

NEW ISSUES IN REFUGEE RESEARCH

Research Paper No. 166

State failure and extra-legal justice: vigilante groups, civil militias and the rule of law in West Africa

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October 2008



UNHCR

The UN Refugee Agency

Policy Development and Evaluation Service

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ISSN 1020-7473

Introduction

“The only thing that makes us sleep with full eyes closed”: so a trader in Onitsha market characterizes the Nigerian vigilante group the Bakassi Boys, alluding to their brutal but effective tactics in ridding the city of armed robbers (HRW/CLEEN, 2002). The trader’s implication that the vigilantes intervene to provide security for citizens where the state fails to do so points towards the significance of vigilante groups as responses to states’ failure and inability to provide security.

In this paper, I discuss state security failures and citizen responses in Nigeria and Sierra Leone, two states which despite their distinct circumstances have engendered citizen movements for the provision of security in the form of vigilante groups and civil militias. I show how state failure and the breakdown of the rule of law in Nigeria and Sierra Leone has contributed to the rise of vigilante groups and civil militias, looking in particular at the emergence of the Bakassi Boys in south-eastern Nigeria and the Kamajor Militia in Sierra Leone throughout the 1990s and early 2000s. Moreover, I demonstrate how these groups can be seen as both legitimate and effective in the eyes of the citizens they are designed to protect, in contrast to the state, with which many Nigerians and Sierra Leoneans have had an ambivalent relationship.

Refugees and state failure to protect

While this paper considers inadequate state security provision specifically in the context of conflict in Sierra Leone and diminished state authority in Nigeria, my analysis of responses to inadequate state security provision might also usefully be applied to refugee and/or IDP contexts. The breakdown of the rule of law and hence the state’s capacity to protect its citizens is central to the notion of the refugee. The 1951 UN Refugee Convention defines a refugee as a person ‘unable or unwilling to avail himself of the protection of [his or her] country’. As David Whittaker (2006) suggests, such a breakdown in state protection may occur because the state condones or tolerates harmful action against its citizens, or because it ‘refuses adequate protection or is for some reason unable to offer it’ (p. 9).

In this paper, I explore some of the consequences of the state being ‘unable to offer’ protection. Though I do not focus explicitly upon displacement and refugee movements, state failure to protect is a theme common to both displacement situations and the emergence of vigilante groups and civil militias. Furthermore, inadequate or non-existent state protection is common in refugee and IDP camps, which may be subject to the law and protection of the host state only in name or to a very limited extent. Camps are often vulnerable both to attacks from outsiders and to struggles for power between groups within the camps, as well as intimidation and violence from camp guards, government authorities and local populations (Jacobsen, 1999; Landau, 2006).

Where their own or the host state fails to protect them, displaced people may feel they have no option but to organise their own protection against attacks and intimidation; in such cases vigilante groups and militias can be seen as effective solutions to the breakdown of the rule of law and the state (as well as an effective means of gaining power in a volatile situation) (Jacobsen, 1999). Thus, though I do not draw explicitly

on refugee contexts in this paper, the relationship that I illustrate between state failure, the breakdown of the rule of law and the emergence of vigilante groups and civil militias is one which is highly pertinent to refugee and IDP contexts.

Nigeria and Sierra Leone

The emergence of the Bakassi Boys in south-eastern Nigeria has been well-documented (Baker, 2002a) (HRW/CLEEN, 2002) (Ukiwo, 2002) (Harnischfeger, 2003) (Smith, 2006) (Meagher, 2007). While vigilante groups operate throughout Nigeria, others focus more on ethnic or regional claims for self-determination and recognition; the Bakassi Boys are fairly unique in their focus upon crime-fighting. They originated in Aba, in Abia State, where armed robberies during the 1990s were endangering the personal safety and livelihoods of market traders. In 1998, following a particularly brutal murder of a trader, traders embarked on an operation of seizing and executing suspected armed robbers, until nearly all suspected criminals had been executed or had fled the state.

