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NIGERIA

"They Do Not Own This Place"

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"They Do Not Own This Place"
Government Discrimination Against "Non-Indigenes" in Nigeria

Summary

The population of every state and local government in Nigeria is officially divided into two categories of citizens: those who are indigenes and those who are not. The indigenes of a place are those who can trace their ethnic and genealogical roots back to the community of people who originally settled there. Everyone else, no matter how long they or their families have lived in the place they call home, is and always will be a non-indigene.

The concept of "indigeneity"—the idea that there is a meaningful distinction to be made between "host" and "settler" communities—is not entirely an artificial construct. Nigeria is a nation of more than 130 million people, but many Nigerians belong to ethnic communities so small that they fear being absorbed into the larger populations around them and losing control of their identity as a community. The distinction between indigenes and non-indigenes may help to guarantee Nigeria's more than 250 ethnic groups the power to preserve their unique identities—their culture, traditions and traditional institutions of governance—by maintaining some cultural distance between themselves and other Nigerians.

This rationale, however, has been twisted beyond recognition by state and local policies, often unsupported by any law or other form of legal justification, that marginalize and exclude non-indigenes in ways that have nothing to do with the preservation of cultural identity and autonomy. As a matter of government policy, many states refuse to employ non-indigenes in their state civil services, and most if not all of Nigeria's thirty-six states deny them the right to compete for academic scholarships. State universities generally discriminate against non-indigenes in their admissions policies and charge higher fees to non-indigene students who do manage to secure admission. Non-indigenes must also contend with a range of less formal discriminatory practices, such as barriers to political participation and discrimination in the provision of basic services and infrastructure to their communities, that government does nothing to stop or even discourage. All of these practices have been made more harmful—and become more controversial—by increasing levels of chronic poverty throughout Nigeria.

Taken as a whole, these discriminatory policies and practices effectively relegate many non-indigenes to the status of second-class citizens, a disadvantage they can only escape by moving to whatever part of Nigeria they supposedly belong in. But many Nigerians have no real ties to the regions they are said to originate from, and feel that they should have some way of becoming full citizens of the places they call home. Worse still, Nigeria is home to communities of people who are discriminated against as non-

indigenes even though their families have occupied their land for a century or more and no longer have any idea where their ancestors migrated from. A Nigerian who cannot prove that he is an indigene of somewhere by producing a "certificate of indigeneity" is discriminated against in every state of the federation and is barred from many opportunities at the federal level as well.

Nigeria's federal government has done nothing to curb this state and local discrimination against non-indigenes, even though it makes a mockery of the Nigerian Constitution's guarantee of freedom from discrimination. While high-ranking federal officials including even President Olusegun Obasanjo have publicly denounced the growing negative impact of Nigeria's indigene/settler divide, federal government policies have served to reinforce and legitimize its consequences.

In addition to their direct human impact on the lives of non-indigenes, these discriminatory policies have served to aggravate intercommunal tensions that are dangerously volatile in and of themselves. After more than four decades of disastrously corrupt and unaccountable governance, the benefits that are meant to go with Nigerian citizenship are in desperately short supply. As poverty and unemployment have both become more widespread and more severe in Nigeria, competition for scarce opportunities to secure government jobs, higher education and political patronage has intensified dramatically. Many Nigerians believe that this desperate competition between citizens for some basic level of economic security lies near the heart of most of the country's intercommunal conflicts. As the secretary general of Nigeria's Catholic Secretariat put it, "Poverty in Nigeria has assumed the moral character of war, and this is what you see reflected in much of the ethnic violence in this country."[1]

Against this background of scarcity and competition, disagreements over who are and are not entitled to call themselves indigenes have been made more intense and ultimately more violent by the increasingly burdensome economic consequences of losing the debate. Perhaps just as important, government policies that enhance the importance of indigeneity have heightened intercommunal divisions because they have served to erode the very meaning and importance of national citizenship, subordinating it in many respects to Nigerians' ethnicity and ancestry. Indeed, in many important respects state and local governments treat their non-indigene constituents like citizens of a foreign country.

[1] Human Rights Watch interview with Father George Ehusani, Lagos, November 7, 2005.

By failing to exercise leadership on the indigeneity issue, the Nigerian federal government has turned a blind eye to violations of some of the most fundamental rights guaranteed to its citizens by the Nigerian Constitution and international human rights law. Human Rights Watch calls on the Nigerian government to signal a clear departure from this shameful record by sponsoring, publicizing, and then enforcing legislation that places clear limits on the kinds of distinctions that can be made between indigenes and non-indigenes and expressly outlaws the harmful discriminatory practices described in this report.

This report is based largely on a six-week Human Rights Watch research mission to Nigeria in late 2005 that included field research in Kaduna, Kano, Plateau and Delta states as well as interviews in Abuja, Lagos and Ibadan. During the course of that mission, Human Rights Watch conducted interviews with a broad range of individuals including government officials, civil society activists, community and youth leaders, victims of indigeneity-related discrimination, and individuals who had participated in violent conflicts between indigene and settler communities.

Recommendations

To the Government of the Federal Republic of Nigeria

- Sponsor federal legislation that expressly bars any federal, state or local government institution from discriminating against non-indigenes with respect to any matter not directly related to traditional leadership institutions or other purely cultural matters. Consider passing a constitutional amendment along these lines if this would help overcome hurdles to ending discrimination against non-indigenes.

- Mount legal challenges to state and local practices that discriminate against non-indigenes in ways that contravene the Nigerian Constitution and Nigeria's obligations under international law.

- Sponsor a broad public education campaign focused on the rights that go with Nigerian citizenship and the need for an end to discrimination against non-indigenes throughout Nigeria.

- Work with all federal government institutions to abandon all reference to the concept of indigeneity in the implementation of hiring and admissions quotas and other matters related to the realization of the federal character principle.

To all State Governments in Nigeria

- Reverse, eliminate and outlaw state government laws and policies that deny non-indigenes equal access to educational opportunities, scholarships, employment and all other benefits open to state residents. Replace indigeneity with fair residence requirements.

- Actively disseminate and enforce these changes in federal, state and local indigeneity policies. Include as part of this effort a public education campaign focused on the rights accorded to all Nigerians by the Nigerian Constitution and international human rights law.

Introduction

As a matter of longstanding government policy, every Nigerian is either an indigene or a non-indigene of the place where they reside.[2] The meaning and practical consequences of this distinction have never been clearly defined in Nigerian law and have been subjects of great controversy since even before independence in 1960. In general terms, an "indigene" is a person who belongs to the group of people who were the original inhabitants of a particular place and who therefore claim to be its rightful "owners."[3] In practice, the lines between indigene and non-indigene are rigidly drawn along ethnic or cultural lines and there is no real way for a non-indigene to become an indigene, no matter how strongly they identify with the community they live in.[4] Nigeria is home to many communities of people who are non-indigenes even though they can trace their connection to the land they occupy back more than a century before Nigeria existed as an independent state.

Over time, the concept of "indigeneity" has come to have an increasingly important impact on the lives of all Nigerians. State and local governments throughout Nigeria—along with, to a lesser extent, the federal government—have implemented policies that deny many of the rights and opportunities guaranteed to all Nigerians by the country's constitution to anyone who cannot prove that they are indigenes of the places where they live.

In many cases the material disadvantages that go along with being classified as a non-indigene have fueled hotly contested controversies over precisely where the lines between indigene and settler should be drawn. Many non-indigene communities dispute the interpretations of history that label them as second-comers. Others refuse to accept their second-class status because after generations or even centuries of continuous residence their communities simply cannot "trace their roots" back to wherever they supposedly belong. In a country plagued by increasing economic scarcity and the

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[2] Human Rights Watch takes no position as to who the "true indigenes" of any Nigerian state or community are. Throughout this report, groups or individuals are referred to as "indigenes" or "non-indigenes" not because they are assumed to deserve that status but because the terms reflect the reality of the stations they have been granted or forced to accept by their state or local governments.

[3] For further discussion of the meaning and origins of the concept of indigeneity in Nigeria, see Daniel Bach, "Federalism, Indigeneity and Ethnicity in Nigeria," in Diamond, Bierstecker, Kirk-Greene and Oyediran, eds., *Transition Without End: Civil Society Under Babangida* (Boulder: Rienner, 1997), pp. 333-350.

[4] In some cases non-indigene families have gained acceptance as indigenes over time by shedding their own cultural identity and assimilating completely into the dominant culture around them. Some government officials have suggested that it is appropriate to expect this of non-indigenes who wish to enjoy the full benefits of citizenship; see for example below, Section VII, Plateau state case study.

rampant looting of government resources that are inadequate to begin with, being a non-indigene can mean exclusion from any real prospect of socio-economic advancement.[5] This makes seemingly esoteric disagreements over who should and should not be able to claim indigene status into an issue worth fighting over, and such disputes have lain near the heart of some of Nigeria's bloodiest episodes of intercommunal violence in recent years.

[5] Nigeria's per capita GNP peaked during the oil boom of the 1970s and has since plunged to roughly U.S. $390, below the level at independence in 1960, according to World Bank estimates. At the same time, according to Nigeria's Economic and Financial Crimes Commission, successive Nigerian governments "squandered" more than £220 billion (or roughly U.S. $385 billion) through corruption and mismanagement between 1960 and 1999.

Historical Background and Context

"We do not want to go to [Lake] Chad and meet strangers catching our fish in the water, and taking them away to leave us with nothing. We do not want to go to Sokoto and find a carpenter who is a stranger nailing our houses. I do not want to go to the Sabon-Gari in Kano and find strangers making the body of a lorry, or to go to the market and see butchers who are not Northerners."

—Alhadji Ahmadu Bello, Premier of Nigeria's Northern Region, 1965[6]

The Development of Nigerian Federalism

Nigeria is a nation of extraordinary diversity. It is home to more than 250 different ethnic groups,[7] many of which had no meaningful relationship with one another before being shoehorned into the same colony by the British government in 1914.[8] Many of the pre-colonial relationships that did exist between Nigeria's different groups were antagonistic and left scars that have yet to fully heal.[9] This is especially true in Nigeria's central "Middle Belt" region, where numerous Christian minority groups have a historical tradition of resistance to conquest, oppression and frequent slave raids by the more powerful Hausa states to their north. The country is also divided along religious lines, with the boundaries between Muslim and Christian often overlapping with some of the most important ethnic and cultural divides.

The continuing importance and volatility of these divisions has been reflected in the frequent episodes of intercommunal violence that have plagued Nigeria since independence. Most dramatically, violent north-south ethnic tensions helped drive forward the events that ultimately dragged Nigeria into the Biafran civil war—a conflict estimated to have claimed between one and three million lives and that nearly tore the country apart.[10] Nigeria has never again come so close to breaking apart, but has been

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[6] House of Chiefs Debates, 19 March 1965, p. 55 (mimeo). Quoted in Isaac O. Albert, "The Socio-Cultural Politics of Ethnic and Religious Conflicts," in Ernest E. Uwazie, Isaac O. Albert and Godfrey N. Uzoigwe, eds., *Inter-Ethnic and Religious Conflict Resolution in Nigeria* (New York: Lexington Books, 1999), pp. 73.

[7] No definitive and generally accepted tally of the number of different ethnic groups in Nigeria has ever been compiled, in part because of disagreements over how the lines between different groups should be drawn. The figure of 250 is commonly used as a reasonable minimum estimate of the number of groups that actually exist.

[8] The territories that make up what are now northern and southern Nigeria were administered by the British as two separate territories until 1914, when they were combined largely for the sake of administrative convenience and efficiency.

[9] For more discussion of the continuing relevance of this history, see below, Section VII, Plateau and Kaduna state case studies.

[10] In 1966, a coup d'état led by Igbo officers from southeastern Nigeria ended with the murder of many northern military and political leaders, including two of northern Nigeria's most prominent political figures, then-Prime

unable to resolve ongoing patterns of intercommunal violence that have sparked hundreds of clashes and claimed thousands of lives.[11]

Government in Nigeria is divided into three tiers—the federal government, the governments of each of the country's thirty-six states, and local government councils that govern Nigeria's 774 Local Government Areas (LGAs). The Nigerian Constitution provides for all three levels of government to be run by popularly elected administrations, and lists in detail the exclusive and concurrent powers of each.[12] In addition to this, Nigeria maintains a parallel system of traditional governance including Chieftaincies and Emirates throughout the country. Traditional leaders generally represent only their own ethnic communities. They are recognized by the government, but are not elected in the same manner as government officials; they are selected according to different traditions in different communities. Despite not holding formal positions in the government, they wield considerable political influence, especially at the local level.

Nigerian politics has always revolved around an obsession with the difficult task of forging a nation out of all of Nigeria's complex diversity while ensuring that no ethnic group, religion or geographical region could ever come to dominate—or be marginalized by—the rest of the country. Nigeria has had four constitutions since independence, and each of them has been crafted around core provisions designed to strike the finest possible balance in the allocation of political power and government resources.[13]

Perhaps the most important of these provisions, and almost certainly the most controversial, is the "federal character" principle, which is enshrined in Article 14(3) of the current Nigerian Constitution.[14] The federal character principle is meant to ensure

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Minister Tafawa Balewa and Northern Region Premier Alhadji Ahmadu Bello. These events triggered riots throughout northern Nigeria in which Igbo civilians were massacred and their communities burned to the ground. The riots continued for weeks and many Igbos streamed back "home" en masse to the southeast as refugees. The coup was quickly reversed, and all of these events ultimately led Igbo military leaders to declare the Eastern Region's independence from the rest of Nigeria, triggering a thirty-month civil war. For more discussion of the Biafran War and the events leading up to it, see, for example, Eghosa E. Osaghae, *Crippled Giant: Nigeria Since Independence* (Bloomington: Indiana University Press, 1998), pp. 56-68.

[11] For further discussion of the problem of intercommunal violence in Nigeria, see below, Section VI.

[12] See Constitution of the Federal Republic of Nigeria, Second Schedule.

[13] These were promulgated in 1960, 1963, 1979 and 1999. For a fuller discussion of the historical development of Nigerian federalism, see Rotimi Suberu, *Federalism and Ethnic Conflict in Nigeria* (Washington, D.C.: United States Institute of Peace, 2001).

[14] The term "federal character" was first used in 1975 by then-head of state Murtala Mohammed in an address to the committee charged with drafting a new constitution for Nigeria. It was ultimately inserted into the 1979 constitution, but is given more central importance by the (current) 1999 constitution, which refers to it not as a "principle" but as a "doctrine." For detailed discussion of the origins and growing importance of federal

that the federal government is broadly inclusive in everything it does, thereby promoting both "national unity" and "loyalty."[15] The 1999 constitution mandated the creation of the "Federal Character Commission" (FCC), which is charged with enforcing compliance with the federal character principle at all levels of government.[16] Most importantly, the Commission seeks to ensure that positions in the federal and state civil services and in the military are allocated across Nigeria's thirty-six states in as strictly equitable a manner as possible.[17]

Nigeria's first constitution, promulgated in 1960, sought to ease interregional tension by granting a large measure of autonomy to the country's then-three regional governments. In the intervening decades, however, much of that autonomy has been steadily eroded, in large measure because of the centralization of power that took place during Nigeria's twenty-nine years of military rule.

In addition, the three economically viable regional governments that made up Nigeria at independence have been broken down into the present thirty-six states, most of which have little internal revenue-generating capability and are largely dependent upon oil revenues doled out by the federal government.[18] On average, Nigeria's state and local governments depend on federal government transfers for 70 to 80 percent of their

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character in Nigeria, see Daniel Bach, "Inching Towards a Country Without a State: Prebendalism, Violence and State Betrayal in Nigeria," in Clapham C, Herbst J and G Mills, eds., *Africa's Big States* (Johannesburg: Witwatersrand University Press, 2005).

[15] Article 14(3) states that "[t]he 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 that Government or in any of its agencies."

[16] The Federal Character Commission was first created under the Abacha Administration in 1996, and was retained under the 1999 Constitution. See Constitution of the Federal Republic of Nigeria, Third Schedule.

[17] Constitution of the Federal Republic of Nigeria, Third Schedule, Part I(C). The FCC has proposed minutely detailed guidelines that have yet to be codified or enforced but give some insight into how detailed its micromanagement of the principle's application can be. Among other things, the FCC proposed in 1996 that "on the basis of strict interstate equality, the indigenes of each of the thirty-six states should account for only 2.75 percent in the federal public service… To allow for flexibility, however, the norm of interstate equality should be modified such that indigenes of each state would be required to constitute not less than 2.5 percent and not more than 3 percent of officers in the federal bureaucracy." See Suberu, *Federalism and Ethnic Conflict in Nigeria*, p. 114.

