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*DISCRIMINATION AND INTOLERANCE: THE SOURCES OF ETHNIC CONFLICT IN NIGERIA. PLATEAU STATE AS A CASE STUDY

INTRODUCTION

With due respect, I.C. Pats-Acholonu J.S.C opined in the case of Adejuge V. Ologunja¹ as follows:

“No sane person in our society having regard to the provision against discrimination made patently clear in the 1979 and 1999 constitutions would support the nihilistic and obtuse stance of the respondent that the appellant was ineligible to contest because of the stigma attached to his name. Such insipid and cruel utterance is negativistic and abhorrent in a modern society. This court should strike down any attempt by anybody or institution to deny anyone of his rights, interest, privileges or benefits on the altar of any concept or practice that tends to consign a fellow citizen to a second class position or make him a non person”

On May 18, 2004, there was ethnic clashes between the indigenes and non-indigenes in Plateau State. Owing to the above event, President Olusegun Obasanjo declared a six-month state of emergency and imposed military rule. He also suspended Joshua Dariye, Plateau State's Governor for not acting promptly to curtail the violence cum incompetency on the side of the Governor and replaced him with Major General Mohammed C. Alli, a retired Army General. The President's action sparked national and international debate, much of which centered on whether the suspension of a democratically-elected state official was constitutional. The focus on the constitutionality of the President's decision which serves to shift attention away from the Nigerian government's failure to address the underlying causes of the inter ethnic killings, which had continued despite the state of emergency.

Many international and national groups have attributed the violence in Plateau State and other parts of Nigeria to religious and cultural differences between Muslims and Christians. But discrimination and Intolerance contributed majorly to the ethnic clashes in this country. This speculation stems from the fact that Plateau State's so-called "indigenes" are predominantly Christians, while the "non-indigenes" or "settlers" are predominantly Muslim citizens. However, a close look reveals the real underlying cause of the conflict to be the use of "indigene" status in determining access to limited employment opportunities and resources,

* Samuel Adewale Adeniji, 200 Level Law OOU

¹ (2004) 17 NSCQR Pg 343, R. 5

such as land, in Nigeria.

This is nothing but discrimination on the basis of status. Religious differences have only served to catalyse the violence between "indigenes" and "settlers" who are already competing for the same resources.

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

ETHNICITY IN NIGERIA

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

As Africa's most populous country, Nigeria boasts of an ethnically diverse population encompassing at least 200 ethnic minority groups. Nigeria's ethnic groups are not spread uniformly throughout the country and have varying degrees of power and influence. Three major ethnic groups constitute two-thirds of the country's population: the predominantly Christian Igbo in the South-East, the Muslim Hausa-Fulani in the North and the religiously mixed Yoruba in the West. Nigeria's long history of ethnic migration complicates any determination of indigene status in particular states.

Plateau state is home of over 30 of Nigeria's ethnic groups and has therefore earned the title of "Mini-Nigeria". As the country's self proclaimed "Home of Peace and Tourism", the state boasts of a diverse culture in which various tribes and clans have managed to co-exist peacefully. Until recently, it remained relatively untouched by the ethnic conflict that plagues the rest of the country. Despite the region's peaceful nature, conflict broke out in Jos,

the state capital, in September 2001, when a non-indigene Muslim received a job that indigene Christian groups believed belong to an indigene. In the months that followed, over 1000 people were killed and numerous Mosques and Churches were destroyed.

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

TREATMENT OF "INDIGENESHIP" AND EQUAL PROTECTION. IN THE 1999 CONSTITUTION

Nigerian citizens, International Human Rights groups and constitutional law experts continue to debate the validity of Nigeria's 1999 constitution. The current constitution came into being under the rule of General Abdusalam Abubakar before the transition to democracy and was drafted without a true democratic process. Critics of the 1999 constitution argue that it is illegitimate because it cannot possibly reflect the views and ideologies of Nigerians who were left out of its drafting. Even the government's committee to review the legitimacy of the 1999 constitution has been criticised for being elitist and non-participatory.

The 1999 constitution provides for the equal treatment of all Nigerians irrespective of ethnic origin. Chapter 3 addresses citizenship, but neither mentions nor explains the role that indigene status would play in determining a person's citizenship. Chapter 4 outlines the fundamental Rights of all Nigerian Citizens, including the right to be free from discrimination.

Specifically, section 41 (1) gives every citizen the right to "move freely throughout Nigeria and to reside in any part thereof". Section 42 goes on to state that "a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person, be subjected either expressly by or in the practical application of, any law in force in Nigeria or any executive or administrative

action of the government, to disabilities or restrictions (nor any privilege or advantage) to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject".

Section 42(2) states "No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth".

Finally, section 43 guarantees every citizen the right to acquire and own immovable property anywhere in Nigeria" There are no constitutional provisions that make these right dependent on indigene status.