Following this operation's success, a semi-formal group composed of many of the traders who had taken part in the uprising was inaugurated, and was supported financially by contributions from traders. This group became the Bakassi Boys; its operations subsequently expanded to Anambra and Imo states, and gained significant support from state governors. The group punished suspected criminals with a range of penalties, often involving torture or public execution, and were highly successful in bringing down crime rates. However, following condemnation of their extra-judicial and brutal violence (HRW/CLEEN, 2002), and concerns about the manipulation of the group for political ends (Office of Communications, 2003), the federal government officially banned the Bakassi Boys in 2002.

The Sierra Leonean civil defence force (CDF) militia was established during the civil war as a union of local militias united against both the RUF and the Sierra Leonean Army (SLA). The local militias were based upon 'traditional' hunting guilds – particularly the Kamajors from the south and east, who will form the basis of my discussion of the CDF – and they consciously sought to maintain some of the hunting guilds' organizational structures and rituals (Ero, 2000, p. 27).

The CDF were a pro-government force who aimed to defend citizens from RUF and SLA violence and to restore democracy following the AFRC coup in 1997 (Alie, 2005) (Ero, 2000); their focus was thus upon 'immediate local security dilemmas' (Ero, 2000, p. 27). While they were successful to some extent in defending citizens from RUF and SLA violence, they also provoked concerns about the privatization of security and their potential for political manipulation.

In both cases, these civilian security forces were formed in response to the state's inability to provide adequate security for its citizens. The weaknesses of West African states challenge their claims to sovereign authority, to such an extent that analysts contend that several West African states have 'failed' or 'collapsed' (Sawyer, 2004) (Omeje, 2005) (Reno, 1995); this state failure has, as Zartman (1995) predicts, inhibited their capacity for security provision. There are of course degrees of failure: though the Nigerian state has significant problems, it cannot be said to have 'failed' to

the same extent as Sierra Leone, which barely functions as a state, impaired by years of conflict.

However, Nigeria and Sierra Leone, in common with other West African states, have faced political and economic instabilities which have undermined their authority, stemming from flawed domestic policies, resource fluctuations, Euro-American foreign policy, the imposition of structural adjustment programmes, resentment against the state as a result of inequalities derived from patrimonial resource and power distribution, weaknesses and inefficiencies inherited from colonial bureaucracies, popular disenfranchisement resulting from military regimes and personalized rule, and the rise of informal markets and shadow states.

The Nigerian state faces the additional difficulty of functioning as a federal republic, uniting states which are in some ways very disparate, particularly in terms of divisions between the Muslim and Christian populations and between the 250 ethnic groups. Ethnic and/or regional separatist movements such as the Yoruba OPC, the Igbo group MASSOB and the northern APC undermine the federal government's claim to sovereign authority; the Biafran civil war of 1967-1970 demonstrates the threat to state authority from separatist rhetoric.

Similarly, movements such as MOSOP and MEND, who make claims for autonomy in terms of issues of land tenure and resource ownership in the oil-producing Niger Delta, challenge the federal state's claims to sovereignty over land and resources. The implementation of Sharia law in twelve northern states has also weakened the federal government's claim to sole legal jurisdiction over the state.

It is within this context of the federal government's diminished sovereignty that its ability to provide security for its citizens has reduced. The Nigeria Police Force is a federal force, and this has created tension between state and federal governments; state governors have argued that 'they had the right to their own police forces' (Meagher, 2007, p. 95). Furthermore, the police force has committed countless human rights abuses and is seen widely throughout Nigeria as being ensconced in patron-client relationships between police officers, politicians and criminals which prevent it from reliably detecting and punishing crime (Baker, 2002a) (Harnischfeger, 2003). Even the Police Affairs Minister, D.M. Jemibowon, admitted in 2000 that the police 'can't guarantee [citizens'] safety' (Harnischfeger, 2003, p. 26). Thus the federal nature of the police force, and the police force's own inadequacies (a result of low salaries, inefficient bureaucracy, and their origins as a colonial and repressive force (Jemibowon, 2003)) result in popular perception that the federal state has failed as a security guarantor.

