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Commissions of Inquiry in Plateau State, Nigeria

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Commissions of Inquiry in Plateau State, Nigeria

Marjoke Oosterom and Dung Pam Sha

Summary

Nigeria's Plateau State has been the scene of inter-community violence since the 1990s, involving several clashes in the city of Jos that took many lives within a matter of days. Between 1997 and 2014 different Commissions of Inquiry (COIs) were established to investigate specific episodes of violence and come up with recommendations to resolve the violence. Recommendations were rarely, if at all, followed. Specifically, the recommendation to the government to investigate and prosecute perpetrators and instigators of violence has not been implemented. The study of these commissions shows how politics at different levels of government and civil society have limited the effectiveness of COIs in delivering justice and accountability. Collective civil society mobilisation was hampered by fragmentation and diverging perspectives on justice. Over time, lack of responsiveness to COI reports has further eroded state legitimacy. Awareness of political dynamics needs to be the starting point for establishing the legal underpinnings and mandate of COIs.

Keywords: Commissions of Inquiry, civil society, violence, Nigeria, accountability

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Acronyms

A4EA	Action for Empowerment and Accountability
CAN	Christian Association of Nigeria
COI	Commissions of Inquiry
ICC	International Criminal Court
IDS	Institute of Development Studies
JNI	Moslem Association of Nigeria (Jama'atu Nasril Islam)
JTF	Joint Task Force
NAPEP	National Poverty Eradication Programme
NIREC	Nigeria Inter-Religious Council
R2K	Right to Know
STF	Special Task Force
SUG	Student Union Government

1 Introduction

This paper sets out to understand the role of the Commissions of Inquiry (COI) in pathways towards accountability from government actors over their role in ending or sustaining the cycle of violence in Plateau State, located in the Middle Belt region of Nigeria. Conducted as part of the Action for Empowerment and Accountability (A4EA) research programme by the Institute of Development Studies (IDS) and the University of Jos, this study investigates the dynamics of a formal, state-initiated mechanism that is meant to deliver accountability for violent atrocities.

Nigeria's Plateau State has been affected repeatedly by periods of ethno-religious violence between the mid-1990s and 2008. After 2008, violence incidents persisted but have become more scattered, claiming deaths in frequent smaller and larger incidents, whereas prior to 2008 violence was concentrated in short 'peaks' that claimed hundreds of lives within a short period of time during riots and massacres. One of the worst-affected places within Plateau State is its capital Jos city. At the heart of the conflict is the differentiation in rights and access to political and economic power between what have been referred to as 'indigene' and 'settler' populations in Plateau State. The label 'indigene' refers to those who are the perceived 'original' inhabitants of a state, and 'settlers' those who supposedly arrived later: a sensitive and often highly contested demarcation about who belongs, especially because many 'settlers' groups have lived in a state for hundreds of years. Indeed, the first resolution of a 2004 Peace Conference states that the use of the term 'settler' is offensive, discriminatory and works against integration (see HRW 2005: 51). For Plateau State, 'indigene' and 'settler' status largely overlap with ethnic and religious identities, with the 'indigene' population being largely Christian whereas the 'settler' population is predominantly Muslim. In response to the violence, successive state governments have set up COIs to investigate the immediate triggers and remote causes of violence. In parallel, the Federal State has set up a number of committees tasked with investigating violent episodes.

Using Fox's (2007) conceptualisation of accountability that highlights its dimensions of 'answerability' and 'enforcement', this paper seeks to advance our understanding of accountability processes in fragile and conflict-affected settings by focusing on an official measure like COIs. The central question this study seeks to address is how fragility has influenced the role of COIs in generating accountability for ethno-religious violence in Plateau State, and the role of civil society when engaging with COIs. The existing literature on COIs in Plateau State is very limited but agrees they have largely been ineffective in delivering accountability in terms of legal justice. The role of civil society action in relation to COIs has been hardly addressed at all. This paper will investigate the interaction between the COIs, the social and political action around them, and the context of Plateau State. It pays specific attention to key dynamics of fragility in this setting: deep societal divisions that have cemented after repeated cycles of violence; the weak, corrupted state institutions at both the state and federal levels; and the informal networks between political elites and ethnic populations.

The study entailed a series of 28 key informant interviews with civil society actors and government officials that had direct engagement with COIs. Whereas we endeavoured to have balanced perspectives from all the contending groups, we recognise upfront that representatives from Muslim communities were under-represented in the sample and the findings thus show predominantly perspectives from Christian communities and civil society. The findings show that, due to dynamics of fragility, the potential of COIs to contribute to legal justice is very limited. Contending groups will question the neutrality of COIs depending on the level of government it was established by. COIs therefore become another contested battleground for the contending groups, which limits their potential to contribute to reconciliation. While earlier COIs helped create a space for people to air their grievances,

thus contributing to answerability as grievances and the effects of violence were recorded, the lack of government responsiveness and enforcement undermined trust in subsequent COIs.

The paper is structured as follows. Section 2 reviews the existing literature on COIs from a range of contexts, followed by an overview of the conflict in Plateau State in Section 3. Section 4 presents the existing knowledge of COIs in Plateau State and highlights the kind of recommendations they have offered. Section 5 presents the methodology of this qualitative study, followed by the empirical sections. The perceptions of the legitimacy and neutrality of COIs, in terms of composition and process, are discussed in section 6, including their relationships to different levels of government, showing how these matter for the perceived legitimacy of their outcomes. Section 7 outlines the multiple ways in which civil society has engaged with COIs and highlights how fragmentation of civil society affected the process. Section 8 analyses the responsiveness of the State government and the extent to which COIs have delivered on accountability in terms of legal justice.

2 Commissions of inquiry and accountability

This section explains the institutional set-up of COIs and how they are part of accountability processes, using Fox's (2007) notions of transparency and accountability. It will also highlight the tension between enforcement, the 'hard face' of accountability, and justice and peace.

