflicts are based on ethnic or religious identity. In most cases, it is between “indigenes” and “settlers,” even where the face-off is sectarian.

This work focuses on Plateau State by synthesizing and analyzing various reports of judicial commissions that investigated conflicts in Plateau State between 1994 and 2010. Our hope is that our findings and recommendations will stimulate continued dialogue and peace building.

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Jeffrey S. Waldron

Acting Director-General

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Preface from the Director, Programs Management Department

Since its independence in 1960, Nigeria has struggled with the challenge of managing its religious and political diversity. The major test of Nigeria's ability to manage this diversity, and promote national integration, has been ethno-religious crises and their devastating effects in Plateau State, primarily in Jos, and Borno State, primarily in Maiduguri. Although violence occurs throughout Nigeria, incidents of identity-based violence in Plateau State – the second most ethnically diverse after Adamawa State – outnumber occurrences in other states. The state's diverse population is considered to have two identities: "indigenes" and "settlers" and reflect two major religions, Christianity and Islam, respectively. Cyclical sectarian conflicts often arise during elections and the Jos crises have resulted in grave human rights violations, polarized local society and significant material losses. This study on identity-based violence in Nigeria, generously supported through the Dutch Program Fund on the Rule of Law, offers a critical analysis through a rule-of-law lens.

Diversity, *per se*, is not the problem. Its management, however, presents Nigeria with a formidable challenge. A divisive interplay of politics, ethnicity and religion in Nigeria has led to rising nationalism and militancy of various ethnic and religious movements. Since the 1980s, religious extremism and riots have increased in Nigeria. Given the links between ethnicity, religion, identity and citizenship, conflicts related to each have become dominant factors weakening and dividing the country.

At least 62 identity-based conflicts have taken place within the last decade, with 22 incidents recorded in 2004 alone (Bagudu, 2004). To illustrate the extent of the death toll from ethno-religious violence in the last 10 years, we cite:

- Thousands killed in northern Nigeria as non-Muslims opposed to the introduction of Sharia law fight Muslims who demand its implementation in the northern Kaduna State. (2000)
- At least 915 people are killed in days of rioting as Christian-Muslim violence flares after Friday prayers in Jos. Churches and mosques set on fire. (2001)
- At least 215 people died in rioting in the northern city of Kaduna following a newspaper article suggesting the Prophet Mohammed would probably have

married one of the Miss World beauty queens. Nigeria abandoned hosting the Miss World Contest in Abuja. (2002)

- At least 157 lives claimed after a week of rioting by Muslim and Christian mobs. The violence begins in the northeastern city of Maiduguri, when Muslims protest against Danish cartoons of the Prophet Mohammed. Revenge attacks follow in the south. (2006)
- At least 400 people killed in clashes between Muslim and Christian gangs triggered by a disputed local government chairmanship election in Jos. (2008)
- Several people and several houses, churches and mosques burned after clashes in Bauchi City. Governor of the state imposes a night-time curfew. (2009)
- More than 50 people killed and over 100 arrested after Boko Haram, an extremist Islamist militant group, stages attacks in the northeastern city of Bauchi when some of its members were arrested. Bauchi State governor imposes another night curfew on the state capital. (2009)
- 400 bodies, (mostly women and children) given a mass burial after armed men killed and maimed Berom villagers in Dogo Nahawa, Zot, Rasat and Kutgot in Jos South Local Government Council. (2010)

“Indigeneship” status has unique significance in Nigeria and offers additional privileges to citizenship. An “indigene” has been defined as a “person who belongs, either through birth or ancestry, to a particular community that is geographically determined,” and a settler as “someone who leaves his original place of normal residence or habitation to “settle” in a new location.” (Musa, 2004; see also Babawale, 2005). The terms “indigene” and “settler,” however, are not mentioned in the constitutional provisions on citizenship. Unfortunately, these very terms have divided the people of Nigeria and constitute the bases for discrimination in employment, admission into institutions of higher education and acquisition of property. (Jamo, 2006). Although we use the terms “indigene” and “settler” in this publication, the terms are inappropriate to describe a Nigerian citizen residing within the Nigerian nation. Identity conflicts have primarily been between “indigenes” and “settlers.” Although “indigenes” may have different identities, these are often disregarded for purposes of uniting against a perceived common threat.

This study examines ethno-religious conflict with particular reference to the “indigene-settler” dispute in Jos and its surrounding villages as reported through various judicial commissions of inquiry established between 1994 and 2010. Chapters Two to Seven present the respective commissions of inquiry, including their mandate, findings, recommendations, and highlight their discussions on

other topics. These include: ownership; delineation of electoral wards; boundaries and land use; “indigeneship;” social, religious, political and economic factors; solutions and recommendations on peace building; role of government in implementing the solutions recommended; and consequences of failure to implement commission recommendations.

The Plateau State Government’s commissions were headed by Justice J. Aribiton Fiberesima (1994), Justice Niki Tobi (2001) and Justice Bola Ajibola (2009), who submitted their reports to the government. In turn, the Plateau State issued white papers on the 1994 and 2001 commissions. In 2004, a peace conference brought major stakeholders in Plateau State to create a forum and “bring together the people of Plateau State along with other stakeholders to a roundtable discussion where contending issues will be openly presented and debated.” The conference recommended steps to achieve sustainable peace in Plateau State. The federal government also constituted the Justice Suleiman Galadima Commission of Inquiry (2001), Emmanuel Abisoye Presidential Panel (2009); and Chief Solomon Lar Presidential Advisory Committee (2010). The latter was convened to advise the federal government on potential solutions to the continuing crises. The advisory committee has submitted its report. It is unclear, however, if the presidential panel has submitted any report since the panel has yet to conclude its assignment.

Nigeria exemplifies the contentious relationship between law and society. While a law may attempt to prohibit discrimination, members of society often act contrary to the dictates of the law. A person is a citizen of Nigeria either by birth, registration or naturalization. Although the Nigerian constitution discourages discrimination based on tribe, language, sex, religion or political affiliation, practices have developed that prejudice and polarize the citizenry based on their putative “indigene” and “settler” status.

The absence of residency rights also hampers Nigeria’s integration 50 years after its independence and largely accounts for the conflict between “indigenes” and “settlers,” particularly in Plateau State. For this reason, Nigeria may wish to consider adopting actions designed to forestall discrimination in whatever form, promote integration and eradicate the distinction between “indigene” and “settler.” IDLO also recommends adoption of new legal instruments and other measures to address recurrent problems.

Ethno-religious and cultural differences do not necessarily mean that relationships between groups will always be problematic or end in violence. With the deep religious divisions in the country, however, legislation on its own is insufficient. A national dialogue to promote cohesion, unity, tolerance, peace and understanding would put into perspective the core values of ethnic nationalities and how such values can be accommodated in a federation without undermining the existence of the nation as a whole. It is for this reason that IDLO has also assisted to bring

various parties together in Abuja and Jos Plateau State to contribute to a framework for future dialogue.

IDLO neither apportions blame nor determines culpability of any group or individual for crimes or violence. Our presentation of results is offered only as noted in a given commission report. Our work also does not attempt to investigate *de novo* the remote and immediate causes of the crises; the commissions, advisory panels and committees have already established the facts. Our focus is to highlight their major findings and recommendations, synthesizing them into a single document by identifying policy or legal gaps. The objective of undertaking this study was to determine whether or not ethno-religious conflicts that hinder national integration may be the result of legal and structural deficiencies which fail to provide an effective legal framework to accommodate diverse populations.

Ultimately, IDLO offers potential legal and practical solutions to manage and reduce ethno-religious conflict in Nigeria. We build on the findings of commissions or peace conferences and chart what may be a future course for citizenship, peace building and integration in Plateau State that can also be extended to other areas. Our examination of Nigeria's constitutional and legal development through existing literature is our contribution to efforts to encourage peace building in Plateau State.

The consequences of persistent ethno-religious conflict – *instability* and *insecurity* – run counter to IDLO's mandate to promote the rule of law through democratic governance and social and economic development. Therefore, we support that Nigeria's efforts to "strengthen its institutions, policies and practices to reduce or attenuate the predominance of ethnicity in local, state and national politics."

Lasting peace and stability in Nigeria can only be achieved when solutions are based on the rule of law and respect for human rights of *all Nigerians*.

Robert M. Buergenthal

Director, Programs Management Department
International Development Law Organization

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Uchenna Emelonye¹

1.0 Background

Violence has deepened in Nigeria, Africa's most populous country and leading petroleum producer. Continued conflicts threaten the citizens of the seventh most populous country in the world and OPEC's seventh leading exporter. Nigeria's crude oil accounts for 95 percent of Nigeria's export earnings and about 65 percent of its revenues. Nigeria's other natural resources include natural gas, tin, iron ore, coal, limestone, lead, zinc and a unique rainforest region said to be among the richest in Africa. The International Monetary Fund projects 8 percent growth for the Nigerian economy in 2011.

Sharing borders with the Republic of Benin in the west, Chad and Cameroon in the east and Niger in the north, Nigeria has been at the crossroads of Africa since ancient times. (Uwechue, 1991). Nigeria is a member of the Commonwealth of Nations, although it was suspended from membership between 1995 and 1999, following its execution of environmentalist Ken Saro-Wiwa. (Ingram, 1999). With the country's population of 152 million, Nigeria's other major resource, is rich in its cultural diversity – represented through 200 to 250 ethnic groups, each with its own language in one of several language families. Its citizens practice African traditional religions (paganism), Christianity and Islam. A 1963 census recorded 18.2 percent identifying as “pagans;” 34 percent as Christians; and 47 percent as Muslims. Censuses in 1991 and 2006 however, did not survey religious affiliations; consequently, changes in affiliation are unknown. (Ibrahim 2002) Between 1990 and 2010, Nigeria suffered numerous ethno-religious conflicts with considerable loss of life and property. The two most serious conflict zones are the oil-rich Niger Delta and in Plateau State, the focus of this work.

1.1 Colonialism, Slavery and Independence

In the 15th century, the Portuguese were the first Europeans to venture into what is today Lagos, which became a Portuguese trading post exporting ivory, pepper

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and slaves. Until the 19th century, European traders frequented the Bight of Benin, which became known as the “slave coast,” where the British also had established trading posts. Between the passage of the Slave Trade Act (1807) and the Slavery Abolition Act (1833), British influence grew rapidly in the coastal region arising from other commercial activities in palm oil and raw materials needed to fuel Britain’s industries.

In 1849, Britain appointed John Bee Croft as Consul for the Bights of Benin and Biafra to regulate trade between the ports of Benin, Brass, new and old Calabar, Bonny, Gambia and the Cameroons. Lagos was formally annexed as a British colony in 1861. From 1869 to 1874, it was administered from Freetown and from 1874 to 1886; it was administered from Accra as part of the Colony of the Gold Coast. In 1886, it was made a separate territory, renamed Colony and Protectorate of Lagos and placed under a governor.

The four largest British firms operating in the Niger formed the United African Company Ltd. (UAC) in 1879. Three years later, the National African Company Ltd. (NAC) took over the UAC’s assets and carried on its work. By 1884, the NAC had signed more than 70 treaties with local rulers on both banks of the Niger up to Lokoja. The Berlin Conference of 1884-1885, which regulated European colonization and trade in Africa, accepted British claims to NAC-controlled area. In 1885, the *London Gazette* announced that a British protectorate had been established over the Niger districts, which included “the territories on both banks of the Niger from its confluence with the River Benue at Lokoja to the sea, as well as the territories on both banks of the River Benue from confluence, up to and including Ibi.” (Ibrahim, 2002)

On July 1886, the British government granted a royal charter authorizing the NAC to retain the full benefits of cessions made by local rulers and to exercise all rights, interests, authorities and powers to govern and preserve public order. In that same year, the NAC changed its name to the Royal Niger Company Chartered and Limited (RNC), which immediately established regulations to administer the area and appointed Sir George Goldie as political administrator and David McIntosh as agent-general. Over the next decade, the RNC suppressed local resistance to its trade monopoly and political influence. (Uwechue, 1991)

Captain Fredrick Lugard arrived in 1898, to uphold British authority and face the growing opposition to the RNC. A year later, the British government revoked the RNC’s charter and took over the administration of the Niger Coast Protectorate and managed it with the area south of Idah (present-day Kogi State) controlled by the RNC. In 1900, it proclaimed the new entity the Protectorate of Southern Nigeria and named Sir Ralph Moore as high commissioner. (Uwechue, 1991) Other areas controlled north of Idah were proclaimed the Protectorate of Northern Nigeria with Fredrick Lugard as high

commissioner. In 1906, the Colony and Protectorate of Lagos was merged with the Protectorate of Southern Nigeria to form the Colony and Protectorate of Southern Nigeria and Sir Walter Edgerton named its governor. On January 1, 1914, the Protectorate of Northern Nigeria and the Colony and Protectorate of Southern Nigeria were once again merged to form the Colony and Protectorate of Nigeria with Lugard as Governor General. (Uwechue, 1991)

After having been assigned for six years as governor of Hong Kong, Lugard returned to Nigeria in 1912 to amalgamate the northern and southern protectorates, which was achieved two years later on the eve of World War I. Unification meant only the loose affiliation of three distinct regional administrations into which Nigeria was subdivided: Northern, Western, and Eastern Regions. Each was under a lieutenant governor with independent government services. In the Northern Region, the colonial government took careful account of Islam and avoided any appearance of a challenge to traditional values that could incite resistance to British rule. In the south, by contrast, traditional leaders were employed as vehicles of indirect rule in Yoruba land, but Christianity and Western education undermined their sacerdotal functions. In some instances, however, a double allegiance—to the idea of sacred monarchy for its symbolic value and to modern concepts of law and administration—was maintained. Out of reverence for traditional kingship, for instance, the *Oni* of Ife, whose office was closely identified with Yoruba religion, was accepted as the sponsor of a Yoruba political movement. In the Eastern Region, appointed officials who were given “warrants” and hence called warrant chiefs, faced opposition since they had no claims on tradition. (Ibrahim, 2002)

In 1916, Lugard formed the Nigerian Council, a consultative body that brought together six traditional leaders—including the Sultan of Sokoto, the Emir of Kano, and the King of Oyo—to represent all parts of the colony. In 1946, a new constitution was approved by the British Parliament and promulgated in Nigeria. Although it reserved effective power in the hands of the governor and his appointed executive council, the Richards Constitution provided for an expanded Legislative Council empowered to deliberate on matters affecting the whole country. Separate legislative bodies, the houses of assembly, were established in each of the three regions to consider local questions and to advise the lieutenant governors. The introduction of the federal principle, with deliberative authority devolved on the regions, signaled recognition of the country’s diversity. Although realistic in its assessment of the situation in Nigeria, the Richards Constitution undoubtedly intensified regionalism as an alternative to political unification.

The Richards Constitution was suspended when the Macpherson Constitution came into force in 1950. The most important innovations in the Macpherson

Constitution were the reinforcement of the dual course of constitutional evolution, allowing for both regional autonomy and federal union. By extending the elective principle and by providing for a central government with a council of ministers, the Macpherson Constitution gave renewed impetus to party activity and to political participation at the national level. Subsequent revisions contained in the Lyttleton Constitution, enacted in 1954, firmly established the federal principle and paved the way for independence. In 1957, the Western and the Eastern Regions became formally self-governing under the parliamentary system. Similar status was acquired by the Northern Region two years later. There were numerous differences among the regional systems but all adhered to parliamentary forms and were equally autonomous in relation to the federal government at Lagos. The federal government retained specified powers, including responsibility for banking, currency, external affairs, defense, shipping and navigation, and communications, but real political power was centered in the regions. Regional governments controlled public expenditures derived from revenues raised within each region. (Ibrahim, 2002)

The preparation of a new federal constitution for an independent Nigeria was carried out at conferences held at Lancaster House in London in 1957 and 1958 and presided by the Secretary of State for the Colonies (British Colonial Secretary). Nigerian delegates were selected to represent each region and to reflect various shades of opinion. The delegation was led by Balewa of the Nigerian People's Congress (NPC) and included party leaders such as Awolowo of the Action Group (AG), Azikiwe of the National Council of Nigeria and the Cameroons (NCNC), and Bello of the NPC; they were also the premiers of the Western, Eastern, and Northern regions, respectively. Independence was granted on October 1, 1960. Through the UN-organized Cameroon Plebiscite in 1961, Nigeria's Northern area became larger when Northern Cameroon chose to remain in Nigeria. In 1963, Nigeria declared itself a federal republic and Nnamdi Azikiwe became its first president. (Ingram, 1999)

Nigeria's three regions had distinct demographics. In the Eastern Region, the Igbo represented a majority ethnic group. Both major and minority groups were predominantly Christian or adherents to African traditional religions. In the Western Region, the Yoruba constituted a majority ethnic group and the region's religious population was mixed. In the Northern Region, far the largest and most populous of all three regions, adherents of Islam made their home in the great emirates extending in varying degrees toward the south and east. Mostly Muslim tribal groups, including the Fulani, Hausa, Nupe and Kanuri spoke Hausa.

In the Middle Belt area where Plateau State lies, inhabitants identified as Christian or Muslim or practiced African traditional religions. Religion as identity emphasizes affiliation with a group. In this sense, identity religion thus is

experienced as something akin to family, ethnicity, race or nationality. Identity religion understands co-religionists to be part of the same group regardless of their personal beliefs. (Gunn, 2003) Thus, every member of the Hausa-Fulani ethnic group is perceived as a Muslim, especially during ethno-religious crises. Similarly, every member of the Igbo ethnic group is perceived as a Christian. Members of the indigenous population of Plateau State are considered Christians notwithstanding the Muslims among them.

1.2 Politics, Corruption and Civil War

In 1966, perceived corruption of electoral and political process led to several back-to-back military *coups d'état*. The first, in January, was led by Major Emmanuel Ifeajuna and Chukwuma Kaduna Nzeogwu, who assassinated Prime Minister Sir Abubakar Tafawa Balewa, Premier Ahmadu Bello of the Northern Region and Premier Ladoke Akintola of the Western Region, among others. The coup leaders, however, were unable to set up a central government. President Nwafor Orizu was pressured to hand control to the Army, under the command of Major General Johnson Aguiyi-Ironsi, who himself was overthrown and killed by a group of northern army officers. The latter then placed Lt. Colonel Yakubu Gowon as head of the federal military government, which he led until 1975.

These events heightened ethnic tension and violence. The northern coup, which was mostly motivated by ethnic and religious reasons, was a bloodbath of military officers and civilians, especially those of Igbo extraction. Violence against the Igbo increased their desire for autonomy and in May 1967, the Igbo-dominant Eastern Region seceded, declaring itself the independent Republic of Biafra under the leadership of Lt. Colonel Emeka Ojukwu.

The 30-month civil war that ensued began at Garkem as the western and northern Nigerian sides attacked the southeastern side (Biafra) on July 6, 1967. It is estimated that between 1 and 3 million Nigerians died from the conflict, mostly from disease or starvation. (Uwechue, 1991)

1.3 Oil Boom, Instability and Democracy

Since oil was first discovered in Oloibiri in Bayelsa State in 1956, the industry has become the country's main generator of GDP. More than 90 percent of the country's oil is pumped by Exxon Mobil (United States), Royal Dutch Shell PLC (The Netherlands), Chevron Corporation (United States), Total (France) and Eni SpA (Italy) in joint ventures with state-owned Nigerian National Petroleum Corporation. The United States remains Nigeria's largest oil importer, consuming 40 percent of its production. (U.S. Department of Energy, 2010)

During the oil boom of the Seventies, Nigeria joined OPEC and billions of U.S. dollars generated by oil production in the Niger Delta flowed into government coffers. Military cliques often benefited to the detriment of most other

Nigerians and the economy as a whole. Oil revenues fueled the rise of federal subsidies to states and even individuals, making the federal government the center of political struggles and one increasingly dependent on the commodity's international market. Budgetary and economic stability and federalism faltered.

In 1979, Nigerians breathed again the air of democracy when power was transferred to a civilian, Shehu Shagari. To his detriment he was perceived to be corrupt and incompetent and was later overthrown by a military coup under General Mohammadu Buhari shortly after Shagari's re-election in 1984. Many Nigerians welcomed Buhari, who himself was overthrown by another military coup in 1985. The new head of state, General Ibrahim Babangida, declared himself president, commander-in-chief of the armed forces and the ruling supreme military council. President Babangida set 1990 as the deadline for elections to restore democratic governance. His tenure was marked by a flurry of activity, including instituting the International Monetary Fund's structural adjustment program to help repay Nigeria's destabilizing international debt. During his tenure, Nigeria became a member of the Organization of the Islamic Conference, an association promoting Muslim solidarity in economic, social and political affairs. After surviving a coup attempt, General Babangida pushed elections to 1992. When elections were finally held in 1993, he voided Moshood Kashimawo Olawale Abiola's presidential victory. Massive civilian protests and violence effectively shut down the country for weeks. General Babangida set up a transitional administration headed by Ernest Shonekan, who led for only three months when deposed by General Sani Abacha, who became Nigeria's *de facto* president until his death in 1998. His successor, General Abubakar, announced a transition to civilian democratic rule. (Peel, 1996)

In 1999, Nigeria reclaimed democracy when it elected General Olusegun Obasanjo, the former military head of state, as its new president after decades of military rule. In 1999 and in 2003, the elections that brought President Obasanjo to power, however, were widely contested. In 2007, President Umaru Yar'Adua succeeded President Obasanjo after winning controversial polls. The first university-educated leader of Nigeria died, however in 2010 prior to completing his mandate. Vice President Dr. Goodluck Ebele Jonathan succeeded him and became Nigeria's 14th head of state. On 18 May 2010, the National Assembly approved President Jonathan's nomination of former Kaduna State governor, Namadi Sambo, an architect, for the position of Vice President of the Federal Republic of Nigeria.

Most recently in April 2011, Nigeria held generally free and fair national and state elections. Northern supporters of the runner-up in the presidential elections, however, went on a violent rampage after Goodluck Jonathan, a Christian, was declared winner. Hundreds lost their lives. This violence

replayed the cyclical sectarian conflict that often arises during elections, particularly in Plateau State.

1.4 Ethnicity, Religion and Conflict

Nigeria's ethnic diversity includes the Fulani, Hausa, Yoruba, and Igbo, which account for 68 percent of the population; the Edo, Ijaw, Kanuri, Ibibio, Epira, Nupe and Tiv, 27 percent; while other minorities make up the remainder. The Fulani, Hausa, Kanuri, Nupe and Tiv populate the northern area; while the Annang, Edo, Ibibio, Igbo, Ijaw, Isekiri, Urhobo and Yoruba are predominantly in the south. (Uwechue, 1991)

Northern Nigeria's early interaction with Islam created the predominance of Islam in pre-colonial Hausa-Fulani cities. Since ethnicity in northern Nigeria is not entirely homogenous, other ethnic groups, particularly in the River Niger and River Benue, were not predominantly Muslim. A 19th century *jihad* under Usman Dan Fodio (1754-1817) revived Islam and integrated a large part of northern Nigeria under a new caliphate. Islam also spread to the Yoruba of southwestern Nigeria through voluntary conversions and links to Malian trading communities. (Nolte, Danjibo and Olajedi, 2009)

The history of Christianity in Nigeria can be traced to the abolition of the trans-Atlantic slave trade in the early 19th century. The activities of European Christian missionaries and liberated and returned slaves were more concentrated and intensified in coastal cities such as Lagos and southeastern Nigerian ethnic communities. Thus, Christianity became the dominant religion in southeastern Nigeria as Christian evangelism and education spread.

Notwithstanding this religious geography, Nigeria is not wholly divided along ethnic and religious lines. There are communities in the north that are predominantly Christian. There are communities in some parts of the southeast that converted to Islam. Today there are Muslim migrants from northern Nigeria in many southern cities as there are Christian communities of southern migrants or descendants of migrants in almost all northern cities. (Nolte, Danjibo and Olajedi, 2009)

During Nigeria's colonial and post-colonial history, governments regulated differences between these religious constituencies. The system of indirect rule introduced by the British retained the established administrative structure and custodial power and position of Islam in the north. (Ajibola, 1982). The emirs were not divested of their power and influence. *Sharia* courts, for example, were integrated within the general colonial justice system of administration. This system of indirect rule was soon introduced and applied in southern Nigeria. The system of customary or indigenous laws and courts were also integrated with the system of British-established courts. (Ajibola, 1982)

With independence and the division of the new country into three ethno-political regions, Islam and Christianity became associated with ethnic groups.

The post-independence engagement of Nigerian Muslims and Christians along regional and ethnic distinctions also affected the notion of identity for a vast majority of Nigerians. Recent research reveals the extent to which identity and national integration are influential in Nigeria. The average northerner is more inclined toward identifying herself with religious affiliation while an average southerner tends to identify more with ethnicity. Thus, the politicization of ethno-religious issues in the post-independence Nigeria gave rise to conflicts over citizenship rights. (Nolte, Danjibo and Olajedi, 2009)

Although the exact number of Muslims, Christians and those who practice African traditional religions is unknown, post-independent Nigeria reflected cultural, religious and political differences between Nigeria's dominant ethnicities, the Hausa ("Northerners"), Igbo ("Easterners") and Yoruba ("Westerners"). (Uwechue 1991) In fact, newly independent Nigeria's government was a coalition of conservative parties: the NPC primarily Northern and Islamic, and the Igbo- and Christian-dominated NCNC, led by Nigeria's first Governor-General Nnamdi Azikiwe. Obafemi Awolowo led the relatively liberal AG, largely dominated by the Yoruba. (Uwechue, 1991)

Since its independence, Nigeria has remained a multi-ethnic nation state, grappling with the problems of ethnicity and ethno-religious conflict. The rise of ethnic militias, including the O' Dua People's Congress (OPC), the Bakassi Boys, the Egbesu Boys, the Ijaw Youth Congress (IYC), and the Igbo People Congress (IPC), the Arewa People's Congress (APC), the Movement for the Actualization of the Sovereign State of Biafra (MASSOB) and the Ohanaeze Ndigbo signaled greater divisions between ethnic groups. (Daily Trust Newspaper, 2002) As a result, religious intolerance has become more violent and bloody with more devastating results — usually with ethnic militias as executors. (Salawu, 2010) — Consequently, contextual discrimination between ethnic or religious groups based on socio-cultural symbols and religion has heightened suspicion and fear, which have scarred Nigeria through recurrent ethno-religious conflict. (Salawu, 2010)

Constant feelings of distrust and fear of one ethnic or religious group dominating another follow a pattern of ethnic suspicion and intrigue discernible prior to independence, the military *coup* in 1966, the civil war and the continuous ethno-religious conflict that threaten the country's nascent democracy and its very existence. (Olu-Adeyemi, 2011) Often, accusations and allegations of neglect, oppression, domination, exploitation, victimization, discrimination, marginalization, nepotism and bigotry underlie ethno-religious conflict in Nigeria.

In most nations, including Nigeria, different groups or individuals have conflicting interests and do not agree on how wealth, power and status are to be shared. Some resolve these social issues without conflict. Others do not. Conflict usually occurs when deprived groups or individuals attempt to increase their share of power and wealth or to modify dominant values, norms, beliefs or ideology. A divisive interplay of politics, ethnicity and religion in Nigeria has led to rising nationalism and militancy of various ethnic and religious movements. To Nigeria's detriment, ethno-religious conflict is seen as a means of correcting any perceived form of marginalization, oppression or domination. (Olu-Adeyemi, 2011)

The absence of good governance and concrete efforts to forge national integration and economic growth has also increased poverty and unemployment, resulting in the communal, ethnic, religious and class conflict that have now characterized Nigeria. The country's poor and jobless are exploited as mercenary fighters, ready to kill or be killed for a token benefit. As a result, ethno-religious crises usually have large turnouts, including under-aged fighters. The frailty of Nigeria's school system and failures of religious institutions in their expected roles coupled with other social problems have laid the foundation for conflicts in general. (Salawu, 2010)

1.5 Antagonism, Competition and Conflict Zones

Post-colonial Nigeria has suffered from religious antagonism and acrimony between Islam and Christianity, which compete for public space. At one level, it is rivalry for greater numbers of converts; at another, it is competition for power. The root of the antagonism between the two religions was the controversy generated during the National Constituent Assembly (1977-1978) over the inclusion of *Sharia*, or Islamic law, Court of Appeal in the proposed constitution. Until then, religion had not been at the forefront of inter-group relations and played little or no role in national politics. (Muhammad, 2006) In fact, there had been minimal or no conflict between adherents of African traditional religions and those of the other two religions. (Sako, 1998)

Nigeria has always been, however, an ethnically conscious society predating its independence. This included political parties, which were ethnically based during the first republic (1960-1979). During pre-independence conferences, minorities expressed fears of domination and marginalization at the hands of dominant ethnic and religious groups within their respective regions. (Alemika, 2001). During the run up to Nigeria's independence, a number of minority groups demanded separate states to guarantee their self-autonomy or self-determination. In 1958, the Henry Willink Commission reported that minorities in the Northern Region feared religious intolerance, Islamic conservatism and return to the autocratic rule of the emirs. Rejecting increasing the number of states as it neither addressed the issue of marginalization nor avoidance of

boundaries creating new minority groups, the Willink Commission concluded that a separate state “would not provide a remedy for the fears expressed; we were clear all the same that, even when allowance had been made for some exaggeration, there remained a body of genuine fears and that the future was regarded with real apprehension.” (Willink Commission, 1958)

In a memorandum to the Willink Commission, the Berom of Jos expressed their fears as a minority group in the context of Northern politics. Prior to 1952, they were under British rule. When the Constitution of 1954 was introduced, they were put under the NPC, which the Berom considered synonymous with the Muslim Hausa-Fulani. They feared losing their religious freedom and cultural identity at independence under Hausa-Fulani rule. (Sha, 2002) The commission found

Little doubt that the Beroms are strongly in favour of the proposals of which they are indeed the backbone, but we formed the impression that few of their neighbours were wholehearted in their support. Some expressions of anxiety at the prospects of a state dominated by Beroms did reach us and there was also evidence of some friction between Beroms and the immigrants of various other tribes who have come into Jos, which has developed rapidly as a result of the mines.

The commission, however, recommended including a bill of rights in the constitution to protect minority groups. (Ezejiolor, 1964) This recommendation, accepted by the Colonial Secretary, engendered the fundamental rights forming part of the Constitution of 1960, which included freedom of thought, conscience and religion and freedom from discrimination. The constitution prevented placing restrictions or conferring privileges based on community, tribe, place of origin, religion or political affiliation yet allowed qualification requirements for public service.