In Sierra Leone, state security provision and monopoly on the means of coercion broke down during the civil war and as RUF and SLA violence escalated. In addition, the 'privatization' of security during the conflict in Sierra Leone – in which foreign private military companies (PMCs) or mercenary organizations such as Executive Outcomes became involved in the war on behalf of the state – diminished the state's responsibility and capacity for security and its authority as state (Ero, 2000).

Indeed, Howe (2001) suggests that the emergence of PMCs is symptomatic of a trend throughout Africa towards a privatized conception of security which bypasses the state. The proliferation and accessibility of small arms and light weapons throughout

Sierra Leone also served to diminish the state's monopoly on coercion by allowing civilians easy access to deadly force (Ero & Ndinga-Muvumba, 2004).

Vigilante groups in Nigeria were created in response to this security vacuum left by the impotent state and its security forces, as the Bakassi Boys' origins amongst the crime-fighting traders of Aba suggest. Similarly, the CDF in Sierra Leone arose to protect citizens in circumstances where security was no longer the prerogative or responsibility of the state, thus necessitating provision of security from 'outside the formal security structures of the state' (Ero, 2000, p. 26).

However, though vigilante groups may thus be perceived as an alternative to failed state security provision, as Buur (2007) suggests, vigilantism as a phenomenon in fact generally aims for 'more state, not less state' (p. 77), seeking to prop up a weak state by taking on some of its functions. Indeed, Rosenbaum and Sederberg (1974) suggest that vigilante action is a form of 'establishment violence' designed to defend a particular socio-political order against threats of social change.

Francis (2005) proffers a similar ideology for civil militias. Civil militias differ from vigilante groups in that they are typically established in times of intra- or inter-state conflict, while vigilante groups tend to focus upon civil matters such as crime, but Francis suggests that they are motivated by a similar 'normative underpinning and ethos,' a desire to defend citizens and the status quo (Francis, 2005, p. 3).

This preservative impulse is reflected in the conservative ideology of the Kamajors, whose remit included defending the nascent democratic state in Sierra Leone against the imposition of military rule by the AFRC. Thus, in his account of his time in Sierra Leone during the war, Daniel Bergner (2003) records a young Sierra Leonean claiming that he joined the Kamajors 'to restore the democracy that had lasted for barely a year' (60).

The legitimisation of non-state justice

Thus while vigilantes and civil militias undermine the state by divesting it of its monopoly on violence, they tend to do so in order to reinstate state-based ideals of security, law, justice and/or democracy which they perceive the corrupt or failed state to be unable to uphold. This notion of non-state law enforcement is accompanied by the belief that forms of justice and coercion not sanctioned by the state can be legitimate in the process of restoring order. Baker (2002a) contrasts the state justice model, 'based on a liberal and human rights approach', with vigilantism, which values compensatory, immediate and capital or corporal justice (160).

Suggestions that human rights discourse is not necessarily 'fair' or appropriate in Nigeria – such as Anambra State Governor Mbadinuju's challenge "If you catch a confirmed armed robber and you kill him and the human rights [sic] are shouting, is it fair?" (Harnischfeger, 2003, p. 38) – are often underpinned by a conviction that both human rights discourse and Nigeria's state structures are an 'alien' colonial or Western imposition (Harnischfeger, 2003, p. 35), which do not necessarily reflect indigenous models of statehood and justice.

Some accounts of vigilantism have accordingly suggested that vigilante groups are informed by indigenous notions of security and justice which are popularly legitimate but not recognized by the state. For instance, Baker (2002a) and HRW/CLEEN (2002) claim that vigilante groups are based upon *ndi nche* self-defence organizations – designed for community protection in decentralized Igbo societies - which operated ‘in every Igbo society for centuries’ (Baker, 2002a, p. 132).