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

The constitution therefore, expressly guarantees every citizen full residency rights, and encourages dialogue and interaction among Nigeria's ethnic groups. Furthermore, this residency rights are not contingent on indigene status.

Constitutional interpreters and legislators are confused about the constitutional provisions pertaining to the "Federal Character Principle" and the resulting quota system for electing political officials. In 1976, the Constitution Drafting Committee (CDC) argue that all Nigeria's majority groups must be adequately represented in government. The 1979 constitution addresses this concern by including the "Federal character" provision, which is also included in the 1999 constitution. Section 14(3) states that 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 loyalty, thereby ensuring that these shall be no predominance of persons from a few states or from a few ethnic groups or other sectional groups in that government or any of its agencies "Nigerian citizens believe that the Federal Character principle has contributed to a system of citizenship where non-indigenes are marginalized and discriminated against in housing, Jobs, educational opportunities and access to social welfare services because they are not seen as reflecting the "Federal Character".

The 1999 constitution, which is an amended version of the 1979

constitution, states in section 147 (b) that "...the president shall appoint at least one Minister from each state who shall be an indigene of such state". This "Indigene Clause" is problematic in that it uses indigene status as a factor in Minister's selection, but does not explain what it means to be an indigene of a state.

Furthermore, it leaves open the question of whether citizens who migrates to a different state can become indigenes after residing there for a number of years. The 1979 constitution defined an indigene as someone whose parents or grandparents belonged to an indigenous community within the state of residence. The current constitution, however omits this definition. Despite this lack of clarity, individuals and communities use the "indigene clause" and the "Federal Character Provision" as justification for discrimination against citizens who live in a state other than their state of "origin", especially when it relates to those citizens ability to participate in the political process.

There are, therefore, no proper guidelines for reconciling equal protection for Nigeria's citizens with the need to maintain "Federal Character" and promote diverse ethnic representation in the government. This had led to what the citizen's forum for constitutional reform has defined as a "Multilayered system of citizenship", whereby citizens residing in a state in which they are not indigenes are discriminated against, the members of indigenous communities within any state are favoured over settlers. Such a system contributes to ethnic conflict in Plateau state and other parts of Nigeria where communities fight over scarce resources and land. Any solution to these conflicts must therefore include a clarification of conflicting principles within the 1999 constitution.

RECOMMENDATIONS

The government should establish a system in which constitutional rights are based on residency, not on origin or indigene status. The 1999 constitution should be amended so that the Federal character provision can no longer be used to deny so-called settlers access to crucial resources and fair political representation. Specifically, the requirement in section 147 (3) of the constitution that the president shall appoint at least one Minister from each state who is an indigene should be changed so that residency, not indigene status is the determining factor.

Additionally, what it means to be "from a state" in section 14 (b) should be clearly defined so that Minister selection is based on residency and not indigene status. These amendments will prevent members of indigene communities from using the federal character principle to deny settlers their equally protected rights.

Furthermore, the constitution should require that all residents in a state pay the same amount in taxes and have equal access to political positions, education, and work opportunities. Finally, the government should codify a reasonable number of years that a person must live in a particular state in order to gain residency status.

In order to successfully implement any constitutional amendments, the Nigerian government must establish a system of accountability and respect for the rule of law. "Rule of Law" symbolises a dedication to equal protection for all citizens and ensures that human rights are guaranteed both in theory and in practice. Citizens must be able to trust their government to make fair decisions on their behalf. This trust can only be obtained through an expressed respect for the rule of law. When this is achieved, citizens will not feel the need to take matters into their hands, as seen in the recent conflicts and bloodshed.

The government should also employ a system of checks and balances to ensure that citizens and officials both at the state and federal level act in accordance with clear, fair residency requirements. In the context of the situation in Plateau State, temporary affirmative action programs would ensure that so-called non-indigenes have equal access to jobs and education.

Additionally, local government should police land ownership rights so that residents do not "take back" land through illegal and violent means. Finally, the Federal Government should reward states that take active steps towards guaranteeing equal treatment for their residents (e.g by providing program funding and additional resources). This positive reinforcement will give states incentive to build communities where ethnicity is not used to deny the constitutionally protected rights of certain groups. Federal government should work with state officials and traditional rulers to encourage continued dialogue between ethnic communities in order to emphasize peacekeeping and prevent further violence.

CONCLUSION

When the dawn of intelligence should spread over the eastern horizon of human progress, it would be recorded in the last chapter of the book of man's crimes that the most grievous sin was that of intolerance. The bitterest intolerance grows out of religions, ethnicity, discrimination and differences of opinion. How long, O God, until we mortals will understand the folly of trying to destroy one another because we are of different religions beliefs and racial tendencies?

Our allotted time on this earth is but a fleeting moment and can flicker out. Why not learn to so live during this brief earthly visit that when the great caravan called Death draws up and announces its visit, we will be ready to fold our tents and silently follow out into the great unknown without fear and trembling? For Nigeria cannot be rebuilt with bricks of Intolerance.