2.1 The mandates and dilemmas of Commissions of Inquiry

COIs are official, normally independent, temporary bodies established to investigate and document patterns of violence and abuses over a period of time and make recommendations for addressing and resolving these issues (adapted from Hayner 2006; Probert 2017). They are similar to truth commissions and a widely accepted institutional initiative in post-conflict contexts, but are typically characterised by a more limited scope, charged with investigating particular events or episodes of violence or abuse (rather than protracted, systems of violence such as the apartheid regime, or experiences of occupation), and a quasi-judicial investigative approach, rather than foregrounding testifying or recounting of experiences (Schmid 2012). COIs have been used in colonial and early post-colonial states, and iterations exist in contemporary approaches to transitional justice that include truth and reconciliation commissions, among others (Balint, Evans and McMillan 2016; Probert 2017). Commissions of this kind have been established in over 30 countries over many years (Hayner 2006), demonstrating their enduring relevance not only in the Nigerian context, but in wider practices of promoting transparency, accountability, reconciliation, resolution and healing. They are premised on the understanding that, inter alia, 'a legacy of grave and systematic [human rights] violations generates obligations that the state owes to the victims and to society' (Méndez 1997: 255). The search for truth, documentation and recognition of what occurred in episodes of mass violence is among those obligations. COIs can potentially serve important functions in conflict-affected contexts. These functions include first, acknowledging; and second, addressing, structural and historical injustice and violence (Balint, Evans and McMillan 2016). Proponents contend that a COI is a more 'flexible, participatory and open mechanism to determine, in the first instance, "What happened?" and "Who was affected?" than immediate criminal investigation' (Probert 2017: 1). The specific tasks the state might undertake in response to human rights violations, and with which COIs might be tasked, include:

1. To investigate, and propose prosecution and punishment of perpetrators of violence or abuses;
2. To document for victims, families, and society the facts of particular episodes of violence;
3. To propose reparations and other policy instruments for victims; and
4. To exclude known perpetrators from public office, security services, and other positions of power (Méndez 1997: 261).

COIs vary in the scope of their mandate, and also in their legal underpinnings: some can legally compel witnesses to appear, while others rely on voluntary cooperation alone. Some carry out their proceedings in public hearings, while others are closed and their findings and evidence presented (if at all) only on publication of a final report (Hayner 2006). This will influence the nature of the transparency process (Fox 2007): whether information is disclosed voluntarily; and also whether COIs can be inclusive and hear all actors involved, or whether some actors can refuse to appear. The obligation to offer information may lead to issues with the quality of the information provided, Fox notes (2007: 667).

Given the investigative powers bestowed on COIs, they can be expected to produce 'meaningful' answerability (Fox 2007: 667): find and compile much information on violent events, who committed the acts of violence, and what were the effects of violence. Mandates of COIs vary in the degree of transparency they offer. Some COIs may not name names, whereas others (like those in Plateau State) identify and name perpetrators and recommend them for prosecution. Whether COIs can also produce enforcement and accountability will in part depend on their mandate; in part on the responsiveness of the state to COI's reports and recommendations; and lastly on sustained civil society pressure to take recommendations forward (Crocker 2000). COIs usually do not have legal powers to prosecute, and, in some contexts, their relationship with prosecutorial and judicial bodies (such as hybrid or criminal courts) has been complex (see Hayner 2006 on Sierra Leone and former Yugoslavia). This must be seen in relation to future peace and stability: in some settings it is felt that the prosecution of individuals may be necessary to overcome violence, while in other cases the process of truth-telling matters more. Therefore, research suggests that COIs are most effective:

...when they are designed for the societal context in which they will serve. The society in one country may feel that it is most important to obtain the most complete historic record of patterns of past abuses. Or, it may want to acknowledge and then raise awareness about past violence. But in another country, an investigation, for example the finding of remains of a particular massacre, matters most. The best way to determine a society's needs is to consult the public at large before designing a mandate to ensure that it serves national goals rather than a particular group's narrow agenda.
(Schmid 2012: 2)

A vast literature discusses the trade-off and tensions between justice and accountability through prosecution and punishment on the one hand, and peace and reconciliation on the other (see Rotberg and Thompson's (2000) edited volume *Truth vs. Justice*). At the core of this tension is that stakeholders need to accept that amnesty is granted to perpetrators in exchange for obtaining the full truth about violent events; the prevention of future injustice; and/or peace. In other words, transparency about what happened through the work of truth commissions or COIs will not lead to prosecution, or the enforcement of punishment and thus accountability. Amnesty may be part of a preventative approach in which the work of a COI is meant to prevent further violence, which trumps a more reactive approach that will result in the punishment of perpetrators. Greenawalt (2000: 191) raises the question if an injustice is done if known perpetrators are granted amnesty. Gutman and Thompson (2000: 24) refer to this dilemma as the 'moral burden' of commissions. Reasons for granting

amnesty vary. Extensive amnesty may enable a truth commission to do its work much more thoroughly (Greenawalt 2000: 191). In past cases it was only possible to hear the complete details about what had happened to individuals if amnesty was guaranteed (Rotberg 2000: 13). In other cases the evidence that would be required for a proper prosecution and legal process could only be generated through a truth-telling process that gave similar guarantees to perpetrators.

Research finds little support for the effectiveness of commissions in vetting or prosecutorial initiatives (Bakiner 2014). Data suggests that few truth commissions are, in fact, followed by prosecution of perpetrators (Kim and Sikkink 2010), a conclusion the current study also supports. While some ask whether especially truth commissions undermine justice, Crocker (2000: 103–4) argues that they can be compatible with accountability and sanctions, because: (1) when naming names they contribute to breaking a culture of impunity; (2) criminal proceedings have followed or the reports of truth commissions in various cases; and (3) truth commissions often contribute directly to judicial processes by which perpetrators were held accountable and sanctioned (not just through imprisonment but also by fines, community work and prohibitions on public careers).

2.2 Civil society and Commissions of Inquiry

Existing literature has pointed out that social and political dynamics affect the position and activities of COIs. The perceived legitimacy of COIs, itself the outcome of politics and other dynamics in society, is known to be a foundation of their operations. As Maclean notes:

The trigger for setting up an inquiry is usually the need to restore public confidence in a service or organisation, or even the government as a whole. This can only happen [...] if there is public confidence in the inquiry process.
(Maclean 2001: 592)

Most immediately, this suggests that if a commission or its mandate, are not seen as legitimate by the public, it is unlikely to bring about enhanced accountability and legitimacy in wider political processes. It appears that the perceived neutrality and impartiality of commissions are crucial to their legitimacy. In the case of South Africa's truth commission, parliament decided on its composition, whereas in other cases the government appoints members, which may lead to questions of bias and partisanship (Rotberg 2000: 13). Commissions may find themselves dependent on the goodwill and buy-in of other actors in the political system, thereby creating a self-censoring and self-limiting effect. In their study of the politics of riot commissions in the United States, Lipsky and Olson (1968) noted the politically embedded nature of these commissions, observed through efforts by commissioners to adopt perspectives that anticipated the expectations and needs of powerful political agents. They characterised riot commissions as 'subsystems of the larger political system [...] established as an arm of the executive' (Lipsky and Olson 1968: 15). Given their advisory (as opposed to prosecutorial) capacity, riot commissions were found to be:

...thus dependent on other political actors for the implementation of their recommendations. They have no more power in their external relations than that which they are able to create for themselves.
(*ibid.*: 15)

Moreover, some analysts caution against concluding that particular commissions have been 'successes' or 'failures' in terms of accountability, given their embedded structural nature:

It is very important to distinguish between commissions of inquiry as a potential tool (or mechanism) of accountability from *the entity which ultimately has the responsibility to*

drive a process of accountability, namely the state [...] Commissions can be part of successful or unsuccessful processes of accountability; they can helpfully advance or regrettably obstruct those processes, but often the implementation of their recommendations lies outside their own powers. (Probert 2017: 9)¹ (emphasis added)

In this reading, COIs are part of a longer process involving other actors: they are not themselves the key actor that produce accountability, but help promote accountability by setting in motion other processes, and eventually the state is responsible for delivering accountability. This will, however, always involve an intense process of reforms of laws and institutions and a redistribution of (access to) resources in those cases where inequality was a driver of violence (as in South Africa during apartheid) (Crocker 2000: 107). The need to focus and resolve these deep causes of violence for the long-term poses a considerable challenge to states, even if they have adequate state capacity, and a social foundation and political will to promote these changes exist.