Since the Eighties, violent ethnic and religious conflicts have become more pervasive and assumed a wider scale. (Egwu, 2002) The Maitatsine Riots, sparked by a fringe, fundamental Islamic group, became the first major religious disturbances in late December 1980 in Kano, whose principal inhabitants are Hausa. Violence erupted again across the north: Kaduna (1982); Maiduguri (1982), Jimeta (1984) and Gombe (1985). (Kukah, 1993) The Kano violence claimed 4,177 lives (Akeze, 2009) and stands out as Nigeria’s first religious crisis taking such a huge toll on human life and property. The federal government’s *Report of the Tribunal of Inquiry* cited, however, numerous other incidents of religious violence prior to the Maitatsine Riots in the Northern states. (Kukah, 1993)

After Nigeria adopted the constitution of the Fourth Republic, ethno-religious conflict continued to rise. In July 1999, Oro cultists in Sagamu Ogun State accused a Hausa woman of disrupting their religious celebration. The incident escalated to a violent crisis where Hausa and Yoruba tribe members lost their lives. Calm returned only when a dusk-to-dawn curfew was imposed on the town. Reprisal killings, however, began in Kano. As a result, many died and many properties destroyed. As calmness returned to Kano, Lagos erupted in violence as the O'dua People Congress moved against Hausa/Fulani traders in the popular Mile 12 Market. For two days, the area was turned into a killing field. (Abimboye, 2009)

In October 1999, Governor Ahmed Yerima faced non-violent protests when he re-introduced *Sharia* law into Zamfara State. When Governor Mohammed Makarfi attempted to introduce *Sharia* law in Kaduna in 2000, however, violent confrontations between Muslims and non-Muslims led to thousands dead. (Abimboye, 2009) In November 2002, a young mob took to the streets to riot after a newspaper published remarks about the Prophet Mohammed and the beauty queens of the Miss World Pageant, which Nigeria was hosting. In its aftermath, at least 215 people lay dead, the office of the newspaper burned and several properties destroyed. The violent demonstrations then spread to Abuja. It is estimated that 5,000 lives were lost to the violence. (Abimboye, 2009)

In September 2001, 19 soldiers sent to quell violence between two local tribes, the Tivs and Jukuns, were abducted and killed. Reprisals from the army in Zaki Biam were devastating. In Jos, the appointment of a Christian as a local council chairman led to violence and killing of 160 citizens during the same month. Following the tragic events of 9/11, Kano erupted again in ethno-religious conflict after the United States launched an offensive against the Taliban in Afghanistan. Nigerian Islamic fundamentalists responded by setting fire to the city.

In February 2006, the religious riot shifted to Maiduguri. Muslims had converged in the Ramat district to protest a cartoon of the Prophet Mohammed appearing in a Danish newspaper. Police reportedly fired tear gas to disperse the crowd while youths went on rampage, killing and maiming people and destroying property. (Abimboye, 2009)

In 2009, the Boko Haram (figuratively, "Western or non-Islamic education is a sin") orchestrated violent attacks in Borno, Bauchi, Kano and Yobe States. It was estimated that about 1,000 Nigerians lost their lives within the four days of violence. (Akaeze, 2009) The group, militant in its anti-Western ideology, continues to orchestrate bombing attacks in different parts of Northern Nigeria. (Akaeze, 2009)

1.6 Ethno-Religious Conflict in Plateau State

Jos, the capital of Plateau State, is known for its natural beauty and temperate climate, which attracts local and international tourists. Many use the moniker, “home of peace and tourism,” nostalgically to refer to Jos, which owes its prominence to tin mining. (Nnoli, 1978) This association, however, does not jibe with the ethnic strife or threatened ethnic strife Jos witnessed long before Nigeria’s independence. Some of the earliest cases of ethnic violence in colonial Nigeria occurred in Jos. In 1932, for example, an ethnic riot nearly erupted in Jos after rumors spread that the Hausa, who had come to the city, planned to appropriate Europeans’ property and that “indigenes” were preparing to drive out the Hausa and revert to pre-colonial, political administration. (Nnoli, 1978) Neither rumor nor ensuing violence materialized. In 1945, however, the Hausa and the Igbo rioted for two days after a market dispute. (Nnoli, 1978)

The “Jos Crises” has extended to other parts of the state, where most conflicts have been rooted in inter- or intra-ethnic tensions. Conflicts include the following ethnic groups: the Jasawa and “indigenes” of Jos (Jos Local Government Area); Ron and Mwashawal communities (Bokkos and Mangu Local Government Areas); Attakar and Berom communities (former Barkin Ladi Local Government, now Riyom Local Government Area); Gbaggi and Agato communities (Toto Local Government Area); Hausa and Berom communities (Gyero Village in Jos South Local Government Area). (Sha, 2002)

Prior to the Nineties, ethnic confrontations in Plateau State were of similar or lesser scale as in other parts of Nigeria. Consequently, ethnic conflicts in Plateau State did not attract special attention. Until 1994, overt religious conflicts had not occurred in same scale as in other areas. (Sha, 2002) Jos therefore, continued to be referred to as “home of peace.”

President Babangida’s creation of Jos North Local Government Area – and the manner in which it was delineated in 1991 – reputedly led to the first major ethno-religious outbreak. (Ajaero and Phillips, 2010; Sha, 2002; Abdulsalami, 2010) It was perceived as an attempt to handover Jos to the Hausa-Fulani community as a result of their influence over the federal government to divide Jos and to seek leadership in Jos’s North Council. The conflict’s religious component arose from the fact that indigeneous communities are mostly identified with Christianity and the Hausa-Fulani communities, with Islam. The conflict conflagrated citizenship, “indigeneship” and religious animosity. (Abdulsalami, 2010)

Plateau State was calm until a few days prior to the tragic events of 9/11 in New York. *Newswatch* reported the deaths of more than 1,000 Nigerians as a result of the five-day ethno-religious violence between Muslim Hausa/Fulani and Christian “indigenes.” The following year, violent conflict followed the People’s

Democratic Party (PDP) congress held on May 2. On June 1, violence broke out in Yelwa-Shandem between “indigenes” and Hausa settlers and extended to four local government areas in Southern Plateau.

Civil disturbances erupted again in 2004. First, clashes between the Mavo and Tarok and the Minda and Kparev claimed several lives in early February. On February 24, a cow theft precipitated a gruesome massacre of some 73 people, mostly women and children, in a single day in Yelwa, Shendam Local Government Area of Plateau State. (Orimolade, 2004) In addition, insurgents allegedly killed four armed policemen at Tunga Village on Yelwa-Shendam Road. (Abudulsalami and Akhaine, 2004)

On 11 April 2004, alleged insurgents displaced the population of Tarok Village in Langtan South Local Government Council. (Abudulsalami and Akhaine, 2004) The chairman of Tarok community in Wase Local Council reported the deaths of 1,304 Tarok tribesmen at the hands of the Hausa between July 2002 and December 2003. (Orimolade, 2004) On 26 April 2004, hostilities believed to be a spillover of the ethno-religious crisis in the Southern Plateau Local Governments and North Wase broke out in Kanam and Shendam. (Abudulsalami and Akhaine, 2004) On 1 May 2004, a new ethno-religious crisis in Plateau State claimed 650 lives while about 250 women were abducted by a suspected militia group. (Abudulsalami and Akhaine, 2004) Within the same month, it was reported that more than 100 persons were killed in hostilities that broke out in Yelwa Shendam Local Government Area State. The attack was said to have been a reprisal on Yelwa villagers following a similar onslaught on Kawo Village, which left unconfirmed number of casualties and property, destroyed, including 1,000 homes and three mosques. Dead or mutilated bodies littered the streets. (Peter-Omale and Duru, 2004)

The violence continued to spread to other areas in the state. On 18 May 2004, five persons were allegedly killed in Sabon Gari Village (Qua’Qan Local Government Area). The attack, allegedly at the hands of ethnic militia groups from Atir and Azara Villages in neighboring Nasarawa State, included killing, maiming, vandalism and theft. (Peter-Omale and Duru, 2004)

The 2004 crises intensified day to day; its major centers of violence were Lantang, Yelwa-Shendam and Wase; and reprisals followed in Kano and Nassarawa States. *The Guardian* reported a two-day violent conflict in Kano where more than 1,000 persons lost their lives. Several churches, mosques, markets and homes were destroyed in reprisals. Given frequency and intensity of the violence, President Obasanjo declared a state of emergency and suspended Governor Joshua Dariye and the State House of Assembly “to ensure security of life and property of all citizens alike residing in any part of Plateau State.” (Daniel, 2004; Ologhondiyan and Kola, 2004) The President

cited the Governor for gross dereliction of duty, incompetence and insensitivity and named Major General (Rtd.) Mohammed Chris Alli to administer Plateau State.

More ethno-religious violence erupted in November 2008, over the expected outcome of local government elections in Jos North Local Government Area. Since that date, violence and reprisal targeted killings have occurred in other areas of the state. On 17 January 2009, ethno-religious violence resulted in scores of deaths in Jos. (Adi, 2010) The problem was said to have started at Nasarawa Gwom area of Jos when a Muslim whose property had been burned during the electoral unrest attempted to reclaim and rebuild it. (Isa and Akpabio, 2010) The violence quickly spread to neighboring towns of Pankshin with a death toll estimated at more than 300. (Folasade-Koyi and Audu, 2010)

In a pre-dawn attack on 7 March 2010, the Berom villagers of Dogo Nahawa, Zot, Rasat and Kutgot in Jos South Local Government Council, witnessed a horrible carnage as armed men killed and maimed hundreds of people. The following day, 400 bodies – mostly women and children – were given a mass burial. (Ajaero and Phillips, 2010; Adi, 2010) In another pre-dawn attack in Rawhinku, a remote village in Bassa Local Government, six people believed to be members of the same family were killed on October 26. (Idagu and Dapere 2010; Oloja, Abdulsalami, Akpan, 2010) The following month, *The Nation Newspaper* reported the deaths of two people killed in Riyom Local Government Area by assailants on a motorcycle who allegedly shot the victims and escaped immediately. On November 25, three persons were allegedly shot dead in Kwata District of Jos South Local Government Area. (Isa, 2010)

While residents of Jos and its environs live in fear of targeted killings, their situation is compounded by the reported increase in violent crimes, including armed robbery. The *Weekly Trust* reported that police in Jos receive between 20 and 30 robbery and other distress calls almost daily. The Plateau State Police Public Relations Officer attributed the sharp increase in criminal activities to the high number of guns in the hands of many people. (Mohammed, 2009) In an editorial for the *Daily Independent*, the past President of the Nigerian Bar Association Oluwarotimi Akeredolu lamented the “breakdown of basis for inter-community co-existence in Jos.” (Akeredolu, 2010)

1.7 Ethno-Religious Conflict and Human Rights Abuses

The ethno-religious conflict that has scarred Nigeria is also a persistent reminder that conflict is pervasive and threatening national unity. (Jega, 2002) Ethnic sectarian violence has left a trail of destruction and threatens Nigeria's territorial integrity. (IDEA, 2001) Little does it serve Nigeria however, to be a leading case study on ethno-religious violence.

Although colonial powers and the elites succeeding them may have used ethnicity for political ends, today's poverty and ineffective governance has sharpened ethnic divisions. Misunderstanding also brews as ethnic and religious groups see each other as rivals that must be surpassed by any means, thus hampering national integration. (Olu-Adeyemi, 2003) As the state begins to lose legitimacy and authority, the fear of uncertainty increases to the extent that citizens resort to self-help, seeking security and solidarity in their own ethnic, religious or regional affiliation and identity.

A new dimension to Nigeria's ethno-religious violence is the increasing recruitment and mobilization of ethnic and regional militia, vigilantes and other armed groups. The Oodua People's Congress in Yorubaland, the Arewa People's Congress in the north, the Bakassi Boys in the east and the Egbesu in the south, represent contending interests to Nigeria's detriment. The implication of persistent ethnic conflict is the insecurity of citizens and property – which deters foreign investment and economic development.

The violent confrontations in Plateau State prompted the Socio-Economic Rights and Accountability Project (SERAP), a Nigerian-based NGO to petition the International Criminal Court to investigate human rights abuses and possible crimes against humanity. (Olaniyi, 2010) Through a letter dated 5 November 2010, Louis Moreno Ocampo, Chief Prosecutor of International Criminal Court (ICC), informed SERAP that the ICC was analyzing the situation to establish a reasonable basis that crimes within the ICC's jurisdiction had been committed in Jos. (Olaniyi, 2010) At the time of this compilation, the status of the official findings of the International Criminal Court on possible crimes against humanity has not been made public.

Muhammed Akanbi²

2.0 Background

Civil disturbances broke out in Jos on the morning of April 12 following a Hausa protest march on the government house. The Military Administrator of Plateau State, Lt. Col. Mohammed Maina, incorporated a commission of inquiry on April 22, as authorized under the Commission of Inquiry Law, Chapter 25, Laws of Northern Nigeria (1963) to look into the disturbances.

The commission sat before the public in the main hall of the Plateau State House of Assembly. Its members included Hon. Justice J. Aribiton Fiberesima, Rtd. (chair); Major D. J. M. Igah, Squadron Leader M. B. Usman and Messrs. Alhaji I. D. Muhammed, T. Didel and S. O. Aboki (members); and M. P. P. Deshi (secretary). Fifty-five witnesses testified before the commission or submitted written evidence. In all, 44 exhibits were presented and received into evidence. The commission also received evidence (marked as Exhibit 28) from an independent committee set up by state government that identified property losses. Items appearing under quotation marks in this chapter are from the commission's report.

The commission's mandate or terms of reference were to:

- Establish remote and immediate causes of the riot.
- Identify causes and assess properties destroyed, their owners, and those behind the destruction.
- Identify individuals, groups of persons and institutions directly or indirectly connected with the riots and their roles in precipitating the crises.
- Apportion responsibility on persons or groups of persons and recommend appropriate action.

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- Recommend ways of avoiding future re-occurrences and any other matter incidental to its mandate:

After considering oral and written evidence and visiting damaged areas, the commission presented its findings on the remote and immediate causes of the disturbances; properties destroyed during the riot; ownership and “indigeneship” of Jos. In assessing culpability, it presented findings in relation to the activities of the Jasawa Development Association (JDA).

2.1 Remote Causes

The commission found a remote cause of the disturbance to be the long-existing mistrust, suspicion, rivalry, accumulated grievances and tension between the members of the Afizere, Anaguta and Berom ethnic groups and the Hausa-Fulani (also referred to as Jasawa) ethnic group – all of which laid claim to ownership of Jos. The former contended that they were “indisputable indigenous people of Jos” and the Hausa-Fulani settlers “strangers” who migrated into Jos for various reasons, including economic ones. The Hausa-Fulani justified ownership by claiming political ascendancy since 1902.

Their assertions of ownership were cited as remote cause of the crisis that culminated in violence. The seed of discord was believed to have been sown in 1987, when the Jasawa Development Association allegedly urged the Jasawa community to wrest rule and ownership of Jos, from other ethnic groups. In 1991, General Babangida’s federal military government split the Jos North Local Government into Jos North Local Government Area and Jos South Local Government Area, with Jos and Bukuru as their headquarters, respectively. This was evidently against the wishes of the Afizere, Anaguta and Berom communities who had lobbied for the creation of a Federe Local Government Area instead. With the division, the Afizere, Anaguta and Berom communities found themselves in Jos South Local Government Area, while the Hausa-Fulani community was left as the majority ethnic group in Jos North Local Government Area. The former decried this arrangement as a “grand plan” by the Hausa-Fulani to wrest ownership and control of Jos from them. The Afizere, Anaguta and Berom communities also resented the fact that the new districts left their paramount ruler, the *Gbong Gwom*, isolated in a Hausa-Fulani enclave in Jos. The Hausa-Fulani, however, accepted the creation of the new local government areas.

Thus, the commission found that the remote cause of the riot was the struggle for control and domination of Jos by the Berom, Afizere and Anaguta communities as one group and the Hausa-Fulani community as another.

2.2 Immediate Causes

The immediate causes of the crisis were related to the remote cause, which started a chain of events culminating in the riot. The commission found the

immediate cause of the riot to be the appointment – and opposition to the appointment – of a Hausa-Fulani as chairman of the Caretaker Management Committee of Jos North Local Government Area.

In 1994, the military administrator of Plateau State had announced the appointment of a five-member Local Government Council Caretaker Committee for each of the 23 local government councils in the state. For Jos North Local Government Council, the five-member committee consisted of a Hausa-Fulani, as chairman, with four other councilors from the Igbo, Yoruba, Berom and Jarawa ethnic communities. While the Hausa-Fulani community was satisfied with the appointment, the Afizere, Anaguta and Berom communities expressed their opposition.

In a letter dated 4 April 1994, to the Military Administrator, these communities objected to the appointment. The following day, about 200 members of the Afizere, Anaguta and Berom communities living around Rayfiel and Bukuru marched in protest to the office of the governor; at the same time, another protest set for the palace of the *Gbong Gwom* to inform him that the appointment of a Hausa-Fulani was unacceptable. Nevertheless, the government swore in the committee on April 6, and anger flared when members of the Afizere, Anaguta and Berom communities attempted to disrupt the ceremony at the Dadin-Kowa Youth Center and were dispersed by the police.

On April 8, when committee members were to begin their work, youths allegedly from the Afizere, Anaguta and Berom communities thronged the Local Government Area secretariat to prevent them. On the same day, the military administrator suspended the committee and appointed the director personnel management of the local government to “act as the head of the local government until a decision is taken” on the composition of the Local Government Caretaker Committee. Although his actions calmed the Afizere, Anaguta and Berom communities, they angered the Hausa-Fulani, who felt that the government had yielded to intimidation at their expense.

In protest, Hausa-Fulani butchers took to the streets and disrupted traffic by slaughtering cows on the highway near Jos abattoir on April 11. At five o'clock that evening, the Hausa-Fulani community met near the Central Jumma'at Mosque, where the JDA urged young tribesmen to protest. The following day, youths took to the streets and rioted, resulting many deaths.

2.3 Properties Destroyed

In assessing the riot's physical damage, the commission found the Jos Main Market to have been destroyed. The commission also found that the market at Gada-Biyu and its adjoining mosque were lost to arsonists. Other major properties destroyed during the riot included school buildings, an office

complex, residential houses and a mosque, all situated at the Izala Headquarters along Rukuba Road. The properties of Jos Metropolitan Development Board, the Police and NITEL PLC and motor vehicles and cycles belonging to private individuals were destroyed. To assess the monetary losses during the riot, the commission relied on evidence from victims and the report of the independent property damage assessors and estimated losses at nearly USD1.42 million, which were listed with the owners' names, identities and estimated values.

As to the perpetrators, the commission found that police tear gas missiles used to disperse the mob around the Jos Main Market may have caused the market fire. Notwithstanding, the committee found the rioters culpable for the fire since the accidental fire would not have occurred if there had been no rioting.

2.4 Ownership and “Indigeneship”

The Afizere, Anaguta and Berom communities and the Hausa-Fulani community presented evidence to the commission as to their “indigeneship” and ownership of Jos. The former jointly submitted proof that they were the indigenous people and owners of Jos as evidenced through the ethnographic origin of the word “Jos.” According to them, *Jos* derives from *gwash* or *jot*, a Berom word for “water spring,” long since lost in the midst of development. Others said “a small hill village called Gwash occupied the present location of Jos. Hausa traders who arrived supposedly mispronounced Gwash for Jos and the name struck.” According to the Afizere, Anaguta and Berom, their “ancestors and founding fathers fought against and repelled the Jihadists beyond Naraguta” in the 1870s. They expressed their determination to defend and retain their ancestral title in perpetuity.

The group also maintained that other tribesmen – the Yoruba in Nasarawa, the Igbo in Apata and the Urobo spread throughout Jos – considered themselves “settlers” not “indigenes” of Jos, unlike the Hausa-Fulani, and lived in harmony with the “indigenes.” The Hausa-Fulani, in their view, had often sought to be accorded the status of “indigenes.” The commission observed that the Igbo Cultural Union, which consists of all the Igbo speaking people of Abia, Anambra, Delta, Enugu and Imo States residing in Jos, testified before the commission as “stranger” or “settler element” in Jos. The Afizere, Anaguta and Berom communities also cited the late Sir Ahmadu Bello, the *Sarduana* of *Sokoto* and Premier of Northern Region of Nigeria, as a public figure who did not considering the Hausa-Fulani “indigenes” of Jos. The *Sarduana* was said to have admonished the Hausa-Fulani, urging them to return to where they came if they wished to rule.

The commission noted that Group Captain Dan Suleiman, Military Governor of Plateau State, and Audu Abubakar, Secretary of the Military Government, attempted to accord the status of indigene to all persons residing in the state for

up to 20 years. They discarded the plan after the “indigenes” vehemently opposed it. The commission also received testimony that before 1901, each of the Afizere, Anaguta and Berom communities administered their villages according to their own cultures and traditions. The Berom occupied Kabong Village (wards: Landura, (Rock Haven); Laranto, Gura Le-Manjei (Anguwan Rogo); Chwelnyap, Jot (present-day Jos), Title (Angwan Soya and Apata) and Giring Village (wards: Hwolshe, Giring, Gold and Base Area, Dong and Ji-she (Tudun Wada)). Thus, the whole area occupied by present-day Jos was demarcated as two villages under the village heads of Kabong and Giring. The Kabong people later moved southward of Jos and Bukuru to establish Du Village, nearly 300 years prior to British colonial rule.

The commission found that the Berom and Anaguta tribes occupied the traditional area called “Jot” and the Afizere (Jarawa) tribe, the Gwong District. Some archival records supported the Afizere, Anaguta and Berom communities. A record showed that in 1873, Sarkin Yaki Ahmadu led the first Hausa-Fulani invasion, under the command of Sarkin Bauchi Ibrahim and Chiroma Usman. Badly beaten by the joint forces of the three tribes, the Hausa-Fulani did not attack again until the advent of the white colonialists. The commission noted Mr. S. Lousdale’s personal memo of 4 January 1915, on the failed invasion.

The Afizere, Anaguta and Berom communities also submitted to the commission additional documents to support their claim as the only indigenous people of Jos to the exclusion of other tribes:

- Statistics culled from the *Gazettes of the Northern Provinces of Nigeria Volume IV*, compiled by C.G. Ames and published by the Jos Native Authority in 1931, in particular, references the Highland Chieftaincies of Plateau Province. Part II of the compilation dealt with the history of the indigenous tribes of Plateau Province without referring to the Hausa-Fulani: Chapter 5, Jos Division (Berom, Ganawuri, Irigwe, Rukuba, Jarawa (Afizere), Anaguta and Pengana tribes); Chapter 6, Pankshin Division (Angas, Chip, Tel, Pai, Sura, Pyem, Ron, and Kulere tribes); Chapter 8, Shendam Division (Ankwe, Mon tol, Piapun, Kanam, Jorto, Bwol, Dimmunk, Kwalla, Mirriam, Yergam and Garkawa tribes); Chapter 9: Jema’a Division (Kaje, Kagoma, Yewskwa, Ayu, Nimzam, Gwandara, Kaninkwon, Ningwon and Numaka tribes); Chapter 10, Southern Division (Eggon, Mada, Rindre, and Mama tribes).
- *History of Plateau State: Resistance of Jihadists Penetration*, citing pages 140-141 of the book, where the following was written: “The Bauchi forces that fought the Plateau alliance would appear to have penetrated as far south as the Berom villages of Du. Du claims to have fought off the Hausa, from 1864-1873, and boasts of having taken the heart of a Bauchi chief. Du also states

that it was engaged in this war to help the Afizere, who lived in the Shere hills 24 kilometers to the North-east of Du.”

- *Encyclopaedia Britannica*, Volume 3 (*Balfour to Both*), citing page 703 thus: “Berom, a small but politically prominent heterogeneous people of the Jos Plateau, Nigeria, about 60,000 population, and many respects representative of the societies that comprise the Nigeria pagan (i.e., neither Muslim nor Christians Middle belt... a naked people and subsistence farmers, the Berom were nonetheless unmatched horsemen, and defended themselves successfully against the Muslim Hausa and Fulani slave bidders through the 19th century.”

The commission observed that some Hausa-Fulani witnesses, particularly those who represented the JDA at the inquiry, acknowledged the rule of Berom chieftains in Jos, either as *Sarkin Jos* or *Gbong Gwom Jos*, for 40 years. The incumbent *Gbong Gwom Jos* is also Berom.

The Hausa-Fulani upheld the peaceful nature of their Jasawa organization and the heroic qualities of their forefathers and rulers, as “neither fanatical nor hegemonic.” They refuted vehemently police and Jarawa accusations of exhibiting the “bellicose” disposition that led to the April riots. The Hausa-Fulani submitted on their own behalf seven *Gazettes of Northern Provinces of Nigeria* dating from 1920 where they were mentioned as indigenous people in Muri, Kastina, Sokoto, Zaria, Bauchi, Kano and Yola.

In oral and written evidence presented to the commission, the Hausa-Fulani submitted the following information. Between 1902 and 1947, when Jos Hausa (Jasawa) were appointed *Sarki Jos*, the Berom had little relevance in Jos. Prior to independence, the Jasawa represented Jos politically, including Alhaji Garba Baka-Zuwa-Jere, the first elected representative of Jos in the Northern Regional Assembly, and Alhaji Isa Haruna, who represented Jos in the pre-independence conference. The Hausi-Fulani indicated that during the run-up to the Second Republic, Alhaji Audu Danladi was nominated to the Constituent Assembly. In the Second Republic, Alhaji Salihu Malumbo, Inuwa Addah, and Inuwa Anacha represented Jos in the Plateau State House of Assembly while Alhaji Inuwa Aliyu and Baba Akawu represented Jos in the Federal House of Representatives. Furthermore, the Hausa-Fulani cited the Jasawa leadership in the council membership of earlier Jos Local Governments, citing the Jasawa ethnicity of the Executive Chairman and of 8 of the 14 elected Councilors after the Jos North Local Government elections in 1991. The Hausa considered that D.B. Zang was the first Berom political leader to be elected to Northern Regional House representing mining interests in 1950. Therefore, they rejected being classified as “settlers” or “non-indigenes.”

The commission noted that an important Hausa-Fulani member testifying before it produced documents recording Hausa-Fulani “indigeneship” of Jos. The witness stated that the Anaguta tribe, i.e., the people of Naraguta, were confined to the village of Naraguta and a small town, which lies in the Bauchi Emirate. Their origin was uncertain although they shared similar tattooing and face marking as the Jarawa people with whom they were closely tied. Although their dialect was distinct, they spoke and understood the Jarawa tongue. According to the witness, the people of Jos belonged to the Jarawa tribe and spoke the language of the hill Jarawa. Almost nothing distinguished the Anaguta and the Jarawa of Jos. The Jarawa originated in Fobur (Bauchi Division); some settled and founded the village, which is now Jos and “is still a pure Jarawa people.” The Jarawa area comprises Jos and its environs (Tudun-Wada, Kabong, Dong, and Kwo, along Zaria Road) and the Jarawa share boundaries with: the Berom at Bukuru Stream (N’gell Bridge) and Gero Village; the Miango at Kaffin Dauke and Mai Farin Mato; the Rukuba at Dutsen Kura; and the Bujis “at a little amount (sic) by Mister Ali village.”

An octogenarian of Hausa origin, whose father was originally from Kano, testified before the commission “that at that time, there were not many people, therefore, people were being sought to establish the town (Jos).” Although he did not know the meaning of “Gwash” (Jos), he proffered it was the name given by the Jasawa. The Hausa elder acknowledged that Mallam Rwang Pam, who ruled Jos from 1947-1969, and Dr. Fom Bot, the leader in 1994, were both Berom tribesmen. The Hausa based their claims to Jos on the 13 rulers from among their tribe. Historically, the commission noted that when the first Hausa came to Plateau State, they met and settled with the Anaguta people in Jos. They lived peacefully with the Anaguta and respected their culture and norms. They also acknowledged the authority and land ownership of the Anaguta. In recognizing the chieftaincy of the Anaguta, the Hausa paid taxes promptly to the chiefs. Although the development of Jos township is attributed to the Hausa, to recognize the Hausa’s commercial and community-building efforts, the Anaguta chiefs made some leaders of Hausa community, e.g., Ali Kazaure.

The commission noted that Jos “cannot be said to be an original place of Hausa people” and recognized the distinctions between the “indigene” or “non-indigene” and “settler” or “non-settler” as a fundamental issue. The commission defined an “indigene” of Jos as one “whose ancestors were natives of Jos, beyond living memory.” It did not include any person who may not “remember from where his father or grandfather left his native home for Jos as a fixed home, domiciled there as of choice for life, or is ignorant about where his family moved to Jos permanently in quest of better living or in the pursuit of his business.” A “citizen” of Jos may be ascribed “the status of an inhabitant of Jos who is entitled to or qualified for enjoyment of rights, enjoyed by an indigene of Jos.” The commission conceded to the claim of the

Afizere, Anaguta and Berom tribes and declared them “indigenes” of Jos and qualified the Hausa-Fulani people as “citizens” of Jos.

2.5 Commission’s Recommendations

The commission commended the general officer commanding the 3rd Armored Division of the Nigerian Army and the Commander of the Nigerian Air Force in Jos for calling out troops to quell the riot. It made several recommendations to state and federal authorities to foster unity among the residents, including:

- Making important political appointments in consultation with stakeholders and guided by “justice, equity, fair play and objectivity.”
- Bringing parties together in a round-table conference “to iron out their differences.” Among the “relevant personalities” to be invited to the peace talks were youth representatives and religious and women leaders. The peace talks were to inform the government on reconstituting the Jos North Local Government Council.
- Extending intelligence-gathering activities of security agencies to cover individuals, including “overzealous demagogues,” and tribal, religious, cultural and social organizations posing a potential threat to peace and order. The commission urged the government to consider and investigate information from the police, state security services and other responsible organizations and individuals such as traditional rulers, community elders, youth organizations and women leaders. The commission also recommended to security agencies to better network and cooperate and be better professionals in using any information and intelligence reports.
- Equipping the state police command with adequate human and material resources to enable it to perform its statutory duties effectively. The commission cited improving the well-being of policemen, including better accommodation and transportation and adequate and timely payment of salaries and allowances. In dealing with riot situations, it urged the police to exercise reasonable care and not harm people nor cause damage to property.
- Avoiding future incidents of civil disturbances by applying appropriate legal sanctions against persons, group of persons, and organizations indicted in the commission’s report. The commission also asked the Honorable Attorney-General and Commissioner of Justice to initiate criminal proceedings against the 13 persons named in its report for offences connected to the riot.
- Disciplining the State Deputy Commissioner of Police for mishandling the riot, in spite of warnings and availability of information.