[18] See Suberu, *Federalism and Ethnic Conflict in Nigeria*, p. 48. As is true of other oil producing states in Africa, the development of Nigeria's oil industry has led to the decline of other formerly productive sectors of the economy including agriculture and manufacturing, leaving government at all levels largely dependent upon oil revenues. Even aside from this, smaller states maintain elaborate state government bureaucracies notwithstanding populations and resource bases that have grown smaller as the states have fragmented and multiplied.

revenues.[19] In this context, Nigerian federalism has come to revolve less around the idea of ensuring meaningful autonomy or equitable political representation and more around elaborately constructed rules governing the disbursement of federal largesse to the states and local governments.

This situation is reflected in microcosm at the state and local level, where many Nigerian citizens view government primarily as an instrument for the distribution of patronage in one form or another. Indeed, the indigeneity issue has increasing relevance at the most local of levels in large measure because of state government policies regarding the distribution of jobs, scholarships and other resources among the groups recognized as indigenes in different localities within a given state.

The Origins of the Indigeneity Issue in Nigeria

The British colonial authorities were the first to articulate a formal distinction between indigene and non-indigene communities.[20] However, the idea that "host" communities are entitled to maintain a certain distance between themselves and migrant communities was not a colonial invention. Many Nigerians have long believed that some sort of distinction between indigenes and non-indigenes is necessary in at least some cases, primarily as a way for smaller communities to preserve their culture and traditions—and in some cases their land—against the pressures of migration from other parts of the country.

Most concretely, many Nigerian communities use the distinction between indigenes and non-indigenes as a way of demarcating the boundaries between people who are eligible to hold chieftaincy titles in a particular place, and participate in traditional institutions of governance more generally, and those who are not. Indigeneity also serves as a way for communities to keep land within the hands of their own group—a goal that is controversial but important to many Nigerians whose ethnic identity is tied to a small geographic area. In a broader and more amorphous sense, indigeneity reflects the

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[19] See Suberu, *Federalism and Ethnic Conflict in Nigeria*, p. 48. The one notable exception is Lagos State, whose government generates a considerable portion of its revenues internally. Ibid.

[20] The Native Authority Law of 1954 defined a non-indigene or "stranger" as "any Native who is not a member of the native community living in the area of its authority." See Daniel Bach, "Indigeneity, Ethnicity and Federalism," in *Transition Without End: Nigerian Politics and Civil Society Under Babangida* (London: Lynne Rienner, 1997), p. 338. Related colonial policies such as the rigid enforcement of residential segregation between "natives" and "settlers" are often explained as a deliberate attempt to discourage intercommunal integration and thereby reduce the possibilities for broad-based opposition to colonial rule. For a broader discussion of the political uses and implications of similar sets of issues, see Mahmood Mamdani, *Contemporary Africa and the Legacy of Late Colonialism* (Princeton: Princeton University Press, 1996).

communities' efforts to keep track of who their members are by placing an emphasis on the historical memory of individuals' familial connection to a particular place.

In some cases non-indigene communities are the result of patterns of migration that began with colonialism, often by people in search of jobs, land or other economic opportunity made possible by Nigeria's unification into a single territory. In other cases non-indigene communities predate the colonial period by a century or more but are believed to be the descendants of people who arrived as "settlers" on land that was already inhabited by the ancestors of today's indigenes.

The issue of indigeneity began to take on increased importance not long after Nigeria's independence, with regional policies that discriminated against the indigenes of other regions in areas as diverse as employment and the acquisition of land.[21] The federal government effectively legitimized that discrimination by doing nothing to oppose it, a policy that Nigeria's first attorney general characterized as "a temporary concession to expediency."[22] That concession has turned out to be not temporary at all, and discrimination against non-indigenes throughout Nigeria has grown steadily more severe over the intervening years.

The number of people who are not recognized as indigenes of the places where they reside has increased steadily since Nigeria won its independence, and millions of Nigerians now make their homes in communities or states that label them as non-indigenes. In 1960, most Nigerians could expect to be treated as indigenes anywhere within one of Nigeria's three large regions. One result of the gradual proliferation of states and local government areas since independence is that Nigerians today are indigenes only of states that cover much smaller slivers of the national territory—and are strangers everywhere else.[23] In addition, with each new round of state creation Nigerians who had lived their whole lives as indigenes of their place of residence have found themselves transformed into "strangers" literally overnight because their ancestral roots lay in land that had been cut away to form part of a new state. And perhaps worst of all, with the passage of time an increasing number of Nigerians are finding it impossible to prove that they are indigenes of any place at all.

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[21] See, for example, Brennan Kraxberger, "Strangers, Indigenes and Settlers: Contested Geographies of Citizenship in Nigeria," *Space and Polity*, vol. 9 no. 1 (April 2005), p. 19, arguing that "[t]he Northern Region's policy of the North for northerners established the general pattern of statism that has troubled Nigeria since."

[22] See Bach, "Indigeneity, Ethnicity and Federalism," p. 338.

[23] In addition to the breakup of Nigeria's original three regions into thirty-six states since 1960, the number of local government administrations has gone from 301 to 774 since 1976 alone.

The Extent of the Problem in Today's Nigeria

The unique diversity of Nigeria's population presents real and complicated problems, and the growing importance of the indigeneity issue is partly a reflection of government's inability to manage those problems. Many of Nigeria's smaller ethnic groups face a real possibility of becoming numerical minorities in their own communities and need some reassurance that they will be able to protect their cultural autonomy, maintain their community's connection to its land, and restrict participation in their traditional institutions of governance. Without some way to do all of this, as one former local government chairman in the Plateau State capital of Jos put it, many communities would fear that "if they are overwhelmed in numbers they may lose control of their lives."[24]

Throughout most of Nigeria's post-independence history, the federal government sought to allay these concerns—and fears of marginalization in a broader sense—by creating new states and local government areas within whose confines relatively small minorities could enjoy a position of political dominance.[25] In recent years, however, federal authorities have refused to entertain new demands for the creation of new states or LGAs, largely because of fears that doing so could lead to a potentially limitless proliferation of tiny and unviable administrations.[26] This has helped to elevate the importance of indigene status as an alternative source of autonomy. It also partially explains the hostile reaction many indigene communities have to suggestions that all distinctions between themselves and the "settler" communities around them should be abolished.

The consequences of being a non-indigene have grown far beyond anything related to the preservation of cultural autonomy or traditional leadership institutions, however. Increasingly, as one Jos-based academic put it, "what is at stake is who has the power to dictate the pattern of development, politics and everything else."[27]

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[24] Human Rights Watch interview, Jos, November 19, 2005.

[25] For a detailed discussion of the politics behind Nigeria's history of state and local government creation, see Suberu, *Federalism and Ethnic Conflict in Nigeria*, Chapter 4.

[26] Nigeria has not had any new states or local government areas since 1996, when six new states and 179 new LGAs were created. A committee constituted by the Abacha administration in the run-up to that exercise claimed that it received a total of seventy-two requests for new states and 2,369 requests for new local government areas. See Suberu, *Federalism and Ethnic Conflict in Nigeria*, pp. 102-108. Nigerian President Olusegun Obasanjo has stated that new rounds of state and LGA creation would amount to "an endless joke which will continue to reduce the viability of our federalism." Cited in Suberu, *Federalism and Ethnic Conflict in Nigeria*, p. 110.

[27] Human Rights Watch interview with Dr. Dung Pam Sha, Jos, November 18, 2005.

In part, this trend reflects the fact that many Nigerians see politics as a zero-sum game, where any benefit to one equally harms the other. As a prominent member of Jos's non-indigene Igbo community told Human Rights Watch, "the problem with this country is that if you don't have one of your own people in a position of authority, you get nothing."[28] Seen in this light, pervasive discrimination against non-indigenes is just one consequence of the fact that many Nigerians take it for granted that living in a place governed by people who are ethnically or religiously different from themselves means exclusion from any kind of government largesse.

In many parts of Nigeria, however, the issue of indigeneity has seemed to create new kinds of parochialism where none had existed before; many states discriminate against one another's non-indigene residents even though there are no meaningful ethnic or cultural differences between them, and even though both populations may once have been part of the same state.[29]

Many Nigerians also see the increasing importance of the indigene/settler divide as resulting from the increasing levels of poverty and deprivation brought on by decades of poor governance and rampant corruption, along with environmental factors such as an increasing scarcity of land caused by population growth and desertification. Government at all levels has failed miserably to provide for the needs of ordinary citizens, and state and local governments have sought to placate restive local opinion by reserving the increasingly scarce benefits of citizenship for their indigene "sons of the soil."[30]

When one state ratchets up the level of discrimination it metes out to non-indigenes, it serves in a perverse way to justify similar policies in other states. One Plateau State government official told Human Rights Watch that the policies put in place by the state to discriminate against its non-indigene populations were justified because "We have few opportunities for the children of the soil and the government is there to meet their needs. If they go to other states nobody will take care of them there."[31] Such reasoning is not necessarily accepted by non-indigenes who bear the brunt of discriminatory policies. One Yoruba man living in Kano, for example, described the architects of Kano

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[28] Human Rights Watch interview, Jos, November 21, 2005.

[29] For a brief discussion of an example of this phenomenon following the creation of Osun from part of Oyo state in 1991, see Kraxberger, *Strangers, Indigenes and Settlers*, p. 9. There were waves of dismissals throughout Nigeria following the creation of other new states and LGAs in 1991 as well. See Suberu, *Federalism and Ethnic Conflict in Nigeria*, pp. 109.

[30] See below, Section V.

[31] Human Rights Watch interview, Jos, November 20, 2005.

State's discriminatory policies against non-indigenes such as himself as "illiterates who have never traveled to any other place and seen how their own people are getting on [as non-indigenes] there."[32]

Discrimination against non-indigenes is also seen as being part of a high-stakes competition against other groups for political influence and resources at the national level. One conflict analyst at the government-run Institute for Peace and Conflict Resolution in Abuja argued to Human Rights Watch that a primary rationale behind state policies that set discriminatory school fees for non-indigene students lay in an effort to frustrate their academic opportunities so as to ultimately "block them from political participation." He went on to say that "it helps my people make progress relative to yours because you will not get an education if you cannot afford it. So it contributes to strengthening the position of indigene people."[33] Putting it a different way, one Nigerian academic argued that discrimination and conflict related to the issue of indigeneity is usually linked to "a fear of unequal development" relative to other parts of Nigeria.[34]

Whatever the reasons, the idea that non-indigenes have no right to demand the benefits of full citizenship is now so deeply ingrained in Nigerian political thinking that many Nigerians take it for granted. One federal government official in Abuja told Human Rights Watch, "I don't have any problem with the idea of moving to another place and being discriminated against, because I know that if these people move to my home the same thing will happen to them."[35] And one member of parliament from the southwest of the country confessed that he even found it difficult not to discriminate against his own non-indigene constituents:

> I received a letter from a church in my area—the pastor wanted me to help him obtain a scholarship to pursue further pastoral studies. He's not of my ethnic group, and my first thought was, "he is not even an indigene of my constituency." And yet this guy was right to contact me—he lives in my constituency and he probably even voted for me.[36]

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[32] Human Rights Watch interview, Kano, November 30, 2005.

[33] Human Rights Watch interview with Ochinya Ojiji, Institute of Peace and Conflict Resolution, Abuja, November 1, 2005.

[34] Human Rights Watch interview with Etannabi Alemika, Jos, November 17, 2005.

[35] Human Rights Watch interview, Abuja, November 2, 2005.

[36] Human Rights Watch interview, Abuja, October 31, 2005.

Some non-indigenes accept this situation as the "natural order of things," but many others do not. Many non-indigenes reported to Human Rights Watch that they feel as though they contribute a great deal to the communities they live in and do not see why they should be pushed to what they describe as the margins of society. Non-indigenes often contribute substantially to their local economies, work without job security as teachers and public servants where such positions cannot be filled with qualified indigenes, vote as constituents of the places they live and work in, and in general feel that they do all that is asked of them as citizens, but get little or nothing in return. As one non-indigene university professor living in Plateau State put it, "We non-indigenes believe that we should benefit from the cake that we have helped to bake."[37]

Where non-indigenes have been vocal in denouncing discriminatory policies, state and local governments have typically reacted with hostility or dismissal.[38] In a refrain that is heard time and time again in Nigerian political discourse, disgruntled non-indigenes are told to "trace their roots" and go back to their place of "origin" if they are unhappy with their treatment. In some cases, indigene political leaders have accused "unruly" non-indigene populations of conspiring to invade and take over land that does not belong to them, for the sole purpose of "dominating" those around them. Prior to the outbreak of ethnic violence in Plateau State in 2001, the non-indigene whose appointment to an influential federal position within the state helped spark the unrest received numerous threatening messages including one that read "trace your roots before it is too late."[39]

Those who hold these attitudes often justify them with the notion that most non-indigenes are mere transients with no real stake in the places where they live. One state government official in Plateau State, articulating this popular belief, claimed that discrimination against non-indigenes in his state has no harmful impact because, "At the end of the day, when the non-indigene is through with his business here, he goes back to settle where he comes from. That is the reality of it."[40] This is in fact true of some non-indigenes, but it is transparently false with regard to many others. With the passage of time, more and more non-indigenes have put down roots where they live, and no longer

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[37] Human Rights Watch interview, Jos, November 22, 2005.

[38] In various parts of Nigeria, debates over indigeneity and its consequences have played out in the press, in political campaigns, and in other public fora. For a discussion of how non-indigene communities in Plateau and Delta states have protested their designation as non-indigenes and resulting discrimination, see below, Section VII.

[39] Human Rights Watch, "Revenge in the Name of Religion: The Cycle of Violence in Plateau and Kano States," *A Human Rights Watch Report*, vol. 17, no. 8(A), May 2005, p. 5. For more discussion of these issues in the contexts of Plateau and Kaduna states, see below, Section VII.

[40] Human Rights Watch interview, Jos, November 23, 2005.

identify with any other place as "home." As one non-indigene Igbo lawyer in Kaduna put it:

> My father moved [from southeastern Nigeria] to Plateau State when he was thirteen. I was born there and have lived all of my life in the North. When I say I am going home I go to Plateau State. I did my national service in Kano and have been working for twenty years in Kaduna. So where do you want me to go? To a part of the country with which I am not at all acquainted, an area where I don't know the culture and my children do not speak the language?[41]

[41] Human Rights Watch interview, Kaduna, November 2, 2005.

Government Discrimination Against Non-Indigenes

Throughout Nigeria, non-indigenes are forced to cope with state and local government policies and practices that exclude them from many of the material benefits of Nigerian citizenship. Such discrimination reflects a widespread belief among many Nigerians that state and local governments exist not to serve the interests of all their constituents, but only those of their indigene populations. That understanding was in evidence in many of the interviews Human Rights Watch conducted with government officials in Kano, Kaduna and Plateau States. The attorney general of Kaduna state, for example, responding to complaints of marginalization voiced by non-indigene residents of the state, told Human Rights Watch:

> The problem arises when they [non-indigenes] try to throw away where they come from and want to have the same status as their hosts. They do not want to be seen as people from another state, so they say "Look, I am an indigene, I want the same privileges and rights as other indigenes…" They want to enjoy scholarships from Kaduna state… But I don't think it would be right to give these people all the same rights as indigenes.[42]

Echoing these sentiments, a spokesperson for the governor of Plateau State stated flatly that his government's mission was to "meet the needs of the indigene population of the state."[43] Such attitudes are not unique and in fact reflect political realities that are taken for granted by many Nigerians. As one member of the Nigerian National Assembly put it, "The Constitution says there should be no discrimination but we all know that when you are a non-indigene you do not have all the rights the so-called indigenes have."[44]

Discriminatory practices vary considerably in nature and in their impact upon non-indigene communities and are therefore difficult to consider out of context; the specific experiences of non-indigene communities in Kaduna, Plateau and Delta States are discussed in detail in section VII of this report. Broadly speaking, however, non-indigene communities often claim that they are discriminated against in the provision of vital government infrastructure and services such as schools, health care and even roads. In some states, non-indigene parents allege that while secondary school fees are

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[42] Human Rights Watch interview with Mark Jacob Nzamah, Kaduna, November 10, 2005.

[43] Human Rights Watch interview with Ezekiel Dalyop, Permanent Secretary for Press and Public Affairs, Jos, November 23, 2005.

[44] Human Rights Watch interview with Hon. Abdul Oroh, Abuja, October 31, 2005.

technically equal for indigene and non-indigene students, local officials routinely waive school and exam fees for indigene students while non-indigenes are made to pay.[45] In other communities non-indigenes find that they are unable to purchase land or even a home.