Existing studies suggest that COIs are most effective when they result in civil society mobilisation around ensuring implementation of policy recommendations or pressure to reform political practices or processes (Bakiner 2014; Crocker 2000; Probert 2017). In other words, they are often most effective when they out-source the political pressure to have their recommendations implemented to an active and engaged public, rather than assume this role directly. Critics contend that the length of time commissions often require to investigate and then publish their report, can mean that by the time they have developed recommendations, 'whatever public pressure was being exerted on behalf of those affected may well have dissipated' (Probert 2017: 1). This suggests that timely and sustained civil society action is central to the success of commissions in delivering accountability, and, by extension, where that action is limited, so too will be the impact of commissions.

However, there is still a weak understanding of the interaction between actors in society and the work of COIs, and how dynamics of fragility influence this interaction. It is clear that in many fragile and conflict-affected settings, civil society are themselves weak, or focus on self-help activities on the grassroots rather than policy influence (Crocker 2000: 113). They may also be disunited, fragmented along ethnic and/or religious lines or otherwise, and thus fundamentally disagree on the process of COIs (Crocker 2000). It is also possible that citizens and governments see ensuring future security, and enhancing accountability for past violence, as mutually incompatible, and engage in trade-offs to that effect (Mendez 1997). Yet, concerted and strategic collective action is associated with the probability of pushing for accountability (Fox 2015, 2016). Finally, the dynamics of violence itself, and its often discriminatory and targeted nature – for example, against individuals of particular ethnic or religious groups, or gender-based violence – means that individuals' and communities' experiences of violence are highly diverse. This renders the establishment of a singular, factual and undisputed narrative of events extremely challenging, even if written up by a seemingly neutral commission. This is particularly true in relation to establishing accountability for violence that may be considered sensitive, shameful or stigmatised, such as issues of gender-based and sexual violence (Kent 2016; Ross 2010).

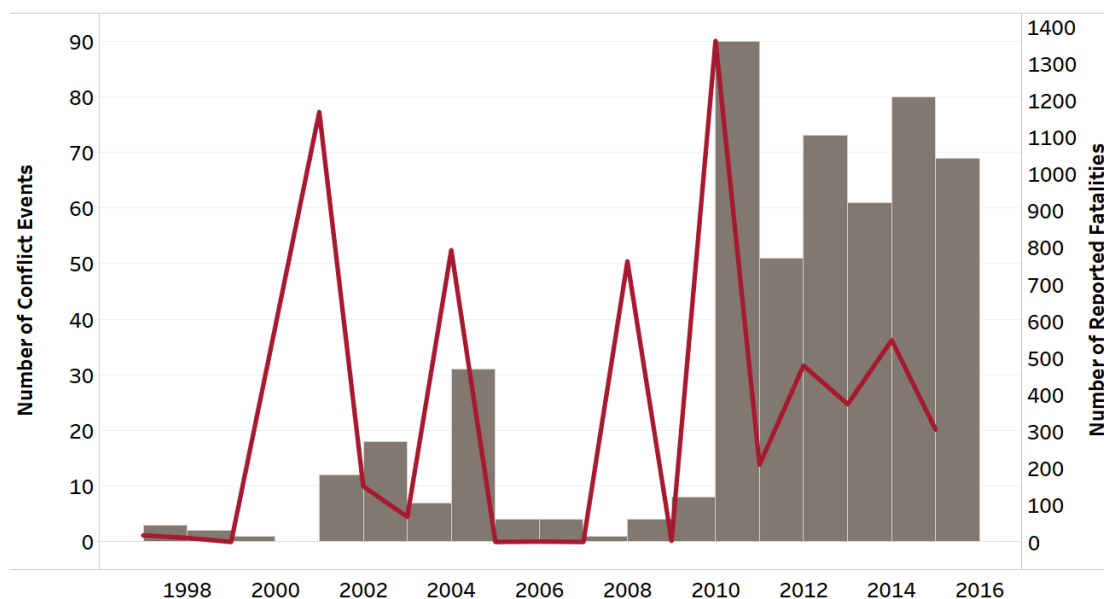
¹ It is also worth noting from a methodological standpoint, that even where research has pointed to evidence of impact and efficacy (Simiyu 2008), wider claims of a causal connection between accountability institutions and improved human rights or governance outcomes have been contested. Impact can be difficult to reliably measure, as there is a risk of multicollinearity and omitted variable bias in models seeking to understand the independent impact of COIs. This is because COIs are often established in contexts that are already transitioning from one form of governance to another, and therefore, are themselves sometimes a product of a (re)commitment to human rights and accountability among the political elite. This suggests that human rights and accountability may be improving in ways that in fact *drive* the establishment of COIs, rather than the other way around (Snyder and Vinjamuri 2003).

This section has outlined the relationship of COIs' and truth commissions' work to transparency and accountability, and the tension between full transparency ('naming names'), possibly amnesty clauses in the interest of peace, and accountability that involves enforcement and sanctions. The section has also discussed some of the politics and societal dynamics that influence the functioning and outcomes of such commissions. The next section outlines the background of violent conflict in Plateau State of Nigeria, thus contextualising the environment in which COIs have been set up. This helps to elicit some of the political and social dynamics that have shaped the work of commissions themselves as well as the role of civil society actors.

3 Context of the violence in Plateau State and the city of Jos

Nigeria's Middle Belt states are sites of sporadic, recurring, cyclical waves of urban and rural unrest, with violent conflict primarily coalescing along religious (Muslim/Christian) lines, which overlap with contextually-specific categories of (perceived 'indigeneity') and allochthony, typically defined by ethnic identity (Sayne 2012). Corresponding conflicts have persisted over several decades, often centring on flashpoints of violence at critical junctures, including around elections (Angerbrandt 2016), and the introduction of Shari'a law (*IRIN News* 2004). While international attention has often focused on Nigeria's high-profile Boko Haram insurgency in the far north-east, the tragic human cost of inter-communal violence in the Middle Belt is substantial. According to empirical records of violence, since 1997, Plateau State has witnessed the third-highest levels of political violence and social unrest of any state in Nigeria (following Borno, the epicentre of the Boko Haram insurgency; and Lagos); and the second-highest levels of conflict-related fatalities (data source, Raleigh et al. 2010). Figure 3.1 serves to demonstrate the high-intensity nature of violence in Plateau State, and shows violence is recurrent, characterised by pronounced spikes in violence at regular intervals. Jos city, the capital of Plateau State, is one of the worst affected places, where more than 4,000 people were killed in several cycles of violence between 2001 and 2010. During the 2008 crisis at least 700 people were killed in riots (HRW 2013).