- Maintaining round-the-clock police and private security surveillance at all important public buildings, ensuring that security and safety personnel deployed in these buildings know fire-fighting techniques, enforcing safety rules and regulations and periodically training the public on these techniques. Fire fighting and other safety equipment and measures were to be properly maintained at all times.
- Rehabilitating the Barkin Ladi Hall in Jos Main Market and all other market stalls and sheds destroyed by fire or looting so that trading activities could return to normalcy.
- Building stalls in the Jos Main Market halls with fire-resistant materials, such as bricks or metal and allocating and using them with regard to free flow of traffic and according to safety requirements.
- Compensating adequately persons and organizations that suffered genuine losses.

Osita Ogbu³

3.0 Background

After civil disturbances broke out in Jos on 7 September 2001, Plateau State Governor Joshua Dariye set up a judicial commission of inquiry the following October 18. Hon. Justice Niki Tobi – the presiding justice of the Court of Appeal in Benin City and later justice of the Supreme Court – chaired the commission, which included Hon. Justice Ismaila Adamu, Barr Ibrahim Hamman, Barr Nasiru Goshi, Chief Dr. Chigozie Njoku, Chief Markus W. Ishaya, Hon. Mali Khandi Dung, Hon. Mrs V.K. Umaru, and Messrs. Thomas Didel and Ibrahim Sale (acting secretary).

With a similar mandate and terms of reference as the Fiberisma Commission (1994), the Niki Tobi Commission (“the commission” in this chapter) read and reviewed 456 memoranda and other numerous annexes; admitted 614 exhibits, and heard witnesses, which were cross-examined by counsel. During the eight months while the commission undertook its work, there were at least five more outbreaks of violence. As in the Fiberisima Commission, the commission’s findings related to the remote and immediate causes of the disturbances and ownership and “indigeneship” of Jos. The commission also addressed electoral districts, land rights, “Islamization,” constitutional freedoms and discrimination. Items appearing under quotation in this chapter are from the commission’s report.

3.1 Remote Causes

The Niki Tobi commission heard testimony on the various origins of the name *Jos*. The variants included the European’s inability to pronounce the Berom’s name *Jot* (water spring); the inability of immigrants to pronounce *guash*, the town’s original name, thus changed to *Jos Naraguta*; the Berom’s name of *Jot-Shil*, the curative water spring behind the Jos main market; and the Hausa-Fulani’s claim that Jos was named after a German Captain Jos.

Ownership of Jos was cited as one of the remote causes of the September 2001, crisis. The Afizere, Anaguta and Berom and the Hausa-Fulani communities

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presented competing claims to the commission. Other tribes testified as to which tribe, in their view, owned Jos. For example, in the memorandum submitted by the Jos Divisional and Cultural Organization (JODICO) Solidarity Front, a reference was made to the *Gazette of the Northern Provinces of Nigeria*, Volume IV at 53 (1934) that described the former Jos Division (comprising Bassa, Jos North, Jos East, Jos South, Riyom and Barakin Ladi Local Government Areas) and its tribes: the Anaguta, Berom, Ganawuri, Irigwe, Jarawa, Jerewa, Pengana and Rukuba. The *Gazette of the Northern Provinces of Nigeria*, which describes the “common native territory of Jos,” also referenced the Berom tribe as the largest, “with a population of some 44,000 [that] occupies the eight southern districts and half of Ganawuri.” The commission noted, however, that the publication did not mention the Hausa-Fulani.

Another exhibit included information on the Hausa-Fulani’s unsuccessful petition in 1986 to be declared owners of Jos under the Land Perpetual Act. The petition was rejected since another group had been registered and approved as “indigene” by the JDA in 1975. Exhibit 508 dealt with the Hausa-Fulani jihadists and cited again the personal memo of Mr. P. Lousdale in the *Bauchi Provincial Files* (1915) on the history of Plateau State and the Hausa-Fulani invasion of 1873. Exhibit 92 incorporated information on the native settlement of the Afizere, Anaguta and Berom in a communal hunting territory shared with other neighboring tribes, including the Buji, Irigwe and Rukuba, before the British began mining tin. At first, the Plateau “indigenes” did not work the mines; consequently, the British sought its workforce elsewhere, especially from the nearby emirates of Zaria and Bauchi.

An account contained in Exhibit 162, presented by the Elders of Jasawa Development Association, claimed ownership based on the Jasawa identity of 13 of the 15 traditional rules of Jos; the service of four persons in the capacity as *Magaji Gari* and *Wakilin Garin Jos* during the colonial and post-colonial era; and the reference in “*This is Jos*,” which cited Jos as a Hausa settlement by 1912. Exhibit 57 urged the commission to look at the imprint made by settlers and pioneers, including “their influence in names of important aspects of the settlement; the establishment of their culture; and initial leadership and administration of the place.” It cited Hausa traders as giving the town the name Jos based on their mispronunciation of the word *guash* and ascribed to the Hausa-Fulani the naming all the important early streets in the town, e.g., Sarki, Galadima, Balarabe, Turaki, Shehu, Ali Kazaure, Dan Karfalla, which still exist today. The exhibit also recognized the role of Hausa-Fulani in founding Jos and identifying the town as “Hausa Settlement” in the colonial records of administrators in the Plateau Province, including an annual report dating from 1926, which referred to demographics of the Jos “Hausa” Settlement in the Plateau Province. The Hausa and Fulani populations were recorded as 32,856 and 7,587 inhabitants, respectively.

The Concerned Muslims Youth in Jos North, through Exhibit 339, stated that “no single tribe in Plateau State as a whole can claim that it did not migrate from another place to the present Jos. [sic] Berom tribe migrated from Sokoto.” They proudly cited their forefathers’ contributions to the social, economic, political development of Jos and most of the villages in the mining areas – some of which still bear Hausa-Fulani founding names such as Barkin Ladi, Rafin Bala and Gindin Akwati. The group also cited evidence of 13 traditional rulers bearing the title *Sarkin Jos* between 1904 to 1948.

The commission rejected claims of Hausa ownership simply based on oral evidence. In the commission’s view, presenting the book *This is Jos* as an exhibit would have helped authenticate the claim. Since the commission considered that the law did not allow it to presume the existence of the book, the commission declined to presume its existence in favor of the Hausa. The commission also dismissed oral evidence from witnesses claiming the Hausa-Fulani predated the Beroms’ arrival. Upon cross-examination, a witness replied to question on ownership of ancestral lands: “my grandfather roamed about all over the place when he first settled in Jos. My father was a miner. I do not have any ancestral land in Jos. My father did not inherit any farm land from my grandfather who was a farmer.” The commission reasoned that ancestral land was a by-product of ownership of a place and person’s claim of ownership of a place without ancestral land was tenuous: “how can one own a place and not have an ancestral land or a land which is a subject of inheritance? Such a situation will be new learning to this commission and we are not prepared to learn such a bogus claim.”

The commission also reviewed Exhibit 57 critically and rejected the appearance of a caption/subheading in a document – Jos Hausa Settlement – as indicating Hausa founding or ownership. The commission cited key language in the document: “this settlement of *alien natives* have as all the rest in a minor way, increased in area and population in a remarkable way. It was an astonishing sight to witness the daily building operations on hitherto *untenanted land* during the last quarter of the year.” (*Italics added for emphasis*)

If there were “alien natives,” the commission concluded, it would be logical to think that there were “native natives” or “indigenous natives.” In rejecting the reference to the tribal population of the Jos Division in 1926, the commission saw no connection between a demographics table with tribal population and ownership of Jos: “the claim of ownership of Jos on the basis of that table is an unusually tall ambition lacking historical basis.” The commission viewed “untenanted land” simply as land that is not subject to sale. Since the main document was silent on the issue of ownership of untenanted land, the commission did not extend on its own the ordinary meaning of the expression. If any meaning was to be given, the commission reasoned, it would have been land owned by the natives.

The commission based its determination that the Berom represented the native community and not the Hausa-Fulani on its examination of official correspondences. In a letter dated 30 October 1943, from the Resident official of the Jos Provincial Office to the Secretary of the Northern Provinces at Kaduna, the former referenced the Hausa immigration settlement. He described Jos and Bukuru having “cosmopolitan populations and a number of immigration settlements, mainly Hausa...administered directly by the District Officer through four Hausa district heads who are not subject to the tribal native authorities nor appointed by native authorities themselves.”

The Resident Official, while dealing with the nature of administration of the numerous smaller immigrant settlements and mining camps, stated in a letter dated 28 February 1945: “as the Berom authorities develop and are able to effectively look after the immigrant settlements mining camps in their areas, the District Officer’s authority would be taken away.” On the same page, the Resident Official wrote, “[t]he tendency of named Fulani to settle on the Plateau is growing and must be controlled. In theory, they settle with the consent of the land owners; in practice they often squat where they like... they should seek formal authority from the appropriate native authority to settle...giving the Fulani security of tenure, setting out the conditions of settlement, e.g., grazing, and preserving the ownership of the land in the native community.”

On 29 March 1957, the Resident Official of Plateau Province to the Permanent Secretary at the Ministry for Local Government of the Northern Region requesting a Hausa chief for Jos. He described the town as a “small Berom village in a Berom controlled area” prior to British tin mining, which brought to Jos “a large stranger settlement; predominantly Hausa but including Igbo and Yoruba and other tribes, which settled round the terminus of the railway.” The commission noted that neither Igbo nor Yoruba tribes claimed ownership of the city.

The commission interpreted Exhibit 359, which dealt with Jos’s divisional administration, as corroborating the statement on the Hausa-Fulani settlements. To cope with the reorganization of the indigenous population into 15 districts that were placed under the control of a district head (a prominent “pagan” chief or other traditional authority), the districts “were therefore grouped to form four areas, called for convenience (though they were by no means wholly Hausa) Hausa villages.” The 73 traditional chiefs of 11 preponderantly Berom districts were placed under a single native authority council, whose president was the Riyom chief. Subordinate to this council were the 15 village groups’ councils, each presided over by the traditionally senior chief of the group. Village courts established in each

group reflected the membership of the village council. A tribal court, with appellate jurisdiction over the whole Berom area, was established at Riyom.

In substantiating evidence that the ownership of Jos belonged to the Berom and not the Hausa, evidence was given to establish that the former migrated from Sokoto and settled in Jos prior to the Hausa. Exhibit 105, a memorandum submitted by the Igbo Community Association Jos, read in part: “settler elements easily identified in earlier days were Ndigbo, Yoruba, Hausa, and Urhobo, who lived among themselves without any rancor. It is worthy of note that Ndigbo in Jos had cordial relationship with indigenes” and “non-indigenes alike, a relationship which had continued to exist till date. It is a known fact that the insistence of the Hausa community to be at the head of every set up puts them at logger-heads with other communities.”

Evidence was given that in 1954 Ndigbo and Yoruba sided with the “indigenes” and “vehemently resisted” the Hausa community’s imposition of Emirship *stool* on Jos. “The resistance paved the way for the installation of an indigene, namely Da Rwang Pam, as the paramount chief of Jos. Since then, this stool has always been occupied by an indigene. Consequently, the current *Gbong Gwom Jos* is Da Fom Bot, an indigene.” Exhibit 36, a memorandum of the Yoruba Community in Jos, included the following: “The relationship of Yoruba people with Jos dated back to 1840s. Records show that Yoruba were the first non-natives that first came to Jos. By 1850, a sizeable number of Yoruba had stayed, forming a small community around Cole Street and Terminus area of Jos....The Hausa-Fulani, Igbo and others came later.” A witness testified that the “Yoruba’s came to Jos first. Therefore the claim that Hausa-Fulani came first cannot be true.” The commission appreciated the Yorubas specificity in presenting a chronology, which allowed it to conclude that the Yorubas arrived in Jos before the Hausa-Fulani.

Ahmadu Bello’s book, *My Life*, was cited to list areas which did not come under Hausa-Fulani rule: the Borno Province, the Plateau Province (less Wase), the Jukun, the Tiv, and Idoma peoples of South of the Benue and small parts of Kabba and Ilorin Provinces.” As first Premier of Northern Nigeria, Bello’s greatest legacy was modernizing and unifying the diverse people of Northern Nigeria. The commission rejected the Hausa-Fulani *jihad* of 1873 as having any impact on ownership since they did not capture Jos, rather the Hausa-Fulani “were given land for the grazing of their cattle in the Plateau and were assimilated to the general administration of the division.” In the commission’s view, ownership should be based on relevant evidence of first settlement or conquest and such evidence must be convincing and true.

On the Hausa-Fulani claim of ownership based on their language and contributions to Jos’s economic development, which were included in Exhibits

57 and 339 among others, the commission quoted Cicero's adage, "history is the witness of the times, the torch of truth, the life of memory, the teacher of life, the messenger of antiquity." The committee noted that the burden of proving ownership is on the claimant and the Hausa-Fulani failed to provide the evidence to pass "through Nigeria's evidential rules of proof." The commission accepted the evidence that the Afizere, Anaguta and Berom owned Jos.

The commission noted that wealth or economic power did not equal ownership. Wealth cannot influence ownership of a thing. A tribe may have economic power but not the ownership of a place. The commission declined to give migrant tin miners a defining role in ownership: "It will be tantamount to selling or disgracing history if tin-mine workers are said to be owners of the town Jos when there is clear evidence that they came for tin mining labor and met the natives, the owners of the town." The commission also held that language may determine ownership of a place under certain conditions. Although it agreed that Hausa is "a unifying language of trade and commerce," it was not a language of culture conveying traditional ownership of Jos to the Hausas since the Afizere, Anaguta and Berom had their own separate and distinct languages.

3.2 Immediate Causes

The commission identified two events as constituting the immediate causes of the five-day crisis: *the appointment of a Hausa-Fulani* as coordinator of the Federal Government's National Poverty Eradication Program (NAPEP) for Jos North Local Government Area and *an altercation between a Christian woman and Muslims penitents* celebrated their *jumu'ah* (Friday prayers) in front of small mosque in the Congo-Russia area.

Under NAPEP, a local government coordinator is appointed for each of the 774 Local Government Areas nation-wide. A national coordinator heads the national program while state and local government coordinators lead state and local government offices, respectively. The local government coordinator's functions are distinct from those of the "Local Government Council but whose team, known as the Local Government Monitoring Committee" must include, among others, the vice chairman and all supervisory councilors of the Local Government Council. On 20 June 2001, NAPEP's national coordinator appointed a Hausa-Fulani to be NAPEP's local government coordinator.

Tribal Christian groups and others called for his immediate removal through written complaints, petitions and protests. They also sought his replacement with an "indigene." On August 20, the JDA wrote to the executive governor of Plateau State, defending the NAPEP appointment and urging that it be allowed to stand. In making a case for his retention, supporters condemned references to "indigeneship" and decried the marginalization of the Jasawa community by previous governments in terms of appointments and refusals to give their

members certificates of “indigeneship.” The elevated tension generated by the appointment led the Secretary of the Plateau State Government to hold meetings with tribal and religious groups to defuse potential violence. Several meetings were held, but before the joint meeting scheduled for September 10, violence erupted.

According to the commission, events following the NAPEP appointment were the veritable beginning of the Jos crises, which became violent, assumed a wider scope, and took on an unmistakably religious dimension. Before the commission, NAPEP’s Local Coordinator testified that his office was broken into and some of his property stolen.

Fierce debate on the coordinator’s appointment translated into the widespread violence and destruction of lives and property that occurred when the Christian woman tried to cross the road at the Congo-Russia mosque. The worshippers denied the woman access through the portion of the road they were using as she attempted to return to work after her lunch break. The commission accepted as the true testimony that the assault of the Christian woman and acts of arson to her home by Muslim worshippers inflamed the violence which quickly spread to other parts of the city and beyond.

3.3 “Indigeneship,” Electoral Districts and Land Rights

The Afizere, Anaguta and Berom communities asserted their unique status as “indigenes” of Jos. The Hausa-Fulanis did not deny the rights of these tribes based on “indigeneship,” but expressed their own claims to “indigeneship.” The commission conceded the thorniness presented by the issue of “indigeneship” in Nigerian society and culture and acknowledged the paucity of Federal or State laws dealing directly with the topic.

Complaints that came before the commission related to imbalances in delineating electoral wards in Jos North Local Government Council. The Afizere, Anaguta and Berom communities argued that delineation had given the Hausa-Fulani unfair political advantages in local government affairs. Exhibit 22, submitted by the Anaboze (Buji) Youth Movement, stated that while one councilor represented about 50,000 and 29,500 voters each from Naraguta B and Tudun Wada wards, three councilors represented about 15,000 voters from the three “settler” wards. As such, only 4 of the 14 councilors in Jos North represented indigenous tribes. Therefore, rebalancing electoral wards would “go a long way in giving the indigenous tribes a sense of belonging in the affairs of the local government.”

The same point was made in Exhibit 46: The composition of the electoral wards revealed the most shocking and unthinkable injustice and manipulation having regards to geographical size, voting population and number of polling stations.”

The exhibit reaffirmed the analysis in Exhibit 22 of the voting population: “in each of the electoral wards of Jos North...a particular ward of about 50,000 people would vote to produce a single councilor as against slightly over 5-10 thousand people in some other wards producing a single councilor too.”

Table 1, showing wards in Jos North Local Government Council in relation to the voter population as of 1998, is presented here for the reader’s reference. The structure remained the same until 2002.

Table 1. Electoral Wards, Jos North Local Government Council

Ward Name	Number of Units	Voter Population
Naraguta 'A'	28	21855
Naraguta 'B'	99	56415
Abba Na Shehu	27	18677
Ali Kazaure	36	19650
Garba Daho	26	10802
Gangare	18	11252
Ibrahim Kastina	25	14398
Jenta Adamu	24	13532
Jenta Apata	34	19977
Jos Jarawa	34	30300
Sarkin Arab	17	11002
Tudun Wada/Kabong	64	43185
Tafawa Balewa	11	5600
Vanderpuye	11	5900
Total	354	282,545

Source: Independent National Electoral Commission (INEC)

The commission noted that the delimitation of electoral wards, including the voter population and polling units given in Table 1, corresponded to those given in other memoranda. The Hausa-Fulani did not challenge the information presented even through cross-examination. The commission agreed that imbalances in electoral wards benefited the Hausa-Fulani politically and marginalized other groups. It favored, therefore, restructuring electoral wards but declined from making any specific recommendation to that effect.

The issue of Hausa-Fulani cattle grazing on farmlands belonging to Berom communities (Jos South Local Government Area) and Riyom, Barkin Ladi and Irigwe communities (Bassa Local Government Area) surfaced as a remote cause of the crises. Cattle often trampled market crops, thus creating tensions between the groups.

Exhibit 173, submitted by Jol community, traced the origins of the tension to the arrival of British settlers seeking to exploit tin in Jol. According to the testimony of the community, the Fulani started arriving in Jol in 1949 to sell milk to the British: "When the Fulani discovered that Jol Village has a very rich grazing field, they started requesting for portions of land from the natives to settle. Because by nature the Berom people are hospitable and accommodating, they gave portions of land to the Fulani on loan." Thus the Berom became landlords to whom the Hausa-Fulani paid rent. Sometime in the 1990's, the Hausa-Fulani stopped paying rent to the Berom, who threatened to evict them.

The commission cited communal clashes between the two groups. On 15 February 1999, for example, the Hausa-Fulani mobilized and set Jol Village on fire. The Riyom Local Government Council brokered a peace accord in July 1999, when the Hausa-Fulani agreed to resume paying rent and the Berom withdrew their eviction threats. In evidence contained in Exhibit 540, the Vwang Community of Jos South Local Government Area, recounted the Hausa-Fulani attack on their community on September and later December 2001, during which time many of their people were killed, others wounded and property destroyed. Exhibit 541 detailed the alleged attacks inflicted on the Irgwe at the end of 2001, incriminating unidentified "soldiers of Fulani origin" at the Rukuba Barracks who allegedly assisted the Fulanis in brutally beating Irgwe leaders.

The tension of the Hausa-Fulani and the Irgwe over cattle grazing may be more deeply rooted. The latter testified before the commission that the disagreements began in the 1930s when the Hausa-Fulani began cattle grazing in the Irgwe's rich farmlands and failed to "comport themselves in accordance with the customs and traditions of their host communities." Over time, disagreements "became commonplace and...developed into physical assaults, rape and destruction." To resolve recurring conflicts, the district head of Miango interceded, generating agreements between the Irgwe elders' forum and Hausa-Fulani leaders. For example, "routes through which cattle owners could pass with their livestock were carefully identified." Irgwe landowners, mostly farmers, provided rights of way. The Hausa-Fulani, however, continued to drive their cattle through the Irgwe's crops.

A devastating clash between Hausa-Fulani and Irgwe on 28 March 1999, forced the district head of Miango to critically examine the conflict. A committee report "held the Fulani mostly responsible for a greater number of the problems in the area." The commission noted that recommendations were not implemented and the conflict persisted culminating in the violence in Jos in September and later in Vwang in December, spreading "like wild fire into the southern parts of Kwall District of Bassa Local Government Area the following day, leaving in its trail heartbroken Irgwe inhabitants."

The Rim community (Riyom Local Government Area) also identified the long-standing animosity between the Berom and Hausa-Fulani as one of the remote causes of the September crisis. In Exhibit 504, they testified that the Hausa-Fulani settled on “farmlands without compensation or commission paid to the owners,” creating animosity between the impoverished Berom farmers and the Hausa-Fulani herdsmen. The Rim community attempted to address the cattle-grazing problem without success. In 1996, it obtained approval to establish a forest reserve area from local government. The community claimed, however, that the Hausa-Fulani had “not allowed the community to gain anything” from the reserve.

The Hausa-Fulani presented evidence through Exhibit 81, an omnibus declaration of the Miyetti Allah Cattle Breeders Association, Plateau State, on the long-standing animosity and distrust between the communities. Without addressing the problems of cattle-grazing on Berom farmlands, the document stated, “the Berom have singled themselves out more than any other Plateau tribe as the worst enemy of the Fulani,” but failed to give the origins of this enmity.

Since the Hausa-Fulani failed to counter the allegations of the destructive results of cattle grazing, the commission determined cattle grazing to be one of the remote causes of the crises.

3.4 Islamization, Constitutional Freedoms and Discrimination

The commission addressed the Muslim religious dimension through its discussion of Islamization, *sharia* and *jihad*. Several memoranda documented allegations of Islamization in Nigeria in general and Plateau State in particular. Exhibit 502, Annex A, included a communication from the Islamic Liberation Movement to General Babangida captioned *To Die in the Path of Allah: Our Target*, which listed plan set up by the Islamic Liberation Movement during their meeting on 14 November 1989 at Kastina against the Kafuris (Christians). The letter sought General Babangida’s “necessary assistance as a concerned Muslim.” Exhibit 257, Annex B, a communiqué jointly issued by the Islamic Council, the Organization of the Islamic Conference (OIC) and the Islam in Africa Organization (IAO), informing Nigeria of its OIC membership, thanked General Babangida for his government’s generous donation to the OIC’s Islamic Development Fund and requested the federal government “to implement all policies and programs of the OIC.”

Exhibit 129, a *Punch* publication dated 12 November 2001, cited the national President of the Supreme Council for Sharia in Nigeria as stating: “We also expect in the near future, the establishment of *sharia* in Kwara, Oyo, Lagos, Ogun, Osun, Taraba, Adamawa, Plateau, Nasarawa and Kogi States.”

In ascribing meaning and content to *jihad*, the commission turned to a witness's statement made while under cross-examination: "the meaning of *jihad* is conquest or purify yourself from sins to become a good Muslim. After you purify yourself and are clean yourself, go and preach to others to get more followers. This is the meaning of jihad...it never says go and kill." It cited the *Oxford Advanced Learners Dictionary*, which defined *jihad* as a "holy war fought by Muslims against those who reject Islam" and the *Longman Dictionary of English Language and Culture*, which defines it as "holy war fought by Muslims as a religious duty."

The commission ascribed special relevance to the definition of *Jihad* in Abdur Rahman Doi's *Sharia: The Islamic Law* (1984) in Chapter 25 at page 437:

Jihad is derived from the Arabic word *al-jahd* meaning a struggle or striving and the word *jahada* means "he has struggled or exerted himself." *Jihad* does not necessarily mean resorting to the use of sword and the shedding of blood as is misunderstood by some people. The word *jihad*, therefore, is so comprehensive that it also includes a striving and undergoing hardship and forbearing in great difficulties, while standing firm against one's enemies. The actual words for war in Arabic are *al-harb* and *al-oital*. In the Qur'an, therefore, the word *jihad* as a holy war, is used in respect of waging it for defense against any aggression or taking an offence in unavoidable circumstances when the onslaught of enemies is imminent. These circumstances alone can make a war morally justifiable.

From Doi's definition, it was clear for the commission that Muslims initiating a war on their own could not be called jihadists because they did not defend against aggression. Similarly if a Muslim initiated a war when the onslaught of the enemy was not imminent, it could not be called a *jihad*. In the above two circumstances, the Muslim will be taken to have done his own thing in his own way, clearly outside the Qur'an. For Doi, *jihad* did not "necessarily mean resorting to the use of sword and the shedding of blood as is misunderstood by some people." The commission noted that Muslim youth often failed to understand the meaning of the word and saw civic education, through workshops, seminars and lectures, as a way to better inform them of its real meaning and application. In no circumstances, however, could *jihad* be a defense against Nigeria's penal laws.

The "Call to the Muslims of the World from a Group of Freethinkers and Humanists of Muslim Origin," presented in Exhibit 460, cited passages from the Qur'an regarding Muslim-non-Muslim relations, including many proscriptions "do not make friendship with Jews and Christians" (5:51); "kill the disbelievers

whenever we find them” (2:191); “murder them and treat them harshly” (9:123); and “fight and slay the pagans, seize them, beleaguer them, and lie in wait for them in every stratagem” (9:5). The commission declined to determine the authenticity of passages quoted. Instead, it concluded that fellowship in a religion or religious belief arises from proselytism flowing from the believer to the unbeliever. As a multi-religious country, the commission urged the major religions of Christianity and Islam to accept the constitutionally guaranteed religious plurality to enable the country to move forward.

A number of witnesses testified that Muslims and Christians used loudspeakers to alert or call out their followers to fight during the crisis. Many suggested banning the use of loudspeakers in houses of worship as it violated the constitutional right to private life and constitute a nuisance. During their religious services, Muslims and Christians blocked roads on Fridays and Sundays, respectively, in the immediate vicinity of their places of worship. Various memoranda submitted to the commission brought this issue to the fore and several witnesses affirmed or denied the practice. Mosques blocking major roads for Friday prayers included Jos Central Mosque, the Dilimi Juma’at Mosque and the Congo-Russia Mosque. Churches doing the same included ECWA Good News Church along Ahmadu Bello Way, Cherubim and Seraphim Church along Dilimi Road, First Baptist Church along Pump Street and St. Theresa’s Catholic Church along Church Street.

Both religious groups admitted that neither had permits nor approvals to block roads during worship hours. Each group, however, justified their conduct differently. Muslims blocked the roads to accommodate the large number of congregants since the mosques themselves were too small to accommodate all. They claimed that road closings were limited to 30 minutes. Opposition to blocking roads amounted to religious intolerance in their view. In the opinion of a Muslim witness, Christians did so only to retaliate against the Muslims. The ECWA Good News Church and St. Theresa’s Catholic Church testified that their road closings were advised by the police based on personal safety and security of their property (cars). The Christian groups viewed the Friday prayer roadblocks as provocative inconveniences to those of other faiths.

The commission rejected proponents’ claim of roadblocks during Friday prayers as permissible under Islamic injunction. The commission also rejected the permissibility of roadblocks during prayers as part of the fundamental right to freedom of thought, conscience and religion. In its analysis, however, the commission relied on the Section 41(1) of the constitution: “Every citizen of Nigeria is entitled to move freely throughout Nigeria.” The commission noted that in exercising freedom of worship, a citizen is not at liberty to deprive another of the right to move freely. Therefore, restrictions to free movement would violate the constitution and would be actionable in a court of law. This

opinion did not detract or derogate from the power of government or security agencies in their ability to restrict movement of persons to ensure peace and protect lives and property.

The commission also referred to Nigeria's criminal code to address unauthorized blockage of roads by any person – for religious purposes or otherwise. Section 194 Penal Code of Northern Nigeria Chapter 89 (1963), applicable in Plateau State, punishes by two-year imprisonment, fine or both those who deny persons of their legitimate right of movement. Section 254 of the same code also provides that “whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said to restrain that person wrongfully.”

Oral and written testimony alleged discrimination against the Hausa-Fulani and Muslims in political appointments, admissions into government service, scholarships and airtime on Plateau Radio and Television (PRTV) programs. The Hausa-Fulani contended that discrimination against them, specifically citing being denied “indigeneship” certificates for admission to federal government college and jobs, was one of the remote causes of the September violence.

In a letter dated 20 August 2001, from the JDA to the Executive Governor of Plateau State, the association stated: “The Jasawa community is the most marginalized in Plateau State in particular. Our people have been contributing immensely to the social, economic and political development of Plateau State and Nigeria, yet when it comes to sharing the spoils of office we are brazenly and shamelessly discriminated upon.” (Exhibit H, page 6). The JDA testified that Jasawas seeking jobs in state or local government felt frustrated even though many were qualified for the positions. It considered the very protest against the appointment of a Hausa-Fulani as NAPEP Coordinator further proof of discrimination. The JDA's declared “being marginalized, suppressed and oppressed by successive administrations of Plateau State because we are Muslims” and lamented that “within the Federal and Plateau State Civil Service, not a single office is held by Jasawa.... Since the inception of Plateau State, none of us has ever been appointed a cabinet Commissioner; none of our university graduates has ever been employed in any Ministry or Parastatal.” (Exhibit H, paragraph 17)

The Fityanul Islam categorically referred to “official backing of a particular religion against the other.” According to this organization, “right from the beginning of the dispute, the attitudes of people in government have not helped matters. Government has openly taken sides, conniving with dubious people to rob the Muslims.”

Testifying on the remote causes, the Jama'atu Nasril Islam (JNI) stated,

“PRTV had few Islamic programs whereas the Christian programs were too numerous to mention [giving] the impression that the PRTV is used to promote Christian interest only....[I]n matters of appointments into the state public service, statutory corporations and parastatals...Muslims are always relegated to the background, marginalized and treated as if they do not exist in the state.” (Exhibit 463, page 4). The National Council of Muslim Youth Organization of Nigeria agreed with the JNI and testified that “....the same is always on admission into schools such as Plateau State Polytechnic, School of Nursing, School of Health Technology...[e]ven the federal government-owned institutions like the University of Jos.” (Exhibit 247 at 4).

On behalf of the Afizere, Anaguta and Berom, the Jos North Plateau Youth Council and the Afizere Cultural and Community Development Association expressed their dissatisfaction with “the persistent appointment of non-indigenes into key positions at both state and federal levels under the local government quota. Some of the notable appointments include members transition [sic] implementation committees, coordinator, constitution review committee, board members of tertiary institutions.” (Exhibit 534, Annexes H and J). Each tribe had complained separately on the NAPEP Coordinator’s appointment prior to the violence.