The issue of indigeneity is increasingly relevant at the local as well as at the state level. In some states, people who are indigenes of the state they live in nonetheless find themselves discriminated against because their ethnic "roots" lie in a part of the state different from the place where they now live. In Kaduna state, for example, people who are Hausa and Muslim find themselves treated as non-indigenes in the overwhelmingly Christian and non-Hausa southern part of the state, while predominantly Christian groups from southern Kaduna receive similar treatment in the north of the state.[46]

Some indigene officials attempt to justify this sort of behavior by arguing that non-indigenes' ethnic kinsmen in other parts of Nigeria would mete out similar treatment to them. As one Kaduna state civil servant, a Hausa and an indigene of the state, admitted, "For an Igboman [non-indigene] it is very difficult here. You cannot even go to a government office and be received… This is because in the [predominantly Igbo] east, all of the windows are locked to us, let alone the doors."[47]

While much of this discrimination contravenes the Nigerian Constitution, non-indigenes report that they have no way to combat the problem because government officials and even federal police officers refuse to take their complaints seriously. Discriminatory practices have become so widespread that many officials do not think of them as being in any way improper, let alone illegal or unconstitutional.[48]

Far from condemning discriminatory practices, state and local governments throughout Nigeria have enshrined the maltreatment of non-indigenes in official government policy. Many states openly deny non-indigenes the right to compete for civil service employment, and non-indigenes throughout Nigeria are discriminated against in the admissions policies and fee schedules of state universities and are barred from obtaining academic scholarships. In addition, these discriminatory policies fuel a range of less formal but equally pervasive forms of discrimination that government does nothing to

[45] Human Rights Watch interviews, Jos, Kaduna and Kano, November-December 2005. See also below, Section VII, Plateau state case study.

[46] See below, Section VII, Kaduna state case study.

[47] Human Rights Watch interviews, Kaduna, November 15, 2005.

[48] For more discussion on the legal and constitutional implications of discrimination against non-indigenes in Nigeria, see below, section VIII.

discourage, including discrimination in the provision of government services and often-insurmountable barriers to participation in local politics.

Much of the information that follows is based largely on research that Human Rights Watch conducted in Kaduna, Kano, Plateau and Delta States during November and December 2005. Those states were chosen in part to reflect Nigeria's geopolitical diversity and in part because the issue of indigeneity has been a source of contention and controversy across all of them. They are by no means the only or even the worst examples of indigeneity-related discrimination in Nigeria, which must be regarded as a nationwide phenomenon.

Ambiguous Legal Definitions of Indigeneity

Nigerian law contains no clear definition of "indigeneity" even though a broad range of policies at every level of government make use of the concept. The Nigerian Constitution makes use of the term and even requires that the President's cabinet include at least one indigene of each of the country's 36 states, but does not explicitly define the word.[49] The federal civil service takes great care to allocate positions more or less equitably among indigenes of each Nigerian state but leaves it to the states to decide who their indigenes are. State governments generally pass that discretion further on down the line, leaving local officials with unfettered discretion to determine who the indigenes of their community are. Local officials' power to grant or deny indigene status to their residents in turn gives them a *de facto* veto power over any individual's attempt at attaining federal government employment.

To some extent, this lack of clarity is mitigated by the fact that the word "indigene" has a meaning that is widely understood at all levels of Nigerian society. An indigene of a particular place is a person who can trace his or her ancestry back to a community of people who were among the original inhabitants of that place. In practice, however, this definition can be extremely difficult to apply and is most often simply used as a way to express tribal and ethnic distinctions. In some cases, officials are required to break the population down into categories determined by poorly-documented historical patterns of migration that might date back a century or more.

[49] Constitution of the Federal Republic of Nigeria, Article 147(3). The closest the Constitution comes to defining the concept of indigeneity is in Articles 223(2)(b) and 318(1). Article 223(2)(b) requires that the executive of any national political party contain members who "belong to" at least two-thirds of the states in the federation. Article 318(1) defines the phrase "belong to" in that context as applying to "a person either of whose parents or any of whose grandparents was a member of a community indigenous to that state."

In spite of, or perhaps because of, the issue's complexity, state governments generally fail to articulate any objective sets of criteria that should be used by local officials in determining whether a person is an indigene of their community. A spokesperson for the Governor of Plateau State, when asked what criteria were used in determining who the indigenes of the state are, explained that one had to look "back to history, to primordial times, before civilization even came to black Africa. We have patterns of migration dating back to this time. Other people [non-indigenes] came later."[50] Like the federal government and other state governments, the Plateau State government does not provide any sort of guidance as to how these ambitious historical inquiries should be conducted. One former Plateau State official told Human Rights Watch that such guidance was unnecessary because "the Plateau State people know who is supposed to be an indigene and who is not."[51]

Certificates of Indigeneity

Local governments throughout Nigeria issue "certificates of indigeneity"[52] to people who are indigenes of their jurisdictions. These certificates serve as documentary proof that the bearer is an indigene of the area of the local government that issues them. Possession of such a certificate is in fact the only way for a Nigerian to prove that he or she is an indigene of his or her community, and a Nigerian who does not have an indigeneity certificate will be treated as a non-indigene in his or her formal interactions with all levels of government. In addition, a Nigerian who does not have a certificate of indigeneity from a local government somewhere in Nigeria is effectively an indigene of nowhere. An increasing number of Nigerians find themselves trapped in this category of stateless non-indigenes. In some cases this is because their families have been living on the land they now occupy for generations and no longer remember precisely where their ancestors migrated from. In other cases non-indigenes may know where their families originated but cannot persuade local officials there that they are bona fide indigenes.

Because the federal government distributes many employment and educational opportunities among the indigenes of various states, a Nigerian must be able to indicate which part of the country he is an indigene of before he can even apply for them. Nigerians with no certificate of indigeneity cannot obtain federal civil service employment or compete for any of the many other opportunities that are allocated on a quota basis between "indigenes" of each of Nigeria's states and local government areas,

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[50] Human Rights Watch interview with Ezekiel Dalyop, Permanent Secretary for Press and Public Affairs, Jos, November 23, 2005.

[51] Human Rights Watch interview, Jos, November 23, 2005.

[52] Certificates of Indigeneity are also referred to as "Certificates of Origin" or "Indigene Certificates."

such as recruitment into the federal police force or education at a military academy.[53] They are also barred from admission into many federal universities. This is because these federal institutions require applicants to submit a certificate of indigeneity so that they can monitor their own compliance with the federal character principle's requirement of interregional and interethnic equity.

Along with these handicaps, Nigerians with no indigeneity certificates must also contend with all of the policies put in place by their state and local governments that discriminate against non-indigenes. One pastor in Kaduna summarized the importance of these certificates this way:

> If this simple indigene form is denied it is like a man struggling against an ocean. Various institutions have to fill quotas from different communities and it is the LGA that decides who can compete for them—they can make you or mar you.[54]

The plight of these "stateless non-indigenes" is discussed in more detail in the Plateau state case study below.

Some local governments also issue certificates of "residence" or "settlership" to non-indigenes, but these are generally useless except as a form of identification. One academic at the University of Jos told Human Rights Watch that the widespread issuance of "certificates of residence" to non-indigenes in that city, for example, was primarily designed as a mechanism to help identify the people who should be excluded from government employment and other benefits. "When they started issuing these Residency Certificates, people were not conscious of their significance—they just rushed to collect them," he said. "Then they found that when they applied for a job their applications were just thrown away."[55]

In spite of the importance of these certificates of indigeneity, local governments do not generally adopt formal procedures or guidelines for deciding who the certificates should and should not be issued to. Individuals must generally submit a simple application form to obtain an indigeneity certificate. It is then the duty of local government officials to determine whether each applicant is a bona fide indigene, theoretically by

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[53] For a fuller discussion of the plight of "stateless non-indigenes," see below, Section VII, Plateau state case study.

[54] Human Rights Watch interview with James Wuye, Kaduna, November 9, 2005.

[55] Human Rights Watch interview, Jos, November 22, 2005.

investigating their claims of historical connection to the locality. In practice, however, local government officials have unfettered discretion to exercise their authority however they see fit. In many cases their informal, ad hoc approach yields results that are broadly seen as legitimate by a given LGA's constituents. But in other cases local governments exercise their discretion in an opaque or even an arbitrary manner easily influenced by personal relationships, prejudice and corruption.[56] Of additional concern is that the process is not open to any realistic manner of appeal. Human Rights Watch interviewed several people who said that they had been improperly denied certificates of indigeneity, and all of them said that they had been unable even to secure an audience with the local officials who were in a position to reconsider their designation as non-indigenes.

Some local governments actually delegate the primary authority to evaluate applications for indigene certificates even further, to the district heads within each local government area. This is done because the district heads are seen as being closer to local communities and thus better able to determine who is a bona fide indigene and who is not. The local governments then sign off on the district heads' decision. District heads, however, are unelected and are accountable only to the traditional rulers who appoint them.[57]

Arbitrary decision making, discrimination and corruption in the issuing of indigeneity certificates

Nigeria's 774 local government administrations are widely perceived as making up the most corrupt, arbitrary and incompetent level of government in the country.[58] As one Christian community leader in Kaduna put it, "If you had incorruptible and honest LGAs, half of Nigeria's problems would be solved."[59] This broader problem is often reflected in local governments' issuance of indigene certificates in a number of different ways.

Many local government officials routinely extort bribes from all applicants for indigene certificates, refusing to process applications unless applicants pay double or triple the amount normally charged as a processing fee. This does not generally constitute a

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[56] See above p. 23-25.

[57] See below, Section VII, Kaduna and Plateau state case studies.

[58] In one USAID-funded survey carried out at the end of 2001, for example, 60 percent of 2,500 households interviewed said that they felt that their LGA councils were either "very dishonest" or "somewhat dishonest," while only 15 percent rated their LGA councils as either "very honest" or "somewhat honest." "Nigeria: Governance and Corruption Diagnostic Study," available online at http://www.usaid.gov/ng/downloads/reforms/governanceandcorruptionfinalreport.pdf.

[59] Human Rights Watch interview, Kaduna, November 9, 2005.

significant financial burden as the amount involved is nominal, but the practice reflects a deeper culture of corruption that makes the certification process subject to manipulation and undermines its validity.[60]

In some cases, corrupt local government officials award indigene certificates to people who are not entitled to them, in return for a bribe. In Kaduna, Kano and Plateau States this practice is widely believed to be common, with the result that other officials are often inclined to second-guess the validity of indigene certificates presented by people applying to them for jobs, scholarships or higher education. The manner in which these officials purport to "evaluate" the legitimacy of indigene certificates can itself be arbitrary and discriminatory, however. One professor on the admissions committee of a state-run university in Kaduna State, for example, recounted the following anecdote to Human Rights Watch to illustrate how his committee identifies and scrutinizes suspicious claims of indigeneity:

> One applicant, his name seemed suspect—it was a Yoruba name,[61] but he said he was from Makarfi LGA [in northern Kaduna]… He had an indigene certificate but it's so easy to bribe the LGA officials because of poverty, so we didn't believe it… He was born in Makarfi. But they are tenants—they do not have a house of their own—so we thought, he is not behaving like an indigene. So we did not admit him even though he had all of the qualifications.[62]

One civil society activist in Kaduna confirmed that, "It is very easy to get [an indigene certificate] due to corruption… But it is harder for people if they look Yoruba. You have to be able to 'pass'—you have to look right, speak the native language, etc. Otherwise it becomes more difficult."[63]

In other cases indigene certificates are improperly issued by local officials acting out of a sense of solidarity with ethnic kinsmen who they know to be indigenes of some other place. In Kaduna, for example, Hausa officials are often accused of knowingly issuing indigene certificates to Hausa people who immigrate from other states. The attorney

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[60] In Kaduna South LGA, for example, residents told Human Rights Watch that a processing fee of N100 was theoretically charged for indigeneity certificate applications, but local officials actually demanded that applicants pay at least N300 directly to them on top of the fee. Human Rights Watch interviews, Kaduna, November 2005.

[61] The Yoruba are one of Nigeria's three largest ethnic groups and generally hail from states in the southwest of the country.

[62] Human Rights Watch interview, Kaduna, November 10, 2005.

[63] Human Rights Watch interview with Rebecca Sako-John, Kaduna, November 9, 2005.

general of Kaduna State acknowledged that this problem was rampant in his state's predominantly Hausa LGAs. "Often they get away with it," he said. "Since they mix very easily by appearance it is hard to identify them."[64]

The flip side to this problem is that in some cases local officials improperly deny indigene certificates to people with legitimate claims to indigene status because of their ethnicity or religion. Some local government officials in the predominantly Muslim states in the north of Nigeria, for example, refuse to issue indigene certificates to Christian indigenes. One Christian indigene of Katsina State told Human Rights Watch that when she applied for an indigene certificate in her local government of origin she was denied it because of her non-Muslim appearance. When the officials saw her passport photograph, in which her head was uncovered, she said that they accused her of fraud, asking "Why is she not covering herself if she is an indigene?" She was eventually given the form only after submitting another application with a photo attached showing her with her head covered with a scarf.

Theatres of Government-Sponsored Discrimination Against Non-Indigenes

Public sector employment

The public sector is one of Nigeria's largest sources of employment opportunity.[65] In an economy suffering from high levels of unemployment and chronic poverty, recruitment into the civil service or some other government institution is the only realistic hope many Nigerians have of socio-economic advancement. Stable employment is also one of the few tangible benefits ordinary Nigerians can expect to receive from a government that has largely failed to provide for the needs of its citizens.

Increasingly, however, non-indigenes find themselves denied the right even to compete for government jobs and are unable to obtain equal terms of service with indigenes when they do manage to obtain public sector employment. Many Nigerian state governments have implemented policies that deny non-indigenes the right to compete for most civil service positions, while also eliminating non-indigenes' right to retirement pensions and the right to contest seemingly unfair layoffs if they are hired. This

[64] Human Rights Watch interview with Mark Jacob Nzamah, Attorney General of Kaduna State, November 10, 2005.

[65] Hard data is difficult to come by, but this is generally accepted as being true of the Nigerian economy. One 1984 tracer study estimated that 58 percent of university graduates worked in the public sector. See Andrew Dabalan and Bankole Oni, *The Labor Market Prospects of University Graduates in Nigeria* (World Bank: November 2000), p. 14.

discrimination is also reflected in state policies that prevent non-indigenes from competing for some positions at the federal level as well.

In Kaduna, Kano and Plateau States, government policy is not to hire non-indigenes into the state civil service unless there are no qualified indigene applicants for a position. Even then, non-indigenes are employed on a "contract" rather than a "permanent and pensionable" basis. Contract employees are ineligible for government pensions and can be fired at will should the civil service decide to replace them with indigene job seekers. In interviews with Human Rights Watch, high-ranking state government officials, including spokespeople for the governors of Plateau and Kano States and the attorney general of Kaduna State, said quite candidly that the policy of their administrations was not to hire non-indigenes into the state public service unless there were no indigenes qualified to fill certain positions.[66] The Kaduna State attorney general, for example, described the idea of allowing non-indigenes to compete for civil service positions as "unnecessary and totally unacceptable" except in "specialized fields that may require skills that we [Kaduna state indigenes] do not have."[67]

However, in all three states discriminatory hiring policies are not mandated by state law or even by the hiring guidelines published by the states' civil service commissions.[68] Nonetheless such discrimination has become an accepted norm perpetuated by local, state and to a lesser extent federal government officials. One civil servant who had until recently worked for the Kaduna State civil service commission told Human Rights Watch:

> The state Civil Service Commission does deny permanent and pensionable appointments to non-indigenes… There is no written policy to that effect; it is very informal. But everyone is made to understand that—it's an open thing, people will tell us openly that we are not to employ non-indigenes.[69]

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[66] Human Rights Watch interviews, Kaduna, Kano and Jos, November 2005.

[67] Human Rights Watch interview with Mark Jacob Nzamah, Attorney General of Kaduna State, November 10, 2005.

[68] Hiring guidelines published by the Kaduna state civil service commission, for example, require job applicants to submit a certificate of indigeneity and that appointments reflect the "geographical spread of the state" overall, but do not explicitly state that indigenes should be given preferential treatment. Document on file with Human Rights Watch.

[69] Human Rights Watch interview, Kaduna, November 12, 2005.

Other civil servants directly involved with hiring and promotion decisions refused to discuss the details of their states' hiring practices with Human Rights Watch, except to say that there was no publicly available law or written policy that required them to discriminate against non-indigenes.