Figure 3.1 Number of conflict events and reported fatalities, Plateau State, Nigeria, 1997–2015



Source: Authors' own, based on data from Armed Conflict Location & Event Dataset (ACLED), Version 6 (Raleigh et al. 2010).

Plateau State and the city of Jos in particular have seen several episodes of violence since the mid-1990s. The conflicts involve communities considered to be the 'indigene' groups and who are predominantly Christian on the one hand, and Hausa-Fulani on the other,² who are often categorised as 'settler' groups and who are mainly Muslim. The Constitution of Nigeria grants relatively more rights to those who belong to the perceived original populations or 'indigene' groups in a state. Hence those who supposedly 'belong' to a state have preferential access to government jobs, education land, and development funds, which has resulted in experiences of deep inequality among those who are categorised as 'settler' groups (Krause 2011; Ostien 2009; Sayne 2012). While referred to as 'settler' groups, many Hausa-Fulani communities have lived in Plateau State for many generations and cannot identify any other state as their 'original home'. In the case of Jos City, those identified as 'settler' communities have thus repeatedly made claims to being among the original inhabitants (Krause 2011: 24).

Contestation over 'indigeneity' is endemic to all of Nigeria, but the Middle Belt is among the places where this contentious issue has led to violence (Angerbrandt 2015; Higazi 2011: 12-13). Whereas the state has, over time, created new boundaries and smaller units to diffuse conflict, this has not had the desired effect (Angerbrandt 2015; Milligan 2013). Different groups continue to compete over access to political power and resources. It is believed that the distinction between 'indigene' and 'settler' identities reinforces other ethnic and religious identities (Egwu 2011), thus deepening divisions, and ethnic and religious identity also play a role in cementing the divisions and animosity between groups (Sayne 2012; Krause 2011: 31-32). Violence has targeted mosques and churches, and religious leaders and clergy men. Violence has also been framed in terms of 'jihad' and Christian groups have expressed fears of Hausa-Fulani not just wanting a share in power but ultimately wanting the Islamisation of the state (Krause 2011: 31; Ostien 2009: 8). The Hausa-Fulani population has been accused of aiming to displace the 'indigene' from central areas in Jos North in particular (Krause 2011: 35). Higazi (2011: 19) states that claims about jihad are ill-founded, but reflect the fear experienced by so-called 'indigene'.

The question of who exactly is an 'indigene', the original inhabitant of a state, remains heavily contested. The Constitution itself does not define the term 'indigene' and does not at all refer to 'settlers' (Sayne 2012). Local governments are free to decide who it considers an 'indigene' of the state and issue 'indigeneity cards' accordingly. Many however lack clear guidelines and criteria for deciding over who is indigenous (Higazi 2011; Krause 2011: 25; Sayne 2012: 3). The experience of especially Hausa-Fulani groups is that they are being discriminated in the process of certificates (Higazi 2011: 11). According to Ostien (2009: 7) having control over a local government is of fundamental importance to dynamics in issuing 'indigene' certificates and access to other resources, which is why appointments to public offices have been a sensitive and contentious issue in the past. The contestation over 'indigeneity' must be understood against the historical background of Middle Belt states. The British colonial rulers had given powers to Hausa 'settlers' over Christian groups in parts of Plateau State (Ostien 2009: 9). Christian groups in the post-colonial period claim they wanted to 'free' themselves from the domination of northern Muslim groups, whereas people in the north allegedly tried to 'northernise' public offices that were held by people belonging to southern and western groups (Higazi 2011: 4-5, 15; NSRP 2014; Ostien 2009: 6). Since the democratic transition in 1999, political power in the state has shifted to Christian 'indigene' groups, while Muslim 'settler' groups became politically more marginalised (Higazi 2011: 12).

² The Hausa and Fulani have separate histories and languages, but are often linked in Nigeria. Hausa are the largest group in northern Nigeria. In Jos, many different groups can speak Hausa (Angerbrandt 2016: 177; Krause 2011). The settler communities stress they are 'Jasawa' as they have developed their own distinctive identity among the wider Hausa-Fulani group, which they use to emphasise that they, too, belong in Jos (Ostien 2009: 9).

While these may be the deeper causes of the conflict, the re-emergence of violence is further explained by a number of other factors. Poor performance of police and security forces have failed the protection of civilians. In many cases security forces have used violence against civilians during their operations, including extrajudicial killings and arbitrary arrests, leading to deep distrust of the state on the part of the population (Higazi 2011: 20; Kwaja 2011; NSRP 2014; Sayne 2012). In Plateau State, communities felt the military was partisan (NSRP 2014: 14). Politicians and political elites have been complicit in some of the violence, including through identity politics, election rigging, land grabs, and the mobilising of violent attacks (Sayne 2012: 8). Their involvement also partly explains that there is a lack of political will to bring perpetrators to justice (Sayne 2012). Certain (social) media outlets have been associated with promoting rumours and inciting violence (NSRP 2014: 15). Similarly, certain religious leaders have been accused of instigating violent action (Ajibola Commission of Inquiry 2009). Finally, Krause (2011) highlights the prevalence of arms and the illegal arms trade, in which leaders have been complicit, as a problem and reason why later violence had been so deadly.

Patterns of violence have not been homogenous. They have varied from more spontaneous riots that spread and resulted in many casualties, to planned attacks (sometimes retaliatory) on communities by armed militias (Higazi 2008). Especially in the earlier years of this conflict violence was more spatially and temporarily bound, when many people were killed in specific places within a short period. After the riots 2001 and 2008 violence spread to rural areas and many smaller incidents occurred (Krause 2011). In a context with ethnic tension and grievances over past violence, occasional disappearances, small-scale attacks and incidents, including killings, seem to have become part of the conflict dynamics after 2011. Krause (2011: 43) and Higazi (2011: 20) refer to 'silent killings' in the local discourse.