Governor Mbadinuju shares this discourse of ‘tradition’: ‘what we are doing...is an age-long system of our people taking care of their defences – from village level to town level’ (Harnischfeger, 2003, p. 38). Ero (2000) similarly claims that the Kamajors form part of ‘the traditional defence structure which stemmed from the pre-colonial period,’ and characterizes this as a recognizably Mende ‘tradition’ (p. 27). These analyses thus make a twofold claim for the relationship between Igbo and Mende ‘traditions’ and vigilante groups: firstly, that vigilante groups arise (within the context of state security failure) because traditions expect communities to organize their own security, and secondly that such notions of security legitimize vigilante action, recognizing it as a valid alternative to the security which the state claims to offer but fails to provide.

This analysis has been validly criticized: Meagher (2007) suggests that it posits an overly rigid and irreconcilable distinction between colonial and indigenous, modern and pre-colonial, state and non-state. Others challenge the assumption that vigilante groups are directly related to pre-colonial traditions, pointing out that their methods are more brutal than those employed by ‘traditional’ groups, that they do not have the communal base typical of traditional groups, and that they have not arisen in all of the areas where such groups once operated, despite those areas being subject to similar conditions of state failure (Alie, 2005) (Ekeh, 2002). Furthermore, such analyses operate within a dehistoricized, dematerialized and essentialized notion of the ‘pre-colonial’, which moreover ignores differences between pre-colonial and contemporary conditions in asserting a continuity of ‘tradition’ between both.

Nonetheless, while such accounts may be somewhat overstated and inadequate as an explanation for the rise of vigilante groups, they do offer precedents for the particular forms that vigilante groups and civil militias take. Semi-formal groups such as the Bakassi Boys and the Kamajors differ markedly from other less formalized attempts to fill in the vacuum left by failed state security. For instance, Richards (1996) records a spontaneous citizen uprising against RUF forces in Bo in Sierra Leone, in which citizens defended themselves against rebel invasion, patrolled the streets and imposed a curfew on the town (p. 153-4).

While the Bo self-defence group and the Kamajors both operated within paradigms of self-defence and non-state security, the Kamajors self-consciously drew on a particular ‘tradition’, that of the hunting guild, with its attendant structures and symbols, in contrast to the less formal and more spontaneous origins and organizations of the Bo defence group. Similarly, Meagher highlights the confluence between ‘tradition’ and contemporary practice in the specificities of vigilante group structure as she notes that the Bakassi Boys’ organizational structures were a syncretic mingling of ‘pre-colonial practices’ such as initiation with contemporary models of organization based on trade unions (Meagher, 2007, p. 111).

While cultural expectations of security provision may have influenced the forms which civil defence groups took, and provided the initial legitimacy for their existence, groups such as the Kamajors and the Bakassi Boys in fact attained popular legitimacy largely due to their effectiveness. The popular response to the Bakassi Boys' 'roaring success' (Baker, 2002b, p. 133) in fighting crime was initially one of relief and euphoria and was shared by 'large sections of the public, the media and some politicians' (HRW/CLEEN, 2002).

This success was accompanied and reinforced by their reputation for discipline and honesty, and by popular belief that their judgements were unfailingly fair and correct, in contrast to the corrupt and ineffective police force they sought to replace (see Baker 2002a, HRW/CLEEN 2002). A judge in Anambra explicitly (and frustratedly) links the Bakassi Boys' popular legitimacy with this belief in their absolute and unquestionable judgement: "No one challenges Bakassi...Even when Bakassi get an innocent person, people say no, he can't be innocent otherwise the Bakassi wouldn't have caught him." (HRW/CLEEN, 2002, p. 15).

Popular belief that the Bakassi Boys had privileged access to truth was established and reinforced by their access to supernatural powers and occult practice, including supernaturally-mandated truth-telling ordeals such as the use of chains and swords which could determine guilt or innocence. Similarly, they established their reputation for invincibility by claiming to be able to deflect bullets as a result of particular initiation rites and jujus (Harnischfeger, 2003) (Francis, 2005) (Omeje, 2005). Manifestations of Christian practice such as wearing crosses around their necks and public prayer also helped to reinforce perceptions of a divine mandate for the Bakassi Boys' work (Harnischfeger, 2003, p. 30).