Non-indigenes also find themselves barred from some jobs in the federal civil service. As a matter of federal government policy, low-level positions in federal agencies or institutions are reserved for indigenes of the state that hosts the agency.[70] While higher-level positions in these institutions are not technically subject to the same restriction, the federal government often defers to local demands that such positions also go to indigenes of the host state. One Jos-based academic told Human Rights Watch that every time there is a vacancy within a federal institution based in Plateau State, "there is a major mobilization about why the position must be filled by an indigene."[71] Professors at the federal University of Jos said that such mobilizations have been largely successful in assuring that high-level university appointments went to indigenes. Attempts to fill key federal vacancies in Jos with non-indigene Hausa appointees have led to controversy and violence.[72]

Many of these obstacles constitute a relatively recent phenomenon and one that is becoming more pronounced over time. Until several years ago, for example, Kano and Plateau States both employed large numbers of non-indigenes in their respective state civil services, many of whom were members of Kano's large Igbo and Yoruba populations. But both states suddenly and arbitrarily purged almost all of their non-indigene employees: Plateau in 2000 and Kano in 2002. The Kano State purge in particular left hundreds of longtime government employees, including many teachers in the public school system, jobless and adrift. Because the overwhelming majority were "contract" employees, they had no legal right to challenge their termination—which is precisely why they were not offered permanent and pensionable employment in the first place. One non-indigene pastor described with lingering bitterness how his wife had been suddenly fired after nearly two decades of service as a public school teacher. "She was fired without one Naira in compensation," he said. "Can you imagine, after how

[70] Positions in the Nigerian Civil Service are divided into Grades, with higher grades corresponding to higher levels of pay and responsibility. States are entitled to reserve positions from Grade Levels 01-07 for their indigenes. See Suberu, *Federalism and Ethnic Conflict in Nigeria*, p. 121. The sole exception is Abuja, the national capital, which is not located within any state—federal institutions located within Abuja need not show preference to the indigenes of any particular state.

[71] Human Rights Watch interview with Etannabi Alemika, Jos, November 17, 2005.

[72] See below, Section VII, Plateau state case study.

many years my wife contributed?"[73] An elderly Yoruba man recalled that after the purge, "most of those fired went back to their own state, where they know no one."[74]

A Plateau State government spokesperson denied that any purge of non-indigene civil servants had taken place, but acknowledged that several thousand civil service employees were laid off in 2000 and that the proportion of non-indigenes in the state civil service was much lower than it had been before the layoffs.[75] A spokesperson for the Kano State governor was more forthright, acknowledging that during the tenure of the current governor's predecessor, "all non-indigenes were sacked from the civil service under the pretext that jobless indigenes should have been occupying their positions." He said that the 2002 mass firing, in which at least one thousand non-indigene civil servants and teachers lost their jobs, had been a mistake—but only because there were not enough qualified indigenes to fill all of the empty positions. He further acknowledged that wherever possible, the present administration had continued to hire indigenes over non-indigenes and to take on non-indigenes only on a contract basis.[76]

State government officials interviewed by Human Rights Watch vigorously defended their discriminatory hiring policies as a necessary response to rising levels of unemployment and the debilitating effects of Nigeria's long history of economic decline in general. Implicit in their explanations was the notion that state governments are only responsible for the well-being of indigenes and owe little to non-indigene residents of the state. A spokesperson for the Governor of Plateau State, for example, explained that:

> We are training a lot of people who are now unemployed. So is it wise to fill positions with people who should be seeking jobs wherever they come from?... We have few opportunities for the children of the soil, and the government is there to meet their needs.[77]

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[73] Human Rights Watch interview, Kano, November 27, 2005.

[74] Human Rights Watch interview, Kano, November 30, 2005.

[75] Human Rights Watch interview with Ezekiel Dalyop, Permanent Secretary for Press and Public Affairs, Jos, November 23, 2005.

[76] Human Rights Watch interview with Sule Y'au Sule, Director of Press and Public Relations, Kano, November 30, 2005.

[77] Human Rights Watch interview with Ezekiel Dalyop, Permanent Secretary for Press and Public Affairs, Jos, November 23, 2005.

Barriers to obtaining higher education

In September 2004, Nigerian newspapers reported that the northern state of Zamfara had decided to bar all non-indigene children from attending the state's public schools. Those reports, citing Zamfara state officials and the unusually vocal protests on the part of Zamfara non-indigenes, triggered a nationwide outcry, with leading editorial pages in Lagos-based newspapers slamming what one paper called the state's "apartheid-style" policies. Nigeria's attorney general publicly denounced the reported ban as unconstitutional and tantamount to "treason."[78]

Attacked from all sides, the state government insisted that the reports were untrue but acknowledged that it had decided to introduce school fees in the state public school system that only non-indigene students would be required to pay. The Zamfara State commissioner for Information defended the discriminatory fees, asserting that "the federal allocation [of revenue] given to us is for the people of Zamfara," meaning the indigenes of the state, and claiming that several other Nigerian states already treated their non-indigene students the same way.[79]

The commissioner's charges of hypocrisy were not entirely without foundation. Zamfara State's education policies attracted critical attention because they were extreme and because they flew in the face of the federal government's stated commitment to providing free primary education in accordance with Nigeria's obligations under international law.[80] They did not make Zamfara altogether unique, however. None of the states visited by Human Rights Watch impose discriminatory fees at the primary and secondary level, as Zamfara has done. But state governments throughout Nigeria make it difficult for non-indigene students to seek higher education in state-run universities by imposing discriminatory fees there, denying non-indigenes access to scholarship opportunities, and limiting the number of non-indigenes who can seek admission.

State universities throughout Nigeria have implemented policies that reserve the overwhelming majority of places in each entering class for indigene students and charge higher fees to non-indigene students. According to a professor who serves on the

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[78] "AAGM: Zamfara: Nigeria's Apartheid Enclave?," *The Vanguard* (Lagos), September 13, 2004 and "Government Accuses Zamfara Gov of Treason," *The Guardian* (Lagos), September 8, 2004.

[79] "No Going Back on Fees: Zamfara Government Denies Ban of Non-Indigenes from Public Schools," *The Guardian* (Lagos), December 9, 2004.

80 Article 28(1) of the Convention on the Rights of the Child (CRC) states: "States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: *(a)* Make primary education compulsory and available free to all." CRC, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49), p. 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990. Nigeria ratified the CRC in 1991.

admissions committee of the recently-inaugurated Kaduna State Polytechnic, for example, non-indigene students are charged roughly N32,000 (or just over U.S.$240) as against N20,000 (roughly U.S.$150) for indigenes. At the same time, non-indigenes must compete for less than 20 percent of the slots available each year, with the remainder reserved for indigene applicants; the professor claimed that this policy is "unusually fair" relative to state universities elsewhere in Nigeria.[81] A professor at the Plateau State Polytechnic told Human Rights Watch that similar policies were in place at his institution,[82] and a spokesperson for the Kano State government confirmed that the same is true throughout Kano state.[83] It is widely acknowledged that similar or even more restrictive policies are enforced at most if not all state universities throughout Nigeria.

Non-indigene students are also generally barred from competing for coveted state government scholarships that help defray the considerable costs of higher education. This is a real hardship for many would-be students.[84] In Kaduna, where non-indigenes are ineligible to compete for any of the roughly 8,500 scholarships given out each year, one civil servant employed by the state scholarship board admitted that often, "when we deny them [non-indigenes] scholarships, they are lost completely."[85] Even non-indigenes who might be eligible for scholarships and lower fees at state-run schools in their faraway "state of origin" often find the cost of attending school far from their homes and families to be prohibitive.

Similar, though less severe, discrimination exists in federal government universities as well. Those universities, which are generally regarded as elite as compared with their state-run counterparts, do not "belong" to the indigenes of any one state. Most, however, grant preferential treatment to students who are indigenes of their "catchment areas," which encompass the state hosting the university and one or more nearby states.[86] Students who cannot prove that they are indigenes of a federal university's catchment area are forced to compete for admission at a disadvantage, though one that

[81] Human Rights Watch interview, Kaduna, November 14, 2005.

[82] Human Rights Watch interview, Jos, November 21, 2005.

[83] Human Rights Watch interview with Sule Y'au Sule, Director of Press and Public Relations, Kano, November 30, 2005.

[84] See below, Section VII, Plateau and Kaduna state case studies.

[85] Human Rights Watch interview, Kaduna, November 15, 2005.

[86] The federal universities in Ibadan, Lagos and Zaria are exceptions; the Universities of Ibadan and Lagos have the whole of Nigeria as catchment areas (meaning that they have no catchment area at all), while the catchment area of Ahmadu Bello University in Zaria encompasses the whole of northern Nigeria.

is considerably less pronounced than those imposed on non-indigenes by state universities.[87]

State government officials interviewed by Human Rights Watch in Kaduna, Kano and Plateau States defended these discriminatory policies, claiming that they amounted to a benign form of positive discrimination aimed at advancing the interests of state indigenes.[88] Pointing out that Nigerians in the north of the country are generally less well-educated than natives of the southern states, for example, a spokesperson for the government of Kano State said that, "All of these are policies targeted at providing more opportunity to indigenes. You want to encourage your people to study… So it's a kind of subsidy for the education of indigenes."[89]

Many non-indigenes hotly dispute this rationale, arguing that the educational needs of their children should also be relevant to the policies of the states they call home. And some contend that the idea that their children should seek their education in their "state of origin" is nothing short of absurd. The non-indigene Anglican bishop of Kaduna voiced that sentiment this way:

> I have lived in Kaduna since 1963. Since then I have not spent one whole week and my children have not spent four consecutive days in that place [their "state of origin"]. This is where we belong… This is my home whether they accept it or not—I am a citizen of the state and the constitution says I have a right to live here.[90]

Barriers to political participation

Non-indigenes are able to vote in the communities they live in, but often face formidable obstacles including outright intimidation should they seek to participate more directly in local politics. One non-indigene in Kaduna complained that he was interested in becoming involved in politics but that

> [Even though] I have lived in Kaduna State for twenty years I cannot run for the chairmanship of my LGA. The party stalwarts would tell me

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[87] See Suberu, *Federalism and Ethnic Conflict in Nigeria*, pp. 129-131. At least thirty percent of the students admitted by federal universities must be from their catchment areas.

[88] See discussion of positive discrimination (affirmative action) in Section VIII, below.

[89] Human Rights Watch interview with Sule Y'au Sule, Director of Press and Public Relations, Kano, November 30, 2005.

[90] Human Rights Watch interview with Bishop Josiah Idowu Fearon, Kaduna, November 10, 2005.

> to go back to my home state. But of course I cannot be elected there either after being away for twenty years.[91]

Another non-indigene in Kano said that non-indigenes there generally did not even consider running for office because "all kinds of coalitions would build up against you and prevent you from competing effectively."[92] In some cases, such as in the southeastern city of Warri, indigene community leaders state quite openly that they would resort to violence before allowing a non-indigene to win control of one of "their" local governments in an election.[93] The government of Plateau State has appointed a local government administration in the state capital's Jos North local government area, and refuses to hold elections there, because of fears that the area's large non-indigene Hausa population might propel candidates from their own community to victory; state government officials say they worry such a development would spark violent conflict.[94]

[91] Human Rights Watch interview, Kaduna, November 10, 2005.

[92] Human Rights Watch interview, Kano, November 30, 2005.

[93] See below, Section VII, Warri case study.

[94] Human Rights Watch interviews, Jos, November 2005.

Indigeneity and Intercommunal Conflict: An Overview

Nigeria has been plagued by recurring episodes of intercommunal violence throughout its history as an independent state, and the problem is widely perceived to have grown worse and more intractable over time. Since the end of military rule in 1999 alone, some ten thousand Nigerians have lost their lives in several hundred separate clashes along ethnic, religious and other intercommunal lines. Nigeria's National Commission for Refugees has estimated that more than three million people have been displaced by these conflicts since 1999.[95] Most of these incidents have been small in scale, but other conflicts have seen entire communities razed to the ground and hundreds of lives lost in the space of a few days.

Ethnic tensions, religious extremism, poverty, competition over increasingly scarce land and other resources, and the indigeneity issue, along with other factors, have all combined in a number of different ways to push intercommunal relationships towards violence. Far from displaying leadership adequate to the task of managing Nigeria's many sources of intercommunal tension, many political and religious leaders have helped them boil over into violence by mismanaging them or even manipulating them outright. This failure of leadership at all levels of government is perhaps most starkly visible in government policies on the issue of indigeneity, which have helped to create new material incentives for conflict by tolerating and to some extent actually mandating the marginalization of non-indigene communities.

Indigene-Settler Conflicts

By providing minority ethnic groups with a relatively secure measure of cultural autonomy, the concept of indigeneity is sometimes regarded as helping to prevent conflicts that might otherwise be sparked by indigenes' fear of being overwhelmed by migrants from more numerous ethnic groups. The populations of most of the numerous ethnic minority groups in Nigeria's Middle Belt, for example, are numerically insignificant compared with Nigeria's large and relatively mobile Hausa population.[96] As one European scholar put it, "In a social environment pervaded by mutual fear, it has become important to possess some space from which potential enemies can be excluded."[97] Putting the issue in more concrete terms, one Ibadan-based academic explained to Human Rights Watch that some kind of distinction between indigenes and

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[95] "Violence Left 3 Million Bereft in Past 7 Years, Nigeria Reports," Reuters, March 14, 2006.

[96] See below, Section VII, Plateau State Case Study.

[97] Johannes Harnischfeger, "Sharia and Control Over Territory: Conflicts Between 'Settlers' and 'Indigenes' in Nigeria," *African Affairs* 103/412, p. 436.

settlers may be necessary to "assure people that no one is going to destroy their shrines and usurp their titles of traditional leadership."[98]

As discussed above, however, the concept of indigeneity has increasingly been used to justify discrimination that is completely unrelated to the principles that might justify its existence. Largely as a result of this reality, indigeneity has become inextricably bound up with other sources of intercommunal tension in Nigeria, and many of Nigeria's bloodiest intercommunal conflicts in recent years have pitted indigene against "settler" communities.

In some cases, non-indigene communities have reacted to discrimination by loudly disputing the decision to label them non-indigenes in the first place. Such assertiveness has placed new strains on some already tense intercommunal relationships, in part because many indigenes still harbor the fears of cultural domination that helped give rise to the concept of indigeneity in the first place. In addition, the prevailing climate of economic scarcity leads many indigenes to see their exclusive enjoyment of full citizenship rights as an entitlement whose loss would plunge their communities deeper into poverty.[99] In recent years such disputes have boiled over into bloody intercommunal clashes in Kaduna, Delta and Plateau States; each of these cases are discussed in detail below.[100]

The concept of indigeneity, and the discrimination which accompanies it, fuels intercommunal (including sometimes religious) tension and conflict in less obvious ways as well. As discussed above, some local officials abuse their responsibility to issue indigene certificates by discriminating against people who are religiously or ethnically different from themselves. Such practices are particularly rife in Kaduna State, where already explosive interreligious tensions have been made worse by local officials' improper refusal to issue indigene certificates to people who do not adhere to their religion.[101]

Such controversies lend credence to the widespread notion that politicians and civil servants at all levels routinely discriminate against any Nigerian who does not share their ethnic background and religion. While it is impossible to state with certainty precisely how much truth there is in this belief, one Kaduna-based activist pointed out that

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[98] Human Rights Watch interview, Ibadan, November 4, 2005.

[99] See above, Section V.

[100] See below, Section VII.

[101] See below, Section VII, Kaduna State case study.

because so many people believe it to be true, "Everyone in Nigeria claims to be marginalized in one way or another."[102] In the troubled Delta State city of Warri, a long-running dispute between three ethnic groups over who the rightful "owners" of the community are has turned violent in recent years largely because of a widely-held belief on all sides that there is no way to escape poverty without winning that argument.[103]

Political and religious leaders are often accused of pandering to these sentiments in order to deflect attention and blame away from their own dismal records as public servants or to curry political favor with one group by playing it off against another.[104] As one prominent imam in Kaduna put it, giving voice to an accusation leveled by many other community leaders interviewed by Human Rights Watch, "When they have achieved nothing, when they have nothing to offer, they talk about indigene-settler issues."[105]

Others go further still, accusing some segments of the political elite of actively trying to provoke intercommunal crises through their irresponsible use of indigeneity-related rhetoric in the hope that they can then exploit heightened intercommunal tensions for their own political gain, or as a way to demonstrate their political power to the federal government. One prominent Hausa civil society figure told Human Rights Watch, "Indigene and non-indigene is a distinction used to manipulate the minds of the people and drag them into crisis, just like religion and ethnicity. [The elites] use this to drag innocent people into war with their neighbors."[106] Nigerian President Obasanjo himself has voiced similar sentiments, stating on one occasion that the issue of indigeneity is used to manipulate people into serving as "foot-soldiers to the designs and machinations of power-seekers."[107]

[102] Human Rights Watch interview with Lydia Umar, Kaduna, November 14, 2005.