Among the triggers of violence have been state and local government decisions over territorial boundaries, the allocation of resources, political appointments, and elections. Local triggers must be understood against both local and national political dynamics. For instance, Jos North LGA was divided into north and south in 1991. The 'indigene' groups saw the creation of Jos North as a strategy to give control to Hausa-Fulani in this area, since it was created by special decree by General I.B. Babangida, who was Muslim from the north and therefore believed to be on the side of Hausa-Fulani, even though under his rule many LGAs were created (Ostien 2009: 9). Elections and appointments in Jos North have been sensitive ever since (Krause 2011). According to Ostien (2009: 13), the issuing of 'indigene' certificates to members of the Jasawa, who are among the perceived 'settler' communities, had continued in Jos under the military rule of General Abacha (1993–99), but when a democratic government took over this stopped and they became increasingly excluded from political participation. However, since the new state governor, Joshua Dariye, was Christian, this fuelled perceptions that this was a deliberate measure to undermine settler communities (Ostien 2009).

Tensions increased under Governor Jonah Jang (2007–15) who belonged to one of the 'indigene' groups. He confirmed that 'indigene' certificates would no longer be issued to members of Jasawa communities (who are often categorised as 'settlers') and publicly alluded to their expulsion from the state (Ostien 2009: 18). Hausa-Fulani groups felt that Jonah Jang's government was biased against them, and some believed it was implicated in violence against Hausa-Fulani communities in January 2010 (Higazi 2011, 2016; Ostien 2009: 19). The ties between important government officials and 'their' ethnic group is thus important for perceptions of fairness of the respective government, and this paper shows this has also implications for COIs.

This the background to which the eruption of some of the most deadly episodes of violence must be understood:

- 1994: the military administrator Colonel Mohammed Mana appointed Alhaj Aminu Mato, a Muslim and Hausa man, as Chairman Caretaker Management Committee of Jos North LGA. 'Indigene' groups claimed he was no 'indigene' and sent a petition to Col. Mana (Gofwen 2011). The appointment went ahead and groups barricaded the LGA Secretariat, after which riots broke out in April 1994.
- 2001: Tensions mounted after the appointment of the Coordinator of the National Poverty Eradication Programme (NAPEP) in Jos North LGA in July 2001; an appointment that was challenged by 'indigene' communities who claimed the appointed official was not 'indigene'. In September, fighting between Christians and Muslims broke out when a Christian woman was denied passage through a street that was blocked because of the crowds attending Friday prayers, which then escalated into riots that would last five days. Over 1,000 people died (Higazi 2008). Thereafter, violence spread to rural areas (Higazi 2011: 15).
- 2002–04: After the riots in Jos, attacks, killings and other violence continued intermittently in six rural LGAs in Plateau State, carried out mainly by vigilante and militia groups (Higazi 2008). The riots in Jos were the likely impetus for the spreading of smaller-scale violence in southern Plateau (Gofwen 2011), which developed into a guerrilla-like conflict during which an estimated 2,000 people died (Higazi 2008: 109). This violence ended when the Federal Government imposed a state of emergency in 2004, lasting six months (Higazi 2008; Krause 2017: 271).
- 2004: The creation of new districts with contested boundaries resulted in violent clashes in Yelwa, which involved well-planned attacks by heavily armed ethnic militias (Gofwen 2011; Higazi 2008).
- 2008: The elections for Jos North LGA were severely contested as the Christian and Muslim communities each wanted a chairperson from their religion. Governor Jonah Jang backed a candidate who was from his party (Ostien 2009: 28). Tensions escalated on the election day and led to riots across the city (Krause 2011: 38–39). The use of arms, used more than in previous riots, contributed to the high numbers of victims (Krause 2011; Higazi 2011: 23).
- 2010: Tensions over the construction of a building in the city centre, which was destroyed during the 2008 riots, escalated and led to intense violence in the south of Jos, and surrounding villages (Higazi 2011: 24; Krause 2017: 271).
- 2011: After the announcement of election results in 2011, post-election violence erupted in many places in Nigeria where opposition was strong, in particular in northern and Middle Belt states (Angerbrandt 2018: 144). Angerbrandt argues that 'election campaigns that increase the polarisation of the constituency is an important factor for post-election violence' (*ibid.*: 144).

In response to these recurring episodes of violence, the government has established multiple Commissions of Inquiry with the task of creating institutionalised mechanisms for accountability, as well as various committees and advisory panels (Table 4.1). However, this was just one among several measures that the Federal Government and Plateau State Government have taken. The Federal Government has deployed extra security forces in affected areas through the Joint Task Force (JTF) and Special Task Force (STF). It declared a state of emergency to contain peaks in the violence at various points in time, sometimes limited to some local government areas (NSRP 2014: 6). Operation Rainbow, which commenced in 2010, was unique in that it combined security deployment with a civilian component by integrating community representatives (*ibid.*). In Plateau State this operation is said to have improved civil-military relationships (*ibid.*: 14). The Federal Government has also engaged in periodic compensation of victims. The State Government has reached out to elites of different ethnic groups to establish dialogues; made appointments of senior special assistants to the Governor; addressed needs of vulnerable and potentially volatile communities; engaged in victim compensation; implemented various crime-mitigation and peacebuilding measures; and implemented youth employment programmes (*ibid.*: 9).

4 Commissions of Inquiry in Plateau State

Compared to the comprehensive literature that exists concerning the causes and dynamics of the ethno-religious violence in Jos, only a few publications exist on the role and outcomes of COIs in Plateau State to date. This section presents an overview of the COIs that have been established in Plateau State since 1994 by either the state or federal governments. The last COI was operational in 2009, after which the government resorted to committees only, which differ from COIs in how they conduct the investigation process. This section outlines some of the specifics concerning the composition and functioning of different COIs, which have influenced how they have been perceived by civil society and the wider public. Throughout this paper, different COIs and committees will be distinguished by referring to their chairperson.

4.1 COI composition and perceived legitimacy

Table 4.1 presents an overview of COIs and committees and indicates which government established them. Sayne (2012: 7) calls the establishment of COIs '*ad hoc*'. The membership of the COIs has varied. Membership of the Fiberesima COI was designed to be inclusive in terms of ethnicity and religion (Justice Aribiton COI 1994). The Justice Niki Tobi COI was set up in 2001 by a civilian regime led by Joshua Dariye (Justice Niki Tobi COI 2001) and included representation from the major contending groups in the Jos conflicts. Members of the Justice Bola Ajibola COI were drawn from the non-contending fighting groups; mainly from ethnic and religious groups from other parts of the country (Justice Bola Ajibola COI 2009). The membership of the Emmanuel Abisoye Presidential Panel set up in 2009 was on the basis of religion (Justice Emmanuel Abisoye COI 2009). The membership of the committee headed by Chief Solomon D. Lar was unique because its members were all from Plateau State and included elders, politicians and representatives of the contending groups in Jos (Solomon Lar Panel of Inquiry 2010).