The Anaguta Development Association and the BECO Elders Solidarity Forum, whose evidence and testimony were included in Exhibits E and F, respectively, referred to a meeting between the indigenous tribes of Jos North and the Governor of Plateau State during which they emphasized “the resentment caused by the continued appointments of the Hausa into positions representing the indigenous people of Jos North.” The Afizere, Anaguta and Berom tendered a list of Muslim Hausa-Fulani appointed members of various Plateau State government-owned boards and parastatal corporations. (Exhibit 14). They also referred to the traditional title of *Turakin Jos* given to an elder of the JDA.

In his oral testimony before the commission, the PRTV general manager described the corporation’s policy on equitable airtime: “RTV has tried as much as possible to be very fair. We have not seen any station sanctioned as a result of dominance of one religion over the other but we have been very fair. If we get something from any religious body, we try to be fair.” In Exhibit 553, the corporation addressed the internal wrangling between the Jama’ atul Iزالatul Bid’ah Wa Ikamatus Sunnah (JIBWIS) and the JNI over the JIBWIS-sponsored Muslim program, which was cancelled after non-payment of its renewal license.

Discrimination, however, was not a new complaint heard in Jos. The commission reviewed Exhibit 183(a), a letter written on 3 April 1956 by Sarkin Jos Rwang

Pam in which he refuted a Hausa-Fulani complaint addressed to the senior district officer. After giving a long explanation on the circumstances that led to the complaint, he wrote: "the Hausas are not being sidelined as they want to claim. Except for the lack of understanding of some of them who want to lord it over the people of this land as it was when the people were not enlightened and there was no understanding among the various ethnic groups in the area. In the administration of Jos native authority, no tribe will be sidelined."

3.5 Commission's Recommendations

The Niki Tobi Commission studied the report of the Fiberesima Commission (1994) and held that the main issues arising before both commissions and underlying the violence were very similar:

- Contested appointments of Hausa-Fulani into government positions.
- Conflicting claims of ownership.
- Contentious role of the Jasawa Development Association.

The commission distinguished the ethno-religious dimension, the scale and extent of the violence in 2001 and 1994: the 2001 crises had a more pronounced ethno-religious dimension; the killing and destruction were far greater in 2001; and the crisis spread beyond Jos to other parts of Plateau State in 2001, whereas rioting only took place in Jos in 1994.

While urging that earlier commission's recommendations be implemented, the commission noted that implementing recommendations would not end disturbances *ipso facto*. Implementation was for the commission, however, a necessary means to show the government's resolve to ensure justice for victims of violence, deter troublemakers, rid Nigerian society of the existence and fear of "sacred cows," and thus promote peace and stability. The commission did not excuse the government for not implementing the Fiberesima Commission's recommendations and hoped that its own recommendations would be implemented. The commission firmly believed that not implementing the Fiberesima Commission's or its own recommendations would continue the cycle of violence. Therefore, it recommended that the government take the recommendations seriously and implement them diligently.

Conspiracy, murder, arson, inciting public disturbance warranted the government's action to investigate, prosecute and punish. The commission recommended investigating or prosecuting all persons alleged to have participated in the crises by committing those crimes. Punishing the perpetrators would deter others from following the same violent path and promote peace in Nigeria.

The commission acknowledged that discrimination was a major cause of conflict as claims and counterclaims are made by almost every tribe or group against another: a problem connected to “indigeneship.” Since the federal government set the Committee on Peace and Conflict Resolution in some central states to examine the issue as it affected Nigeria as a whole, the commission advised the Plateau State government to await the decision of the federal government on the committee’s recommendations.

To address the immediate cause of the crisis, the commission recommended the government to ban and enforce restrictions against blocking public roads for prayers and other religious purposes. According to the commission, the unlawful practice created unnecessary tension and acrimony among different religious groups.

Since religious groups used loudspeakers to mobilize and incite their members to kill and destroy property during the crisis, the commission urged the Plateau State House of Assembly to pass legislation making it illegal to mount and use loudspeakers on external walls of churches and mosques. It recommended the government to ensure that the mosque at Congo-Russia, where the crisis started and which was subsequently destroyed, not be rebuilt. Similarly, the commission recommended the Jos Metropolitan Development Board to implement its own Edict No. 5 (1974) regulating construction of houses of worship in residential areas. Enforcing the residential zoning regulation would prevent residents from becoming targets of religious fanatics. There was clear evidence before the commission that youths had easy access to gasoline sold publicly through black markets outside gasoline filling stations. Therefore, the commission recommended the government enforce its ban on sale of gasoline other than at filling stations.

The commission noted that the government should work with communities to provide grazing areas and permanent routes for cattle to enable the Hausa-Fulani feed their cattle without damaging farmlands. It urged encouraging dialogue between the Hausa-Fulani and the Afizeres, Anagutas and Beroms on accepting the latter’s ownership of Jos as ways of ensuring peace.

Given the tension created by political appointments, the commission recommended only making government appointments *after* consultation with stakeholders to avoid conflict. It warned against appointing religious extremists as heads of state police commands. It defined extremism as having fanatical religious beliefs or behavior or showing religious bias, including giving priority to religious beliefs and not to constitutional and statutory functions of policing the state.

Noting the ineffectiveness of the Inter-religious Committee, the commission recommended disbanding and replacing it with a new one that would include

Muslims and Christians. Persons appointed to the committee would demonstrate moderate religious views. The commission recommended establishing other inter-religious committees at the local government level. Specifically, the commission recommended Christian and Muslim leaders to educate their adherents on the value of human life, the consequences of killing or destroying property and the need for religious tolerance.

In particular, the commission urged better education to those of the Islamic faith on the meaning of *jihad* and the need to abstain from using derogatory language in describing other religions and their adherents. To inculcate respect for the religions of others, the commission also recommended the government to encourage inter-religious clubs in secondary and-post secondary institutions through the ministry of education. At the same time, it recommended monitoring the establishment of private schools and their syllabi to detect and eliminate religious fundamentalism.

The commission urged the government to do everything in its power to see that security agents, including police and military, respond promptly to distress calls and effectively control situations. To improve the effectiveness of the police in crisis management and control, the commission recommended equipping police with adequate resources and facilities, including modern communication equipment, teargas, arms and ammunition, transportation and other logistics. The commission recommended police training in crisis management and urged the Plateau State Government to convey its recommendations to the Inspector-General of Police for consideration and necessary action.

The commission recommended placing a police barrack between the University of Jos's main campus, whose students alleged attacks during the crisis and expressed security concerns, and the Angwan Rogo and Angwan Rimi communities. The commission also recommended re-planning the city to improve traffic flows and make evacuation easier during emergencies. Given evidence that arms were illegally stockpiled and used during the crisis, the commission recommended improving measures to prevent illegal possession of firearms in Plateau State.

The commission recommended additional strict sanctions for individuals and organizations, including summary dismissals, suspensions or closures. It called on government to seek the assistance of the State House of Assembly for the necessary legislative instrument or order. Further recommendations included:

- Forced retirement of the Commissioner of Police, Plateau State Command, from the Nigeria Police Force. In the event of his refusal, dismissal from the service. The commission urged the government to forward its recommendation to the Police Service Commission for consideration and action.

- Replacing Alhaji Mukhtar Usman Mohammed, who was also leader of the JDA, as NAPEP Coordinator after consultations between the state and federal government. While there was no evidence upon which the commission relied indicating his active role in the crisis, the commission questioned his JDA leadership.
- Replacing Turakin Jos Alhaji Inuwa Ali with another member of the Hausa-Fulani community. The commission cited his parochial views and partisanship, including signing JDA's letter threatening the peace, as reasons for replacing him.
- Requesting Alhaji Sale Bayeri, State Secretary of the Miyetti Allah Cattle Breeders Association of Nigeria, to withdraw his services as special adviser to the governor on Hausa-Fulani affairs. The commission recommended replacing him with a less confrontational and moderate Hausa-Fulani individual.
- Suspending the activities of the JDA, which heightened ethnic tension in Jos North Local Government Council, for two years from the date the government accepted the commission's recommendations. If during its suspension, the association caused any breaches of the peace, the commission recommended the government to close it.
- The commission also recommended two-year suspensions with similar conditions for the BECO Elders Solidarity Forum of Jos North Local Government Area given the violent language they used to protest against Mr. Mukhtar's appointment and its militancy, which contributed to the ethnic tension that resulted in the crisis; and the Jama'atu Nasril Islam branch in Jos, for its unwillingness to accept government measures to bring about lasting peace in the state, as shown through its advertorial published in *Punch* on 1 October 2001.
- Reprimanding Plateau State Youth Council for its provocative and inflammatory utterances, such as "we will no longer fold our arms to repeated threats to peace and security of our beloved state by hooligans who can hardly trace their root." The commission recommended monitoring the council's activities closely and proscribing it should the council further incite threats to the peace.

Uchefula Chukwumaeze⁴

4.0 Background

The inter-communal and ethno-religious conflicts in Plateau State between March 2001 and May 2004 resulted in destruction of lives and property through attacks and counter-attacks – the state was in near anarchy. President Obasanjo declared a state of emergency, which the National Assembly ratified on 18 May 2004. The governor and the State House of Assembly were suspended and Major General M.C. Alli (Rtd.) appointed administrator of the state. The new administrator convened a peace conference (the conference in this chapter) to provide a forum for ethnic nationalities represented in Plateau State and other stakeholders to discuss the challenges to peaceful co-existence.

The conference provided ethnic groups an opportunity to share their own internal, external or systemic grievances and disagreements. As a statewide forum, it brought the people of Plateau State along with other stakeholders to present and debate issues in a roundtable setting. Other Nigerian ethnic nationalities residing in the state, professional bodies and interest groups had the opportunity, as stakeholders, to contribute to the peace process. The conference aimed to establish a consensus on conditions for co-existence between ethno-religious groups and to find lasting solutions to the lingering problems escalating the state's long running crises.

There were 143 participants at the conference: two from every ethnic nationality in Plateau State and one from other major Nigerian ethnic groups residing in the state and other interest groups. The document summaries captured the remote and immediate causes of the crisis, including the critical issues that guided discussions at the conference: land use, ownership and user conflicts; "indigenes," citizens and settlers; tradition, society and religion; politics, security and economics; and youth, women and the media. The conference addressed the detrimental effects of not implementing the recommendations of previous commissions, panels, government reports and white papers and presented its own resolutions.

Delegates at the conference recommended that the following unreleased

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reports be published, entered into the public record (*gazetted*) and implemented:

- The Fiberesima Commission Report (1994).
- The Niki Tobi Commission Report (2001).
- The Sankey Commission Report (2001).
- The Yamsat Administrative Report (2002).
- The Dusu Commission Report (2003).
- The Okpene Commission Report (2003).
- Report of the Presidential Peace Initiative Committee on Plateau State (2004).
- Resolutions of the Plateau Peace Conference (2004).

The delegates cited the appointment of Alhaji Muktar Usman as NAPEP Coordinator as a major issue leading to the September 2001 ethno-religious crisis in Jos, observing that consultations were not held prior to the appointment. Therefore, they recommended pre-appointment consultations at community, local, state and federal government levels to vet future candidates.

To simplify overall synthesis of the report of the Plateau Peace Conference (2004) in this chapter, resolutions are synopsized immediately following the issue before the conference. Items appearing under quotation in this chapter are from the conference's report.

4.1 Land Use, Ownership and Conflicts

The conference discussed land use and ownership with specific reference to the ownership of settlements in key flash points: Jos, Yelwa-Shendam, Yamin, Wase, Kadarko, Barkin Ciyawa and Saya. Delegates also discussed important land-related issues such as reclamation of mining lands and land royalties. Since encroachment on grazing reserves created conflicts between farmers and cattle herdsman, the conference affirmed the need for users to live together harmoniously. The delegates endorsed the reports of the Fiberesima Commission (1994) and Niki Tobi Commission (2001), which made pronouncements on the ownership of Jos.

Delegates referred to many documents to confirm Jos's pre-colonial history and the importance of three indigenous ethnic groups sharing boundaries: the Afizere, Anaguta and Berom. Among these were the minutes of an interactive session on

25 June 2004, gathering various communities of Jos North Local Government Area in which the Hausa-Fulani made it clear that they did not claim ownership of Jos or the *stool* of the *Gbong Gwom Jos*. Delegates encouraged the government to set up a special committee to facilitate proper understanding among the Afizere, Anaguta, and the Berom communities of the importance of their ancestral claim of Jos and the demarcation of their boundaries. They urged indigenous tribes to be accommodating while exercising their constitutional rights.

In discussing this issue, documents presenting historical evidence on the Yelwa claims to Goemai land included *The Gazette of the Northern Provinces of Nigeria, Volumes I and II, The Highland Chieftaincies (Plateau Province) and The Eastern Kingdoms (1932)* pages 178-179 and 44-45, respectively. From this available evidence, the conference affirmed Yelwa-Shendam as Goemai land and urged the Jarawa, Goemai and other communities to abide by the provisions of the memorandum of understanding that they signed on 3 July 2004. The conference also called on the state government to implement the communiqué issued by their representatives on the same date.

Participants observed that the Justice Felicia K. Dusu Judicial Commission (2003) on communal clashes in Wase Local Government Area and the Justice C. Okpene Federal Judicial Commission (2003) on inter-communal conflict in Benue, Nasarawa, Taraba and Plateau States, had dealt with ownership issues in Wase and Kadarko. The conference resolved that the government should release and implement the reports of His Royal Highness Dr. Shehu Idris Emir Presidential Peace Initiative Committee on Plateau State (2004) on creating chiefdoms for the Tarok and the Juku Wase; Dusu Commission (2003); Okpene Commission (2003); Justice Jummai Sankey Judicial Commission (2001); Alhaji Yakubu Hussaini Administrative Panel Report (1995); on the crises between Mangu and Bokkos local government areas; and Justice Jummai Sankey's Report on Mushu-ir Bokkos (1992).

The conference revisited the issue of the demarcation of the Sha Falls (Farin Ruwa) between the Bokkos in Plateau State and Wamba in Nasarawa State as handled by the National Boundary Commission. Delegates considered it imperative to call the government to action in reviewing inter-state boundary dispute over the falls. In reference to the ownership of Saya Village included in the *Benue-Plateau State Government Gazette* No. 17, Vol. 6 Notice No. 74 (1972), the conference called upon the State Boundary Commission to accelerate its action in respect to Saya.

4.2 “Indigenes,” Citizens and “Settlers”

Delegates at the conference looked at the issue of “indigeneship,” “a *national problem seeking solution*” (italics added for emphasis) from various perspectives. Since the Constitution of 1999 did not clearly define the concept,

the conference considered it important for the Federal Government to accept the conference's recommendations on the status of an "indigene" with defined privileges as a way to solve some of the lingering problems associated with "indigeneship" throughout Nigeria. The conference determined, however, the term "settler" for other Nigerians to be offensive and adopted using the terms "residents" or "citizens."

Section 25(1)(a) of the constitution defines a citizen of Nigeria as "every person born in Nigeria on or before the date of independence, either of whose parents or any of whose grand-parents belonged to a community indigenous to Nigeria."

Based on this constitutional provision, the conference adopted the definition that "*indigeneship is peculiar to a people who are the first to have settled permanently in a particular area and who are often considered natives.*" Such people have rights to their lands, traditions and culture. The conference cited the examples of the Australian "Aborigines" and the American "Red Indians." "Indigeneship" could be derived from conquest, occupation and integration of one group over another, e.g., the Afrikaans in South Africa. The delegates added that their definition was not intended to discriminate against the Hausa-Fulani or any other group, rather to identify the "indigenes" of the state.

The conference also endorsed the definition of Fibresima Commission (1994):

An indigene of Jos is one whose ancestors were native of Jos, beyond living memory. This does not include any person who may not remember from where his father or grandfather left his native home for Jos as a fixed home, domiciled there as of choice for life; or who is ignorant about from where his family moved to Jos permanently in quest of better living or in the process of his business... But as to the Hausa-Fulani people's assumption, we make bold, on the evidence at our disposal, to advise them that they can qualify only as *citizens* of Jos.

The conference accepted the Fibresima Commission's finding of the identity of the Afizere, Anaguta and Berom as "indigenes" of Jos.

The Hausa-Fulani appealed to the conference to consider their need to be included as "indigenes" of Plateau State based on their: long-standing presence in Jos; significant contributions to the state's socio-economic and political development; and lack of any other home other than Jos. In response to the request, the conference referred to the Ife-Modakeke conflict, which was caused in part by the belief that the Modakekes, even though Yorubas, were settlers in Ifeland; the case of the Gowon family, which were still considered "non-indigenes" notwithstanding their presence in

Wusasa, Zaria since the 1930s; and Urhobos, Yorubas and Ibos settlements predating the Hausa-Fulani. Although rejecting the Hausa-Fulani request, delegates reiterated the fact that Plateau State “indigenes” accepted the Hausa-Fulani people. The conference further observed that the Constitution of 1999 adequately defined citizenship and re-affirmed its faith in that definition. The conference negated again the Hausa-Fulani’s claim as a dominant contributor to the state’s economy and noted the Igbos and Yorubas dominance in certain economic sectors.

The conference recommended that all local governments be advised to issue “indigeneship” certificates to “indigenes” based on its definition of “indigeneship.” Residency certificates, supported by an enabling law, could be issued to “non-indigenes” of good character residing in Plateau State for an appreciable period of time. Applications for “indigeneship” and residency certificates would be approved by village and district heads and paramount rulers before the local government chairman’s signature. “Indigeneship” certificates were to be issued to Afizere, Anaguta and Berom in Jos North Local Government Area in line with the conference’s definition.

Delegates advised all to learn to be proud of their origins and to associate themselves with their places of origin. “With proper understanding of one another, integration and assimilation would ultimately succeed without intimidation or violence.” Citing Section 14(3) of Constitution of 1999, the conference recognized the federal character principle as one creating space to protect minority rights:

The composition of the government of the federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command 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 in any of its agencies.

The constitution also recognizes a citizen’s right to contest elected and appointed positions, particularly since Section 147(3) provides:

Any appointment under sub-section (2) of this section by the President shall be in conformity with the provisions of section 14(3) of this Constitution. Provided that in giving effect to the provisions aforesaid the President shall appoint at least one Minister from each state, who shall be an indigene of such state.

Most importantly, the conference urged the federal government to define “indigene” in the constitution, as it defined citizenship. The definition would

consider minority rights; incorporate the definitions of the conference; and be consistent with principles derived from references in the Constitution of 1999 to “indigene” in Sections 25(a) and 147(3). The conference resolved that “non-indigenes” should desist from demanding rights exclusively relegated to “indigenes,” e.g., traditional rulership. For effective integration, assimilation and development, “indigenes” were discouraged from discriminating against other Nigerian citizens.

4.3 Tradition, Society and Religion

The delegates noted the important role of traditional institutions in peace building and as custodians of cultures, customs and traditional values. Laxity, the delegates observed, had led to disharmony, thereby fomenting the state’s multiple crises. In the interest of preserving traditional institutions, the conference presented various resolutions at the individual, community, local government, state and federal level.

To promote civil co-existence, the delegates urged mutual respect of culture, customs and values between residents and host communities; the latter were encouraged to accept acculturation. Delegates called on host communities themselves to respect their own culture so that residents could emulate. Residents were also urged to strive to understand the culture of their host communities.

At the community level, the delegates exhorted citizens to respect traditional rulers as custodians of customs and culture. In turn, traditional rulers were to respect traditional institutions and their culture by promoting their ethnic regalia and customs. In upholding and promoting traditional values, traditional rulers would earn respect.

To command the respect of all citizens, traditional rulers were not to involve themselves in partisan politics and were to conduct themselves respectably, i.e., in a manner worthy of their leadership. Their deliberate efforts would ensure cordial relationships between indigenous inhabitants and resident ethnic groups. Leaders were entreated to be fair and just to their subjects – irrespective of their religious and ethnic affiliation.

The conference urged local governments to empower traditional rulers to enable them to carry out their functions effectively and to release the five percent monthly allocation designated to traditional councils. In addition, local governments were to maintain the offices of traditional rulers and pay their utility bills. Traditional rulers, on their part, were to ensure judicious use of the five percent monthly allocation and play active roles in keeping the peace, resolving disputes and disseminating information.

At the State and Federal Government levels, the delegates urged leaders to include traditional leaders in resolving conflict and to avoid dragging traditional rulers into partisan politics or intimidating them. The delegates wished to promote dialogue between traditional rulers and community leaders and encouraged them to participate in cultural activities, exchange visits and interactive fora. On chieftaincy *tussles* (struggles) and appointment to chieftain of stools, the conference resolved that *king makers* should adhere to established selection procedures as communities chose leaders based on culture and tradition. The delegates warned communities to be mindful of interest groups, including wealthy individuals and elites, who could influence the selection process.

The delegates urged the government to set up a committee to study and update selection methods for traditional rulers in the state and proposed the following methods for filling vacant positions. First, the position would be advertised in official state government's gazette, indicating the minimum time frame for filling vacant stools. Second, the person with the right caliber could be appointed traditional ruler. The government would review complaints should any arise on the notice. Third, the government would incorporate an independent body representing men and women of proven integrity to analyze disputed appointments and recommend solutions.

The practice of indiscriminate conferment of traditional titles, delegates agreed, should be stopped to prevent titles from losing their intrinsic value. Recipients of traditional titles, which would use native or ethnic names, would be persons of proven integrity and acceptability to the community. The conference advised prohibiting conferring traditional titles on serving public and civil servants. Conferring traditional titles would conform with cultural traditions of the community.

The conference noted that "non-indigenes" often installed traditional leaders without the knowledge of indigenous chiefs. It urged consultations with the paramount ruler of the host ethnic group before installing a traditional leader. Delegates recommended sanctions for those violating the consultative process and encouraged ethnic groups to select their spokespersons or leaders to liaise with indigenous traditional rulers and forestall chieftaincy conflicts.

In creating and upgrading traditional institutions – chiefdoms, districts and village areas – delegates considered important a community's history, longevity and idiosyncrasies. Rather than an imposition, chiefdoms, districts and village areas were to be created based on demand. In particular, the delegates urged that the creation of chiefdoms, districts and village areas should be based on earlier recommendations by various government committees in 1993, 1997 and 2001. The conference again endorsed the recommendations of the Sankey

Judicial Commission (2001), Dusu Judicial Commission (2003) and Presidential Peace Initiative Committee on Plateau State (2004) on creating chiefdoms for the Tarok and the Juku Wase and urged the government to implement the recommendations.

The delegates noted that other social factors – using derogatory terms to describe another's religion, rumor mongering, intolerance, perceived marginalization social distributions, lack of credible leadership, corruption, segregation fueled the crises in Plateau State. The conference also noted with displeasure the lack of mutual respect for the customs and traditions of others.

Religious derogatory terms, in fact, often provoked and angered recipients into violence. The delegates condemned the use of derogatory terms and resolved that family members, traditional rulers and religious leaders should enlighten and sensitize their followers on the dangers of using derogatory terms and names. While calling on the communities to respect one another's customs, traditions and religions, the delegates resolved that government and security agents investigate and prosecute persons, religious organizations or groups preaching social disunity. They called on the local government authorities to conduct public outreach against using derogatory words or terms.

The delegates called on government to enact laws to curb the use of derogatory terms and prescribe appropriate punishment for offenders. The Ministry of Information, Tourism and Culture in conjunction with the National Orientation Agency, would conduct ethical awareness and cultural re-orientation campaigns using electronic and print media. At the federal level, the delegates urged the government to apply Section 17(2)(b) of the constitution, which states that “in furtherance of the social order, the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced.”

Marginalization and inequitable distribution of social benefits and appointments usually result from poor leadership and ineffective governance. Therefore, delegates called on state and local governments to set up committees specifically responsible for equitably distributing social services and appointments to reflect the local government's geo-political makeup. This process would protect minority rights. Delegates called on the state government to distribute projects evenly throughout the state so as to give every community a sense of belonging.

Delegates also called the state government to draw the attention of the federal government on minority issues, including appointments to federal civil service and other agencies. It cited, for example, the appointment of the chief medical director of the Jos University Teaching Hospital. Notwithstanding the availability of qualified Plateau State “indigenes” within the hospital or the state, other external candidates had been appointed since the hospital's inception in 1978.

Addressing the federal government specifically, delegates saw the value in adhering to the federal policy on appointments to avoid marginalization of Plateau State. They urged the government, in particular, to complete projects it had abandoned, including the federally-funded College of Jos, University of Jos permanent site, high-altitude Olympic stadium, International Youth Center, Kurra Falls (used by Nigerian Electricity Supply Company to generate electrical power for a large number of communities in the area), the Vom-Manchok Road, and the grain silos at Zawan, among others.

Delegates observed that expansion of some communities beyond their territories often created anxiety in neighboring communities even if no ethnic intolerance existed. The conference recommended exploiting opportunities and spaces to integrate communities through dialogue with neighboring communities on promoting tolerance and ending land encroachments. Delegates urged ethnic groups to take advantage of ties established as result of inter-tribal and inter-community marriages to promote peaceful co-existence and to participate in each other's cultural activities so as to enhance social interaction.

The conference recommended demarcating intra- and inter-local government boundaries in consultation with concerned communities. A state-government appointed panel would investigate allegations of land encroachment. The conference proposed to the government to form an apex body of all ethnic nationalities in Plateau State as a space for mixed social interaction among ethnic and religious groups through which they could be heard.

Delegates decried segregation patterns in residential areas in Jos and urged the government to promote integration irrespective of religious beliefs. They recommended religious leaders to meet and begin paving a return road for those who fled from the crises. The delegates also called on government to compensate displaced persons and encourage their return to their homes.

Although acknowledging the prevalence of mistrust among citizens, the delegates postulated that proper internalization of values and adequate socialization would contribute to creating a sense of respect for human dignity among all citizens. The conference advocated community efforts for forgiveness and integration urging the government to establish an information assessment and dissemination committee to help communities better understand issues as a preliminary step in reaching agreements. It appealed to the government to avoid policies that engendered mistrust, mutual suspicion and injustice.

The delegates emphasized the urgent need for elders in Plateau State to put aside their differences and pave the way as a unified front. In criticizing government appointment to the Plateau Elders Forum, the conference recommended that

ethnic groups be able to choose those whom they considered credible representatives in the forum. Leaders would meet regularly to plan strategies to move the state forward and “close ranks” with youths to ensure leadership succession. They would also devise a proactive approach for disseminating information on issues affecting Plateau State at the national level.

In lamenting corruption, delegates reiterated the need for political appointments in consultation with the people to ensure that only credible persons were appointed. In cases of corruption, citizens would be encouraged to petition against corrupt leaders and to inform law enforcement agencies on unlawful enrichment. Specifically, the delegates recommended to the government to end its practice of “selective prosecution” of corrupt officials; equip the Code of Conduct Bureau with necessary tools to verify declared assets; empower the Economic and Financial Crimes Commission and the Code of Conduct Bureau to fulfill their missions; and protect whistleblowers.

The delegates reaffirmed the constitutional right to freedom of religion, Section 38, where religious affiliation is not a criterion for admission into school. They observed, however, that disregarding the constitutional provision played a major role in the crises that engulfed Plateau State. The delegates decried the ease with which conflicts in Plateau State assumed religious dimensions and condemned the growing incidence of religious intolerance. While calling for moderation, respect and courtesy, the conference warned religious organizations such as the Christian Association of Nigeria and Jama'atul Nasril Islam on their prevocational preaching to members. It called on religious preachers to desist from giving wrong interpretations to the texts of other religions. Delegates also called for training of religious leaders to avoid misrepresentations of other religions and for the faithful to observe the tenets of their own holy books regarding peace and tolerance. The delegates saw a public benefit to intra-faith and inter-faith interaction and friendship among different religious groups.

On religious-civil government affairs, the conference echoed some of the recommendations of the Niki Tobi Commission (2001), encouraging religious groups seeking to build houses of worship to apply through appropriate government channels. It also urged government officials to enforce town planning laws and noise abatement regulations, including enforcing bans on using loudspeakers in places of worship or blocking roads during worship. They also called for dismantling inciting billboards and prosecuting those who renamed streets with religious motives. The delegates also noted with concern the adoption of Hausa-Fulani titles such as *Galadima*, *Sardauna*, *Danmasani*, *Wali*, *Garkuwa*, *Ubangari*, *Turaki*, *Bunu*, *Barde*, *Ciroma*, *Dan Iya*, *Madaki*, *Dan Masani* without regard to titleholder's specific culture or traditions. The conference resolved that all non-indigenous titles held and used by ethnic

nationalities be replaced with those corresponding to the history and culture of the communities.

4.4 Politics, Security and Economics

For the delegates, inaccessible leaders lacking integrity, failures of the legislature, centralization and personalization of government reduced the quality of governance in Plateau State. To improve civic engagement and participation, delegates urged communities to monitor the performance of elected leaders and to resist offering inducements or rigging elections. Instead, the delegates encouraged communities to present viable programs, insist on gender equity for candidates to elective and appointed positions and to form non-partisan committees to monitor elected leaders. Government and elected leaders had similar responsibilities – to be disciplined, open-minded, respectful and engaged in governing. To ensure accountability and transparency, the delegates urged Plateau State government to publish monthly revenues and expenditures and to follow public procurement rules in awarding contracts – regardless of value.

In addition, politicization of the civil service – especially in appointing permanent secretaries, directors and other chief executives of government boards and corporations – eroded the people’s confidence in the service and undermined its neutrality and impartiality. Delegates noted that political appointments favored the central senatorial zone of the state, in contravention of Section 14(3) and (4) of the Constitution. The conference resolved that government should review appointments, based on merit and not political affiliation; ensure adequate distribution; abide by constitutional provisions in making appointments; and educate citizens on their rights to challenge appointments in court. The delegates frowned at political victimization, which in their view negated democratic principles, e.g., justice, equity and fairness, as inimical to progress. For those losing positions because they did not support the ruling party, delegates recommended reinstating them or for those individuals to seek redress in courts of law.

As delegates addressed political marginalization and underrepresentation, they heard complaints from Muslims about problems in the cabinet of the suspended governor. It was not obvious to the delegates that Muslims were marginalized given the prominent positions Muslims occupied. Among these positions, the delegates cited the election of Senator Ibrahim Mantu (the Deputy Senate President) representing Plateau Central, a predominantly Christian area; the appointment of Alhaji Mohammed I. Musa as Federal Cabinet Minister for Plateau State; and prominent chairs or boards of governmental agencies and corporations, including Nigerian Television Authority (NTA), National Insurance Corporation of Nigeria (NICON), Federal Housing Authority, in addition to positions as state commissioners,

permanent secretaries or chief executives. The delegates noted with concern, however, a complaint from Christians in the Kanam Local Government Area that no Christian had been elected chairman of the local government council since its inception in 1976.