[103] See below, Section VII, Warri case study.

[104] See below, Section VII, Plateau State case study.

[105] Human Rights Watch interview, Kaduna, November 9, 2005.

[106] Human Rights Watch interview, Kaduna, November 14, 2005.

[107] "President blames unrest in Nigeria on power-seekers, mind-set," Agence France-Presse, January 25, 2002.

Case Studies

The three case studies presented below examine different aspects of the indigeneity issue in the contexts of Plateau, Kaduna and Delta States. They illustrate in different ways the interface between indigeneity, discrimination, intercommunal tension and violence. The Plateau State case study focuses largely on the plight of Hausa and Jarawa residents of the state who are treated as non-indigenes even though they cannot claim indigene status anywhere else in Nigeria. The Kaduna case study describes some of the ways in which the indigeneity issue has become entangled with the state's existing intercommunal divisions and has made an already tense situation worse than it might otherwise be. Lastly, the case of Warri in Delta State is presented as an example of how the feelings of marginalization and exclusion generated in part by the issue of indigeneity can boil over into violence on their own.

Plateau State: The Case of "Stateless Citizens"

Plateau State lies near the heart of Nigeria's "Middle Belt," an ethnically diverse region that sprawls across much of central Nigeria.[108] Blessed with a beautiful landscape of gently rolling hills and a pleasant climate, Plateau State labels itself Nigeria's "Home of Peace and Tourism."[109] Since 2001, however, the state has been better known for a series of bloody intercommunal clashes between its indigene and settler populations.

At independence, most of the Middle Belt was contained within Nigeria's Hausa-dominated and predominantly Muslim Northern Region. This arrangement was bitterly resented by the Middle Belt's numerous and mainly Christian ethnic minorities, many of whom tended to regard the Hausa as their historical oppressors.[110] These groups, many of them quite small in number, complained of being systematically marginalized by the Hausa-led regional government, and many felt that their culture and traditions were in danger of being swamped and destroyed by the region's much larger Hausa population. Largely in response to this sentiment and the political demands it gave rise to, most of the Middle Belt was broken apart from the North and carved up into separate states by the federal government beginning in the 1960s. Plateau State was created in 1976 as part of this process.[111]

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[108] Some estimates indicate that the Middle Belt region may be home to more than two hundred separate languages and peoples.

[109] This is the official state motto.

[110] See above, Section IV, The Development of Nigerian Federalism.

[111] Benue-Plateau state was created in Nigeria's first round of state creation in 1967, and was split into two separate states, Benue and Plateau, in 1976.

The ethnic minorities whose leaders came together and successfully agitated for the creation of Plateau State are acutely aware of the fact that they remain tiny minorities on the national political scene. Many argue that Plateau State is the only part of Nigeria where they can expect to be treated fairly and as full citizens because it is the only part of Nigeria they can politically control. Plateau's Birom indigenes, for example, enjoy a position of demographic and political significance in and around Jos but may number no more than 300,000 nationwide. The Hausa, by contrast, are often estimated to number well over 30 million people, or more than a quarter of Nigeria's total population (reliable population figures are impossible to come by in Nigeria because demographics are so highly politicized and because the country has not conducted a reliable census since 1963).[112] Because of the political realities all of this implies and in order to protect their cultural heritage, the argument goes, these groups have no choice but to jealously guard their status as the only "true indigenes" of the state.

As a matter of state government policy, non-indigenes in Plateau State are ineligible to compete for academic scholarships, face discriminatory university admissions policies, and are made to pay higher school fees than indigene students at the tertiary level.[113] Non-indigenes are also generally not recruited into the Plateau State civil service.[114] These discriminatory policies are all widely perceived as having grown stricter and more severe over time due to political pressures that have built up in response to increasing levels of unemployment and poverty. One professor at the University of Jos explained to Human Rights Watch that

> [s]tates like Plateau now experience graduate unemployment on a scale never before imagined. Getting civil service employment is a real privilege now. So even within the indigene communities there is always grumbling about which indigene group is getting more employment than another.[115]

In Plateau, however, the lines between indigene and settler are exceptionally difficult to draw and are bitterly contested in some parts of the state. Most controversially, the state and local governments have labeled the members of some Hausa and Jarawa communities that were founded during the first half of the 19th century as non-indigenes.

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[112] Nigeria conducted a national census in March 2006, and as of this writing results have not been made publicly available. In any event the census questionnaires made no reference to ethnicity or religion, in an effort to avoid controversy and violence.

[113] Human Rights Watch interviews, Jos, November 2005.

[114] See above, Section V.

[115] Human Rights Watch interview, Jos, November 18, 2005.

These "settlers," lacking any other place to call home, have refused to accept the label or the pervasive discrimination that accompanies it. In recent years, this disagreement, fueled by political mismanagement and manipulation, has exacerbated the state's existing religious and interethnic tensions to the point of bloodshed.

Jos is the Plateau State capital and sits perched atop the plateau that gives the state its name, near the border with Kaduna state to the west. Yelwa is a much more provincial community located some two hundred kilometers to the southeast of Jos, in Shendam Local Government Area. Both towns are home to large communities of people, mainly from the Hausa and Jarawa ethnic groups, who have been labeled non-indigenes even though they cannot legitimately claim indigene status in any other part of Nigeria.

The Hausa community in Jos and the ethnically similar Jarawa community in Yelwa each trace their roots back to people who settled in Plateau State in the first half of the nineteenth century. The question of precisely when and under what circumstances they arrived has evolved into a matter of great controversy. The Hausa claim that their ancestors were the original founders of Jos, a claim that is bitterly disputed by their ethnic Afizere, Anaguta and Berom neighbors. Similarly, Yelwa's Jarawa inhabitants claim to have been the first to settle there, in 1824, while the area's Gemai population insists that the Jarawa were second-comers.

Whatever the merits of each group's interpretation of history, the Hausa and the Jarawa in Jos and Yelwa have lost the argument and are now subject to the same discriminatory policies meted out to other non-indigene groups in the state. Groups considered by the state and local governments to be indigenes include the Gemai in Yelwa and the Afizere, Anaguta and Berom in Jos. The Hausa and Jarawa have both been exceptionally vocal in protesting this state of affairs, arguing that even if they cannot prove that they were the first to arrive on the land they call home, it is absurd to argue that they are non-indigenes of a place their families have called home for over 150 years. One Hausa man from Jos, asked how he reacted to the idea that he should trace his roots to wherever his ancestors had migrated from if he wanted to enjoy indigene status, replied, "Let them [the 'indigenes' of Jos] go and trace their origins as well and we can all leave this place together."[116]

The discrimination endured by Jos's Hausa and Yelwa's Jarawa communities as non-indigenes is especially harmful because many of them cannot trace their origins back to any other place where they might be able to claim indigene status. As stateless

[116] Human Rights Watch interview, November 23, 2005.

citizens— people who are indigenes of nowhere—they face a level of disadvantage and discrimination considerably worse than that endured by other non-indigene communities, who are often able to mitigate the effects of discrimination by maintaining connections to their states of "origin."

Plateau's stateless non-indigenes cannot obtain a certificate of indigeneity from any local government in Nigeria unless they do so illegally. As noted above, without a certificate of indigeneity attesting to their state of "origin" they cannot apply for a place in many federal universities, for positions in the federal civil service, or for jobs in the military or police forces. Unable to compete on an equal basis for opportunities available at the state level and locked out of most federal government employment or education altogether, many young people from these communities find themselves with no hope of further education, employment or socio-economic advancement.

The Jarawa of Yelwa

In the case of Yelwa's Jarawa community, their current non-indigene status rankles even more because until 1990, members of the community say, they were able to obtain certificates of indigeneity with ease. In that year the Long Gemai, the traditional ruler of the Gemai people, apparently instructed district heads throughout Shendam LGA to stop signing off on applications for certificates of indigeneity submitted by Yelwa's Jarawa community. The same treatment was allegedly meted out to other predominantly Muslim ethnic groups who had been considered indigenes up until then.[117] Human Rights Watch interviewed the district head responsible for Yelwa, who is Gemai, and he acknowledged that "to get an indigene certificate you must be Gemai." He also argued that if he issued the certificates to anyone else he would be "cheating" his people:

> The State government might come and say, "there is a recruitment for the police. Each local government should bring five people." Now, anyone who has a certificate from Shendam can go and apply—this means that if I give [the certificates] to them [the Jarawa] I am cheating my people.

When asked how he felt about the plight of members of Yelwa's Jarawa community who could not claim indigene status anywhere else, the district head replied, "I don't care. They do not own this place; we do."[118]

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[117] Human Rights Watch, "Revenge in the Name of Religion," p. 11.

[118] Human Rights Watch interview, Shendam, November 24, 2005.

The secretary of Shendam LGA, the local government official directly responsible for signing off on certificates of indigeneity after applications are approved by the district head, also confirmed that Yelwa's Jarawa "cannot" be indigenes of Shendam. While Jarawa community leaders said that they had personally visited his office on many occasions to complain about this policy, the secretary insisted that he had "never" received any such complaints and had no idea that it was a source of dissatisfaction or controversy.[119]

The district heads in Shendam are all appointed directly by the Long Gemai and their decisions on these matters can be reversed or ignored at the discretion of elected local government authorities. Local government officials, however, have acquiesced in the district heads' actions and Jarawa residents of Yelwa are no longer being issued indigene certificates. Jarawa residents of Yelwa said that local officials changed the logo on the indigeneity certificates at the same time so that they could stop honoring certificates issued prior to the change in policy. "It boggles the imagination," said one Jarawa man. "My mother and I were both born here and I enjoyed indigene status—but now my children cannot enjoy it. Why? They just say that we are not a native tribe, by what qualification I don't know."[120]

There are numerous cases of discrimination endured by Jawara youth seeking educational and employment opportunities: Jarawa community leaders have compiled a list of 139 young people who had not been able to take up offers of admission to various federal universities and the Nigerian Defense Academy in Kaduna; military or police service; and other government job opportunities between 1999 and 2005 because they could not produce the requisite indigene form.[121]

Human Rights Watch interviewed one young Jarawa woman in Yelwa who graduated from secondary school in 2003 near the top of her class. Over the course of the next year and a half, she was admitted to several different universities but was not able to enroll in any of them because she could not produce the certificate of indigeneity that had to be presented in order to register.[122] Her father made repeated trips to the local government offices in Shendam to plead her case but was turned away each time. In 2004, she said, "My father said I could not stay at home without doing anything, but

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[119] Ibid.

[120] Human Rights Watch interview, Yelwa, November 24, 2005.

[121] Documents on file with Human Rights Watch.

[122] Faculty members at the University of Jos confirmed in interviews with Human Rights Watch that no student could register at the university without producing a certificate of indigeneity from a local government area somewhere in Nigeria. Human Rights Watch interviews, Jos, November 2005.

because I could not get this indigene form I could not get into a school. So my father forced me to get married, and I obeyed." In 2005, her husband divorced her, leaving her alone to care for their six-month-old son. She said that although her father had since agreed to let her make another attempt at pursuing her education, "I don't see how this can happen because I cannot get that form."[123]

Human Rights Watch interviewed several other young Jarawa residents of Yelwa who had done well in secondary school but were unable to continue their education or find employment because they could not get an indigene certificate. One young man said that he had filled out applications to several universities throughout northern Nigeria over the course of two years and was accepted to several but ultimately denied admission because he could not produce an indigeneity certificate. In 2005, he said, "I did not fill out any applications. My father is tired of spending money on these forms with no return, so I am just sitting at home doing nothing."[124]

Some of Yelwa's Jarawa youth have been able to circumvent that problem by obtaining certificates of indigeneity from local governments in other states, either because their families actually have roots in those places or because they were able to induce local officials to provide them improperly. But for many others this is not possible. The young woman whose father forced her to marry after her inability to obtain an indigene certificate kept her out of university told Human Rights Watch that, "I even asked my grandfather and he said that I cannot claim any other place other than Shendam because this is the only home we have."[125]

The Hausa of Jos

Hausa non-indigenes in Jos voiced many complaints similar to those of Yelwa's Jarawa community. In addition, they complained that they were subjected to a range of other, informal discriminatory practices, mainly in the public school system.

Human Rights Watch interviewed a group of ten public elementary and secondary school teachers, assistant headmasters and parents, all of them Hausa and all of them living in Jos North LGA. The group complained that the local government systematically diverted resources and infrastructure away from schools whose student body was primarily Hausa, with the result that predominantly Hausa schools were consistently the worst schools in the LGA. They also complained that Hausa students

[123] Human Rights Watch interview, November 24, 2005.

[124] Ibid.

[125] Human Rights Watch interview, Yelwa, November 24, 2005.

who would normally be enrolled in other schools were almost always channeled into these under-resourced schools. Public schools throughout Plateau State are consistently resource-starved and overcrowded, but the interviewees complained that conditions were consistently and noticeably worse in predominantly Hausa schools. One teacher said that his school had 4,000 students, for whom there were no toilets and only a handful of desks.[126] Another alleged that after the headmaster of his school embezzled roughly one million Naira (roughly U.S.$7,700) that had been raised by the predominantly Hausa local parents' association to refurbish the school's classrooms, the local government refused even to investigate the matter.

Parents also complained that school officials refused to enroll their children into their public schools if they claimed Jos North as the children's "local government of origin" on school enrollment forms,[127] insisting that they enter some local government outside of Jos. They also said that while the local government offered financial assistance to some students to help them cover exam fees and waived school fees for others on the basis of economic hardship, Hausa students were routinely excluded from such benefits.[128]

Human Rights Watch was not able to confirm the substance of these complaints, but the manner in which some school and government officials responded to them was troubling. A spokesman for the Plateau State governor's office, asked to respond to the allegations, said only that even if such problems existed they were not important:

> No one is crying out about discrimination in the public schools because there is always the private school alternative… There are lots of private schools [in Jos] and many people do not want their children to go to government schools anyway because the standards are usually lower.[129]

Such lack of concern on the part of government is troubling when combined with the openly hostile attitude of at least a few indigene school officials towards their Hausa students and their parents. One Birom woman, an indigene of Jos, who is the principal of a public school with a large population of Hausa students in Jos, hypothesized that the complaints of Hausa parents could be explained by the fact that many were the

[126] Human Rights Watch interviews, Jos, November 23, 2005.

[127] A person's "local government of origin" is the LGA of which they are an indigene.

[128] Human Rights Watch interviews, Jos, November 23-24, 2005.

[129] Human Rights Watch interview with Ezekiel Dalyop, Permanent Secretary for Press and Public Affairs, Jos, November 23, 2005.

descendants of "criminals" or were "born to prostitutes." "Because of this," she asserted, "they are more hostile." She went on to say that:

> I have worked with these people for five years and they always try to manipulate and dominate you… To them, the concept of going to school is just to wear a school uniform and collect your certificate at the end of the day… The truth is that sometimes they want to oppress and subjugate a particular school for some unknown agenda.[130]

While such attitudes cannot be regarded as typical of those held by other public school employees in Jos, Hausa parents and teachers complained that they had no form of recourse when faced with such hostility and contempt on the part of the people meant to educate their children. Two of the Hausa teachers interviewed by Human Rights Watch said that they had reported problems in their schools to the local government authorities, only to be threatened with disciplinary action. "The more you complain the more they will bark at you and threaten you," one teacher complained.[131]

As in Yelwa, indigene community and political leaders have taken a strong and unequivocal stand against the Jos Hausa community's agitation for indigene status. When the current Gbong Gwon Jos, or traditional Berom ruler of Jos, was asked in an interview with *Tell* magazine whether he believed that the Hausa would remain non-indigenes "even if they have been here for 1,000 years," the Gbong Gwon Jos replied, "You are absolutely right. That is what I am talking about… None of them is going to be given indigeneship here and that is the truth."[132]

The views of Plateau State's elected officials are no less rigid. A Plateau government spokesperson, asked whether it was fair to impose non-indigene status on Hausa residents of Jos who could not claim indigene status anywhere else, suggested that the Hausa could become indigenes only by abandoning their language, culture and ethnic identity:

> The non-indigene could say, "I want to become Berom. I want to become one of you." But he never does that. They need to integrate—to say, "from today my children are members of this community. I have no other language or culture." This would solve the problem. But if

[130] Human Rights Watch interview, Jos, November 21, 2005.