The composition of COIs has been contested as contending groups disagree over whether and how the different groups are represented, which has implications for the perceived neutrality and legitimacy of the COI. The background of individual members, their ties to ethnic groups, and alleged role in relation to a conflict episode matter. One criticism of the Colonel Solomon Lar committee, presented by a former member of the House of Representatives from the 'indigenous ethnic groups' in Jos, contended that:

the constitution of the Panel itself was fundamental flawed. Certain members of the panel [...] had been indicted by virtually all the Judicial Panels of Inquiry into the Jos crises, contrary to the universal principles of natural justice, they became judges in their own cause.

(TNV 2012)

Governments at both levels have argued that they have a statutory responsibility to investigate widespread violence. The Federal Government has argued that it has jurisdiction over the entire country as a federation and so it should be concerned about the events that have the potential to destabilise the nation. The State Government, by contrast, contends that it has legal authority to investigate conflicts occurring within the state, in its area of jurisdiction (*ibid.*). This institutional fragmentation, however, has been criticised as resulting in commissions that serve only in an advisory capacity, constituting, in the words of a former member of the House of Representatives from an indigenous ethnic group in Jos, as 'a toothless bulldog which could not indict anyone' (*ibid.*).

The Plateau State Government instituted a court case against the Federal Government for establishing the Salomon Lar committee, claiming that the Federal Government did not have

jurisdiction over the matter (Ajibola Commission of Inquiry 2008: 3). There were five court cases against the constitution of the commission by the Plateau State Government and the Hausa community (*ibid.*: 19). The Moslem Association of Nigeria (JNI) eventually boycotted the commission (Ajibola Commission of Inquiry 2009: 315). The Ajibola Commission report noted that:

...the work of the Judicial Commission of Inquiry was to some extent limited by the deliberate non participation of the Hausa/Fulani people, members of key organisations such the Council of Ulama, and the Jama'atu Nasril Islam (JNI). This was premised on allegations of bias levelled against the Plateau State Government and the Chairman of the Commission. These allegations have been vehemently denied by both quarters on numerous occasions. (*ibid.*: 331)

The formalities of jurisdictions aside, a few studies indicate that perceived ties between government and certain ethnic groups play a role in how COIs and committees influence people's perceptions of their neutrality. Krause (2011: 58) discusses these dynamics following the 2008 crisis, when former President Yar'Adua established the Abisoye committee. The State Government under Jonah Jang then accused President Yar'Adua of siding with the Jasawa community and established the Ajibola COI 'on the ground that the president Yar'Adua lacked the constitutional power to do so' (Ojukwu and Onifade 2010: 178 cited in Krause 2011: 58). NSRP called them 'rival committees and COIs' (2014: 21), and the disagreement was taken to court. It is believed that the State Government used the Ajibola Commission to pursue its own political objectives in Jos, rather than ending the violence (Higazi 2011: 23). In the wider literature on COIs it is recognised that such competing claims on jurisdiction, as well as the questions of institutional independence, can undermine the efficacy and power of specific commissions. It is in such political realities that what has been labelled 'compromise justice' arises (Grodsky 2009).

Table 4.1 Commissions of Inquiry and committees investigating violence in Plateau state

Year	Commission	Government responsible	When report was released; or whether it was never released	Did report name individuals in recommendations for prosecution	COI perceived as relatively neutral and why?
1994	Justice Aribiton Fiberesima COI into riots in Jos (1994)	State government	Report released – 1994 White paper released – September 2004	Yes	No. Hausa community participated but believed that the recommendations targeted them as the initiators of the violence
2001	Justice Niki Tobi COI into the security crisis in Jos North	State government	Report released – White paper released – 2010	Yes	As above
2001	Justice Jummai Sankey Judicial COI to look into communal conflicts in Wase LGA	State government	Report submitted, but no white paper	Yes	
2001	Justice Suleiman Galadima Commission to investigate the 2001 conflict	Federal government	Report submitted but no white paper	Yes	
2002	Justice Felicia Dusu Judicial COI to look into civil disturbance in Shendan, Wase	State government	Report submitted, but no white paper	Yes	
2002	Justice Okpene COI to look at conflict in Benue, Nasarawa, Plateau and Taraba states.	Federal government	Report submitted in 2002, not clear if there was a white paper	Yes	
2002	Rev. Dr Padang Yamsat High Powered Committee on Peace and Security in Plateau State		Report submitted in 2002	Yes	
2004	Presidential Peace Initiative Committee on Plateau State, headed by Shehu Idris, Emir of Zazzau	Federal government	No information	No information	
2005	Mr Musa Izam Administrative Committee to look into conflicts in Quanpan LGA	State government	Report submitted in 2005	Yes	The personality is not from the affected areas of the conflict so it is assumed that the committee composition is neutral

Table 4.1 (cont'd.)

Year	Commission	Government responsible	When report was released; or whether it was never released	Did report name individuals in recommendations for prosecution	COI perceived as relatively neutral and why?
2005	Justice Constance Momoh Judicial COI to look into conflicts in Quanpan LGA	State government	Report submitted – 2005 Report – not released	Yes	
2009	Major General Emmanuel Abisoye Federal administrative panel to investigate the 2008 crisis	Federal government	The COI did not eventually sit to carry out the inquiry	Not applicable	The indigene communities were not comfortable with the COI because it was set up by the Federal Government
2009	Justice Bola Ajibola COI into the 2008 electoral violence in Jos North	State government	Report released – 2009 White paper – NR	Yes	No. A critical section of the Hausa-Fulani community refused to participate in the COI because they believed it would side with Governor Jonah Jang, with whom they had a difficult relationship (Ostien 2009)
2010	Chief Solomon Lar and Amb. Yahaya Kwande Advisory Committee on solutions to continuing crises in Plateau State	Federal government	Report released – May 2010 White paper – NR	Affirms earlier reports on the initiators and perpetrators of violence	COI was accepted because of its composition: two personalities belonging to the two contending religions were appointed to carry out the task. The indigene communities saw some of the contents of the report as supporting the Fulani as it advocated for grazing land for the Fulani.
2011	Shikh Ahmed Lemu Committee on post-election violence and civil disturbances	Federal government	No information on this.	No information	No information

Source: Authors' own.

4.2 COI process and outcomes

The long denial of the public's right to know the content of these reports by successive governments at the Federal and State level provided fertile ground for speculations, distrust, and disregard for constituted authority which significantly contributed towards escalating the crises. [...] Similarly the various Commissions of Inquiry reports and white paper, blamed the continuous crises in Jos on the failure by government at National and State level to implement the various recommendations contained in earlier reports. The consequence of this has been the gradual creation of a sense of impunity by the actions of the perpetrators of this mass violence, which has culminated in turning Jos into a theatre of recurring crises with the scant regard for the sanctity of human lives.

(Right to Know 2011: 9)

The Nigerian state rarely punishes those responsible for indigene-settler violence. Trials are rare and convictions even rarer.