Delegates called for fair electoral processes where political parties adhered to their constitutions and rules and promoted gender sensitivity. They urged the government to guarantee the neutrality of the independent National Electoral Commission (INEC) and the State Independent Electoral Commission (SIEC); amend the constitution to empower the judiciary to appoint INEC and SIEC members, who should be individuals of proven integrity; and desist from appointing political party members as electoral officers at all levels.

The delegates noted that residents from other areas of Nigeria living in Plateau State had opportunities to participate in socio-political activities of the state, whereas Plateau State “indigenes” residing in other states did not enjoy similar opportunities. Delegates urged government to adhere to Section 15(2) and (3) of the constitution, promoting national integration and encouraged state and local governments to promote citizen participation in social, economic and political activities wherever citizens found themselves. Specifically, the delegates urged state governments to encourage “indigenes” to integrate effectively into the communities in which they resided and to allow a married woman of Plateau State origin to be considered for employment in her spouse’s state of origin.

Delegates maintained that Plateau State was treated unfairly during the delineation exercise of 1997 dividing Plateau State into eight federal constituencies in contrast to other states with fewer numbers and smaller land mass. They also expressed dissatisfaction with the manner in which the SIEC delineated electoral wards in 2002. While noting the popular demand to create chiefdoms, districts and village areas in Plateau State, delegates also denounced the indiscriminate manner in which their creation had been conducted in 2002 and lamented the problems emerging from it. This included the creation of Jos South Local Government Area out of Jos Local Government Area without proper consultation. The delegates considered the creation of Jos South as giving a political advantage to the Hausa-Fulani in Jos North.

Demarcation of local government areas and boundaries involves participatory consultation with communities before creating new constituencies. Therefore, the conference called for the SIEC to re-delineate electoral wards to reflect the reality of each community and to remove advantages given to some. In condemning the practice of “importing” voters from other states during elections, delegates urged the government to enforce electoral laws effectively by stopping proxy voter registration and identifying, arresting and prosecuting

violators. Delegates appealed to the Plateau State government to cooperate with neighboring states in checking the movement of people during elections and to use national identity cards to identify voters during elections.

Delegates discussed security and personal safety extensively, observing that Plateau State did not have a culture of violence. They noted that during the crises, however, government security structures did not shield citizens as they came under attack from militias from other states. During these attacks, the government was unable to protect the people of Plateau State, resulting in death, destruction and psychological trauma. The repeated failure of the government to provide security, its insensitivity to security matters and conflict situations and the slow response rate of security agents to warning signs of security problems in the state were responsible for the wide range and scale of security-related problems. The conference reported cases of security agents' partisanship. Bias and complicity during the crises undermined public confidence in the ability of governmental security forces to protect lives and property.

Though the state governor is chief security officer, security apparatuses remained under the control of the federal government. The delegates acknowledged that the government was unable to counter the proliferation of small arms and light weapons in the state. Furthermore, the federal government improperly enforced Nigeria's immigration laws, allowing aliens from neighboring countries searching for better livelihoods to become readily available mercenaries during crises. The delegates considered this issue as the principal reason for the ease with which attackers swiftly moved into the state to wreck havoc and thereafter disappear into oblivion. They observed that licensed and unlicensed arms dealers took advantage of the situation and contributed to the proliferation of arms. After the crises, citizens also acquired firearms for self-defense since they feared the weakness of state security and protection.

The lack of logistics for security agents and lapses in security and intelligence networking frustrated efforts to effectively prevent and manage the crises. Individuals and communities reported killings at the hands of impostors impersonating police and military personnel. Delegates acknowledged the existence of appropriate laws to deal with perpetrators of conflict, but decried the fact that they were not enforced.

The conference included many security and public safety related recommendations, among them:

- Setting up community-level security committees.
- Empowering traditional rulers with ability to curtail small-arms proliferation

- Using community policing as approved and monitored by police and traditional rulers.
- Putting in place proactive mechanisms for tackling security problems through local government councils, including regular meetings of local government peace and security committees.
- Prosecuting those possessing illegal weapons.
- Recruiting and training more police and immigration officers, including adequately equipping security agents with modern tools for effective performance.
- Preventing illegal arms importation and manufacturing in the country.
- Providing adequate funds and logistics to enable security agents to identify security threats promptly and to take appropriate immediate action.

The conference highlighted some economic problems confronting the state as youth unemployment, destruction of economic ventures, including the Jos Main Market, uneven development, pressures on land use, attributable to increased human and livestock populations, mining and land speculation. The conference noted as impoverishing factor to the state, the non-utilization, mortgaging and sale of state investments such as the BARC Farms, Plateau Highland Bottling Company, Plateau Ceramics, Kuru Livestock, and Panyam Fish Farm. Delegates viewed the destruction of the Jos Main Market as a deliberate strategy to weaken the state's economic base and called on the Plateau State government to release the report of the committee that investigated the destruction of the market.

In view of the state's weak economic base and its implications on crises, the conference recommended authorities to undertake the following:

- Organizing a summit to develop an economic strategy in conjunction with the state government and the Plateau Chamber of Commerce, Mines and Agriculture (PLACCIMA).
- Tackling illiteracy at all levels of society so as to reduce poverty.
- Providing contract opportunities to "indigenes" of the state.
- Ensuring equitable distribution of economic resources to citizens.
- Completing all on-going road construction projects in the state.

- Providing electricity and deepening development in rural areas.
- Reviewing sales and leases, resuscitating or reacquiring government corporations with the aim of identifying credible and productive investors.

4.5 Youth, Women and Media

It was widely reported that youths were often recruited to inflame the crises. Delegates lamented the increase in youth idleness and restiveness. The conference stated that engaging them in useful ventures would divert their attention toward more productive attitudes and actions. Delegates cited failures by the government to provide adequate public security as a reason for the emergence of “ethnic and youth militias” to protect communities.

Given the important role women play in peace making, the conference noted the need to give special attention to issues affecting women as these did not enjoy the same access to resources despite their productive potential. The delegates recognized that women are discriminated against and recommended education, science and technology as tools to improve their economic and social condition.

The conference proposed broad and specific changes to individual and group behavior and social policies, including:

- Inculcating good values in youths, including raising their awareness on the dignity of labor and the consequences of taking the law into their own hands.
- Promoting youth development and empowerment, including establishing vocational institutions through the 17 local government councils, creating vocational job opportunities through government programs and diversifying economic activities for youths so they would become investment generators rather than consumers.
- Strengthening the activities of the National Directorate of Employment (NDE) and NAPEP so that they could meet the needs of unemployed youths.
- Ensuring that the Nigeria Agricultural and Cooperative Bank give loans to qualified applicants and extend repayment periods so as to attract young people to the agricultural sector.
- Giving equal educational opportunities to children without discriminating against girls, including dismantling all cultural and religious barriers hindering girls’ education.

- Respecting women’s rights to equal employment opportunities.
- Encouraging men to allow their spouses to work and thereby reduce the economic burden on the family.

Delegates discussed the role of the media as a critical factor in crises management and faulted the failure of the Plateau State government to respond appropriately, especially when it was necessary to dispel deceptions about the crises, or to disseminate accurate information to the public before and during the crises.

Citing journalistic bias, misrepresentation and low professional standards, delegates chastised private and public media concerns for failing to carry out their functions impartially, creatively and judiciously. They also observed the economic and political benefits of media ownership as a means to protect and propagate individual interests and attributed the incapacity and inefficiency of state media to insufficient funding and managerial incompetence.

The conference resolved that:

- The media (whether electronic or print) should establish facts of any matter before airing or publishing them so as not to incite or misinform the public.
- The government should adequately fund and equip public media, especially Plateau Radio Television Corporation, the Nigerian Standard Newspaper; expand television coverage by hastening the completion of booster stations in the state; and establish a Federal Radio Corporation broadcasting zone.

Suleiman Oji⁵

5.0 Background

Violence broke out in Jos North in the early hours of 28 November 2008, following local government elections held the preceding day. Homes and houses of worship were burned and citizens killed and maimed. Governor Jonah David Jang constituted a commission of inquiry under Section 2 of the Commission of Inquiry Law, Chapter 25 Laws of Northern Nigeria (1963) to investigate the crisis. Retired Justice Bola Ajibola was appointed to chair the commission, which included Professor M. T. Yahya, Mrs. Virginia Abang, Messrs. Daniel Gopep, and Sale Fale and Chief D.G. Fompun.

With similar terms of reference as previous commissions, the Bola Ajibola Commission (hereinafter the commission) was to:

- Establish immediate and remote causes of the unrest.
- Identify individuals, group of persons or institutions directly or indirectly responsible for the unrest and their roles in precipitating it and recommend appropriate sanctions.
- Ascertain the extent of loss of lives and damage to property during the disturbances.
- Recommend ways to avoid the unrest from recurring.

Commissioners conducted *in situ* visits and consulted with stakeholders, respected elders, leaders and other influential Nigerians. The commission held public meetings where 213 witnesses testified and were cross-examined by counsel. It received 221 memoranda. A number of individuals were named and alleged as either directly or indirectly involved in criminal acts, including murder, assault, arson, conspiracy, inciting public disturbances and other acts penalized under the Criminal Code of Nigeria. In some cases, witnesses offered direct evidence against named perpetrators. In other instances, people or groups were alluded to without being identified or any particulars given.

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One witness presented into evidence the reports of the Fiberesima Commission (1994) and Niki Tobi Commission (2001). In their respective reports, these two commissions identified persons, groups of persons, organizations or institutions directly or indirectly responsible for the crises and recommended sanctions. The Fiberesima and Niki Tobi Commission reports and the resolutions of the Plateau Peace Conference shared many commonalities. The Niki Tobi and Bola Ajibola Commissions lamented the government's failure to implement the Fiberesima Commission's recommendations. Memoranda and testimonies presented before the Bola Ajibola Commission also included the non-implementation of recommendations of reports as one of the remote causes of the 28 November unrest. The commission noted that implementing the recommendations was a foundation to resolving conflict. For the commission, prosecuting crimes committed during previous crises would have prevented or lessened the severity and magnitude of the civil unrest in Jos on November 28.

According to the commission, as a matter of procedure, not all Hausa-Fulani Muslims presented their side of the story nor appeared before the commission, even when given the opportunity to present evidence, cross-examine witnesses or rebut testimonies. The commission had even extended the deadline for parties to submit evidence or testify. A letter dated 2 February 2009 to the secretary of the commission indicated that Muslims would not appear before the commission.

Some Hausa-Fulani filed cases challenging the commission's competency and sought court orders restraining the commission from deliberating. Though most Muslims in Jos North refrained from appearing before the commission or presenting evidence, some attributed the events of November 28 to the local government elections. In an interview in the *Sunday Tribune* dated 11 January 2009, a spokesman for the Hausa-Fulani community stated: "the Hausa youths were simply demonstrating their displeasure over perceived ways and means being devised by the state government that wanted to rig an election." (Exhibit JCI/J/149/2009/4, Memorandum of Witness 13, JCI/49/2009) Items appearing under quotation in this chapter are from the commission's report.

5.1 Elections, Violence and Unemployed Youth

On Thursday, November 27 2009, the Plateau State Independent Electoral Commission (PLASIEC) held local government elections. In general, the elections were peaceful. The Plateau State Commissioner of Police testified, however, that information filtered to "the police that some Muslim youth were holding nocturnal meetings at Muslim dominated areas and soon thereafter there were reports of people shouting *Allahu-Akbar* [*Allah is the Greatest*] along Ali Kazaure Street and other Muslim-dominated areas."

The Muslim youth, the police commissioner recounted, mounted roadblocks in some places and attempted to enter the polling station. The police repelled

the attack, which then continued in the Hausa-Fulani dominated areas of Laranto, Nassarawa Gwong and Angwan Rogo. Police evidence of the unrest was corroborated by PLASIEC, which stated,

While the results of the election were collated in all the 17 local governments of the state, information reached the commission's office through security reports that trouble had started around Ali Kazaure Street when the result of the election were not even announced. The information was that properties were being destroyed or burnt and fighting ensued in various parts of Jos North.

In their memorandum on the start of the youth mobilization, residents of Angwan Daylop, a neighborhood of Ali Kazaure Street, stated that the crisis in Angwan Dalyop started at "about 6:00 a.m on November 28 with sudden mass movement of Hausa youths brandishing dangerous weapons such as cutlasses, swords, machetes, clubs, bows and arrows and later guns. Some of these youths were identified to be residents of Ali Kazaure and Gangara in Jos."

The Ngas Development Association decried the wide-scale and dimension of the crises as churches became targets and Christians became "victims as terror reigned supreme. It was in reaction to this that the crisis assumed a wider dimension as non-Muslims in the absence of security agents mobilized for self defense to wade off their attackers." The Tekan Youth Fellowship testified to Christians dismantling mosques in Christian-dominated areas; churches in Moslem-dominated areas "were made to rout under intense heat."

The commission concluded that the immediate cause of the crisis in Jos North was an unjustified violent attack by Hausa-Fulani Muslim youths against the lives and properties of people they perceived as political opponents. Christians reacted in self-defense and thus, engulfing Jos North Local Government Area in violence. The commission held that wanton destruction could not be justified by perceptions of election rigging since electoral results had not been announced. In fact, the commission recognized that even if the elections had been rigged, there were legal means to challenge results and seek redress before the election tribunals. PLASIEC had noted that the outcome of the chairmanship election had not been challenged before the Local Government Election Tribunal. To the commission, it signified choosing lawlessness and destruction over the rule of law.

A worrisome pattern of attacks meant the crisis took a religious dimension: places of worship rather than party offices were targets; religious affiliation and not political affiliation was basis for individual attacks. Nevertheless, the commission was not inclined to blame everything on ethno-religious conflict

since there were many cases where Muslims attacked fellow Muslims and indigenous tribesmen attacked fellow citizens.

In its memorandum, the Middle Belt Forum (Plateau State Chapter) stated: "... many individuals who were practicing Muslims but not of Hausa-Fulani origin were also targeted for attack; for example, there were credible oral accounts ... of some Yoruba-speaking residents of Nassarawa Gwong area of Jos (who are Muslims) being brutally attacked and molested. A few of them were even reported to have been killed." An indigenous Muslim testified before the commission: "Hausa Muslims do not trust indigene Muslims saying we are betrayers of faith. That whenever something is being discussed, maybe to kill the Christians, we are the ones that leaked it out to them because we live with the Christians. In addition, the Christians on the other hand suspect us indigeneous Muslims to be hiding information from them. So they kill us for no just cause...we the indigeneous Muslims don't know what happens, they just kill us."

The commission concurred with the opinion presented by the Human Rights Watch in its memorandum: "... religious, political and ethnic disputes often serve as mere proxies for the severe economic pressures that lie beneath the surface." In fact, the commission conceded that the causes of the unrest were economic with religious, political and ethnic undercurrents used to channel violence and advance the economic goals of perpetrators.

5.2 Ownership, "Indigeneship" and Electoral Wards

The commission found the non-implementation of the previous commissions' reports as one of the major remote causes of the November 28 crisis. During the hearings, the commission found other remote factors contributing to the unrest. Most were similar to those analyzed by prior commissions: ownership, "indigeneship" and political delineations – among other political, social and economic factors.

From previous reports, the commission identified ownership of Jos as a major remote cause of previous civil unrest. "A recurrent friction for many years between the Berom, Anaguta and Afizere tribes on one hand and the Hausa-Fulani tribe on the other hand is a remote cause of the riot. Each party lays claim to Jos. The Berom, Anaguta and Afizere claim that they are the undisputable indigenous people of Jos that the Hausa-Fulani are settlers who migrated into Jos for various reasons. They also claim political ascendancy over the other communities at all times. This feeling of one having supremacy over the other simmered for years, only to break out into open confrontation and riot on 12 April 1994" (Fiberesima Commission Report) and "one of the remote causes of the September 2001 crisis is the claim of ownership of Jos. These competing claims came to the fore in the memorandum submitted and in other evidence." (Niki Tobi Commission Report at page 42)

Many witnesses presented evidence on the similarity between the preceding civil unrests in 1994 and 2001, and their subsequent commissions of inquiry. Several identified the claim of ownership of Jos between the Afizere, Anaguta and Berom tribes and the Hausa-Fulani as a major remote cause of the civil unrest of November 28. The Berom Council concluded in its memorandum that the Afizere, Anaguta and Berom rather than the Hausa-Fulani were founders and aborigines of Jos. The Afizere Youth Movement, identifying ownership of Jos as a major remote cause of the crisis, stated that the Hausa-Fulani “have for long been struggling to forcefully assert themselves into political arena and traditional rulership of Jos and this is viewed by the “indigenes” (Anaguta, Afizere and Berom) as being selfish and greedy.” The Afizere Cultural Development Association/Izere (Jarawa) Concerned Daughters shared this view: “major cause of the repeated crises in Jos is the crave for the ownership of Jos as contained in the many claims and counter claims by the Anagutas, Afizeres, Beroms and the Hausas as each is claiming ownership of Jos.”

The Hausa-Fulani also lay claim to Jos and presented *Who Owns Jos North*, a booklet widely circulated in Jos North shortly before the 28 November unrest, and an advertorial by the Coalition of Jasawa Elders published in the *Daily Trust*, 12 January 2009, tendered as an exhibit in the memorandum of the Justice, Peace and Reconciliation Movement. (Exhibit JCI/J/13/2009/2) In the two documents, the Hausa-Fulani claimed founding Jos prior to the arrival of Europeans, being its dominant tribe and economic force and having produced 13 chiefs. The commission accepted, however, Ahmadu Bello’s *My Life* as evidence. The former premier of northern Nigeria, himself a Fulani, wrote: “the counties which did not come under the Fulani rule were the areas known as Borno Province, the Plateau Province (less Wase), the Jukun, the Tiv and Idoma peoples of South of the Benue Province and small part of Kabba and Ilorin Province.” Therefore, the commission relied on Bello’s book to validate the independence of the “indigenes” of Jos. The commission also rejected the Hausa-Fulani contention that their ancestors had come to Jos while it was still a “virgin land” since their attempt to conquer Jos in 1873 failed, returning only as settlers seeking jobs at the tin mines. Among the documents cited to reject the Hausa-Fulani claim were:

- The Plateau Indigenous Development Association (PIDAN)’s memorandum, which stipulated that Europeans arrived in Jos at the beginning of the 20th century and the Hausa soon followed as tin miners. (PIDAN Memorandum JCI/J/107/2009)
- Dr. Charles C. Jacobs’s book, whose *Studies in Berom History and Culture* included the following: “the bulk of the labor force on the minefield came from outside the Plateau chiefly from other parts of northern Nigeria. The Hausa

and Kanuri came to constitute the cadre of experienced miners who worked all the year round and supplied the bulk of the headmen.”

- A memorandum of the Plateau Indigenous Development Association, which stated that the colonial masters realized the need to compensate “pagan” natives for taking over their land to build the Jos Government Station. No mention was made of compensating the Hausa-Fulani, who were considered to be settlers.
- A 1955 sales agreement between the father of Toma Janga Davou and the Hausa community to whom he sold land used as Hawan Idi praying ground (Berom Parliamentary Forum, Memorandum JCI/136/2009, Exhibit B). Mr. Janga Davou also testified that the late *Gbong Gwom Jos*, Da Rwang Pam, granted lands to the Hausa community upon which to build the Jos Central Mosque.

“The Gbong Gwom Jos through extraordinary generosity has given Muslims land to build a mosque for their community who are his loyal subjects. Today I want us to say that Beroms and Hausas must work in harmony. The Hausa must respect the authority of the Berom....Remember you will never see happiness until you respect the host community.” (Berom Parliamentary Forum, Memorandum JCI/136/2009 at page 6) The commission did not consider the status of the Hausa-Fulani as grantees of land for community projects or religious purposes as indicating ownership of Jos.

The commission noted that the Fiberesima and Niki Tobi Commissions considered and resolved the ownership of Jos in favor of the Afizere, Anaguta and Berom. The Plateau Peace Conference (2004) also affirmed the decisions of these two commissions, identifying the Afizere, Anaguta and Berom as co-founders and owners of Jos and the Hausa-Fulani as settlers. The commission considered the issue of ownership settled since the Hausa-Fulani did not produce new facts or evidence as to their ownership.

The Commission acknowledged the issue of “indigeneship” to be connected to ownership and a similar cause of conflict. The commission cited the Plateau State Peace Conference’s definition of “indigenes” as “those people whose ancestors were the first to have settled permanently in a particular area who are often considered as native and have rights to their lands, traditions and culture.” It accepted the definitions of “indigenes” of Jos North as contained in the Fiberesima Commission’s report as those “whose ancestors were natives of Jos beyond living memory” and declared the Afizere, Anaguta and Berom “indigenes” of Jos North and the Hausa-Fulani as settlers.

Relying on these earlier resolutions and findings, the commission had no

difficulty in concluding that the Afizere, Anaguta and Berom were “indigenes” of Jos North. It recognized, however, the contending Hausa-Fulani claim to “indigeneship” presented in the Justice, Peace and Reconciliation Movement’s memorandum, which included the advertorial of 12 January 2009 in the *Daily Trust*, (Exhibit JCI/J/135/2009/4) and in the booklet, *Who Owns Jos North Local Government*.

The commission saw contradictions in the Hausa-Fulani claim of “indigeneship” based on founding and living in Jos. Subsequently, it rejected the claim on “indigeneship” based on duration of residency since other Nigerian “non-natives” pre-dating the Hausa-Fulani did not assert themselves as “natives.” For example, the Yoruba stated that they were the first “non-natives” to arrive in Jos in 1850 yet did not claim “indigeneship.” In their memorandum, the Ibo stated, “Ndigbo going by records have settled in Jos for well over a century and have a tradition of mutual respect and co-operation with the government of the state and its people.... Ndigbo in Jos has [sic] never laid claim and are not laying claim to ownership of Jos or any part of the State.” The South-South citizens, particularly the Urhobos from Delta State, claimed to be the first to settle in Jos: “Since our great-grand fathers settled in Jos, [we] have lived peacefully with [our] host state. We have never agitated to be recognized or granted the status of “indigenes.” We have been contended with our status as *settlers*.”

Since the commission considered the Hausa-Fulani as claiming “indigeneship” to the exclusion of all other Nigerians in Jos, the commission held that it would be a double standard and selective justice to recognize the Hausa-Fulani as only “natives” of Jos North while all other Nigerians residing in Jos who are “non-natives” are not. Again, it was difficult for the commission to accept the Hausa-Fulani argument that Nigerians be recognized as natives wherever they may be based, although it cited section 147(1) and (3) of the 1999 Constitution.

The commission reviewed the history and creation of the Jos North Local Government Area, which was created by Decree No. 2 of 1991 and came into force on 30 September 1991. In letters dated 23 January 1989 and 11 September 1991, the Berom Elders Council had requested the military governor of Plateau State and President Babangida, respectively, for a statewide reorganization. The council called for a new Jos Metropolitan Local Government Area to include Jos, Vwang, Kuru, Du, Gyel and Gwong Districts. The Hausa-Fulani, in its letter to President Babangida of 28 January 1989, asked to split the local government area into Jos North and Jos South instead.

The split into north and south federal constituencies, however, deprived the Beroms their traditional seat of power. Other districts were also split. The Du Elders Council, in fact, declared to the commission that the division of its district was unacceptable to “indigenes” and a majority of the people.

At the same time, Jos East was delineated from the earlier Jos Local Government. According to the memorandum of the Du Youth Movement, “the indigenous communities made their proposals for the creation of new local government areas in Jos but the Hausas were busy scheming to carve them out of Jos city center which they achieved through the assistance of Gen. Babangida who was then at the helm of affairs in the country.” The memorandum accused Gen. Babangida of deliberately creating Jos North Local Government to favor the Hausas to the detriment of the “indigenes.” In its memorandum, the Berom Forum (Chwelnypap) recalled a protest by native tribes due to perceptions of “conspiracy to marginalize them by giving the Hausa-Fulani the sole ownership of the Jos North. This perception by the indigenous tribes was supported by the fact that Jos North was established by military fiat which was made without due consultations with the indigenous communities as well as the various interest groups in Jos.”

On 3 June 1992, the Berom Elders Council petitioned Gen. Babangida to reverse the adopted configuration given its conflict potential. Through counsel, the president stated that Jos North Local Government Area was created using guidelines established by the National Electoral Commission and based on need for local government and the Armed Forces Ruling Council’s approval. Gen. Babangida did not address the petition during his administration – which ended in 1993 – nor did subsequent governments.

Based on evidence received, the commission conceded that the indigenous tribes and the Hausa-Fulani were displeased with the creation of Jos North Local Government. The commission concluded that its creation had heightened apprehension since it did not reflect popular wishes. Appropriate consultations would have generated better results instead of conflict. Therefore, commissioners held the creation of Jos North Local government and the manner in which it was created as a remote cause of the November 2008 crises.

In its memorandum, the Confederation of Plateau State Youth Movements presented information on the 14 electoral wards in Jos North Local Government Area, see table below.

Table 2 Electoral Wards in Jos North Local Government Area

Ward	Polling Units	Registered Voters
Abba Na Shehu	29	15,620
Ali Kazaure	38	15,726
Garba Daho	26	11,258
Gangare	20	10,674
Ibrahim Kastina	25	11,463
Jenta Adamu	24	12,418
Jenta Apata	34	17,245
Jos Jarawa	37	19,644
Naraguta A	31	17,375
Naraguta B	106	72,202
Sarkin Arab	17	10,303
Tafawa Balewa	11	4,245
Tudun Wada/Kabong	63	41,015
Vandapuye	11	7,986
Total		266,761

Source: INEC.

In analyzing the information, the commission noted Hausa-majority wards as having fewer registered voters than native Christian-majority wards. For example, there were 59,404 registered voters in five Hausa-dominated wards (Ali Kazaure, Sarkin Arab, Ibrahim Katsina, Garba Daho and Gangare); and 72,202 in native Christian-majority ward Naraguta B. The commission concluded that the Hausa-Fulani had more wards with fewer registered voters than indigenous tribes with more registered voters.

The Peoples Democratic Party Elders (Northern Forum) also enumerated several concomitant problems: “Now, the consequences of such lopsidedness are many. Firstly it leads to uneven representation in the council and by extension a disenfranchisement of the people, as the political space in the large wards becomes choked up. Secondly the injustice gave expression to claims of political domination by the Hausas.” The imbalance, for the commission, created perceptions of unfair allocation of political advantages to the Hausa-Fulani and ill will toward them.

5.3 Provocation, Growth and Economics

In his evidence before the commission, Witness No. 8, from Dogon Dutse, testified to hearing loudspeakers blaring the call “*matasa da jama’a ku fito jihad, kuma Allah zai yi maku albarka!*” ‘youths come out and fight *jihad*, God will bless you!’ He spoke of the mob – young and old – brandishing axes, cutlasses, machetes, guns

and containers filled with petrol while chanting “‘*Allahu-akbar, za mu ji ma arna, Jos ta Arewa namu ne; sabuwa da kaza bata hana yanke!*’ ‘we are going to kill the infidels, Jos North is our own, being familiar with the chicken does not prevent it from being slaughtered!’”

Other witnesses’ evidence about the day of the crisis is substantially similar. “Muslims clerics and their agents had used loud speakers installed in their mosques to call out their faith adherents or attackers. Shouts of war-like slogans or wake up calls were made such as ‘Muslims arise, it’s a call to *jihad*’ [and] ‘arise and reclaim Jos City,’ [which] also dictated the routes/locations to be followed or attacked as most of the attackers were hired mercenaries.” (Memorandum Berom Forum). Upon cross-examination, a witness testified as to the location of the mosques: Tudan Pera, Yan-Shanu Junction, another close to the Church of Jesus Christ of Later Day Saints and one in Bauchi Motor Park.

Witnesses testified to recorded and incendiary statements from Muslim religious and civic leaders. A transcript and translation of a cassette in Hausa included the following: “by the grace of Allah, Jos North cannot be rigged. Come to think of it, was there election somewhere that was won and not announced? When it became apparent that we had won and they had to announce, did they not cancel the elections? For your information this upcoming election cannot be cancelled and by force, we shall win, Allah willing. Look, we are Muslims; over eighty percent of the people of Jos North are Muslims. We are not Christians. Do you think we shall vote a Christian to lead us in Jos North?” (Exhibit JCI/J/36/2009/4) A widely circulated pamphlet from the Islamic Revolutionary Network included the following: “Faithful actions are being taken to check the hidden agenda of Governor Jonah Jang who has a hidden hatred for Muslims. All concern [sic] Muslims must rise up to stop this evil plan against Islam in the state, *n-sha Allah*, we shall win over them this time around, we shall go forth.” (Exhibit CB, Memorandum JCI/J/136/2009)

In his interview with the *Weekly Trust* (13 December 2008), a Hausa-Fulani community leader spoke on the genesis of the November 28 crisis as being the hatred of Plateau State government against the Hausa-Fulani. (Memorandum JCI/J/152/2009). The chairman of the Confederation of Plateau State Youth Movements also stated: “Thousands of Nigerians must have watched the chilling film on the November 28, 2008 violent crisis in Jos North Local Government, which is being distributed in towns of Northern states and circulated via GSM phones...the intention of the producers was to arise sentiment against Plateau.” (Memorandum JCI/J/152/2009) The film, in video cassette, was admitted into evidence (Exhibit JCI/J/154/2009/2) Witnesses also testified to incendiary comments in the *Daily Trust*, including the following item from 26 November 2008: “Governor Jang is not sincere about the local government polls. So far, utterances coming from government officials are to

the effect that they will manipulate the election, and they will declare results even while elections are going on; because they say it has happened elsewhere in Nasarawa and Lagos States.” (Memorandum JCI/J/207/2009, Appendix A)

The PDP Elders Northern Forum blamed the *Daily Trust* for “publishing half truths [and] outright falsehood on history of Jos and the cause of the crises to legitimize the claims of the Hausas.” The Plateau Indigenous Development Association Network also took exception to the newspaper, including its *Weekly Trust* article “Son of the Soil” (6 December 2008), which stated: “The Hausas are magnanimous settlers. The British settled in Australia and the Aboriginals have never been the same. Today Australia is a Whiteman country through and through. The same white settlers went west and settled in today’s America. The indigenous sons of the soil have never been the same. They in fact even lost their identities for derisive pejorative term, ‘Red Indians,’ they were shot, killed and those who refused to die were inflicted with syphilis and gonorrhoea.” (PIDAN Memorandum JCI/J/107/2009) The article, however, was written after the events of November 18.