[131] Human Rights Watch interview, Jos, November 23, 2005.

[132] "Hausa/Fulani Have No Claim to Land in Plateau," *Tell* (Lagos), May 31, 2004, p. 22.

you stay here and say you are an Igbo or a Hausa, you are identifying yourself as a settler.[133]

Indigeneity and intercommunal violence in Plateau State

Since 2001, Plateau State has been rocked by a succession of bloody intercommunal clashes that Human Rights Watch estimates has claimed at least two thousand to three thousand lives.[134] The most destructive of these have pitted Jos and Yelwa's Hausa and Jarawa "settler" communities against their indigene neighbors.

In Jos in September 2001, clashes between indigenes and mainly Hausa non-indigenes claimed more than one thousand lives and left several thousand more people displaced. One of the immediate triggers of the violence was the appointment of a controversial Hausa political figure to a key statewide post within a federal poverty eradication program; indigenes felt that the appointment should have gone to one of their own.[135]

During the first half of 2004, more than a thousand people were killed in clashes that took place in and around Yelwa and tens of thousands of people were displaced. The violence around Yelwa peaked in May 2004 with attacks by members of various Christian, indigene communities on Yelwa's predominantly Jarawa non-indigene population that saw more than 700 people killed in just two days.[136] Much of Yelwa was razed to the ground and hundreds of dead Jarawa were buried in a mass grave near the center of town.[137]

Reflecting a trend common throughout much of Nigeria, the long-simmering tensions between indigenes and non-indigenes in Jos and Yelwa overlap with Plateau State's increasingly tense sectarian divisions. The Hausa and Jarawa non-indigenes in Jos and Yelwa are overwhelmingly Muslim, and their indigene neighbors are predominantly Christian.[138] In Plateau State these dual sources of tension have fed upon one another to

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[133] Human Rights Watch interview with Ezekiel Dalyop, Permanent Secretary for Press and Public Affairs, Jos, November 23, 2005.

[134] Human Rights Watch, "Revenge in the Name of Religion," p. 6.

[135] Human Rights Watch, "Jos: A City Torn Apart," *A Human Rights Watch Report*, vol. 13, no.9(A), December 2001.

[136] Eyewitnesses to the violence described the attackers as including Tarok, Gamai, Montol, Angas, Kwalla, Birom, Sayawa, and Jukun. See Human Rights Watch, "Revenge in the Name of Religion," p. 20.

[137] Human Rights Watch, "Revenge in the Name of Religion."

[138] Accurate population figures for Plateau state do not exist. It is generally acknowledged, however, that Plateau state has a majority Christian population with a large Muslim minority.

the point that it has become difficult to separate them, and each has made the other more volatile and divisive.

Plateau State politics have long played a role in exacerbating these multiple sources of tension. Plateau State owes its very existence to the demands of Middle Belt minorities for political independence from the Hausa-Fulani Muslims of Northern Nigeria, and many Plateau State politicians have continued to champion the idea that the state's political mission should be to help the state's indigenes realize the material benefits of their "emancipation" from Hausa domination. The rhetoric associated with the political movement some Plateau State politicians refer to as "emancipation policy"[139] has proven politically popular among indigenes and it has helped to justify the policies that relegate the centuries-old Hausa and Jarawa communities in Jos and Yelwa to non-indigene status.

Hausa and Jarawa non-indigenes who demand equal citizenship rights are often accused by indigene community leaders of conspiring to reestablish dominion over the current indigene people of the state. "This issue is freely canvassed during electoral campaigns," one professor at the University of Jos told Human Rights Watch. "It is very inflammatory. They say, 'non-indigenes have dominated you and we will emancipate you.'"[140] As evidence of the need for vigilance against Hausa attempts at domination, indigene politicians point to the favored status the Hausa supposedly enjoyed during the reign of Hausa-led military administrations. Indigene political leaders also actively promote the fallacious belief that Hausa non-indigenes' complaints of marginalization are completely disingenuous because they could easily claim indigene status in any of northern Nigeria's predominantly Hausa states. The Birom traditional ruler of Jos has made a point of referring in public discourse to Hausa attempts to claim "double indigene status" because they supposedly already enjoy indigene status somewhere else.[141]

Government mismanagement of the state's indigene-settler tensions

The administration of Joshua Dariye, the current governor of Plateau State, has often been accused of particularly egregious mismanagement of the state's indigene-settler tensions. The 2001 violence in Jos and the 2004 massacre in Yelwa both occurred on Governor Dariye's watch. Perhaps the best-known example of the governor's penchant

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[139] Solomon Lar, the Governor of Plateau State from 1979 to 1983, is generally considered to be the intellectual founder of emancipation policy. For a more detailed discussion, see Ezekiel Major Adeyi, *Politics of Emancipation: The Struggles of Solomon Daushep Lar* (Jos, 1997).

[140] Human Rights Watch interview, Jos, November 21, 2005.

[141] See, for example, "Hausa/Fulani Have No Claim to Land in Plateau," *Tell* (Lagos), May 31, 2004, p. 22.

for vitriolic attacks upon his Hausa constituents came in an interview he gave to the *Daily Champion* newspaper in March 2004. In that interview, the Governor suggested that the demands of Jos's Hausa community to be recognized as indigenes might be grounds for evicting them from the state altogether:

> From the on-set, let me say it again, as I have before that Jos, capital of Plateau State, is owned by the natives. Simple. Every Hausa-man in Jos is a settler whether he likes it or not. In the past, we might not have told them the home truth, but now we have… They are here with us, we are in one state but that does not change the landlord/settler equation, no matter how much we cherish peace… Our problem here today is that… the tenant [is] becoming very unruly. But the natural law here is simple: if your tenant is unruly, you serve him a quit notice!... This unruly group must know that we are no longer willing to tolerate the rubbish they give us. The days of "over tolerance" are gone forever. All of us must accept this home truth.[142]

These comments, made at a moment when indigene-settler tensions had already erupted into violence around Yelwa, were widely condemned as irresponsible and inflammatory. Less than two months later, the violence reached a bloody peak with the Yelwa massacre.

Less than two weeks after the slaughter in Yelwa, President Obasanjo made the controversial decision to temporarily sack Governor Dariye and replace him with an interim administrator. Obasanjo justified the move by accusing Dariye of incompetence and of being "an instigator and a threat to peace."[143]

In August of the same year, Obasanjo inaugurated a month-long Peace Conference mandated to explore the root causes of the conflict in Plateau State and produce recommendations about how to resolve them. Unsurprisingly, the Conference's report cited the indigene-settler problem as being one of the principal causes of violent conflict in the state. However, the report elicited a great deal of controversy by explicitly rejecting Hausa and Jarawa claims on indigene status in Jos and Yelwa, going so far as to state that they "should not be treated different" from other non-indigene communities

[142] Saturday Champion, March 20, 2004, p. 9.

[143] Human Rights Watch, "Revenge in the Name of Religion," p. 40.

in the state.[144] That finding has been enthusiastically embraced by the Plateau State government since Governor Dariye was reinstated in November 2004.

The Plateau state government claims to have accepted the report of the Plateau peace conference and its conclusions as a legitimate source of guidance for state policy in dealing with intercommunal tensions.[145] The peace conference report did more than identify who it believed the "true indigenes" of Jos, Yelwa and other parts of the state to be, however. As one representative at the conference reminded Human Rights Watch, "we also recommended that indigene groups must accord full rights and privileges to other tribes resident in Jos."[146] But as evidenced above, that call has been completely ignored by the state government. It is not clear whether the state government has made more meaningful progress in implementing the other key recommendations of the report.

Kaduna State: Indigeneity and Intra-state Conflict

Kaduna State straddles the ethnic and religious divide between northern Nigeria and the ethnically diverse population of the Middle Belt region. Northern Kaduna's population is largely Muslim and Hausa-Fulani, while the state's southern reaches are home to some thirty different ethnic groups and are predominantly Christian. The state capital, also called Kaduna, is a cosmopolitan city whose population reflects the diversity of the state and of Nigeria as a whole.[147] The city is home to communities of people from all over the state and to large populations of non-indigenes from other parts of Nigeria, including large and deeply rooted Igbo and Yoruba communities whose founders migrated during the colonial period in pursuit of jobs and other economic opportunities.

Relations between the Hausa-Fulani of northern Kaduna and the so-called minority tribes of the south have always been tense. Prior to independence, the southern minorities suffered through decades of repression and violence at the hands of the powerful Hausa Emirate of Zazzau, and the memory of that history continues to

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[144] Plateau Resolves: Report of the Plateau Peace Conference 2004 (Jos: Plateau State of Nigeria Gazette, November 2004).

[145] Human Rights Watch interview with Ezekiel Dalyop, Permanent Secretary for Press and Public Relations, Jos, November 23, 2005.

[146] Human Rights Watch interview, Jos, November 21, 2005. The report stated that "indigenes are not to discriminate against other Nigerian citizens, but should embrace them." Document on file with Human Rights Watch.

[147] Kaduna town was founded by the British in 1913, and was the capital of Nigeria's Northern Region until the region was broken apart into several states in 1967.

embitter relations between northern and southern Kaduna today.[148] This acrimony did not dissipate with the end of colonial rule. Since 1960 intrastate politics have continued to be dominated by claims of marginalization and exclusion voiced by many community leaders in southern Kaduna, who claim that the state government openly favored its Hausa population in every conceivable way. On several occasions these tensions have boiled over into violence in various parts of the state, most famously in 1992 when the Hausa community in the town of Zangon-Kataf was almost totally destroyed in an attack by some of their Christian ethnic Atyap neighbors.

Following a trend common to other parts of Nigeria, Kaduna's longstanding intercommunal tensions have increasingly been expressed in religious rather than in ethnic terms. The boundary between Muslims and Christians in Kaduna overlaps for the most part with the north-south divide, a fact that is by no means a coincidence. The southern Kaduna minority tribes' initial embrace of Christianity was to some extent a reaction to the marginalization and oppression they had suffered under Hausa Muslim rule.[149]

Religious polarization and Kaduna's north-south ethnic divide fed upon one another to spark bloody intercommunal clashes in Kaduna city in 2000 and 2002. In 2000 an estimated two thousand people were killed in intercommunal clashes sparked by the proposed introduction of *Shari'a* (Islamic law) in Kaduna State, and in 2002 clashes triggered in part by controversy surrounding plans to hold the Miss World beauty contest in Nigeria claimed around 250 more lives.[150]

In addition to providing a new set of triggers for violent conflict, the increasing tendency for Kaduna's intercommunal tensions to be expressed in religious terms has drawn groups into violent conflict who have no interest in the deeper underlying causes of north-south tension in the state. Many non-indigene Christian Igbos fought, died or had

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[148] Prior to colonialism, the peoples of what is now southern Kaduna were regularly subjected to slave raids by forces under the control of the powerful Emirate of Zazzau. Under British rule many southern minority leaders felt that the situation actually became worse, as the British placed many areas of what is now southern Kaduna under the direct control of the Emir for the first time.

[149] See, for example, Akin Akinteye, James Wuye and Muhammen Ashafa, "Zangon-Kataf Crisis: A Case Study", in *Community Conflicts in Nigeria: Management, Resolution and Transformation* (London: Spectrum, 1999), pp. 227-228.

[150] The immediate trigger for the violence was actually an article published in the Lagos-based *This Day* newspaper which suggested that the Prophet Mohammed would approve of the pageant because he would probably have chosen a wife from among the contestants. The article was widely seen as blasphemous by Nigerian Muslims. For a more complete discussion of the riots and the events surrounding them, see Human Rights Watch, "The 'Miss World Riots': Continued Impunity for Killings in Kaduna," *A Human Rights Watch Report*, vol. 15, no. 13(A), July 2003.

their property destroyed in Kaduna's 2000 and 2002 clashes, for example.[151] Some Igbo reacted by packing up and moving to Nigeria's predominantly Igbo southeast following those clashes, and many of those who remain in Kaduna are increasingly likely to be drawn into any future conflict with sectarian overtones. One Igbo professional living in Kaduna ominously warned that "in Kaduna now almost every Igboman is armed. They don't want to run any more; whenever there is another crisis they want to take their guns and stand in front of their shops."[152]

In Kaduna, the issue of indigeneity has added to this already volatile mix of overlapping tensions. Like other Nigerian states, Kaduna has embraced policies that openly discriminate against non-indigenes, and those policies place people who are not able to claim indigene status at a severe disadvantage.[153] In recent years, local officials in different parts of the state have aggravated sectarian tensions by improperly refusing to issue indigene certificates to people who do not share their religion. In other cases, the issue of indigeneity has itself been a subject of violent dispute.

Religious discrimination and certificates of indigeneity in the city of Kaduna

Local officials in at least some parts of Kaduna have been accused of refusing to issue certificates of indigeneity to people who do not share their religion. Such complaints are especially widespread in some districts of Kaduna city, where Christians complain that it has become impossible for them to obtain certificates of indigeneity in recent years.

Certificates of indigeneity are issued by elected local government administrations in Kaduna, but anyone seeking these forms must first have their application approved by their district head. If a district head does not certify that a person is an indigene of his district, local government administrations will normally refuse to issue the indigene certificate.

In Kaduna city, district heads are appointed by the Emir of Zazzau in Zaria, and are directly accountable only to the Emir. Christians in Kaduna city complain that for the past several years some district heads have refused to approve applications for certificates of indigeneity that are submitted by Christians and that local government

[151] Kaduna's Igbo community is resented by some members of other groups who see it as holding too much commercial power and wealth, and many Igbo shops and business were attacked and looted during the 2000 and 2002 clashes.

[152] Human Rights Watch interview, Kaduna, November 2, 2005.

[153] See above, Section V.

administrations have done nothing to curb the practice. Instead, some Christian indigenes of the city have been issued "Certificates of Settlership," documents given out to non-indigenes that serve no useful purpose other than as a form of identification.

Christian community leaders in Kaduna allege that this practice is increasingly widespread. The general secretary of the Kaduna State chapter of the Christian Association of Nigeria told Human Rights Watch that in general in Kaduna city, "[p]eople with Christian names will not get an indigene form. People with Muslim names have no problem."[154] Similarly, a pastor from Barnawa district in Kaduna South local government complained that in that district "[a]nyone whose name is Paul, Peter or any other Christian name is a settler now."[155]

Human Rights Watch interviewed several young Christians from different parts of Kaduna city who had all been denied certificates of indigeneity—solely, according to them, because of their religion. One young man from Barnawa district in Kaduna South LGA said that he had applied for a certificate of indigeneity in 2003 because it was required in order to apply for admission to the Nigerian Defense Academy in Kaduna. He assumed that the application would be approved because both of his parents are indigenes of Kaduna South and have the certificates to prove it. When his district head returned his application to him so that he could take it to the local government offices, however, he saw that he had been approved only for a certificate of settlership. By the time of his interview with Human Rights Watch in November 2005, he had tried without success for nearly three years to convince the district head or his local government to reverse the decision. "When I talked to the district head, he said it is not his fault, that the fault lies with the Emir of Zaria. [He said that] the Emir said that they should give certificates of settlership to Christian people," he said. The interviewee also said that officials in the local government refused even to meet with him to discuss the matter. Because of his relegation to non-indigene status, he said, "I cannot pursue my education."[156]

Human Rights Watch interviewed several other Christian residents of Barnawa and Makera districts in Kaduna South LGA with similar stories. All of them were young people who had been seeking certificates of indigeneity in order to pursue higher education, and all of them said that their lives had been put on hold because they could not obtain the form. Asked to explain the practical significance of this problem, one

[154] Human Rights Watch interview with Joseph John Hayab, Kaduna, November 10, 2005.

[155] Human Rights Watch interview, Kaduna, November 14, 2005.