Furthermore, most members of the group were popularly known to have undergone initiation rituals which compelled them to act with integrity and sought to prevent them from being manipulated by outside interests (Harnischfeger, 2003). The prevalence and dramatic appearance of such symbols and practices in the *Issakaba* films (Imasuen (dir.), 2000), closely based on the Bakassi Boys' activities, is indicative of the importance of such symbols in the Bakassi Boys' practice and their hold over popular imagination.

The Kamajors used strikingly similar practices and symbols to create an impression of legitimacy, honesty and integrity. Bergner (2003) emphasizes the importance of displays of supernatural power, including the ability to deflect bullets, and several accounts highlight the importance of initiation as a means of endowing the Kamajors with particular powers and instilling them with discipline and integrity (Alie, 2005) (Richards, 1996) (Carey, 2006). Through these public displays of culturally-embedded discourses and idioms of impartiality, accountability and authority, the Bakassi Boys and the Kamajors aimed to suggest that they adhered to these values in their work.

While Omeje (2005) suggests that the use of such symbols and practices indicates a 're-traditionalisation' of society in the face of failed modernization, I would suggest instead that such practices are adopted – and adapted to contemporary circumstances – for their instrumental efficacy. They tap into discourses of non-state authority and accountability in a similar way to the assertions of local autonomy and non-state justice that are so central to the rise of the vigilante groups.

Crises of legitimacy

However, in spite of their initial popularity, the Bakassi Boys' legitimacy gradually waned as their accountability and incorruptibility, the cornerstones of their legitimacy, came into question. While the Bakassi Boys' brutality, and their willingness to commit severe human rights abuses including torture and public summary executions, provoked condemnation throughout Nigeria and internationally (HRW/CLEEN, 2002) (Amnesty International, 2002), and resulted in their eventual banning by the federal state, it did not significantly diminish their legitimacy in the eyes of the supportive population, though certainly some citizens did protest against their violence and brutality.

The real crisis of legitimacy for the Bakassi Boys came as they were seen to be the victims of 'political hijack' (Meagher, 2007). The backing of state governors, in particular Governor Mbadinuju of Anambra State, who claimed to be 'Commander-in-Chief' of the Bakassi Boys, initially helped to bolster the Bakassi Boys' legitimacy, giving them financial backing and helping to represent them as a popular community force.

However, this political backing gradually resulted in concerns that Governor Mbadinuju was 'using the "boys" to intimidate his [political] opponents' (Harnischfeger, 2003, p. 23), and in the run up to elections in 2003, citizens and the media began to worry that politicians might use the Bakassi Boys (and other vigilante groups) to intimidate voters. Concerns were also raised about the possibility of the Bakassi Boys – who though established in a predominantly Igbo area, had taken care not to portray themselves as an ethnic militia – being used in ethnic conflict, aggravating the tensions that had arisen in the ethnic and religious conflicts of 2000-1 (Baker, 2002a, p. 147). Furthermore, the Bakassi Boys began to intervene in civil matters and private disputes, often being summoned by Igbo citizens in disputes against Nigerians of other ethnicities (HRW/CLEEN, 2002, p. 34).

In all of these ways, the Bakassi Boys began to lose their vital impartiality, provoking fears that, as Smith (2004) succinctly puts it, they were 'becoming political and therefore corrupt' (p. 128). This crisis of legitimacy can be conceptualized as a shift from the public arena – as symbolized by their public executions and representations of themselves as transparent and open – to a privatized arena of political intrigue and interventions in civil and private disputes. This shift from public to private undermined their reputation as a public, popular force, and caused a crisis of legitimacy.

Further threats to the Bakassi Boys' integrity came as they expanded from Aba to other states, diluting the tightness and mystique of their organization and laying themselves open to infiltration by less trustworthy members; the Imo State Bakassi Boys in particular provoked a crisis of authenticity in 2001 when they refused to submit themselves to an invincibility test in public, engendering cries of "fake," and inducing a riot (Harnischfeger, 2003, p. 35) (Omeje, 2005, p. 80). Through their political associations and such crises of authenticity, the Bakassi Boys began to lose their associations with honesty, integrity and impartiality that had been so vital to their popular legitimacy.