No evidence was presented to the commission alleging indigenous tribes to have made similar statements or publications. The *Daily Trust* denied allegations citing the publications as neither incendiary nor provocative but merely advertorials or opinion articles entitling individuals to express their views, which were not necessarily those of the newspaper. (Exhibit S.B1) The commission held the above-referenced items incendiary, including calls for *jihad*, non-voting or electoral violence. Without them, the commission held, the unrest would not have been of such dramatic proportions. It also held these types of publications to be remote causes of the November 28 crisis. Furthermore, commissioners considered such articles as the *Weekly Trust*’s to cause distrust and disunity with the potential of inciting unrest.

Witnesses alleged a Hausa-Fulani desire to extend their control, dominating by instigating crises. The Tiv community described the Hausa-Fulani as being “the first to strike, plunder, burn, intimidate and when your enemies run, proceed to occupy.” (Memorandum JCI/J/183/2009) Many of those who testified, including Witness No. 8, considered the crises to have been planned and executed by the Hausa-Fulani in Jos to exterminate neighbors, take over their lands and properties and eventually, absorb all of Jos.

The commission noted that leaflets circulated by the Hausa-Fulani during the crises manifested their desire to control Jos North exclusively. Addressed to JDA members, one leaflet called for “a *jihad* to defeat the infidels.... The arms sent from Lebanon are in Chad. The arms sent by Gadafi have been brought in and are in Bauchi. The one sent by Saudi Arabia are in Cameroon.” (Memorandum, Jos Divisional Cultural Organization) Another from the Islamic Revolutionary

Network called for “taking over of Jos North now ... No compromise, no going back. Allah will punish us if we compromise on issue of Jos North Local Government Area.” (Exhibit CB, Memorandum JCI/J/136/2009)

An earlier call for Jasawa youth to rise up and recover rule over Jos came from a community leader quoted in the *The Reporter* (13 October 1987) (Memorandum Jos Divisional Cultural Organization, Appendix IV.):

The traditional title of Jos belongs to the Hausas and not any other tribe.... In 1945, when late Rwang Pam was made district head of Jos, we protested and we were assured that the Jos traditional rulership would be restored to us but...that promise has not been fulfilled. The youth must struggle to recover the Jos traditional title because when our great grandparents were brought here, Jos was under Bauchi.

Since that day, the commission noted, Jos had not known peace given the struggle to recover traditional rulership or “to Islamize” the state. Other evidence presented on “Islamization” included an article appearing in *The Guardian*, 25 September 2001, where the Chairman of Supreme Council for Sharia in Nigeria (SCSN) was attributed to a statement on implementing *sharia* law in Plateau State.”

Other witnesses believed that religion *per se* was not the problem, rather manipulating religion to achieve private agenda: “there is no religion involved at all but politics and chieftaincy and this is what should be tackled.” Another witness observed,

From my personal interaction...the frequent crises in Plateau have nothing to do with religion. Religion is only co-incidental factor used deceitfully as a weapon to achieve selfish and ungodly ambitions [sic] interests by both parties... The main factor for these crises as at today is economic empowerment which has created business and material gap between followers of the two religions.

The commission found religion to be a secondary issue, which both sides exploited to achieve other goals, mobilize members and serve political and economic interests.

Commissioners agreed with the assessment on the severity and extent of poverty and unemployment in Nigeria and their effect on intensifying competition for scarce opportunities to secure government jobs, education and political patronage. A comfortable citizen, after all, would be less tempted to

engage in criminal activities in the name of “a struggle against marginalization.” For the commission, the pursuit of tribal agendas or political control often was the pursuit of economic advantages and benefits at another’s expense. Struggles, even violent ones, were meant to obtain an economic advantage.

Witnesses testified that shortly after their houses were burned, buyers made offers on their distressed properties at discounted rates. One witness recalled returning to his home, the

Only house that was standing. Virtually every dwelling house on this street was razed down. The houses left...the very few belonging to certain Hausa-Fulani occupants. I then had entrusted my house to a Hausa man. We have lived with him for 15 years. The Hausa man told me certain people wanted to buy the house. I refused. He later approached me to say they wanted to rent, I still declined... Thereafter when it became obvious that they could not take over my house, they decided to set it on fire, being the only house standing after the incident.

Other economic crimes, including theft and looting, were cited. One shopkeeper recalled returning to his shop on November 28 to discover his “shop had been broken open and bags of stored *akpu* in his shop had been stolen and removed from the shop.” The commission opined that many active participants of the unrest were economically motivated. It warned that economic destitution and desperation would continue to foment crises.

The commission acknowledged the role of unemployed youths during all the crises since 1994. Unemployment, coupled with under-education and truancy, created a large body of idle youths easily recruited to foment trouble. The commission cited problems arising from the *Almajiri* system through which “parents give up their children of school age to a cleric to travel to distant places on discipleship training.” It decried the system since it deprived formal education to youngsters, who begged for alms and left-over food for their survival. The system often affected mainly children of less privileged families.

5.4 Mobilization, Security and Social Effects of Violence

The Afizere alleged an “influx of large number of Hausa-Fulani from neighboring states, notably Bauchi State...with the intent of adding to the voting and fighting strength of the Hausa-Fulani during the polls (as was the case at old Lamingo Road, Jos in May 2002). These people masqueraded as water vendors, commercial motor cycle riders and scavengers. Apart from over-stretching existing facilities like roads, water supply...they constituted a menace whenever found in clusters, especially Bauchi Road and adjoining streets.” (Memorandum

National Association of Afizere Youth Movement at page 15) *This Day* reported on 27 December 2008, Governor David Jonah Jang's statement regarding the 530 persons arrested in connection with the civil unrest – of which 50 were foreigners caught armed and wearing military uniforms.

In his written response to the commission, the Comptroller of Immigration Services, Plateau State Command, stated that the immigration services were neither invited to be part of the security detail during the local government elections nor to attend the security council's meeting before, during and after the crises. He testified to writing to the comptroller of prisons upon hearing of allegations of foreigners' involvement in the crises, requesting permission to screen and determine the legal status of alleged foreigners. The Comptroller of Prisons then forwarded a list of 76 suspected foreigners, of which six were from Niger and one from Chad. While investigating the civil unrest, the commissioner of police (Abuja) requested the comptroller of immigration in Jos to assist the police to screen 16 suspected foreign nationals, all of whom were undocumented aliens.

The commission accepted the comptroller of immigration service's information on undocumented aliens residing in Jos. Since it did not have sufficient evidence, however, the commission considered the numbers inaccurate as the immigration service had not screened all those arrested in connection with the crisis. It concluded that the presence and influx of people from other states into Jos shortly before and during the unrest contributed to the unrest. The commission could not, however, ascertain whether these were undocumented aliens or mercenaries.

Many complained that security forces – police and military – either did not respond or arrived too late. Others alleged excessive use of force and arbitrary killings at the hands of security forces. The Human Rights Watch reported Nigerian police and military “implicated in more than 130 arbitrary killings, mostly of young Muslim men from Hausa-Fulani ethnic groups” and “documented 133 killings but believe that the actual number of arbitrary killings by security forces may be substantially higher than these figures.... The vast majority of the killings by the police and military came on November 29, the same day that Plateau State Governor Jonah Jang was purported to have issued a ‘shoot-on-sight order to security forces.’”

Although the commission was unable to corroborate the organization's evidence, which relied on unnamed eyewitnesses or lacked documented proof, the commission recognized the governor's public statement. It read in part, “[t]he security details are under instruction to return fire-for-fire from any person or group disturbing the peace.” Security forces denied allegations of using excessive force and arbitrary killings or of receiving shoot-on-sight orders. The state commissioner of police testified there “was never a time when such order was given to me either verbally or in writing. Neither did I give shoot-at-

sight-order to any police officer during the crisis.” He affirmed sufficient police level to maintain security during the election and in critical reinforcements from neighboring states – acknowledging, instead, poor logistics as hindering their overall performance.

There were arrests of armed persons – who though not security personnel – for wearing military and police uniforms. The police commissioner stated “when their houses were searched on 30 November 2008, an army camouflage uniform, a single barrel gun cartridge and three boots were recovered. In addition, an elderly man...alleged that seventeen boys were murdered by some men in uniform. Their uniforms according to him were slightly in between army and immigration.” Therefore, the commission considered allegations of police impersonation as clouding the issues of excessive use of force and arbitrary killings. The allegations notwithstanding, the commission noted that the security forces were credited with bringing the civil unrest under control yet declared their lack of prompt response a remote cause of the unrest.

Road blocks set up around houses of worship during services featured prominently during the September 2001 crisis, in fact, it was held as one of its immediate causes. Since the Niki Tobi Commission’s recommendations were not implemented, i.e., lawfully banning and enforcing regulations against road blocks for prayers and other religious purposes, the commission noted again the persistence of the nuisance, which several memoranda identified as a remote cause of the November 28 crisis. The commission confirmed that the nuisance would continue to create tension among the different religious groups and cause more civil unrest.

Since 1994, the cyclical violent crises have affected negatively the relationship between the Hausa-Fulani, the indigenous tribes and other Nigerians residing in Jos. Their language is often angry, abusive, combative and disrespectful when accusing the others vehemently of marginalization, discrimination and displacement. The groups have segregated themselves, both socially and religiously, with Muslims on one side and Christians on the other. This setting has created a space of mutual suspicion and mistrust, deep rooted misgivings, hatred, unforgiveness and vengefulness.

The Hausa-Fulani Elder’s Forum advertorial appearing in the *Daily Trust*, 12 January 2009, asked “How can we continue to live under this inhuman treatment? The only option open to us is to request for boundary adjustment to relocate to Bauchi State or any arrangement that will separate us from our persecutors at least to save our lives.” (Exhibit JCI/J/135/2009/4)

One group described the Hausa community as “the most intolerant of all “non-indigenes” and other Nigerians politically, culturally and religiously. The

Hausa have never accommodated any other ethnic group in their so-called dominated electoral wards neither have they ever supported indigenous cultural events and activities.” (Memorandum Tula Berom University of Jos) Another vilified the conflict as “premeditated, carefully planned and executed by the Hausa community in Jos to destroy the financial base of the Igbos in Jos, drive the Igbos away from Jos North Local Government Area, loot their moveable properties, annex or buy their immovable properties at ridiculously low price as was successfully done in 2001.” (Memorandum Igbo Community) The Yoruba laid the cause of the November 28 unrest on the doorsteps of the Hausa. (Memorandum Yoruba Community)

Some lamented the divisions existing among the parties that could only promote violence rather than peaceful co-existence: “[S]uccessive conflicts in Jos have brought sharp divisions between the Christians and Muslims. In fact, it has resulted in self-imposed gerrymandering of Jos city into exclusive safe homes for each religion.... This has resulted in ghetto-ization of these settlements with serious security implications for the entire city.” (Memorandum Plateau Patriots, pages 37-38) Others suggested reintegrating the parties: “government should acquire open areas in exclusively dominated mono-ethnic/religious areas of the city center for erection of housing estate that could house barracks and security agencies and even civilians so as to punctuate the tone of this non assimilation.” (Memorandum Tekan Youths Fellowship, page 14)

5.5 Marginalization and Illegal Arms Proliferation

Complaints of marginalization, which took the form of political appointments where members of a particular political group were favored at the expense of indigenous groups, featured prominently before the commission. Hausa-Fulani elders decried being “branded and condemned as ‘settlers’” which would deprive them of “indigenship” certificates and pave “the way for extensive exploitation of our people socially, economically and politically by the ‘indigenes.’” The director of state security services in Plateau State declared that the Hausa-Fulani should have been offered the position of deputy chairman in Jos North during the November elections as a way of creating political equilibrium. The commission noted, however, that it was not possible for the Hausa-Fulani to have the chairman or deputy chairmanship positions at all times even if it considered the director’s statement an equitable assertion.

The “indigenes” contended that the Hausa-Fulani were able to avail themselves of appointments in their home states and in Plateau, whereas the people of Plateau State residing outside the state would not enjoy the same benefits. The Afizere noted that the Hausa-Fulani occupied key state and federal political positions and desired the chairmanship of Jos North “to tell

the whole world they own Jos.” (Memorandum National Association of Afizere Youth Movement) The Jos Divisional Cultural Organization (JODICO) added that the Hausa enjoyed unfettered political representation in Jos.

Despite its many dimensions, the commission was not convinced that the Hausa-Fulani were subject to marginalization since they enjoyed political appointments, unlike other ethnic groups such as the Igbo, Yoruba and people of South-South, who neither complained of marginalization nor enjoyed political privileges. The commission noted that with accommodation, dialogue and mutual understanding the people of Plateau State and people living in Plateau State could coexist peacefully. It called on the Hausa-Fulani to champion fairness for all Nigerians irrespective of their places of origin and residence.

In dealing with the culture of violence, witness testimonies and memoranda presented revealed large quantities of arms and weapons used during the civil unrest and included unauthorized use of military uniforms. The People’s Democratic Party Elders (Plateau State) declared: “military/mobile police uniforms were procured along with guns/ammunition all prior to November 27. Fortunately a number of fake soldiers/policemen were arrested.” After the events of November 28, the Nigeria Custom Service seized a large consignment of military uniform materials concealed in a luxury bus travelling from eastern Nigeria to Plateau State. This evidence suggested to the commission that it could have also been the case before the crisis. Equally worrisome: the possibility that sophisticated weapons were manufactured locally, according to the evidence of the Organization of African Institute Churches, “most of the weapons used in the 2001 and 2008 crises were manufactured locally.”

The commission concluded that arms, weapons and military uniforms had been manufactured, imported, stockpiled and readily used during the unrest. Their availability constituted a final major remote cause of the crisis. Without these items, the commission opined, the crisis would not have been so spontaneous or so difficult for security forces to contain. The heavy reliance on military uniforms and dangerous weapons in a purely civil unrest of this nature caused great concern for the commission, even more so as the level of sophistication in arms and ammunition use had escalated since 1994.

5.6 Commission’s Recommendations

Echoing the sentiments of the Niki Tobi Commission, members called on the government to implement their recommendations and those of preceding commissions and peace conference. In fact, commissioners recommended publishing the previous reports and government white papers based on the reports, including publishing them in the official gazette and incorporating a committee to examine ways of implementing its own and previous reports. Moreover, the commission called on the federal and state governments to

address the issues of economic and social insecurity. Among the commission's recommendations, we highlight the following: investigation, prosecution and amnesty; compensation, acquisition and delineation of electoral wards and local government; force, security and safety; and human rights reconciliation and poverty reduction.

To forestall future crises in the state, the commission recommended:

- Identifying, investigating and prosecuting persons named in the memoranda presented to the commission.
- Investigating individual events and occurrences alleged to have happened and their participants prosecuted and punished accordingly.
- Investigating, prosecuting and sanctioning persons and groups alluded to in the memoranda with the assistance of parties making the allegations.
- Investigating persons arrested and detained as to ensure prompt prosecution. Those wrongfully arrested to be promptly released.

Given the potential volume of prosecutions, the commission suggested incorporating a special prosecution team with members from the Office of Public Prosecutions under the Attorney-General of the state and investigative police officials. The commission also recommended the state government to establish a reconciliation commission that would allow parties to meet and reconcile differences. Those embracing the process would be granted amnesty from criminal prosecution; those who did not, would be investigated and prosecuted.

The commission found that many individuals and organizations, including government agencies, were victims of the unrest. Citizens lost their lives, leaving dependents behind; people suffered injuries or lost homes and their property stolen or damaged; organizations lost money and property. The commission accepted statements of claims through, *inter alia*, evidentiary support, sworn affidavits verifying claims and evaluation reports. The commission encouraged accepting claims from hospitals, clinics and aid organizations – many which went unpaid – for relief and emergency aid rendered to victims during the unrest. Therefore, it recommended the state government to:

- Set up a committee to verify claims presented.
- Set up a compensation scheme to aid victims and groups affected by the crises and pay full or partial compensation for damages.

- Rehabilitate schools destroyed during the crises as a matter of priority to alleviate the negative impact on children.
- Request from the federal government help to fulfill these efforts.

There was evidence before the commission of land grabbing and development without planning approvals, leading to slums teeming with potential wrongdoers. To curtail unlawful land development and acquisitions, the commission recommended the state government to:

- Acquire slums and urbanize settlements in Gangare, Yan Tinka, Rikkos Cattle Market (Yan Shanu), Angwan Rogo, Angwan Rimi, Angwan Dalyop, Katako, part of Ali Kazaure and Dilimi, including constructing access roads, infrastructure, housing estates, clinics and modern schools.
- Acquire University of Jos land, transferring title to its governing body. UNIJOS had lost land parcels through tribal settlements, wrongful issuance of rights of occupancy and numerous unlawful sales and purchases.

With the active co-operation of the federal government, the commission called for the land to be repossessed and immediately occupied and fenced by UNIJOS. The security of UNIJOS was questioned particularly because of its proximity to the Bauchi Road Motor Park, a well-known hotspot for conflict. The recommended measures would enhance security within the university's campus and promote its own development.

Since the creation of electoral wards was based on promoting equitable distribution of voters within each ward, the commission concluded that delineation of wards within the Jos North Local Government Area allowed fewer registered Hausa-Fulani voters to have more wards than those with more indigenous voters. To reduce the uneven representation and feelings of disenfranchisement, the commission urged the federal government and National Assembly to accede quickly to its recommendations, which included:

- Re-delineating electoral wards according to guiding criteria and population figures.
- Delineating the Jos North Local Government into at least three sustainable local governments with an equitable representative number of wards within each local government.
- Creating new local government areas and wards through consultative processes and constitutional procedures,

Witnesses alleged excessive use of deadly and brutal force by the police and armed forces. Although evidence proved insufficient for the commission, it recommended bringing forward allegations and evidence of these acts and establishing internal commissions within the various security agencies to investigate allegations.

The commission urged state and federal authorities to ensure that investigations would be carried out with the full participation of surviving victims, their families and credible witnesses. Since commissioners received testimony on the police inquiry ordered by the Inspector General of Police, the commission recommended making the inquiry's findings public. The commission called upon security forces and specifically, the armed forces, to abide by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In carrying out their duties, the commission reminded them to use restraint when engaging with civilian populations and employing deadly force only when all other alternatives are exhausted and their lives or the lives of others are in clear and imminent danger.

Immigration officials were accused of not controlling illegal immigration of aliens and mercenaries, thereby making it easier for them to enter Jos North. Although there was evidence of the presence and arrest of some undocumented aliens, it was insufficient for the commission to conclude that aliens were the main perpetrators of the crisis. The commission, however, accepted the recommendation of the comptroller of immigration services and proposed that the federal government accept the recommendations made to the Federal Executive Council and construct passport control plazas to improve border control.

Segregated settlements in Jos have discouraged integration and peaceful co-existence among its many inhabitants. In fact, the commission considered that segregated settlements led to flashpoints, particularly in Kwararafa, Abba Na-Shehu, Dilimi, Ali Kazaure, Yan Keke, Rikkos and Gangare, which had become highly volatile epicenters of violence. The absence of security posts led to the escalation of the crises since security forces could neither monitor nor check the crises effectively and promptly. Therefore, the commission recommended:

- Establishing adequately staffed police security posts and stations within and around recognized flash points.
- Relocating the Bauchi Road Motor Park and its appurtenances to another more appropriate location.
- Maintaining better security in and around motor parks, which are public areas with high incidence of violence.

- Banning the open sale of implements commonly used as weapons.
- Relocating slum markets such as Katako, Yan Tinka, Kasuwa Nama, to more secure locations un-delineated by ethnic grouping.
- Reconstructing the Jos Main Market to reduce tensions characterizing slum markets.

Security involves preventative and curative measures – requiring pro-activeness to avert crises. Evidence presented focused on lack of prompt response by security forces, lack of coordination among security agencies in gathering intelligence, weaknesses of agencies and units – all of which contributed to their inability to curtail violence. Furthermore, the security apparatus seemed ill-prepared and warning signs inadequately interpreted. The commission recommended the federal government to pay immediate attention to the training and equipment needs of its security agencies, particularly in the areas of operation and logistics support. In addition, it recommended the state and federal government to actively coordinate and share intelligence across security services, including police, customs, immigration and the military formations within Plateau State while enhancing their capacity.

The commission also recommended the state government to accept advice as to scheduling elections. For the events in November 2009, it meant that electoral results from a Thursday election would be released on a Friday, a Muslim day of worship – thereby creating potential for faith-based conflict. Specifically, the commission recommended:

- Monitoring specific groups, e.g., JDA, and their leaders to detect possible incitement or legal violations.
- Setting up and coordinating security committees at the community level.
- Establishing community policing initiatives under the police's 10-point agenda.
- Initiating witness protection and assistance programs.

Damage caused by arsonists in the Katako Market, State High Court premises and other buildings were exacerbated by the lack of firefighting and rescue response units and equipment to handle emergencies. To mitigate future losses, the commission recommended equipping buildings, particularly public buildings, with primary firefighting and safety equipment and having emergency response units, with adequate ambulances, equipment and trained personnel, in hospitals throughout the state.

The commission found that a fundamental cause of the polarity leading to ethno-religious conflict was the problem associated with terms such as “indigene” and “settler.” The question as to the tribes that are indigenous to Jos was exhaustively treated and settled by preceding commissions. The commission took judicial notice of their analyses and observed that no known law in Nigeria dealt directly with the issue of “indigeneship” either at federal or state level. Therefore, pending the constitutional resolution of this issue and the enactment of an “indigene’s” or citizen’s charter (provided the distinction were to be accepted within the Nigerian federation), the commission recommended the state government to promote citizen’s rights in any part of Nigeria in which they may find themselves. This signified that all persons who are *bona fide* citizens would have equal rights, opportunities and access without denying those designated as “non-indigenes” access to socio-economic mobility, e.g., government jobs, academic scholarships and university admissions or fees.

The commission found that a common feature underlying the ill-feeling between indigenous ethnic groups and non-indigenous ethnic groups included lack of opportunities and access in government. This characteristic also caused inter and intra-ethnic conflict. When one party or ethnic group assumed power, the winner-takes-all syndrome prevailed and jobs in sensitive government positions – commissioners, membership on government boards, government corporations – became skewed to favor the group in power, either perceived or *de facto*. Therefore, the commission recommended the state to formulate a representative policy similar to the federal government’s policy to promote inclusion and participation and enshrined as a state principle in light of Nigeria’s different ethnic groups. In local government areas with more than one ethnic group with substantial quantitative presence, the commission recommended a chairman and vice-chairman from alternate ethnic groups.

The commission received and examined evidence pertaining to the activities of certain persons and groups within the community whose acts or opinions, publications and utterances mislead their followers. These persons disseminated rumors and propaganda, inflamed the public and generated mistrust, ill-will and hostility. The commission found this to be a major root cause of the unrest of 28 November 2008 and recommended:

- Monitoring activities and utterances of named associations and individuals included in the commission’s report and identified to have various degrees of culpability.
- Observing and monitoring activities and utterances within places of worship used to mobilize and recruit foot-soldiers to perpetrate violence. This included specifically those in areas identified as origins of the unrest.

– Scrutinizing the media’s role in reporting and disseminating information, including propoganda and biased reporting.

The commission found anti-social acts to deter peaceful co-existence among people from different religious beliefs. It recommended prohibiting the use of loudspeakers mounted on external walls and amplified to reach beyond the vicinity of churches and mosques within Jos North Local Government Area. The commission urged local government authorities to enforce nuisance and environmental laws proscribing these acts. The commission also reiterated banning roadblocks during hours of worship and exhorted the Jos Metropolitan Development Board to arrest and re-dress the indiscriminate construction of public places of worship, especially within residential areas.

Inter-religious councils, whose activities and impact had weakened, became a focal point for the commission. The councils would serve as fora to develop understanding and strengthen inter-ethnic and inter-religious ties. While recognizing the need for strengthening their capacity, the commission saw an urgent need to analyze weaknesses in their leadership, particularly if leaders promoted concepts such as “us versus them,” erroneously construed concepts such as *jihad* or used derogatory language against others.

Traditional rulers and traditional institutions would be key actors and thought leaders in these initiatives within their various communities. The commission encouraged the state government to create village areas, districts and chiefdoms to foster a sense of belonging – particularly reactivating the Jos North Council of Chiefs where major ethnic groups in Jos were represented.

Finally, the commission recognized the quest for access to economic opportunities as a paramount cause of crises where unemployed youths are easily mobilized for violent ends. Therefore, the commission recommended the state government to provide an environment to engage unemployed youths from all ethnic groups within the state, including intensifying the Universal Basic Education Program in Plateau State, to ensure basic education for youths.

Lloyd Duru⁶**6.0 Background**

After the violence in Jos in early 2010, President Goodluck Ebele Jonathan convened a stakeholder's consultative forum, comprising largely of citizens from Plateau State and other respected traditional and religious leaders from across the country on February first. At the end of the forum, President Jonathan approved convoking a Presidential Advisory Committee as part of the peace-building process in Plateau State.

The committee comprised a cross-section of stakeholders. Its members included Solomon D. Lar (chairman), Amb. Yahaya Kwande (deputy chairman), Barr Instifanus D. Gyang (joint secretary) and Mrs. Ngo-Yop H. Chollom, Chief John M. Samci, Professor Nenfort Gomwalk, Hon. Salisu D. Nakande, Amb. Fidelis N. Tapgun, Senator John N. Shagaya, Senator Ibrahim Mantu, Senator Gyang D. Dantong, Senator John Wash Pam, Hon. Leo Dilkon, Most Rev. Dr. I. A. Kaigama, Sheikh Balarabe Dawud, Mrs. Fati Kyari, AVM Abbas Umaru, Rtd., Alh. Saleh Hassan, Chief Markus W. Ishaya, Chief Toye Ogunshuyi, Barr. Akuzamus M. G. Anakwe, Barr. Smart Irabor, Mr. Moh'd Adam Alkali, Brigadier General S.A. Abok, Rtd., Dr. Danladi Atu, Alh. Saleh Bayeri Alh. Abdullahi Ardo and Mr. Bukar Goni Aji (members)

The committee was mandated as follows:

- To recommend practical solutions to recurring problems leading to crises.
- To recommend peace-building measures and practical steps for averting the reoccurrence of a similar crisis.
- To recommend roles for federal, state and local governments in implementing solutions recommended.
- To make any other recommendations to the federal and state governments on other key measures to avert violence and to ensure lasting peace, harmony, solidarity and stability.

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To effectively address its terms of reference and make appropriate recommendations, the committee adopted several initiatives, including hosting regular plenary, syndicate and breakout sessions, reviewing individual declarations, studying available white papers and reports of previous commissions of inquiry and interactive discussions with political and traditional leaders and other resources across the country. The committee also adopted outreach and confidence-building initiatives such as information dissemination through press releases and *in situ* visits to inspect location of the violence and internally displaced persons camps. At the camps, victims received assurances about the federal government's commitment toward finding a lasting peace in Plateau State.

The committee considered the need to identify and isolate causes, sources, nature and patterns of recurring crises in Jos within the context of politics, economics and religion, including long-standing communal suspicion and disputes over land ownership; mass poverty and youth employment, frustration and restiveness rendering youths malleable agents to mischief makers from within and outside the state; and exploitation and manipulation of religion by leaders on both sides. The sources of common and recurrent problems among the communities included ownership, "indigeneship" and local government administration. The committee also considered the effects of not implementing the recommendations of past reports, observing that non-implementation – especially as to the roles of some individuals and groups during the crisis – had been widely cited as one of the remote causes of re-occurrence. It also observed delays in implementation resulted in reducing their relevance or contributions to the peace process.

This chapter summarizes the committee's major findings and presents its recommendations. Items appearing under quotation in this chapter are from the committee's report.

6.1 Ownership, "Indigeneship" and Local Government

The committee found that ownership of Jos had been one of the greatest sources of the problems in the crisis. While indigenous tribes based their claims on ancestral origin, the Hausa-Fulani community laid claims based on its historical antecedents and contributions to the evolution of Jos. The committee also found that in addressing the issue, all past reports of the judicial commissions of inquiry and the Plateau Peace Conference report attributed Jos's ownership to the Afizere, Anaguta and Berom. It noted the Hausa-Fulani's judicial challenge of the 2004 conference report, which the state government had published in the official gazette during the state of emergency. Therefore, the committee declared the Jos ownership issue as settled through all previous reports.

To address the fears, misgivings and concerns generated by the concept of

ownership throughout the years, the committee noted the need to put in place practical and effective measures to promote peace through accommodation, mutual respect and guarantees of citizenship rights. Similarly, the committee found that “indigeneship” was one of the problems that led to the re-occurring crises in Jos. It also observed that the issue of “indigeneship” had been settled through the past reports of the judicial commissions of inquiry and the peace conference report.

The committee examined political issues relating to the creation of local government councils in 1991, as it affected the Jos North local government. It found that Jos North was created by the military administration to implement the policy for every local government having two federal constituencies to be split into two local governments, which brought into existence Jos North and Jos South local governments. The committee noted structural defects in creating Jos North by military fiat rather than through consultation and citizen participation. It also noted several other facts that arose following the creation of the Jos North local government:

- Jos, which had seven independent wards, was not administered traditionally by a district head. Rather ward heads answered directly to the *Gbong Gwom Jos*.
- Gwong emerged as the only district. Du District was split in two and its headquarters in Jos South.
- The village head of Kabong, which is part of Du District, did not report to the district head of Gwong. Rather the village head found it more convenient to answer to Du’s district head in keeping with custom and tradition.

6.2 Religion, Economics and Ethnicity

The committee found religion as not being the main cause of the crisis in Jos. Instead, it found religious and political leaders in the state to have used religion to arouse detrimental sentiments, passions and emotions and gain popularity and support. Several other findings related to religion included:

- Improper management of the *Almajiri* system.
- Restrictions on freedom of worship by not allocating land and refusing to issue certificates of occupancy for houses of worship,
- Lax or inadequate reporting of negative and inciting teachings and activities of religious leaders by security agencies.

The committee called on traditional leaders to be neutral and objective, while ensuring freedom of worship without discrimination and educating and re-

orientating followers toward improving mutual understanding and respect. It also found the consequences of the crisis' economic dimension reflected not only in Jos North but in the entire state, destroying lives and economic ventures, including markets, commercial centers, shops and houses. As a fall-out of the crisis, many private businesses in the state had closed or relocated or were contemplating relocating or closing. In fact, the committee added, the state government's role as a major source of employment hindered the state's growth and development. The committee noted the near-total absence of private sector participation in the state's economy.

Unemployed and idle youths played a major role in the violence in Jos. With gainful unemployment, the committee reasoned, youths would be less likely to become mercenaries. The committee found that the youth's distaste for menial jobs in favor of white-collar jobs had made them restive, easily manipulated. By encouraging youths to take advantage of available opportunities, e.g., farming or basic and unskilled jobs, the committee opined, unemployment and threat would be reduced.

Conflicts between herdsmen and farmers had often been traditionally attributed to encroachment on farmland by grazers, on the one hand, and encroachment on grazing reserves by farmers, on the other. The committee noted the concerns the Hausa-Fulani expressed through their representatives on grazing reserves, compensation for lost cattle, resettlements for displaced herdsmen and "indigeneship" status.