[156] Human Rights Watch interview, Kaduna, November 11, 2005.

young man from Barnawa said, "If you are given a settlership form you are not an indigene of that area, so you are not eligible for any quota—it could be for a job or for admission [to an institution of higher learning]. You are completely disqualified from everything."[157]

The president of the Southern Kaduna Peoples' Union, an umbrella group that seeks to advance the position of the southern Kaduna minorities throughout the state, told Human Rights Watch that he had appealed directly to the chairman of Kaduna South LGA to stop these practices. "He said that he did not believe us. He told us this is an illegal thing and so it cannot be happening," the interviewee said, adding, "But it is going on, and who is going to stop it? It doesn't make sense to the young people."[158]

Christian anger over these practices is made worse by a widespread belief that the same local officials who improperly refuse to issue certificates of indigeneity to members of their community give them out freely to Hausa Muslims who are not actually from Kaduna state. As one Kaduna-based pastor put it, "People feel the Hausa are very mobile and just take the indigene form from wherever they want."[159]

Both Muslim and Christian leaders in Kaduna state who were interviewed by Human Rights Watch explained discriminatory practices in "their" local government areas as a justifiable response to the marginalization they suffered in areas outside of their control. A leading Muslim figure in Kaduna went so far as to say that he found Christian complaints about discrimination "amusing" because "if you go to their part [of the state]… the majority of Muslims are always regarded as non-indigenes."[160] And one prominent Christian community leader admitted to Human Rights Watch that "[o]utside Kaduna town Christian local governments are doing the same thing in retaliation—refusing to issue certificates of indigeneity to Muslims."[161]

Discrimination and violence against Hausa Muslims in Zangon-Kataf

The sad history of Zangon-Kataf in southern Kaduna is often cited as one of the clearest examples of the absurdities and divisiveness of the indigene-settler divide. Zangon-Kataf consists of a modest and principally Hausa town called Zango ringed by ethnic

[157] Human Rights Watch interview, Kaduna, November 12, 2005.

[158] Human Rights Watch interview with Abokie Galadima, Kaduna, November 11, 2005.

[159] Human Rights Watch interview with James Wuye, Kaduna, November 9, 2005.

[160] Human Rights Watch interview, Kaduna, November 10, 2005.

[161] Human Rights Watch interview, Kaduna, November 11, 2005.

Atyap[162] farming communities. The Atyap are predominantly Christian while Zango town's Hausa are for the most part Muslim. The Atyap and the Hausa have long been embroiled in a bitter and seemingly interminable debate about which group settled the area first, a disagreement that has proven impossible to resolve empirically because both groups have inhabited the area since at least the mid-18th century and possibly as far back as 1650.[163]

In February and again in May 1992, tensions between the two communities exploded into violence that was initially triggered by a dispute over the location of—and control over—a market used by both the Hausa and Atyap communities. The Hausa community of Zango town bore the brunt of the fighting: hundreds of Hausa were killed and the town was almost entirely destroyed. News of the violence in Zangon-Kataf sparked clashes in other parts of the state including the state capital.[164]

The controversy over who the "true indigenes" of Zangon-Kataf are has a deep emotional importance to both sides of the dispute. Under British rule Zangon-Kataf was placed under the control of the Zaria Emirate, whose Hausa administrators treated the ethnic Atyap population with contempt and brutality throughout much of the colonial period.[165] The Atyap have struggled, successfully, for a greater degree of local autonomy since independence but have never forgotten the historical wrongs their community suffered under Emirate rule. As is increasingly true throughout Nigeria, having been able to secure recognition as the true indigenes of their community, many Atyap feel it only appropriate that all the benefits flowing to their local government should go to them alone.

Atyap rejection of their Hausa neighbors' claims to indigene status is also fueled by a belief that the Hausa have an inherent predilection for the domination of others and seek indigene status only in order to subjugate and marginalize the Atyap. That belief, common in political discourse throughout southern Nigeria and the Middle Belt, is fueled by the intemperate rhetoric of political and community leaders throughout

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[162] The Atyap are also referred to as the Kataf.

[163] See, for example, Akinteye et. al, "Zangon-Kataf Crisis," p. 225. As a result of this long-running dispute over indigeneity in Zangon-Kataf, even the proper name of the community referred to here as Zangon-Kataf, along with the etymological roots of that name, has become a subject of controversy. Human Rights Watch interviews, Kaduna, November 2005.

[164] See Toure Kazah Toure, *Ethno-Religious Conflicts in Kaduna State* (Kaduna: Human Rights Monitor, 2003), pp. 160.

[165] See Akinteye et. al, "Zangon-Kataf Crisis," p. 226-228. Among other grievances, Kataf people complained of unfair tax burdens, Kataf women being forced to sweep the market square by Hausa officials, and the Emir's onerous demands of annual tribute. Ibid.

southern Kaduna. One youth leader from southern Kaduna, for example, told Human Rights Watch that "The Hausaman is the only man who refuses to submit to traditional authority," while a pastor from the south of the state argued that the Hausa agitation for indigene status in Zangon-Kataf merely reflected the basic truth that "[t]he average Hausa person, if he is among ten men he would like to be the ruler."[166]

Most of Zangon-Kataf's surviving Hausa residents fled in the wake of the violence, but a minority eventually returned and built new homes amidst the weed-choked ruins of the town they lost in 1992. Many returned in part because of state government promises of compensation and protection—and also because many simply had nowhere else to go. But the members of Zangon-Kataf's Hausa population interviewed by Human Rights Watch all said that they were deeply dissatisfied with the treatment they have received from their Atyap neighbors since their return, alleging that for well over a decade they had been subjected to discrimination, harassment, and even violence on a routine basis.

Hausa community leaders in Zangon-Kataf complain that their community is systematically discriminated against by the predominantly Atyap local government officials. "If we want anything we have to go through the local government," one elderly Hausa man told Human Rights Watch. "But those people, they hate us and will do nothing for us."[167] Several other individuals confirmed this impression, alleging that they were denied the right to compete for jobs and other opportunities made available through the local government administration. One man complained that "[t]hey will call all of the people from the LGA for interviews, saying that they want to recruit one person [for a job]. When we send our boys there the LGA sends them home."[168]

Members of the community also complained that despite repeated government promises, much of the land that had been seized from them by their Atyap neighbors after the 1992 violence had yet to be returned. Human Rights Watch also interviewed several men who said that within the past year they had been chased off their land by Atyap youths; some of them had abandoned their fields as a result. One man told Human Rights Watch that in 2004, just before harvest time, "I went to the farm and was trying to harvest locust beans. When I was in the top of a tree, some Kataf [Atyap] men came and used a slingshot to shoot me down." The man said that he had shattered his cheek, either when he was shot or as a result of his fall from the tree (the left side of his face appeared to have been badly mangled without having properly healed).[169] Another

[166] Human Rights Watch interview, Kaduna, November 9, 2005.

[167] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.

[168] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.

[169] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.

man, who bore several deep scars from machete wounds on his shoulders, said that he had gotten those wounds in 2004 when he was attacked and left lying unconscious in his fields by a group of Atyap youths.[170]

Hausa community leaders said that they had reported more than two dozen incidents of violence and harassment to the police since 2003. In no case had the police made any arrests. The victim of one attack said that when he went to the police station, the officer who took his report "asked me, 'Where do you come from? Are you a stranger?'" and then began questioning whether he had the right to file a report; that policeman was reprimanded by a superior officer who overheard the exchange, but in the end no action was taken on the complaint.[171] Another man said that after he was chased off his land by a group of Atyap youth who had thrown rocks at him, he went directly to the Zangon-Kataf village head to complain. On his way home he was attacked and beaten by a gang of young Atyap men.[172]

Several members of the Hausa community said they saw these attacks as evidence that their Atyap neighbors did not think that the Hausa had any right to remain in Zangon-Kataf. Many community members also complained of routine verbal harassment when they moved through the Atyap parts of town. "Any time they see us, they call us 'bako' [stranger]," complained one farmer. "Even if you sit next to them on a bus and ask them to shift over they say, 'Bah, bako!'" The victims of some of the violent attacks described above said their assailants told them that they had no real right to use the land because they are not the owners of Zangon-Kataf. One man said that one day when he went to his field, "I saw a crowd of Kataf [Atyap] boys. They asked me to leave the farm and said, 'How did you get this land? It is not yours.' They threatened to kill me but I refused to leave and so they beat me unconscious."[173]

Many community members said that they were miserable living in what they described as an environment of intense hostility and physical insecurity, but that they had no choice other than to stay on and hope that things improved. One elderly man expressed that sentiment this way:

> We feel dissatisfied and unhappy when people tell us that we are not of this place. We have been here for over two hundred years. Our parents

[170] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.
[171] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.
[172] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.
[173] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.

were born here and we ourselves were born here. We know no other place other than here and so we have nowhere else to go.[174]

Other community members who had been listening in loudly confirmed that sentiment, with one man asserting that "[w]e are proud that Zango is our town, and in any case we have no place other than Zango."[175]

Delta State: The Ownership Controversy in Warri

Warri is the largest city in Nigeria's southwestern Delta State and is a major hub of the country's oil industry. In recent years it has also acquired the unenviable reputation of being one of Nigeria's most troubled and violent cities.

In some ways Warri's problems are similar to those of the restive Niger Delta as a whole. Delta State produces some 40 percent of Nigeria's oil revenues, and as a result the state government takes in far more revenue than all but two of the other states in the federation.[176] In spite of its relative abundance of resources, Delta State's corruption-riddled administration has made little progress in addressing the widespread poverty and unemployment that plague the state's population. The 2003 state and federal elections in Delta State were marred by rampant fraud, undermining hope that meaningful political change could be effected through democratic processes. [177]

This state of affairs has led to widespread discontent, especially among the state's increasingly militant "youth."[178] A number of well armed militias have emerged throughout the state, many of which champion (with varying degrees of sincerity) a political agenda centered around demands for greater local control of oil revenues. In addition to attacking or extorting money from multinational oil companies, these groups sometimes fight among themselves along ethnic lines or for control over the trade in crude oil stolen from the oil pipelines that crisscross the Delta.[179]

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[174] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.

[175] Human Rights Watch interview, Zangon-Kataf, November 16, 2005.

[176] Only Rivers and Bayelsa States receive larger monthly allocations from the federal treasury. These statistics are published regularly by the federal Ministry of Finance and are available online at http://www.fmf.gov.ng/detail.php?link=faac.

[177] Human Rights Watch, "The Warri Crisis: Fueling Violence," *A Human Rights Watch Report*, vol. 15, no. 18(A), November 2003.

[178] The term "youth" in Nigeria has a more expansive meaning than is common elsewhere, and can include men who are well into their thirties.

[179] See Human Rights Watch, "The Warri Crisis," and "Rivers and Blood: Guns, Oil and Power in Nigeria's Rivers State," *A Human Rights Watch Background Briefing*, February 2005. In the first quarter of 2006, violence

In and around Warri, the Niger Delta's broader problems have become inextricably bound up with a long-running controversy over who the "true indigenes" of the city are. Warri is home to three different ethnic groups that each claim to be the town's true "owners"—the Ijaw, the Itsekiri and the Urhobo, and each has compiled elaborately detailed treatises detailing their historical and demographic claims upon the place.[180] Each group has made some attempt to claim that they were the first to settle the area, and each group has made claims about their demographic strength that are rejected by their neighbors. This dispute predates Nigeria's independence, but the stakes have grown considerably higher as the practical and material consequences of the indigene-settler divide have become more important in Nigeria as a whole.

Only the Itsekiri have been successful in asserting their claim to be the true indigenes of Warri. All three of Warri's Local Government Areas are run by predominantly Itsekiri administrations and Warri's representative in the federal National Assembly is also an Itsekiri, a fact that the town's Urhobo and Ijaw residents believe has resulted in the economic and political marginalization of their communities. The fraudulent nature of past elections in Delta State does nothing to encourage these dissatisfied groups to accept the status quo, and in fact they have never accepted it. Politics in Warri has revolved around an interminable disagreement about power-sharing in the three metropolitan LGAs and about whether and how new local governments should be created to allow greater Urhobo and Ijaw representation.[181]

Since 1997 Warri's "ownership" controversy has given rise to a series of intercommunal clashes that have claimed hundreds of lives. In 1997 hundreds of people were killed in clashes sparked by the creation of a new LGA, Warri Southwest; the location of its headquarters, and the swearing-in of local officials to that LGA administration, helped spark renewed fighting in 1999. In the last large-scale outbreak of violence, in 2003, several hundred people were killed over the course of several months in clashes triggered

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and tension in Delta state increased sharply with the emergence of a previously unknown ethnic Ijaw militant group calling itself the Movement for the Emancipation of the Niger Delta (MEND). MEND has carried out a series of armed attacks on oil installations and kidnapped several foreign oil workers, demanding among other things that the federal government release disgraced former Bayelsa state governor Diepreye Alamieyeseigha and militia leader Dokubo Asari, both prominent symbols of militant Ijaw politics currently facing trial in federal court.

[180] See, for example, Urhobo Progress Union, "Re: Warri Crisis: Panacea for Lasting Peace in Warri," November 2003; and "Memo Presented by the Ijaws of Warri for the Peaceful Resolution of the Lingering Warri Ethnic Crisis," November 2003. Documents on file with Human Rights Watch.

[181] For more discussion on Warri's ownership debate and its historical context, see Human Rights Watch, "The Warri Crisis."

initially by a dispute over the delineation of electoral wards in Warri.[182] At the time of Human Rights Watch's last visit to Warri in December 2005, a fragile peace was in place, but many community and youth leaders on all sides felt that it could not be expected to hold unless the issue of ownership was resolved to their group's satisfaction.

Indigeneity and intercommunal conflict in Warri

The dispute over Warri's rightful "ownership" is not merely a symbolic one; in large measure it is a struggle for control over scarce economic resources. Very little of the considerable wealth generated by the oil industry in and around Warri has trickled down to the ordinary citizens of the town, and Warri's three LGAs are widely seen as conduits for much of the government largesse that does find its way back to the community. Human Rights Watch interviewed several individuals on all three sides of the dispute who had either participated in or helped to organize some of the communities' attacks upon one another during the 2003 unrest. All of them said that they had been fighting because they believed that their communities would inevitably be marginalized and impoverished unless they were given control over one or more of Warri's three local government areas. One Urhobo community leader went so far as to say that the communities' seemingly arcane dispute over the delineation of electoral wards in Warri is "as important as life itself."[183]

All three of Warri's local government areas are under predominantly Itsekiri administrations. The Urhobo and Ijaw youth leaders interviewed by Human Rights Watch were unanimous in their belief that these local governments systematically exclude their communities from access to jobs, educational opportunities, and even basic government services, choosing instead to lavish all of their resources upon ethnic Itsekiri. One relatively well-off young Ijaw militant complained that "almost every trip I make [to the market] I see one or two young [Ijaw] men approach me for financial help. You can see the poverty on their faces. You can hardly see an Itsekiri in such a situation because of the marvelous opportunities they have." He then went on to ask rhetorically, "Why not fight it out instead of remaining slavish to this condition?"[184]

Urhobo community leaders described the situation in equally dramatic terms. One Urhobo chief, for example, asserted that "[i]f the Itsekiri own this place we become slaves on our own land… People feel marginalized. And so you go and pick up a gun

[182] Ibid.

[183] Human Rights Watch interview, Warri, December 2, 2005.

[184] Human Rights Watch interview, Warri, December 3, 2005.

just to show them that you are alive."[185] One Urhobo youth leader who said that he fought as an Urhobo "soldier" during the 2003 crisis told Human Rights Watch that "the only thing that will not bring another crisis to this area is the addition of a separate local government area for our people." Unless this comes to pass, he said, "[t]he future holds nothing for us."[186]

In part, these complaints reflect grossly exaggerated notions of the resources local government administrations have at their disposal and of the extent to which Warri's Itsekiri population is materially better off because of their political position. But Warri's local governments are financially better off than most because they claim a share of oil revenues produced within their jurisdiction. [187] Being in a position of power also makes it easier to deal with and obtain money—through contracts, compensation or outright extortion—from the oil companies operating around Warri. As one Urhobo community leader acknowledged, a primary reason inter-ethnic relations have become as acrimonious as they are is that, "[a]t the end of the day, everyone wants a share of the oil."[188] And like everywhere else in Nigeria, residents of Warri must pass through their local governments in order to have a chance at competing for many employment and educational opportunities at the state and federal level.

On the other side of the divide, Itsekiri leaders do not deny that they have long enjoyed a position of political privilege in Warri. But nationally the Itsekiri are far fewer in number than the Urhobo and especially the Ijaw;[189] Warri is in fact the only place in Nigeria where the Itsekiri are numerous enough to constitute a serious political force. "Other groups have other land, but we have no other place," one Itsekiri woman explained, and went on to say that even in Warri "we are in danger of being overrun."[190]

One thing that all three sides of Warri's "ownership" debate share is the assumption that whichever group has control of Warri's local governments will use their resources for the exclusive benefit of their own people. One Urhobo man, asked by Human Rights Watch to explain why he could not accept living under an Itsekiri-run local government,

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[185] Human Rights Watch interview, Warri, December 2, 2005.

[186] Human Rights Watch interview, Warri, December 5, 2005.

[187] For a detailed explanation of the workings of the federal allocation account, see Suberu, *Federalism and Ethnic Conflict in Nigeria*, pp. 49-57.