(Sayne 2012: 7)

Justice is normally an important element in conflict mediation and resolution, but this means the rule of law has to be applied, not just to one side or community but to all, and to individuals in positions of authority.

(Higazi 2011: 30)

One of the key tasks of the COIs in Plateau State was the identification of actors involved in violence and those who might have contributed to the remote and immediate causes of conflict. The actors identified by commissions could be individuals, contending groups in the conflict, government agencies, security organisations and international actors (see Justice Aribiton Fiberesima COI 1994; Justice Niki Tobi COI 2001). COIs were also expected to apportion blame to actors that had been identified, by examining the roles the actors played in the conflict either on an individual or group basis. Furthermore, COIs needed to produce reports of their findings. In this context, the provision of recommendations and measures which the government should take in order to avoid future conflict was typically part of commissions' mandates. This included recommendations for taking actors responsible for the violence to court, but also ways to improve the functioning of police and military, and peacebuilding initiatives (Right to Know 2011).

One key critique surrounding the work of COIs concerns the lack of government response. In particular, criticism focuses on the significant delays in the public release of reports by different governments and the absence of justice; issues this paper will also address. The reports by the Fiberesima (1994) and the Niki Tobi (2002) COIs were only released in 2010 (Krause 2011: 58). In the same year, the civil society organisation Right to Know asked for the publication of these two reports as well as the report by the Justice Felicia Dusu (2003); and Justice Jummai Sankey (2002). Justice Ajibola COI finished its assignment in 2009, but the government did not release the report until 2014 after pressure from civil society and the wider public (Scan News 2014).

Reasons for the delays in publishing COI reports vary. One common concern seems to be that the government fears that certain findings and recommendations could lead to renewed violence; a second reason is that government officials themselves are identified as perpetrators or instigators of violence, and COIs recommend prosecution. A 2001 report indicted Governor Joshua Dariye for negligence and this was widely seen as the reason it took a long time for the report to be officially released. It was eventually leaked to the press (Sha 2005). Governor Jonah Jang did not release the report submitted in 2009 by the Ajibola COI until 2014 (Nkanga 2011), in part because he did not want to ignite fresh conflicts.

In terms of the COI recommendations, the government has repeatedly failed to take action, in particular in the sphere of legal justice (Higazi 2011; Krause 2011; Sayne 2012; NSRP 2014). The organisation 'Right to Know', which advocated for the publication of the reports, also pressurised the Plateau State Government to act on COI recommendations (Right to Know 2011).³ It compared the recommendations of the Fiberesima, Niki Tobi and Ajibola reports, finding they were more or less similar. All three COIs made recommendations concerning appointments of public officials, which should take local sensitivities into account and as much as possible reflect the ethnic composition of a given area. They also recommended police forces to be adequately funded and equipped, that they can respond early and handle rumours seriously, and the Ajibola COI recommended improving its coordination (Right to Know 2010: 1). All three reports strongly recommended that all individuals named as suspects needed to be further investigated by the police and, if applicable, prosecuted (*ibid.*: 4). Practical recommendations included the enforcement of a ban on the 'blockage of roads' by those gathering for religious services and the use of loudspeakers to call for prayers (*ibid.*: 4); and that plans for building new religious sites be licensed by the local government (*ibid.*: 5).

However, findings of COIs have been accused of bias towards certain ethnic groups (Krause 2011: 58; Sayne 2012: 7). The Fiberesima, Niki Tobi and Ajibola COIs have gone beyond documenting the immediate triggers and remote causes of certain episodes of violence, and their effects. They have explicitly taken position on the issue of 'ownership' over Jos. In its final report, the Ajibola commission (2009) underlined that previous commissions like the Niki Tobi and Fiberesima COIs had confirmed, in their respective reports, that they considered the Berom, Afizere and Anaguta ethnic groups as the only 'indigene' of Jos. The Ajibola COI endorsed this 'verdict':

...we cannot but come to the inescapable conclusion that the Afizere, Anaguta and Berom tribes are founders and owners of Jos town but not the Hausa/Fulani. The claim of the Hausa/Fulani that they founded Jos North and are owners of same is totally unfounded in view of the evidence placed before the Commission [2009: 48-49]. [...] The Hausa/Fulani have argued that every Nigerian should be recognized as an indigene wherever he or she resides but the application of that policy will still pose difficulties because although one can be a citizen of Nigeria at large, the issue of indigeneship will still have to be resolved by the Constitution. [54] (Ajibola Commission of Inquiry 2009)

The Ajibola Commission disqualified the claims to Jos by the Hausa/Fulani communities, and reinforced that they be considered 'settlers'. It underlined that the question of 'indigeneity' is a national issue, therefore within the remit of the Federal State and something addressed through the Constitution. Rather than discussing how the tension within the Constitution has contributed to conflict in Plateau State, this Commission thus took sides, which contributed to the sensitivity of the report.

4.3 Civil society action

There has been extensive social and political action for accountability centring on COIs in Jos, which remains little understood in the existing literature. One form of accountability action has been directly linked to the work of COIs, and targeted the government demanding it to release COI reports. The League for Human Rights, a civil society organisation, has collected and published some of the COI reports and other analyses of the conflicts in Jos (Bagudu 2004). One organisation, called Right to Know (R2K) 'unearthed' the COI reports of

³ See R2K website for COI reports and White Papers the organisation retrieved: <http://r2knigeria.org/index.php/publication/r2k-publications/inquiry-on-jos-crisis>.

the Jos conflicts and published them on their website. Up until 2010 few reports were published and it was felt that the delay in publication had led to impunity, and consequently a renewal of violence.

Civil society actors have issued strong-worded political statements directed at government, urging the State Government to take more concerted action to find and sanction conflict actors, and to implement COI recommendations. Such groups include the domestic media; domestic civil society groups; ethnic development associations from the contending sides in the conflicts; political classes who may view specific reports as being favourable to them; women's groups; and youth. International actors and externally-sponsored organisations and media (e.g. Search for Common Ground, supported by DFID) are also very active in this area. For example, a coalition of 35 civil society groups wrote in 2010, that:

To end the cycles of violence in Jos, government in Nigeria must act promptly to investigate, prosecute and punish those responsible for the crimes and disclose the reports, findings and recommendations of the commissions of inquiry into the successive crises in Jos. Victims and witnesses deserve to be protected and evidence gathered and preserved. These measures are required in order to reassure the victims on all sides and rebuild the confidence of the communities in the existence of government that cares about their wellbeing.
(Responsibility to Protect 2010: 2)

There is a sense that failure to implement recommendations has further escalated conflict in Jos city and Plateau State, by entrenching a sense of impunity and limited consequences for those engaging in further violence. In addition, among the contending groups, the lack of implementation has created the impression that the state – at both federal and state levels – is a partisan actor in the conflict. The delays in publishing reports and failure to take action on them has affected the perceived legitimacy of the state. As NSRP stated (2014: 25), there is a risk in raising people's hopes and expectations through setting up COIs and without taking action this is likely to breed frustration and the likelihood of renewed violence.