6.3 Leadership, Peace Strategies and Stakeholders

In designing implementation strategies for reconciliation and peace building, the committee considered it important to specify the roles for local, state and federal governments and stakeholders in carrying out programs and policies to restore peace and harmony. It had found that the lack of involvement of stakeholders in peace building had a debilitating effect on social cohesion and sustainability. In fact, the absence of a functional consultative forum in Jos North hindered the peace process.

Dialogue is an effective means to promote change as parties in conflict understand each other's position and adopt a spirit of give and take – which invariably sets the parties on the path toward reconciliation. While true that disagreement and conflict cannot be legislated away, the committee noted that violence should not be an option to resolve conflict if Nigerian society is to progress. Otherwise, Nigeria would drift toward self destruction. The committee called on citizens of Jos North and its environs to embrace peace and reject violence and for government to institute periodic and rotational consultative peace fora among the contiguous states of Plateau, Bauchi, Benue, Gombe, Kaduna, Nassarawa, Taraba and the federal capital territory.

The committee found that without a forum to engage communities and groups constructively through regular consultation and dialogue, nascent disputes and conflicts, which often escalated into major crises and violence, would hinder peace building. It also found the pervasive misconception of citizenship rights and perceived fear of domination to have combined to create mutual distrust, general misunderstanding and hostility between host communities and other residents. Therefore, mechanisms to promote regular consultation at various levels were needed. The committee also observed that sustained programs of mass education and public outreach would enlighten and produce attitudinal change among citizens, including leaders at all levels.

In recognizing the non-implementation of previous recommendation as a factor in recurrent crises, the committee observed that adopting a truth and reconciliation commission would enhance the peace process without denigrating prior recommendations. This mechanism to promote reconciliation would engender understanding, forgiveness and peaceful co-existence. The committee also viewed promoting and institutionalizing dialogue, a mechanism to resolve conflicts in Jos North, as a powerful tool to deepen understanding of others' perspectives.

On the role of stakeholders, the committee specifically found perceived lack of objectivity and neutrality of public officials, security agencies and media and lack patriotism and nationalism, particularly among political classes. As custodians of public peace, order and good governance, local, state and federal authorities are key players in ensuring peaceful co-existence by promoting justice, fairness and equity to all citizens irrespective of ethnic or religious backgrounds. The commission lamented exploiting ethnicity to garner political support. Based on the persistent nature of crises, it appeared to the committee that federal, state and local government entities had yet more work in coping with the rising tide of restiveness and insecurity and the general well-being of citizens. Although appearing to be a national problem, the committee considered Plateau State to be worthy of special attention, especially in crises and post-crisis periods.

With the absence of guidelines and codes for religious preaching and practice in Plateau State, the committee found that religious leaders often used inciting or provocative words in their proselytizing. This negativity was common in churches and mosques and generated religious intolerance, well-documented through indiscriminate opening of houses of worship, blocking roads during worships, using loudspeakers and bells.

The committee emphasized the role of the media in development and saw the media as a crucial component of multi-ethnic, multi-religious and heterogeneous Plateau State. It found that the media had played significant constructive role in ensuring peaceful co-existence and development in the state, in contrast to the

destructive journalism that characterized some media houses. Media bias and lack of journalistic integrity and objectivity prompted the committee to urge the mass media to do a better job researching stories and to be more objective in covering and reporting.

At the family-level, the committee noted the need for families to inculcate moral and religious values in their children at home, schools and places of worship. It noted the need to organize and promote inter-religious education as a means to foster mutual understanding, respect and tolerance for the religions of others. Given the concentration of development in Jos that has generated shanties and slums, the committee noted with concern the deplorable state of these settlements, which also provide a breeding ground for crime, violence and insecurity.

From its on-the-spot assessments of scenes of crises and victims' accounts on losses – including deaths of loved ones – the committee ascertained the loss of victims' livelihood and properties, including residential accommodations, businesses, cattle and other assets worth millions of dollars. The committee observed that the traumatic effect of loss transformed many into homeless paupers with little or no means of livelihood. This development undoubtedly impoverished the state and its citizens. The committee called on federal, state and local government interventions to assist affected persons – noting that the cost of relief would be far beyond the capacity of the Plateau State government to bear alone.

6.4 Commission's Recommendations

The committee made various recommendations based on its observations and findings. Many are calls to actions for federal, state and local government authorities with specific opinion on major issues of the crises: citizenship rights, politics, economics, religion, leadership and individual responsibilities.

Generally, the committee called on federal, state and local governments to assist in compensating victims and assist them rebuild their homes, businesses and lives through a special fund. To encourage reconciliation and end attacks and counter attacks in vulnerable areas, the committee instructed the federal and state government to help internally displaced persons to return and resettle in their homes and reclaim their properties without hindrance. It called for establishing a mechanism for dispute settlement and conflict resolution at the state, local government and community level.

The committee urged the government to release, process and implement all previous reports on the crises in Jos and establish another committee of government and stakeholders to examine recommendations contained in past reports and determine their relevance in promoting peace. In the light of its

observations, the committee recommended the federal government and the National Assembly to expedite actions that would give practical effect to constitutional provisions on citizenship rights and to amend the clause relating to “indigeneship” as contained in Section 147(3) of the Constitution of 1999. Pending constitutional amendment, the committee called on enforcing the extant policy approved by the Plateau State government based on the letter dated 15 May 2000, on the *re-issuance of indigene certificates* addressed to the Executive Chairman of Jos North Local Government Council. (Reference No. S/SMG/A8/Vol.1/18) It called for another constitutional amendment to empower INEC to conduct elections at the federal, state and local government level and to introduce the use of modern technology in conducting and transmitting electoral results.

The committee invited the federal government to review the creation of Jos North local government with relevant stakeholders and communities. Taking into account tradition, geographical contiguity and affinities, the objective would be to create additional local governments. Furthermore, the committee urged the federal government to consider creating additional electoral wards in Jos North to adequately reflect ethnic representation. In the interest of peace and expediency, it called the government to resolve the matter before future elections. It also called on the federal government to establish security posts in flashpoints in Jos North Local Government Area and in Jos and Bukuru, in particular.

Given the proliferation of arms, the committee recommended state-wide disarmament and recovery of weapons from individuals and groups. It called on the federal government to curtail arms and ammunitions smuggling and illegal immigration by improving its border controls. For security forces, the committee recommended establishing a crisis early-warning and management system to anticipate and effectively deal with crises; improving intelligence gathering; and equipping and training police officers in the state.

To promote ethnic, religious and gender diversity, the committee urged the federal government to ensure all citizens of the state, with requisite qualifications for admission into the armed forces or police, be given equal opportunity and support to realize their ambition, irrespective of ethnic or religious background. The committee also recommended extending microcredit facilities to women’s groups to empower them economically. The committee strongly recommended the federal government to assist the Plateau State with the special fund to undertake and implement the state-wide development plan, particularly as it related to compensating persons whose properties were affected. It also recommended establishing a truth and reconciliation committee to reinforce the peace process in Plateau State and a forum for continued consultation and dialogue to promote accommodation, mutual

respect and citizens' rights. In the short term, the committee recommended aid to Plateau State through federal subsidies, including special funds from the Ecological Fund to rehabilitate areas destroyed by mining and reclaim affected areas for viable economic ventures.

To the state government, the committee presented various economic development solutions, including introducing incentives for partnerships to revitalize moribund industries or to establish new ones in areas in which the state enjoyed comparative advantages, e.g., animal husbandry, food processing and tourism.

Specifically, the committee urged the Plateau State government to strengthen its partnership with the Nigeria Electricity Supply Company (NESCO) so that it would take full advantage of NESCO's capacity, enable the state to enjoy steady electricity supply and help the state to harness and realize its economic potential. It advised the state government to take full advantage of its inclusion in the Hydro-Power Development Commission (HYPADEC) States to develop its power supply base and other relevant physical infrastructure.

To boost other economic activities and generate employment, the committee recommended the Plateau State government to reconstruct the Jos Main Market and to construct satellite markets. While noting the need to develop pragmatic measures to fully and actively engage youth, the committee suggested establishing a job creation center where statistics would be maintained on their demographics and credentials. Vocational training and skills acquisition centers across the state would train and empower all youths without any preferential treatment. Talented youths in the state would be identified with a view to assisting them to realize fully their potentials for self-actualization and self-reliance. It called for re-establishing the defunct Labour Office that would be a repository of job opportunities. Take-off grants or revolving loans would enable graduates of vocational institutions to take advantage of their training. In the same vein, the committee called for new recreational and sporting centers to engage youths, allowing them to acquire sporting skills, such as and promote healthy competition and understanding, achieve togetherness, comradeship and friendship.

At the state-government level, the committee recommended strengthening community and traditional institutions, including chiefdoms, districts and village areas. The committee directed interested communities to take advantage of the state government's circular on new and additional chiefdoms, districts and village areas and to apply accordingly. To stop the politics of acrimony, the committee recommended introducing zoning and rotational arrangements into the political structure of Jos North local government. It urged politicians to learn to respect the voice of the people, as expressed through voting, to ensure that votes count in all

elections and to abide by legally established processes to address election complaints rather than resorting to violence.

The committee called on the state government to liaise with the Plateau State Inter-religious Council for Peace and Harmony and establish a code of religious practices and conduct to regulate religious activities and ensure an administrative framework that enforces the code. The committee called on security agencies specifically to sanction religious leaders failing to adhere to guidelines. It called for the reorganization of the *Almajiri* system and its integration into the formal school system. The committee also envisioned a sustained program for mass education and public outreach to promote understanding, mutual respect, accommodation and harmonious co-existence.

The committee recommended establishing – through local government councils – peace, security and community relations committees at the ward, village and district levels to deal with inter- and intra-communal problems. Meetings of the committees would be mandatory, regularly scheduled and facilitated by local governments. The committee urged the local government to resuscitate and strengthen the Consultative Forum in Jos North Local Government, making it more responsive to stakeholders' needs. The consultative peace forum would include ward, village and district heads, religious, ethnic, opinion and youth leaders, women's organizations and other concerned stakeholders, encouraging them to form neighborhood watch groups.

Finally, the committee recommended various attitudinal changes at the individual level. First, it called on host communities to accommodate other citizens by way of respecting their citizenship rights and for resident citizens to respect the customs and traditions of their hosts. Second, the committee noted the need to sensitize the public on factors that influence the creation of electoral wards, e.g., population, administrative convenience, contiguity, which often do not simply depend on demands of ethnic groups. Third, the committee called on parents and guardians to inculcate moral, religious and entrepreneurial values in their children at home, school and places of worship. It emphasized the need to organize and promote inter-religious education as a means to fostering mutual understanding, tolerance and mutual respect among the adherents of different religions. It enjoined youths to embrace jobs considered menial at least as a stepping stone toward better wages. It also encouraged the Nigeria Press Council to maintain ethical standards.

More specifically, the escalation of the conflict and the violent dimension it assumed required grazers and farmers to rededicate themselves to resolving conflict peacefully. On this theme, the committee recommended various solutions:

- Reviewing and enforcing publically established cattle routes and reserves.

- Establishing a grazing reserve in areas susceptible to farmer-grazer conflicts, especially Barkin-Ladi, Bassa, Jos South and Riyom Local Government Areas.
- Requesting permission from farmers before herdsmen moved their cattle to graze on crop residue. Under-aged children were considered inappropriate herders.
- Sanctioning Hausa-Fulani herdsmen encroaching on farmlands and farmers encroaching on approved grazing reserves through customary settlement methods or formal legal processes.
- Using mediation to deal with conflicts between host-community leaders and Hausa-Fulani herdsmen as a way to promote mutual understanding and peaceful co-existence, including using joint consultative and peace committees at ward, village and district level to settle farmer-grazer disputes.

Uchenna Emelonye and Uchefula Chukwumaeze⁷

A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person: (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or (b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.

Chapter IV, Fundamental Rights, Article 42 (1), Constitution of 1999

7.0 Background

Nigeria features a tripartite legal system of customary, religious and statutory laws. Largely modeled upon the English or common law system, the Nigerian legal system also contains elements of customary law, existing in most parts of the south and some parts of the north, and Islamic or *Shariah* law, practiced in most parts of the north.

In this chapter, we describe Nigeria's constitutional and legal development as it relates to citizenship, ownership and national integration. In highlighting the main constitutional provisions on citizens' rights and citizenship, our goals are to analyze their adequacy and their potential to be sources of conflict and to shed light on the concept of citizenship within a federal republic and relationships between citizens within a federation. Ethnic identity and the constitutional definition of citizenship are at the core of the crises of citizenship in Nigeria.

7.1 Colonialism, Independence and Constitutional Development

In 1922, the Clifford Constitution became Nigeria's first attempt at constitution making, it heralded political consciousness and journalism and served the

⁷ Uchenna Emelonye, see Chapter One. Uchefula Chukwumaeze, see Chapter Four.

colonial power to administer the colony. It was in effect for 24 years and included a legislative council, which was similar to the one existing during the era of Lord Lugard. The Legislative Council was mostly made up of non-Nigerians. (Uwechue, 1991 and Okorie, 2011) In addition, the constitution provided for an executive council and an advisory body.

Under the Clifford Constitution, only Lagos and Calabar were represented in the legislative council: Lagos elected three representatives and Calabar, one. The constitution also empowered the council to make laws for Lagos and the southern provinces; the governor of Nigeria himself made laws for the north. The latter represented a major constitutional weakness since it did not make northern Nigeria part of the central legislative council even though the north and south had been amalgamated in 1914 to minimize colonial administrative costs rather than to legitimize public participation. (Uwechue, 1991)

A new constitution in 1946 was intended to unite northern and southern Nigeria. Instead, the Richard Constitution created three separate and unequal regions – Northern, Eastern and Western – and introduced regional houses of assembly. Under principles of direct rule, the North was to operate a bicameral legislature consisting of a house of assembly and a house of chiefs. The two other regions enjoyed a unicameral legislature made up of only a house of chiefs.

Nationalist leaders, however, viewed the new constitution as one-man's imposition that lacked public participation and vehemently opposed the way the Constitution of 1946 was written and made into law. Soon after its enactment, calls for abrogating the Richard Constitution paved the way for a new constitution, this one penned by Governor Sir John Stuart MacPherson. (Uwechue, 1991). The Constitution of 1951 brought a new dimension to administering Nigeria. It marked the era of political party government in the regions with executive and legislative power fully extended to them. The constitution also introduced a unicameral legislature at the center and bicameral legislatures in the Northern and Western Regions; only the Eastern Region kept its unicameral legislature.

On 21 May 1953, Secretary of State for the Colonies Oliver Lyttleton announced in the British House of Commons that the McPherson Constitution would be rewritten to give room for regional autonomy. Through the London Constitutional Conference, the Lyttleton Constitution replaced the McPherson Constitution and came into force in October 1954. It improved largely on the preceding constitutions in so far as Nigerians contributed to its drafting. The Constitution of 1954 unambiguously defined Nigeria's federal character with autonomous regions. It also provided for a premier's office and a legislature in each region vested with the necessary executive and legislative powers to deliberate and legislate.

Subsequent constitutional conferences in London between 1957 and 1958, during the governorship of Sir James Robertson, gave rise to the Constitution of 1960. The new constitution was modeled after the British system with a prime minister as head of government and the Queen of England as head of state. In Nigeria, the indigenous governor-general represented the Queen. Thus, Sir Abubakar Tafawa Balewa of the NPC, became prime minister as the NPC had a majority in the federal house of representatives, while the Rt. Hon. Dr. Nnamdi Azikiwe became governor-general. Chief Obafemi Awolowo became leader of the opposition. The Constitution of 1960, which remained in effect for three years, also created a Mid-Western Region from the Western Region.

Under the First Republic, the Constitution of 1963 created the office of the president as head of state and commander-in-chief of the armed forces. The 26-month Constitution also established the Supreme Court of Nigeria as the highest and final court in the country and abolished appeals to the Judicial Committee of the Privy Council in London. The republican constitution featured a house of representatives of elected members and a house of senate of nominated or appointed members, i.e., elder statesmen of unimpeachable erudition and character. It also recognized the existence of four regions – Northern, Eastern, Western and Mid-Western – each with a premier, house of assembly and house of chiefs.

Following the first military *coup d'état* in 1966 and subsequent coups, the republican constitution underwent several modifications under military rule. To promote greater national integration, the Constitution of 1966 centralized and standardized Nigeria's administration and finances so that national revenues were collected centrally and then redistributed to states and local governments. In response to the pressures four regions posed to national integration, Nigerian military leaders divided the established four regions into a federation of 12 states. (Nigeria today consists of 36 states). Post-independence constitutional reforms also affected the Nigerian legal landscape, including the fate of the Sharia Court of Appeal that had existed in the North since 1960.

In 1979, General Obasanjo handed over power to Shehu Shagari, first president under the new Constitution of 1979, which formally ended the Westminster parliamentary system. The presidential constitution was a landmark in Nigeria's constitutional development. It was in force until the December 1983 coup of Major General Buhari, who became head of state and commander-in-chief of the armed forces. Buhari himself was overthrown in a bloodless coup in August 1985 by General Babangida.

President Babangida began the process to develop a new constitution and inaugurated on 7 September 1987, the 16-member Constitution Review Committee (CRC), which he authorized to review the 1979 Constitution. In May

1988, he also inaugurated the Constituent Assembly to draft a new constitution, which the assembly's chairman, Supreme Court Justice Anthony Anigolu, submitted in April 1989. On May 3, Babangida announced the Armed Forces Ruling Council's (AFRC) approval of Nigeria's seventh constitution. The Constitution of 1989 was the law of the land until civilian rule returned to Nigeria and the new the Constitution of the Federal Republic of Nigeria (Constitution of 1999, hereinafter the Constitution) was adopted.

7.2 Customary, Islamic and Statutory Law

"Native law and custom," "native customary law" and "local law" are used interchangeably to describe customary law. (Asein, 2002). Okonkwo defined it as "a body of customs and traditions which regulate the various kinds of relationships between members of the community in their traditional setting." The Anambra State Customary Law Court defined customary law as "a rule or body of rules regulating rights and imposing correlative duties, being a rule or body of rules which obtains and is fortified by established usage and which is appropriate and applicable to any particular cause, matter, dispute, issue or question."

Customary law is unwritten. But where it is applicable, it is enforceable and binding between the parties to whom it applies. Prior to colonialism, customary law was the prevailing law in all communities and groups. In *Oyewunmi Ajagunbade III v. Ogunesan* (1990), customary law was described as "the organic or living law of an indigenous people of Nigeria regulating their lives and transactions. It is organic in that it is not static. It is regulatory in that it controls the lives and transactions of the community subject to it..."

Customary law is not a law given to the people by the lawgiver nor is it a declaration of a court. It is a law that evolves from the common consciousness of the people. This is a basic requirement for its validity in the sense that it derives its authority from the practice – over time – by the people it seeks to regulate. This definition was alluded to in *Owonyin v. Omotosho* (1961) where the court described customary law as

"a mirror of accepted usage." In *Eshugbayi Eleko v Government of Nigeria* (1913), the court opined that barbarous customs of earlier days may under the influence of civilization become milder without losing their essential character as custom. It would however appear to be necessary to show that in their milder form they are still recognized in the native community as custom.... It is the assent of the native community that gives a custom its validity and, therefore, barbarous or mild, it must be shown to be recognized by the native community whose conduct it is supposed to regulate.

Customary law, therefore, adapts to changes and is dynamic. For customary law to be applicable, it must be acceptable to the whole community. Though customary law is rooted in history, it must agree with present conditions and people's lifestyles or risk losing its force if seen only as a relic. (Asein, 2002 and *Lewis v. Bankole*, 1908) Customary law is also flexible to meet current circumstances without losing its character. This characteristic of customary law was restated by the Supreme Court of Nigeria in *Agbai v. Okogbue* (1991): "customary laws were formulated from time immemorial. As our society advances, they are more removed from its pristine social ecology. They meet situations which were inconceivable at the time they took root."

In Nigeria, the applicability of customary law is supported by statute. For instance, Section 20(1) of the Cross River State High Court Law directs the court is to "observe and enforce the observance of every local custom" without depriving any person of their benefits. Persons subject to customary law in Nigeria were described differently in the various regions: states in the former Western Region referred to such persons as "Nigerians;" those from the former Eastern Region described them as "persons of Nigerian descent;" while those from the former Northern Region referred to them as "natives," which also broadly include persons whose parent (or parents) was a member (or members) of a tribe (or tribes) indigenous to any part of Africa and the descendants of such persons.

Nationhood and federation have encouraged mobility and complex interconnected commerce. (Asein, 2002) Asein argues that "the tendency of tying a man to ethnic law for all times does not accord with the ease of mobility in modern times and the weakening bonds of ethnic and even family allegiance. To rigidly insist on these connecting factors would mean enslaving persons through fortuitous umbilical links with their ancestors."

Customary law also presents drawbacks, including discrimination. Under customary law, for example, the personal law of the deceased is the applicable law to dispose of moveable and immovable property in case of intestate succession whether or not the deceased died in his home town or in another state. His personal law excludes the customary law prevailing in the area of the court's jurisdiction. Therefore, the deceased's customary law determines property succession if he dies intestate. Under customary law in Nigeria, a husband cannot inherit his deceased's wife share of her family property because he is treated as a stranger who is not entitled to share in the family property of which he is not a member. (Onuoha 2008)

In *Caulcrick v. Harling* (1929), the deceased landowner left property for his three daughters, one of whom was the plaintiff's deceased wife. The plaintiff's husband claimed a third share of the property by virtue of his deceased wife's

right to one-third of the estate. The court held that the plaintiff had no such right as the property devolved to the wife's family as family property. Under customary law, property follows the blood, the wife or widow not being of the blood. In respect to her deceased husband's property, a woman has merely possessory and not proprietary right.

This contradiction exists in Nigeria although Section 42(1) of the Constitution of 1999 prohibits discrimination based on sex. The customary law also violates Article 16(h) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Nigeria ratified in 1985 without reservations and which gives the same rights for both spouses in respect to ownership, acquisition, management, administration, enjoyment and disposition of property. Excluding women from inheriting landed property is one of numerous examples of discriminatory practices against women embedded in customary laws concurrently applied in Nigeria.

Similar discrimination faces adopted or illegitimate children. Among the Yoruba, for example, an adopted child cannot inherit from the child's adoptive parent. (Onuoha 2008) In *Administrator General v. Tuwase* (1946), however, the court held otherwise. The deceased, a Yoruba woman, died without issue. Her spouse, from whom she had been separated for 44 years before her death, her adopted child, who predeceased her, and a number of descendants from her maternal grandfather, including an adopted daughter of an aunt, laid claims to her estate. The court rejected the spouse's claim and ordered the descendants, including the adopted children of the deceased natural grandfather, to take one share each, while her direct descendants, i.e., the surviving adopted child, should share *per stirpes*, i.e., an equal share of the estate distributed to each branch of the family. Onuoha suggests "that the right of an adopted child is inferior to that of a legitimate child of the blood, for the direct descendants, were they of that blood, would have inherited the estate to the exclusion of all these other collaterals."

Under customary law, the Yoruba, Annang, Ibibio, Oron, Aba-Ngwa and Nsukka allow children born out of wedlock to inherit as legitimate children. The courts, however, have rejected the claims of illegitimate children. In *Onwudinjo v. Onwudinjo* (1957), the court applied English and customary law disinheriting illegitimate children. The customary law contravenes Section 42(2) of the Constitution which provides that "no citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth." Section 39(2) of Constitution of 1979 also assimilated children born out of wedlock into society.

Other legal systems have been able to overcome discrimination based on the status of a child at birth. The American Convention on Human Rights, for example, provides every minor child with the same rights and protection

(Article 19(5)). In Europe, the Court of Human Rights found in *Marckx v. Belgium* (1979) no objective and reasonable justification for treatment in which the illegitimate child had no entitlement on intestacy in the estate of her mother. (Onuoha 2008). In Nigeria, courts apply the *repugnancy principle* under the Section 14(3) of the Evidence Act (Chapter 14, Laws of the Federation, 2004) to strike down any customary law “if it is contrary to public policy and is not in accordance with natural justice, equity and good conscience.” In *Mojekwu v. Mojekwu* (1997), the Enugu Division of the Court of Appeal unanimously struck down *Oli ekpe*, a Nnewi customary law, under the repugnancy test. The court found that the customary law which permits “the son of the brother of the deceased person to inherit the property of the deceased to the exclusion of the deceased’s female child,” was a clear case of discrimination and hence inapplicable.

Narrowly interpreting the Constitution, however, prevents courts in Nigeria from dealing with discriminatory customary law. For instance, in *Uzoukwu v Ezeonu II*, appellants sought declaratory relief, including a declaration on their status as citizens of Nigeria and on their fundamental rights as guaranteed by Sections 31 and 39 of the Constitution of 1979. They argued against discrimination based on their circumstances at birth and rejected being subjected to human indignity or to be called or regarded as “second class citizens” or “strangers.” They called upon the court to declare unconstitutional the customary practices of *redemption* or *integration*, through which they were required to slaughter a cow or goat or make other offerings or sacrifices, to appease members of the respondent’s family as “to cleanse” the applicants of their “slave blood,” “inferiority” or “stranger-element.”

The Court of Appeal dismissed the case and held *inter alia*, that the discrimination envisaged against a person by Section 39(1) must have been based on law. It stated that the protection provided by Section 39(1) of the Constitution of 1979 (now Section 42 (1) of the Constitution of 1999) could be invoked only if the condition stated were the only reason for discriminating against the person; it could not be invoked if other reasons were adduced. It is apparent from this decision that the Court of Appeal interpreted the words “any law in force in Nigeria” narrowly to mean only statutory law and not other sources of law, as is customary law in Nigeria.

Ultimately, customary law may hamper national integration if members of Nigerian society continue to be subjected to inhumane or traditional practices that ought to have been discontinued. There is little justification for not applying Section 42(1) of the Constitution to an individual, if the court adopts more flexibility in interpreting it for the purpose of doing substantial justice. Moreover, Nigeria’s integration would be greatly enhanced if customary laws were codified, unified or harmonized.

Nigeria's legal system is also based on classical Islamic law. Since 1999, *Sharia* has been instituted as a main body of civil and criminal law in 9 Muslim-majority and in some parts of 3 Muslim-plurality states, beginning during the tenure of Zamfara State Governor Ahmad Rufai Sani, who pushed for instituting *Sharia* at the state-level government. Prior to this change, Islamic law in Nigeria was restricted to Muslim personal laws. (Ambali, 2007)

Sharia has been enacted through penal codes and courts, which administer provisions under Islamic law. The Constitution contains provisions for *Sharia* Courts, Chapter VII, Part I, E and Part II, B. The Constitution also empowered state legislatures, under Section 4(7), to enact *Sharia* penal codes based on the power of state houses of assembly to make laws for the peace, order and good governance of their respective states.

Implementing *Sharia* law encompasses "the politics of religion, history of the various entities that make up Nigeria, colonialism and its negative impacts on Nigerians partisan politics and law." (Ambali, 2007) Some view it as a "purely religious law to propagate one faith at the expense of others and granting undue favor to its adherents;" others view it as "a practical form of *da'wah*: propagation of Islamic faith per se, rather than a legal system." (Ambali, 2007) Ambali also suggests for states applying *Sharia* law to show its positive impact, "in terms of peace, law and order, safety of life and property, meaningful service to the people and dividends of democracy."

Another component in reducing the tension between *Sharia* and statutory components of Nigeria's legal system is to harmonize *Sharia* law with constitutional provisions. For example, Section 94 of the Sokoto State Shariah Penal Code (2000) criminalizes conducts, acts or omissions which are not made an offence under the code but which are considered punishable offences under the Qur'an, *Sunnah* (the practices of Prophet Muhammad as a teacher of *Sharia*) and the *ijma* (the writings of scholars of Islam, particularly of the 8th-century Maliki school, one of the four schools of religious law under Sunni Islam). Only those versed in Islamic law would know what constitutes those acts or omissions. Section 94 of the Sokoto State Sharia Penal Code conflicts with Section 36(12) of the Constitution of 1999 in as far as the Constitution mandates an offence to be defined and prescribed in a written law – an act of the National Assembly, law of a state, any subsidiary legislation or instrument under the provisions of a law.

7.3 Federalism, Citizenship and Ownership

This subsection highlights constitutional provisions relevant to national integration in relationship to federalism, citizenship and land ownership. Nigeria is a federation that operates within a written constitution, which declared itself as the ultimate norm among other norms in Nigeria's legal system. Therefore, it

supersedes all other norms whose validity depends on the extent to which they are consistent with the constitution.

As defined here, federalism is “a league or compact between two or more states to become united under one central government” (Blacks Law Dictionary, Fifth Edition); that divides power so that general and regional governments are each within a sphere, coordinated yet independent. Federalism has also been described as unity in separation where “government within a nation or country are divided between a national, country-wide government, and number of regionalized governments in such a way that each exists as an entity separately and independently of the other, and operate directly on the persons and property within its territorial area, possessing a will of its own and apparatus for conducting its affairs, sometimes on matters exclusive to it.” (Nwabueze, 1989)

Mowoe distills the following elements existing in true federations:

- Separateness and independence of each government.
- Mutual non-interference.
- Equality between the various regional governments.
- An appreciable number of regional governments between whom the powers will be shared.
- Techniques for the division of powers.
- Separate constitution.

These definitions presuppose a “voluntary act on the part of the federating states in keeping with the theory of the *social contract*, [*italics added for emphasis*] and perhaps does not contemplate a situation of a federal state coming about as a result of coercion or the mechanical drawing of borders, which was the case in Nigeria. (Mowoe, 2008) Moreover, federalism is not only “legal and constitutional terminology, but in the forces – economic, social, political, cultural – that have made the outward forms of federalism necessary.” Its essence lies not in “constitutional or institutional structure, but in the society itself where federal government is a device by which the federal qualities of the society are articulated and protected.” (Livingston, 1956)

Federalism as democratic ideal for multi-ethnic and pluralistic societies suited Nigeria. Nigeria’s federalism, however, was not the conscious, voluntary act of the federating units. The Northern Muslims, “believing themselves to be superior on account of their religion, disowned the other people initially. The

Southerners despised the Moslems for their lack of education.” British officials “realized that the most effective way of allaying the fears of [the southerners and northerners] was to evolve a federal government in which these major groups would be given autonomy over their local affairs.” (Awa, 1976) Given this imposition, Nigeria has been unable to harness its federalism and pluralism to promote socio-economic development. Moreover, mutual mistrust among Nigerians citizens has made federalist integration difficult.