The Kamajors faced less of a crisis of legitimacy, due in part to the severity of the security situation in Sierra Leone and citizens' willingness to accept the Kamajors' violence when compared to that of the RUF and the SLA; Alie (2005) notes that the Kamajors enjoyed wide support both locally and internationally (p. 65). Indeed, HRW (2003) suggests that while the Kamajors' 'internal discipline', enforced by initiation oaths and the belief that they would lose their invincibility if they broke self-imposed rules, meant that unlike RUF and SLA forces, they did not commit human rights abuses on 'a widespread and systematic basis' (p. 27).

However, HRW (2003) notes that later in the war they suffered a breakdown in this discipline as they were deployed away from their 'native areas and traditional chiefs' and thus away from local and community loyalties. (HRW, 2003, p. 27). Breakdown of organizational discipline was, as in the case of the Bakassi Boys, exacerbated as the Kamajors expanded and were infiltrated by men of 'doubtful character' who used the militia to serve their own ends (Alie, 2005, p. 58).

Furthermore, concerns have been raised about the manipulation of the Kamajors for political ends, particularly in light of connections with the government of President Kabbah (Ero, 2000, p. 28). Like the Bakassi Boys, then, the Kamajors initially enjoyed popular legitimacy as they sought to restore community security, but when their accountability, discipline and impartiality were called into question, their legitimacy was undermined.

Conclusion: extra-judicial accountability and the refugee context

Smith (2006) notes that an interesting new form of 'extrajudicial accountability' has recently emerged in south-eastern Nigeria: when minor crimes are committed, 'street justice' is administered by 'people's courts' constituted on the spot from the crowd (p. 141). Smith suggests that this ties in with the sentiment expressed by one citizen of Aba that "now the whole of Aba is Bakassi"; following the failure of the state, and the diminished legitimacy (and federal banning) of the Bakassi Boys, communities themselves become 'Bakassi', taking security into their own hands. What this phenomenon indicates is that it was not the notion of self-defence and vigilante groups that lost legitimacy, but rather it was the particular failings of the Bakassi Boys, their manipulation and self-interest, that brought about their fall in favour.

Thus while the state continues to fail in its security provision, Nigerians will continue to look for alternative means of security, whether that be in vigilante groups or 'people's courts', or in another mode of self-defence yet to emerge. Civil militias and vigilante groups in Nigeria and Sierra Leone arose out of a genuine desire for security in circumstances where the state could no longer provide it, exacerbated by political, economic and social conditions such as conflict, economic disruption, a desire to restore order and/or democracy, and proliferation of violence and weapons.

They were to some extent legitimated by culturally-embedded notions of non-state security provision, which in turn were influenced by debate surrounding the limits and appropriateness of state justice and human rights discourse. In refugee settings, then, it is important to be aware that vigilantes, civil militias and other popular security organisations may emerge as popularly legitimate responses to the lack of state protection that is characteristic of refugee contexts.

However, groups like the Kamajors and the Bakassi Boys, established in order to provide security where the state cannot, lose legitimacy if they develop into 'self-seeking' militias, (Buzan, 1991) or 'politically motivated, murderous gangs' (Ero & Ndinga-Muvumba, 2004, p. 228) which diminish the order and security they originally sought to uphold. Yet, as the continued search for security in Nigeria shows, such groups themselves are not necessarily perceived as illegitimate responses to security concerns, even if they do not adhere to ideologies of the state and its sovereign authority.

Rather, as Nigerian and Sierra Leonean responses to such groups indicate, it is their failure to live up to their own ideals and ideologies that engenders crises of legitimacy and which allows for brutality and abuse of the very citizens they are designed to protect. In refugee settings – where many people are experiencing the double vulnerabilities of the breakdown of the rule of law and displacement from their homes – popularly legitimate extra-state security organisations such as vigilante groups and civil militias must be monitored carefully to ensure that they do not embark on similar abuses of people they claim to protect in place of the failed or unwilling state.

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