[188] Human Rights Watch interview, Warri, December 5, 2005.

[189] The Itsekiri are a comparatively small ethnic group that enjoys little demographic significance outside of Warri. The Ijaw, by contrast, are widely believed to be Nigeria's fourth-largest ethnic group and may number in excess of ten million.

[190] Human Rights Watch interview, Warri, December 5, 2005.

gave voice to an assumption common throughout Nigeria by answering simply, "Winner takes all is the name of the game in Nigeria."[191]

The fact that this high-stakes political contest has been driven towards violence is in large measure a reflection of the lack of faith in the democratic process that is shared by all sides. The 2003 elections in Delta State were tainted by widespread fraud, and many Ijaw and Urhobo simply do not believe that they would ever be permitted to win control over any of Warri's local governments in a free and fair election. As is true of other parts of Nigeria, these assumptions are lent legitimacy and force by the increasingly widespread notion that only the indigenes of any given place have the right to hold political power.

None of the Itsekiri community leaders interviewed by Human Rights Watch believed that it would be acceptable for a non-Itsekiri administration to take control of one of "their" local governments through a free and fair election. A spokesperson for a group known as the Itsekiri National Youth Council, for example, stated categorically that all political power in Warri should remain in Itsekiri hands and that all of the jobs and educational opportunities open to citizens of Warri should "go to the indigenes." The Ijaw and Urhobo, he said, "feel that the Itsekiri are too small a tribe to dictate the pace of their economic progress. But we are the owners of this place. So it should be up to us to decide what share of the economic resources of this place the other groups should get."[192] Another prominent Itsekiri acknowledged that it would be unfair to exclude the Urhobo and Ijaw from the benefits of government altogether but cautioned that "[a]lthough we are willing to share, there is a limit."[193]

The president of the Federated Niger Delta Ijaw Communities (FNDIC) angrily denounced these sentiments, arguing that "the constitution has no place for this idea that you have to be the owner of a place before you have the right to participate in its administration. The democracy we practice today has no place for this idea."[194] This seemingly progressive thinking, however, is dismissed by Itsekiri leaders as nothing more than a transparent attempt to use the Ijaw's demographic muscle to usurp power for themselves. Without any real possibility for real democratic change and with no way to assure the losers of any political contest that they would not be openly marginalized and discriminated against, the situation in Warri remains at a tense impasse that, in the absence of clear national leadership, there is no clear way to resolve.

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[191] Human Rights Watch interview, Warri, December 2, 2005.

[192] Human Rights Watch interview, December 4, 2005.

[193] Human Rights Watch interview, December 5, 2005.

[194] Human Rights Watch interview, December 3, 2005.

The Nigerian Government Response and Potential Policy Alternatives

State and local governments throughout Nigeria discriminate against non-indigenes in ways that contravene both the Nigerian Constitution and international human rights law. The federal government, however, has done nothing to curb these practices or to reform federal government policies that are themselves discriminatory.

Article 42(1) of the Nigerian Constitution states that no Nigerian, solely on grounds of their "community, ethnic group, place of origin, sex, religion or political opinion" shall 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." This language echoes similar guarantees enshrined in the International Covenant on Civil and Political Rights and the African Charter on Human and People's Rights.[195]

Policies that deny Nigerians equal access to employment and educational opportunities solely because they belong to a community whose origins are said to lie in some other part of Nigeria stand in open violation of these guarantees. International human rights law prohibits discrimination on many grounds, including race, ethnicity and religion.[196] Governments nonetheless may and can even be required to take affirmative action (sometimes known as "positive discrimination") on behalf of certain segments of the population to correct conditions that have prevented or impaired their enjoyment of human rights.[197] This would include preferences for government jobs and university

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[195] Article 2 of the ICCPR requires state parties to "respect and to ensure all individuals within its territory and subject to its jurisdiction the rights recognized in the present covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Article 2 of the African Charter on Human and Peoples' Rights states that the rights guaranteed by the Charter's other provisions must be respected "without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status."

[196] ICCPR, articles 2 and 26; International Convention on the Elimination of All Forms of Racial Discrimination, art. 1. It is also worth noting that article 50 of the ICCPR requires that all of the covenant's provisions "extend to all parts of federal states without any limitations or exceptions."

[197] According to the U.N. Human Rights Committee, the expert body that monitors compliance with the ICCPR, in its general comment on non-discrimination:

> The principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant. For example, in a State where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct those conditions. Such action may involve granting for a time to the part of the population concerned certain preferential treatment in specific matters as compared with the rest of the population.

admissions. Such policies must be based on "reasonable and objective criteria." And the preferential treatment must be directed to diminish or end discrimination against the group and only for so long as is needed.[198]

On the surface, some of Nigeria's indigeneity policies appear similar to affirmative action programs for indigenous or minority populations elsewhere. Some proponents have justified the policies on these grounds. But such similarities are misleading at best. Nigeria's indigeneity policies are neither reasonable nor objective as they are based on criteria unrelated to any discrimination, and do not necessarily seek to reverse any discrimination suffered. They are not intended to reverse discrimination against similarly situated groups in a particular state or locality, but simply to favor "indigene" groups over all the others. That is, groups labeled as non-indigenes may have faced equal or worse discrimination as the favored indigene group. Nor are the measures designed to end once the discrimination has been overcome, but are to be in place permanently.

Just as fundamentally, those discriminatory practices are a perverse distortion of the ideals most central to Nigeria's unique vision of federalism. The Nigerian Constitution emphasizes inclusiveness and autonomy as a way of ensuring that the benefits of national citizenship are shared equally across Nigeria's complex spectrum of ethnic, cultural and religious diversity. As one Nigerian scholar explained to Human Rights Watch, the Nigerian Constitution emphasizes interregional equity and inclusiveness to ensure that "even the weak can gain access to government." "Instead," he went on, "those provisions have become the basis for discrimination instead of affirmative action."[199] Formal policies discriminating against non-indigenes have also fueled more informal modes of discrimination that also fly in the face of Nigeria's most fundamental human rights guarantees.

All of the state government officials interviewed by Human Rights Watch claimed that it would be politically impossible for their states to take the lead in ending discrimination

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> However, as long as such action is needed to correct discrimination in fact, it is a case of legitimate differentiation under the Covenant.

Human Rights Committee, General Comment 18, Non-discrimination (Thirty-seventh session, 1989), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI\GEN\1\Rev.1 at 26 (1994), paragraph 10. See also the International Convention on the Elimination of All Forms of Racial Discrimination, article 2(2); Convention on the Elimination of All Forms of Discrimination against Women, article 4(1).

[198] Human Rights Committee, General Comment 18, paragraph 10. See also, Sarah Joseph et al., *The International Covenant on Civil and Political Rights,* (Oxford Univ. Press, 2000), at 23.64, citing *Waldman v. Canada*, Human Rights Committee, CCPR/C/67/D/694/1996 (November 5, 1999), paragraph 10.6. See also, CEDAW, article 4(1).

[199] Human Rights Watch interview with Etannabi Alemika, Jos, November 17, 2005.

against non-indigenes. While claiming that they were sympathetic to the plight of their non-indigene constituents, they each argued that the problem could only be solved through federal government intervention that would affect all states equally. A spokesperson for the governor of Kano state articulated that sentiment this way:

> The best solution would be for the federal government to come up with a law that would compel all states in Nigeria to accept the so-called non-indigene or settler… But for you now to say, "You, Kano, you should start it up [on your own]" is difficult because our own people are being discriminated against elsewhere.[200]

Other state government officials made almost identical arguments, claiming that their administrations could not be expected to stop discriminating against non-indigenes so long as indigenes of their own state faced similar discrimination in other parts of Nigeria.

The fact that discriminatory practices which violate the fundamental rights of millions of Nigerians might be politically popular in some quarters in no way justifies state governments' willingness to perpetuate them. The reality, however, is that state governments are unlikely to act unless they are legally compelled to do so, and in any case the problem is a nationwide phenomenon that cannot realistically be combated one state at a time. For these reasons, and because of its implications for the basic rights of all Nigerians, the indigeneity issue is a problem that requires federal government leadership. Until now, however, such leadership has been entirely lacking.

Politicians at the highest levels of the federal government have been vocal in denouncing discrimination against non-indigenes and the violent conflicts it has helped engender. President Obasanjo himself has publicly complained that "[m]any citizens are threatened and denied their God-given and constitutionally-guaranteed right to live and earn their living anywhere in our nation…[because of such] monstrosities as 'non-indigenes,' 'stranger,' 'native,' or 'settler.'"[201] Such rhetoric has never translated into real action, however. Like those that came before it, President Obasanjo's administration has neither taken concrete steps to combat discrimination against non-indigenes nor lent meaningful support to the attempts of others to do so.

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[200] Human Rights Watch interview with Sule Ya'u Sule, Director of Press and Public Relations, Kano, November 30, 2005.

[201] Ola Awoniyi, "President blames unrest in Nigeria on power-seekers, mind-set," Agence France-Presse, January 25, 2002.

Not only has the federal government failed to exercise leadership in ending discrimination against non-indigenes, but some federal policies actually serve to legitimize and entrench that discrimination. Federal universities and other institutions, for example, make use of the concept of indigeneity in implementing admissions or hiring quotas.[202] This adds to the material disadvantage suffered by Nigerians who cannot obtain a certificate of indigeneity, and reinforces the notion that a person cannot become a full citizen of a place of which he or she is not an indigene.

Possible Policy Responses to the Indigeneity Issue

Some of the discriminatory practices affecting non-indigenes would be permissible if they sought to make a distinction based on the notion of residency, and applied only to non-residents rather than non-indigenes of Nigeria's various states and localities. Many federal systems of government throughout the world allow their federating units some limited power to favor their own residents. In the United States, for example, state universities generally offer preferential terms of admission and lower fees to residents of their states. Such policies are seen as justifiable because non-residents do not pay taxes or otherwise contribute to the provision of those services to the same degree as residents.[203]

Nigeria has departed from these norms by sanctioning policies that tie the enjoyment of full state and local rights—the right to enjoy equal treatment with other citizens of a person's state or locality—to a person's status as an indigene rather than to some kind of residency requirement. Since indigeneity is essentially an immutable and hereditary characteristic, Nigerians are forced to remain within the geographical boundaries of their "home" state if they wish to avoid being discriminated against by state and local governments. What is worse, some Nigerians cannot escape discrimination in any part of the country at all. At least on paper, both of these problems could be solved by requiring state and local governments to extend full rights to all residents of their jurisdictions, and this is precisely what most Nigerians advocating an end to indigeneity-related discrimination have proposed in one form or another.

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[202] See above, Section V.

[203] Federal courts in the U.S. have set limits as to the kinds of state government discrimination against non-residents permitted under the U.S. Constitution. In 1999, for example, the U.S. Supreme Court struck down a California state law that limited the amount of welfare payments to families who had been residing in the state for less than a year to the lower amount they would have received in their state of previous residence. That provision was found to violate U.S. citizens' constitutionally-guaranteed right to travel, which includes a right to reside permanently in another state and be treated like the state's other citizens. *Saenz v. Roe*, 119 S. Ct. 1518 (1999).

In 2004, a group of Nigerian senators including Deputy Senate President Ibrahim Mantu sponsored a bill that would have expressly prohibited—and criminalized—discrimination against non-indigenes who had lived and paid taxes in their state of residence for at least five years.[204] The proposed legislation made an exception that would allow favorable treatment related solely to what it refers to as "the traditional rights of the host community, especially the right to traditional heritage and practices."[205] That language is somewhat opaque but could be read as an attempt at legitimizing some ethnically based restrictions on chieftaincy titles and related issues.

That Residency Rights bill has never emerged from committee and seems unlikely to do so, but its provisions illustrate how straightforward, from a legal standpoint, federal government intervention on the indigeneity issue could be. Such legislation would express the federal government's renewed commitment to the existing constitutional rights it has failed to defend, and would back them up with enforceable sanctions. It would put real pressure on state and local governments to reverse their discriminatory policies against non-indigenes, and would deprive states of the argument that they cannot act on the problem on their own so long as other states continue to discriminate.

Some advocates of reform of indigeneity-related policies have argued that legislation alone is inadequate to the task of rooting out indigeneity-related discrimination and have called for constitutional reform that specifically addresses the issue. Most notably, the Citizens' Forum for Constitutional Reform has called for new sections on residency rights to be added to the text of the constitution.[206]

Many advocates of constitutional reform acknowledge that such reform should not technically be necessary as the constitution in its current form already provides for the protections they seek to introduce. They argue, however, that discrimination against non-indigenes has become so entrenched in Nigeria that it cannot simply be litigated or even legislated out of existence. Only the arduous and high-profile process of pushing through a constitutional amendment, it is argued, could generate the necessary degree of public awareness and discussion that would translate legal reform into meaningful

[204] Citizens Residency Rights Bill 2004. Text of bill on file with Human Rights Watch.

[205] Ibid, Art. 5.1.

[206] See, for example, Citizens' Forum for Constitutional Reform, "Memoranda Submitted to Presidential Committee on Provisions for and Practice of Citizenship and Rights in Nigeria," (Lagos: Citizens' Forum for Constitutional Reform, 2002), p. 9-19.

changes on the ground.[207] As one prominent member of the Citizens' Forum explained to Human Rights Watch:

> It is not just about the constitutional amendment but also about reform of politics and public awareness. If the indigeneity idea is the basis of the problem, a new idea can form the basis of the solution. The process of constitutional reform itself would be educational.[208]

Whatever form it might take, any federal government intervention to protect non-indigenes from the discrimination they now suffer would have to deal with a number of complicated issues. Perhaps the thorniest of these would be finding a way to ensure that smaller ethnic minorities in particular would retain some means of preserving their cultural traditions and insulating their institutions of traditional leadership, especially chieftaincies, from outside interference.[209] Thought must also be given to whether and how strict boundaries on the permissible applications of the idea of indigeneity might be complemented by some form of positive discrimination, or affirmative action, in favor of disadvantaged groups.

Notwithstanding all of the complexities that surround these issues, it is absolutely clear that federal government intervention to end institutionalized discrimination against non-indigenes is both feasible and essential. Because the human rights problems associated with the concept of indigeneity are so deeply entrenched, however, that intervention must entail a sustained and comprehensive involvement with the issue that goes far beyond the mere passage of legislation. Perhaps most importantly, the federal government must accompany any legal reforms with a sustained and meaningful effort at public education around the human rights issues involved, and must take an active and vigorous role in enforcing whatever clearly spelled-out norms it codifies.

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[207] A proposed amendment to the Nigerian Constitution must first obtain approval of a two-thirds majority of the National Assembly. It must then be approved by the state legislatures of two-thirds of Nigeria's thirty-six states. Constitution of the Federal Republic of Nigeria, Article 9.

[208] Human Rights Watch interview with Dr. Sam Egwu, Jos, November 19, 2005.

[209] For further discussion, see above, Section IV.

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HUMAN RIGHTS WATCH

"They Do Not Own This Place"

Government Discrimination Against "Non-Indigenes" in Nigeria

Nigeria's federal government has failed to reverse state and local government policies that discriminate against millions of Nigerians solely on the basis of their ethnic heritage. Throughout Nigeria, government policies that favor "indigenes"—members of communities deemed to be an area's original settlers—effectively relegate all other ethnic groups, deemed "non-indigenes," to the status of second-class citizens.

This report is based on a six-week Human Rights Watch research mission to Nigeria, and it documents the profound human rights impact of government policies that discriminate against non-indigenes. Those policies are most stark at the state and local level, where governments deny non-indigenes the right to compete for civil service employment, bar them from obtaining academic scholarships, and limit their access to higher education. This report also explains how the indigeneity issue in Nigeria has aggravated other sources of intercommunal tension to the point of bloodshed, in conflicts have claimed several thousand lives since the end of military rule in 1999 alone.

Nigeria's federal government has turned a blind eye to this discrimination, even though it clearly contravenes both the Nigerian constitution and international human rights law. In fact, many federal government policies serve to reinforce and legitimize the discrimination that exists at the state and local level. Human Rights Watch calls upon the Nigerian government to put an end to this shameful record by working to pass and then vigorously enforce legislation outlawing the discriminatory practices described in this report.

Widowed Hausa and Jarawa refugees and their children from Yelwa sit in a camp in Lafia, Nigeria after an attack by neighboring ethnic communities destroyed much of their town and left at least 700 people dead in May 2004. The violence in Yelwa was fueled by controversy surrounding the refusal of Yelwa's Hausa and Jarawa communities to accept local authorities' decision to relegate them to the status of "non-indigenes" of the area.