The Constitution of 1999 includes two chapters devoted to citizens' rights. Chapter II deals with rights that are nonjusticiable, i.e., not capable of being settled by law or in court, based on principles of state policy. Chapter IV deals with civil and political rights inviolable through legislative or executive order.

Nigeria's Constitution defines fundamental objectives and directive principles of state policy, based on the principles of democracy and social justice. (Chapter II, Sections 14-24). The framers of the Constitution categorized directive principles as “rights.” Although directive principles often exist at the philosophical and ideological level; making these principles non-justiciable fails to acknowledge that political and civil rights cannot be consolidated without socio-economic rights.

Section 14(2) adds that “sovereignty belongs to the people of Nigeria from whom government...derives its powers and authority.” The primary purpose of government, therefore, is “the security and welfare of the people” and the participation of the people in their government “shall be ensured in accordance with the provisions” of the Constitution. Sections 14(3) and (4) entrenched the principles of federalism, including its federal character, national unity and loyalty. Subsection 3 specifically prohibits “predominance of persons from a few states or from a few ethnic or other sectional groups” in government or its agencies. Subsection 4 considers the importance of recognizing diversity and promoting a sense of belonging and loyalty among all the peoples of the federation in the composition of state governments, local government councils and their agencies.

The Nigerian federation's social objectives are *unity*, *faith*, *peace* and *progress*. (Section 15(1)). To fulfill these objectives, Section 15 (2) mandates national integration and prohibits discrimination based on “place of origin, sex, religion, status, ethnic or linguistic association or ties.” Under the Constitution, the state is duty bound to promote national integration by:

- Providing adequate facilities.
- Encouraging free mobility of people, goods and services.

- Securing full residence rights for every citizen in all parts of the federation.
- Encouraging inter-marriage among persons from different places of origin, or of different religious, ethnic or linguistic association or ties.
- Promoting or encouraging associations that cut across ethnic, linguistic, religious or other sectional barriers.

Section 15(4) entrenches the principle of nationalism and requires the state to “foster a feeling of belonging and of involvement among the various peoples of the federation, to the end that loyalty to the nation shall override sectional loyalties.”

The constitution’s social objectives are embedded in section 17(1), which bases the state social order on “ideals of freedom, equality and justice.” To further the social order, Section 17(2) grants every citizen “equality of rights, obligations and opportunities before the law” and guarantees the sanctity of the human person and the respect for human dignity through humane governmental actions and independent, impartial and accessible courts of law.

The fundamental human rights provision under Chapter IV of the Constitution of 1999, Section 41(1) states that “every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto or exit there from.” Section 42(1) adds that “a citizen of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person,” be subjected to restrictions in which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject or be accorded privileges or advantages not accorded to citizens of Nigeria. Section 45(1) permits any law that is “reasonably justifiable in a democratic society,” including those that are in “the interest of defense, public safety, public order, public morality or public health; or for the purpose of protecting the rights and freedom of other persons.”

Jamo postulates that “perhaps the problems of colonialism and historical trans-border activities or the artificial boundary created by the colonial governments without due regard to the requirements, sentiments or predisposition of the local inhabitants of the border area may be responsible for the complete lack of interest on the issue.” Nigeria’s borders are often considered porous. Citizenship, as a political and constitutional concept, is therefore treated with little regard to the consequences on national unity, security and pride.

Chapter III of the Constitution (Sections 25-32) defines citizenship in three ways: by birth, registration and naturalization, each with special characteristics.

Citizenship and a better understanding of citizenship may provide answers to the problems rooted in the concept of “indigeneship” and the causes of cyclical conflict.

A person asserting citizenship by birth must prove: birth in Nigeria before the date of independence, i.e., 1 October 1960, and either parents or any grandparent belonging to a community indigenous to Nigeria and that such parents or grandparents were born in Nigeria; birth after the date of independence in Nigeria and either parent or any grandparent being citizens of Nigeria; birth outside Nigeria either before or after independence if either parent is a citizen of Nigeria. Section 25(a) does not allow persons to become a citizen of Nigeria if either parent or any grandparent were not born in Nigeria. Citizenship by birth cannot be taken away from the person asserting his citizenship by any authority in the country.

A person may acquire citizenship by registration as per Section 26, if the person is of good character; shows a clear intention or desire to be domiciled in Nigeria; and takes a constitutional oath of allegiance. There are two categories for eligibility for citizenship under Section 26: *persons of full age and capacity* born outside Nigeria with any grandparent being a citizen of Nigeria or any *woman* who is or has been married to a citizen of Nigeria. It is at the discretion of the President of Nigeria to grant any application for registration.

Citizenship by registration under Section 26 of the Constitution also requires *animus manendi*, the intention to remain, to acquire domicile. Domicile of origin is acquired at birth. Under Nigerian law, a child takes the domicile of the father at the time of birth. Domicile of origin coincides with citizenship by birth. Domicile of origin can never be lost until a domicile of choice has been acquired. Domicile of origin can be temporarily put into abeyance, when a person has elected or chosen a domicile of choice.

In *Shugaba Darman v Minister of Internal Affairs* (1981), the minister presented a deportation order against the appellant under Section 18(3) of the Immigration Act of 1963, which empowered the minister to classify persons as “prohibited immigrant.” Section 12(e) of the act, however, did not authorize deportations of Nigerian citizens. The appellant accepted that his father was a Chadian but claimed that his mother was a Nigerian of the Kanuri tribe. Once this was proved, he could claim to be a Nigerian citizen.

The court found the applicant a citizen of Nigeria entitled to fair hearing within the provision of Section 33 of the Constitution of 1979. At the time, the Nigerian president had set up a judicial tribunal to determine the applicant’s nationality. The court issued a perpetual injunction against the judicial tribunal to prevent it from sitting to determine the applicant’s citizenship – a matter so fundamental

that cannot be determined or decided by tribunals set up by the executive. The court declared the applicant's deportation as arbitrary, oppressive and unconstitutional and found the Immigration Act (1963) also unconstitutional.

Shugaba Darman determined that deportation orders against Nigerian citizens are inconsistent with the constitutional concept of citizenship. For this reason, "deportation" of members of the Daru Salam sect was vigorously condemned. On 15 August 2009, police raided the enclave of the Islamic sect in Niger State. About 4,000 members including men, women and children were rounded up and summarily deported to their home states, including the Mokwa Local Government Area. Okoye considered that a Nigerian citizen "who claims to be from Imo, Ogun or Zamfara State commits an offense in Lagos State, he must be tried in accordance with the Nigerian Constitution and the laws applicable to Lagos State. Such a Nigerian will not be deported to Imo, Ogun or Zamfara State for purposes of trial because he or she is a Nigerian. The deportation of the members of the Daru Salam sect to their states of origin is a clear violation of their fundamental right to freedom of thought, religion, movement and association. It is a violation of their right to own and acquire property in any part of Nigeria."

Section 27 of the Constitution, subject to Section 28, allows any qualified person to apply to the president for a certificate of naturalization. To qualify, a person must be of full age, capacity, good character; has made or is capable of contributing to Nigeria's advancement, progress and well-being; and shown a clear intention or desire to be domiciled in Nigeria. In addition, the governor of the state where the applicant resides or proposes to reside must aver that the applicant is acceptable to the local community and has been assimilated into the way of life of Nigerians in that part of the federation. The applicant must take a constitutional oath of allegiance. Section 27 also imposes a residency requirement of at least 15 continuous years of residing in Nigeria.

In contrast, a country such as the United States, deals with citizenship in a different way. Under the U.S. Constitution's 14th Amendment "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside." Section 1 of this amendment, therefore shows that a person can become a citizen of a country by birth or by naturalization, while being considered a citizen of the state in which the person resides and subject to the laws of the state of residence and the laws of the United States.

If federalism were the ideal form of government for a pluralistic society and if the aim of federation were to promote unity, while providing adequately for diverse elements, (Mowoe, 2008) does it permit the federating units of Nigeria to discriminate among themselves or to categorize the people into "indigene" and "settler?"

In a federation such as Nigeria, citizenship by residence is imperative to promote national unity and integration. In the context of university admission and civil service employment, discrimination exists based on “residence rights,” which are distinguished between “indigenes” and “settlers.” Similarly, the autonomous status of the federating states is used to prejudice the rights of Nigerians residing other than in their state of origin. While federated states have the right to limit employment in state government agencies to state residents, the concept of residency along the lines of the U.S. Constitution's 14th Amendment would apply more equitably. As such, permanent residents or those residing for protracted period of time would be equally eligible for state employment opportunities notwithstanding their state of origin, thus satisfying the concept of federalism and nationhood.

The right of residence is co-extensive with the guaranteed right of freedom of movement. There is clear indication that Nigeria's Constitution guarantees the right of every citizen to move freely throughout the country and to reside in any part thereof. Other rights attach to a citizen who can freely move or reside in Nigeria, including the right to acquire land or other property, to education, to work, to earn remuneration, to protection against unemployment, among others.

Although freedom of movement goes in tandem with residence rights, many Nigerian citizens living outside their places of origin are deprived of these rights, unlike their fellow citizens originating in a region. The status of a citizen is basic to every Nigerian because on it depend a number of other political, constitutional and civil rights, obligations and privileges. The terms “indigene” and “settler” are not mentioned in the constitutional provisions on citizenship. Unfortunately, these very terms have divided the peoples of Nigeria and constitute the bases for discrimination in employment, admission into higher institutions and acquisition of property. (Jamo, 2006)

Admission into higher institutions of learning also reflects settler and indigene-based discrimination. The National Universities Commission (NUC) coordinates admissions into tertiary institutions of learning. To ensure equity, equality and fairness, the NUC requires tertiary institutions to comply with federalism under the directive principles embedded in national merit, educationally advantaged and disadvantaged states and catchment areas. The latter, as a criterion for admission into federal universities, presuppose that citizens within whose zone/region an institution is situated should be given consideration even though their university matriculation examination (UME) over all scores are far below those required for either national merit or educationally advantaged states requirements.

The catchment criterion is applied by most tertiary institutions without qualification. Prospective candidates residing in any state other than their

original state of origin (classified as “non-indigenes”) are not accommodated under it. Residency rights or tax payments are often ignored where university catchment policy is involved. While guidelines for admission into institutions of higher learning are intended to prevent discrimination, in reality, their application ensures it.

Only Section 147(3) of the Constitution includes the term “indigene” in reference to presidential appointments. The subsection reads in part,

“any appointment under subsection (2) of this section by the president shall be in conformity with the provisions of section 14(3) of this Constitution...provided that in giving effect to the provisions aforesaid, the president shall appoint at least one minister from each state, who shall be an *indigene* of such state.” (*Italics added for emphasis*).

It is plausible to argue that this subsection ensures equal representation of all units in the federal cabinet. Its application, however, could mean that a Nigerian citizen residing outside her unit of origin could not be appointed if she so aspired. Unless the right of residence is made justiciable and true federalism is enthroned – whereby all Nigerian citizens recognize themselves as one – discrimination by “indigenes” against “settlers” will continue.

Prior to the colonial era, customary law governed land ownership by the indigenous people of Southern Nigeria. With the advent of colonialism, however, statute regulated land ownership. For example, the Land Acquisition Proclamation (1900) required written consent of the High Commissioner to permit transfers and voided property rights or interests acquired by “person other than a native... directly or indirectly acquire[d]... in or over land within Southern Protectorate from the native” without such consent.

In Northern Nigeria, the land tenure system was governed by native laws and customs prior to the advent of colonialism. As the colonial period began in 1900, the British retained these laws through the Proclamation No. 13 (1902), which allowed natives to acquire lands as per the native law and customs, while “non-natives” could hold land leases granted by the government. In 1900, ownership of all land in that territory passed to the government. Section 3 of the proclamation declared “all rights of control and supervision over the lands by both non-Muslims and Muslims chiefs have passed to the government.” Later, the Land Tenure Law was promulgated in Northern Nigeria.

To resolve some of these problems, the military government constituted a Rent Control Panel in 1976, to study the system of land distribution and speculation. The panel recommended the government to take over all undeveloped land in

Nigeria. That same year, the Constitution Drafting Committee also reached the same conclusion on land reform to address landlessness and mitigate the effects of land concentration in the hands of a few. The committee observed “the abuse, graft and profiteering which exist in land acquisition at present are mocking negative of this preeminently desirable objective of equality of opportunity. It is revolting to one’s sense of justice and equality that one person alone should own about ten or more plots of state land...when others have none.”

In 1977, the military government constituted another panel to study land use, tenure and conservation practices and to recommend steps and guidelines to streamline them. Determined to wipe out all inimical practices and latent problems associated with land distribution and acquisition, the military government promulgated the Land Use Act on 29 March 1978. The law introduced new principles in land tenure in Nigeria. Its preamble acknowledged as public interest the ability to assure, protect and reserve “*all the rights of all Nigerians to use and enjoy land in Nigeria [italics added for emphasis]* and the natural fruit thereof in sufficient quantity, to themselves and their families.”

The Land Use Act, therefore, harmonized and streamlined ownership of government land, making it accessible to all Nigerians irrespective of tribe or religion. Given the declaration highlighted above, the Constitution subsequently guaranteed every citizen “the right to acquire and own immovable property anywhere in Nigeria.” (Section 43) Section 44 deals with compulsory acquisition of property, including the right to prompt compensation and the right of access to any person claiming compensation to determine the interest in the property and the amount of compensation. This section, however, fails to define the adequacy of compensation. Kenya’s Constitution, for example, provides for “prompt and full compensation” (Section 117(4)) The Zambian Constitution (1996) provides for “adequate compensation.” (Article 16(1))

7.4 Religion, Unity and Regional Integration

This subsection looks at unity and regional integration through the prism of two of Nigeria’s contending faiths, Islam and Christianity; the effects of religious intolerance on discrimination and diversity; the balancing act of the right of religious freedom and the right against discrimination.

The Constitution serves as a legal framework to coordinate some aspects of cultural and religious activities, yet the relationship between state and religion remains ambiguous as federal, state, and local governments involve themselves in religious matters. The federal government, for example, donated lands in Abuja upon which to build religious centers for Christians and Muslims and funded the national church and mosque, providing US\$1.3 million to each group. (Ayantola, 2010)

The federal constitution recognizes the fundamental human right of freedom of religion and prohibits federal or state governments establishing a religion as a state religion (Sections 10 and 38). Federal and state governments, however, set up pilgrim boards for Muslims and Christians and sponsor pilgrimage programs. (Westerlund, 1992)

Since Nigeria is a party to international human rights conventions, the foundations of religious freedom are also solidly grounded. The relevant documents include the Universal Declaration of Human Rights (1948), Declaration on the Elimination of all Forms of Intolerance and of Discrimination based on Religion or Belief (1981), African Charter on Human and Peoples Rights (1982) and Declaration on the Rights of Persons belonging to National or Ethnic, Religion or Linguistic Minorities (1992). By section 12 of the Constitution, treaties between Nigeria and any other country or international organization have force of law provided such treaty has been enacted into law by the National Assembly. Thus, the African Charter on Human and People's Rights is Nigerian law.

Nigerian courts have considered freedom of religion and the right against discrimination in weighing the rights of female students and school authorities. In *Bashirat Saliu v. The Provost, Kwara State College of Education Ilorin and Ors* (2006), the Kwara State High Court of Justice struck down the college's dress code prohibiting female Muslim students from wearing veils on campus. The plaintiffs had been precluded from attending lectures and sitting for examinations based on the college's dress code, Article J, which prohibited wearing dress or apparel "covering the entire face of an individual thereby making the immediate identity of the person impossible." The defendant urged the court to consider that using the *niqab* or *hijab* were neither compulsory nor extensive religious practice, citing that only the three applicants used the Muslim veil of the 400 Muslim students in the college.

The college contended that its dress code addressed effective communications between student and lecturer, making it important for both to see and communicate with each other. It also contended that using veils could lead to cheating as one student impersonated another. The college also argued that the students, by taking the matriculation oath, bound themselves to abide by the institution's rules and regulations.

In delivery its ruling, the court held that fundamental rights could only be limited as per Section 48 of the Constitution. The court further held that the prohibition against using the veil could not be accommodated within the permitted limitations to freedom of religion stipulated under Section 45. The court rejected the college's reasoning on the extent of using the veil within its student population as a justification to curtail the Muslim women's constitutionally guaranteed right to freedom of religion. The court observed

that their dress did not represent “arrogant” or “embarrassing” mode of dressing, which the college’s dress code sought to prevent. The court also ruled that matriculation oaths do not waive fundamental rights guaranteed by the Constitution.

The High Court Justice of Anambra State reviewed secondary school regulations and hairstyles. In *Echo v. Akobi* (1994), a female student with a “newly painted hair” was prohibited from registering in the federal government college. The student urged the court to uphold her religious practice not to cut her hair short in compliance to her religious belief based on the New Testament provisions of *Corinthians*, Chapter 11, verses 5-6, 10-15, requiring a woman to never cut, shorn or shave her hair. The court interpreted religion solely as a system of belief and dismissed the plaintiff’s claim that her right of freedom of religion had been violated. According to the court, the school regulation requiring students to keep hair short was “not only reasonable, but accord[ed] proper and basic discipline in a model educational training.”

The decision attracted criticism as many considered the court to have failed in considering the plaintiff’s allegation of violation of freedom of religion in light of permissible constitutional limits to reasonable exercise of religious freedom. Okonkwo considered that even if students were required to shave their hair by law, “the law would be unconstitutional because it would not be founded on any of the exceptions in section 41(1),” i.e., defense, public safety, morality, health or protecting rights and freedoms of others. Since the facts of the case were not in dispute, “the effect of section 39(1) of the Constitution of 1979 [now Section 45] on the process of balancing interest...the court should have reached a verdict that the plaintiff fundamental rights have been infringed.” (Nwache, 1998)

Another commentator on this case went further, citing the court’s failure to consider “what properly constitute religious tenet” in holding that “the requirement that students cut their hair short is innocuous, human, fair, reasonable and non discriminatory.” (Oba, 2009) To determine whether the student’s claim could be accommodated under the relevant constitutional provisions on religious freedom, Oba considered it relevant for a court to consider the religious right affirmed and the constitutional limit to exercising freedom of religion. In *Ojonye v. Adegbedu* (1983), the court emphasized the constitutional guarantees of freedom of religion to every citizen, urging courts to guard zealously “any attempt directed to erode this freedom which is essential to maintain peace and stability in a multi-religious society like Nigeria.”

Given Nigerian’s ethnic and religious diversity and pluralism of its legal system, promoting religious tolerance – as a government policy – by giving the full weight to Section 38 of the Constitution would make it possible to attain the unity and national integration proclaimed in Section 15.

Uchefula Chukwumaeze and Osita Ogbu⁸

8.1 Implementation of Reports

The Solomon Lar Presidential Advisory Committee recommended establishing a truth and reconciliation commission and introducing zoning and rotational arrangements into Jos North as a means of ending the “politics of acrimony.”

The Justices Niki Tobi (2001) and Bola Ajibola (2009) Commissions of Inquiry and the Plateau Peace Conference (2004) concluded that the failure to implement the commissions’ recommendations reflected a remote cause of violence and disturbances in Jos. The recommendations had included investigating and prosecuting persons found to have perpetrated criminal acts during the crises.

The successive commissions of inquiry, the Peace Conference (2004) and the Soloman Lar Presidential Advisory Committee (2010) did not take a *de novo* approach in all aspects of fact-finding; rather, they considered the findings and recommendations in the reports of their predecessors. This ought to have accounted for the reason why there are no significant differences in their respective findings and recommendations.

Truth and reconciliation commissions are important elements in transitional justice, which exist in post-conflict situations. (Francis, 2006) Transitional justice takes a holistic approach to reconcile or re-unite deeply divided and polarized societies emerging from wars and armed conflict or having suffered gross violations of human rights. It embraces concepts of truth, reconciliation, reparation, memory and forgiveness and focuses on accountability and institutional reform. Hence, transitional justice deals not only with individuals and communities but also with structures. It is based on the view that justice cannot be limited only to punishment, retribution or rectification but also expand to include the need for truth telling and reconciliation.

Nigeria’s experience with truth and reconciliation commissions began in 1999 when President Obasanjo appointed a truth and reconciliation commission under retired Supreme Court Justice Chukwudifu Oputa – otherwise known as

⁸ Uchefula Chukwumaeze, See Chapter Four. Osita Ogbu, See Chapter Three.

the Oputa Panel. Although constituted under Section 1 of the Tribunals of Inquiry Act (1966), the court held that the president lacked the power to set up a panel with compulsory powers for the entire federation. (*Fawehinmi v Babangida* (2003))

8.2 Ownership

The Hausa-Fulani and the Afizere, Anaguta and Berom communities presented considerable evidence to the Justices Fiberesima (1994), Niki Tobi and Bola Ajibola Commissions of Inquiry to prove ownership of Jos. After evaluating the evidence, the commissions found the Afizere, Anaguta and Berom communities to be founders and owners of Jos. The Plateau Peace Conference and the Solomon Lar Presidential Advisory Committee endorsed or adopted these findings. While the evidence presented justified their decision, the finding as it relates to the present ownership of Jos raises additional legal questions.

Given the provisions of the Land Use Act (1978) – incorporated into Section 315 of the Constitution – constitutional guarantees on the right to acquire and own immovable property and the right against expropriation and the right of equal access to public services and property of the African Charter on Human and People's Rights, the following important questions arise as to the findings:

- *What is ownership?*
- *Who owns a local government area or state capital?*
- *Can ownership by a group of people or community co-exist with the ownership of some portions of land within the town by another group or individuals?*
- *Can one community or a group of communities be declared owners of a local government area or public places within a local government area?*

The most comprehensive of relations that may exist in land is that expressed in *ownership* (Nwabueze, 1982), which connotes the totality of rights and powers that are capable of being exercised over a thing. In the context of the Land Use Act, community or individual ownership of land becomes relevant in as far as ownership of a local government area means ownership of the land comprised in a local government area. The act took away the communities' and individuals' title over land and vested the same on state and local governments. (Smith, 1999) Sections 1 and 2 state: "all lands comprised in the territory of each state in the federation are hereby vested in the governor of that state and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act and all other land shall, subject to this act, shall be under the control and management of the local government within the area of jurisdiction of which the land is situated."

The communities or individuals, as a result, only retain a statutory or customary right of occupancy. The act defined a statutory right of occupancy as “a right of occupancy granted by the governor.” (Land Use Act, Section 51) A customary right of occupancy was defined as the right of a person or community lawfully using or occupying land in accordance with customary law and included a customary right of occupancy granted by a local government under the act. (Also Section 51)

Although the act formalized the right of occupancy, its exact statutory or customary nature is still in doubt. In *Savannah Bank (Nigeria) Ltd. V. Ajilo* (1989), the Supreme Court equated a holder of a right of occupancy to a tenant and said: “when... Section 34(2) of the [Land Use] Act converted the interest held by an owner to a statutory right of occupancy; the Act reduces him to the position of a tenant subject to the control of the state through the governor.” Two years after its decision, the Supreme Court held that “the interest of a lessee in land [a]s not exactly the same as that of holder of a right of occupancy. A holder of a right of occupancy enjoys a larger interest than a holder of a lease although the two interests enjoy a common denominator which is a term of years,” *Osho v. Foreign Finance Corporation* (1991).

Through Section 1 of the Land Use Act, the governor holds the land in trust for all Nigerians – not for “founders” or “owners” of the state. The right not to be expropriated of property, including immovable property, is also guaranteed under the Constitution and under the African Charter on Human and People’s Rights (Article 14, right to property), which was incorporated into law through Nigeria’s ratification and enactment. (See Vol. 1 Laws of the Federation, Chapter A9 (2004)) Section 43 states “every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.” Section 44(1) declares “no moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria.”

Expropriation requires prompt payment of compensation and gives the person claiming compensation the right to access the property to determine the interests in the property and the amount of compensation. The section also permitted claims for compensation in “a court of law or tribunal or body having jurisdiction in that part of Nigeria.” In fact, property and control of all minerals, animals, oils and natural gas in any land in Nigeria or territorial waters and the Exclusive Economic Zone of Nigeria are vested in the government of the federation – to be managed as prescribed by the National Assembly.

Perhaps Section 43 emphasizes right of all Nigerians to own land in any part of the federation, since section 44 which has the same effect encompasses other property, not just land. Once a right of occupancy or any estate or interest in

land is granted or deemed to be granted or vested in a person or community, the grantee has the right not to be expropriated (Smith, 1999) unless according to law.

8.3 Dated Terminology

Tribes in Plateau State continue to identify and use dated terminology to refer to themselves and others. The Afizere, Anaguta and Berom claim that they alone are “indigenes” of Jos. Accordingly, no other tribe, including the Hausa-Fulani, can claim “indigeneship” of Jos. The Hausa-Fulani claim “indigeneship” or “co-indigeneship” of Jos along with the three other tribes.

For the Fiberesima Commission, an “indigene” of Jos is one whose ancestors were natives of Jos, beyond living memory. It did not include any person who may not remember his father’s or grandfather’s place of origin, who domiciled in Jos as of choice, or who’s family moved to Jos permanently for economic reasons. According to the commission, a “citizen” of Jos may be ascribed the status of an inhabitant of Jos entitled to or qualified to enjoy those rights enjoyed by an “indigene.” In accepting the three tribes’ claim of “indigeneship,” the commission qualified the Hausa-Fulani as “citizens” of Jos.

The Niki Tobi Commission acknowledged the importance of “indigeneship” in generating controversy – a constant problem in Nigeria’s society and culture. It deferred recommending solutions, however, and deferred action to the Plateau Government as per recommendations of the federal Committee on Provisions and Practice of Citizens Rights in Nigeria. The Bola Ajibola Commission addressed the issue of “indigeneship” differently. It reasoned one is a Nigerian first where the person belongs to a community indigenous to Nigeria. Yet, the commission also deferred issue to constitutional resolution. The commission found that the other tribes that were not claiming to be “indigenes” did not recognize the Hausa-Fulani as “indigenes” of Jos North.

The Plateau Peace Conference defined “indigeneship” more formally as “peculiar to a people who are the first to have settled permanently in a particular area and who are often considered as *natives*. [Emphasis added] Such people have rights to their lands, their traditions and culture.” The conference called on all people to be proud of their origins and to associate themselves with their places of origin. It also re-affirmed the Fiberesima Commission’s conclusion identifying the true “indigenes” of Jos as the Afizere, Anaguta and Berom.

The peace conference recognized the constitution’s provisions on representation for appointed positions within Section 147(3) based on “indigeneship” and recommended local governments to issue “indigeneship certificates” exclusively to “indigenes” of the respective local government areas

in Plateau State. At the same time, it recommended other Nigerians considered “non-indigenes” in their places of residence to be issued residency certificates under statutory provisions. The conference urged the federal government to define “indigene” in the constitution, akin to defining “citizenship.”

The Solomon Lar Presidential Advisory Committee, however, reached a different conclusion. It recommended the federal government and the National Assembly “to give practical effect” to the constitutional provision regarding citizenship rights and to amend the “indigeneship” clause in Section 147(3). Until the constitutional revision, the advisory committee recommended applying and enforcing existing policy approved by the Plateau State government.

The Peace Conference and the Commissions of inquiry acknowledged the “indigene-settler” dichotomy as a national phenomenon not just isolated to Plateau State. As the Niki Tobi Commission observed, a national issue requires a holistic, national approach. To treat it individually as state issue would generate double standards and injustice. In fact, the Tekan Youth Fellowship’s memorandum to the Bola Ajibola Commission observed that if every citizen of Nigeria were free to choose and to claim “indigeneship” in any part of Nigeria as a national policy, Plateau State and Jos North would not be exceptions.

Underlying the struggle for recognition as “indigene,” are the opportunities, rights and privileges accorded “indigenes.” The Fiberesima and Niki Tobi Commissions reviewed evidence about the many deprivations “non-indigenes” faced as a result of their status. In 2011, a prominent member of the Hausa-Fulani community in Jos, saw the issue of justice at the core of all problems: “justice in the sense that you cannot look at any entire community, which has historical antecedent in the state, like the Hausa-Fulani community, and ... say they don’t belong in the state in any way! [...] they are denied every privilege they should enjoy in the scheme of things in the state. They are discriminated against in terms of employment, education and provision of social amenities. These are clear cases to injustice to the community.”

By focusing on “indigeneship” to guarantee justice and equality, rights of all as Nigerian citizens are denigrated. If there is adequate appreciation of the constitutional rights of Nigerians and rights guaranteed under other applicable human rights instruments, the communities in Jos – and in other parts of Nigeria – will realize that “indigenes” and “non-indigenes” have the same rights *vis-à-vis* the provisions of the Nigerian Constitution and the African Charter on Human and People’s Rights promoting equality and non-discrimination.

As discussed in Chapter Seven, the Nigerian Constitution guarantees the right to freedom from discrimination in Section 42(1). The provisions differ significantly from the Willinks Commission’s (1958) recommendations, which

included a Bill of Rights to protect minority groups. In fact, the commission urged not subjecting persons of “any community, tribe, place of origin, religion or political opinion to disabilities or restrictions to which persons of other communities, tribes, places of origin, religions or political opinions” are not subjected. It also specified not conferring “on persons of any community, tribe, place of origin, religion or political opinion any privilege or advantage which is not conferred on persons of other communities, tribes, places of origin, religions or political opinions.”

In *Uzoukwu v. Ezeonu II* (1991), the Court of Appeal upheld a person’s right against discrimination guaranteed in Section 39(1), Constitution of 1979 and enforceable against the state and its apparatuses. To invoke the clause, the discrimination must have been based on law; did not apply to other Nigerians; and was an action by government or its agencies. In *Adamu v. A.G. Bornu State*, plaintiff averred, *inter alia*, Gwoza Local Government of Borno State’s refusal to pay Christian teachers but paid those who teach Islam. (The former were paid by parents of children undertaking Christian religious studies).

Christian parents also alleged their children to have received compulsorily Islamic and Arabic language classes against their will. In short, plaintiff claimed violations to their fundamental rights to freedom of religion and from discrimination. Defendant sought an order to dismiss the case based on the subject matter’s non justiciability, i.e., a cause of action based on the desire of the applicants to impart a particular type of education. The learned trial judge agreed with the state and dismissed the suit, considering the cause of action as not justiciable. On appeal, the court held the cause of action’s sustainability is based on enforcing provisions of fundamental, constitutionally guaranteed rights. The court also held that local authorities could not infringe upon freedom of religion and from discrimination by purporting to implement educational objectives under the fundamental objectives and directive principles of state policy.

In *Arowolo v. Akapo* (2003), the court recognized a citizen’s constitutional right to reside anywhere the citizen wished, though the right of residence did not necessarily confer a right of “indigeneship” of the place on the resident. This may be interpreted to mean that one is not necessarily an “indigene” of the place where one resides except if one wishes so. The problem, however, is not whether one wishes so; it is whether one will be accepted by the community in which one resides.

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