Another form of action is public protest that does not directly target the COI and their proceedings, but still intends to demand accountability from government. Some protest movements emerged mainly from contending communities, who wanted to hold the government to account for spiralling violence. They also called for the arrest and prosecution of the conflict 'entrepreneurs', that indicates that there is some foundation for 'hard' accountability through sanctions. Some protests are organised through ethnic and religious platforms, while others have been mobilised by multi-ethnic and religious groups. Some examples of the former include those organised by women and staged in Jos and Abuja demanding action from authorities against the wanton killing of women and children. Women's International League for Peace and Freedom (2010) reported that hundreds of women took to the streets of Nigeria's capital, Abuja, and the central city of Jos in rallies against the massacre of women and children at an ethnic community called Dogon na Hawa, near Jos. The protesting women who were dressed in black, demanded that the government should protect women and children in times of conflict and put a stop to it. Another protest was organised by women in Farin Lamba, a community in Jos South Local Government Area. It is reported that the women staged protests against the military by hurling stones and burning soldiers' tents, who they blamed for the killing of five local residents (Shuiabu 2011). An example of multi-ethnic and religious group protest includes that organised by the Young Ambassadors for Community Peace and Interfaith Foundation in March and July 2010 attended by religious leaders, politicians, women, and youth leaders from the Fulani ethnic group, the Moslem Association of Nigeria (JNI), the Christian Association of Nigeria (CAN), the Student Union Government (SUG), Plateau Youth Council, and representatives from the Yoruba, Igbo, and South-South communities living in Jos (McCain 2010). Similarly, in 2011

groups of both Christian and Muslim youths took part in a peaceful rally in Jos to protest ongoing violence the city (PM News Abuja 2011).

A final form of accountability action is legal action against government and communities by the contending groups. These often involve instituting legal action by actors who seek redress against the violation of rights, and as such are addressed to local courts or the International Criminal Court (ICC) in The Hague. The coalition of 35 civil society groups mentioned above called for a determination of whether violence in Jos fell within the jurisdiction of the ICC, and outlined civil society groups' intention to 'constitute and deploy without delay an independent team of investigation into the crimes in Jos,' stating that:

Any investigation into the crisis in Jos must address the needs for the protection of victims and witnesses; avoid steps likely to re-ignite violence; and offer a credible promise of identifying and bringing to justice the perpetrators of the crimes committed. (Responsibility to Protect 2010: 2–3)

This section has explained the mandates of several COIs set up in Plateau State, and some of the social and political dynamics that have accompanied and influenced their work. Importantly, these Commissions were all tasked with 'naming names' and recommending individuals for further investigation or prosecution. The question is how social and political dynamics in Plateau State have influenced the work of COIs, and how this has influenced their role in furthering answerability and accountability, either directly or through pushing other actors in the accountability chain to take steps.

5 Research design and methodology

There has been no comprehensive study of COIs in Plateau State to date, and there is no evidence on how civil society engages with their processes and outcomes. The current project focused on COIs rather than the advisory panels and committees that were established in parallel, although sometimes participants would compare these. Since the Ajibola COI was the most recent one (operational in 2009, report released in 2014) the study focused on this, but it also considered participants' experiences with previous ones.

Nigeria is considered 'fragile' for several reasons. According to the Fragility Index, factionalisation of elites, weaknesses in the security apparatus, weak public services and performance of the rule of law and failures in the protection of human rights, as well as high levels of 'group grievances' are among the poorest scores on the indicators of state fragility (Fund for Peace 2016). The index has shown a worsening trend for Nigeria since 2007, its fragility steadily deepening for several indicators. As the previous section has shown, deep divisions between ethnic groups in Plateau State have cemented following multiple cycles of violence. The extent to which these conditions undermine genuine cross-scale and multi-partied coalition support for COIs; the degree to which they can be inclusive; and how conditions inform citizens' demands and expectations of these COIs are issues that remain poorly researched in the existing literature.

The study assumed that fragility has a bearing on the performance and functioning of COIs themselves; the extent of accountability they can generate; as well as on civil society engagement with them. If a commission or its mandate are not seen as legitimate by the public, it is unlikely to provoke broad and sustained civil society action and contribute to enhanced accountability and legitimacy in wider political processes. Considering the deep societal divisions in Nigeria, the wider public and civil society actors may not agree over what constitutes a legitimate commission. There may be real challenges in forging alliances in civil society to exert pressure on the state concerning a commission's recommendations.

The existing literature furthermore shows that there is disagreement over which level of government can rightfully create COIs, and that the Federal and State Government accuse each other of bias. Moreover, it appears that hardly any legal action has been taken to enforce sanctions on individuals who were named in COI reports. Considering the multiple episodes of violence that have engulfed Plateau State, state perceptions of whether the punishment of perpetrators contribute to peace may have shifted: tensions may have emerged over pursuing legal justice through the courts, or safeguarding a fragile peace. Or, the state has knowingly sustained impunity by failing to prosecute named individuals; an effect of weak and corrupt state institutions, and/or elite networks.

Focusing specifically on societal divisions and fractured state authority as key dimensions of fragility in this particular context, the central question this study addresses is: How has fragility influenced the role of COIs in generating accountability for ethnoreligious violence in Plateau State?

- How have societal divisions and fractured state authority influenced perceptions of COI neutrality and legitimacy?
- How have societal divisions and fractured state authority influenced civil society engagement with COIs?
- How have political dynamics influenced the ways in which the government responded to COI reports, and COI recommendations concerning the prosecution of named individuals?

The study looked at perceived legitimacy and neutrality of the COIs, and how it influenced the processes and perceptions of findings. It looked at the forms of civil society action by different actors (contending groups, cross-ethnic/religious groups, media), and the intentions behind their actions. The study looked at state responsiveness to COI findings and recommendations, and to what extent accountability was aimed for and, from the perspectives of participants, achieved.

- Regarding legitimacy of COIs, the study explored to what extent the legitimacy was influenced by the membership of the commission, and whether a COI was established by the government or Federal State as this would influence the extent to which COIs were considered impartial. We expected highly diverse perceptions of the legitimacy of COIs among civil society actors, depending on whether they were aligned with one of the ethnic groups or deliberately worked across ethnic and religious boundaries, and also whether a civil society organisation was from/active within areas affected by the violence.
- With regards to civil society action the study looked at actions in relation to the setting up of COIs, their work, the publication of reports, and recommendations. Civil society action was expected to be different if the COI was established by a military government compared to a democratic government, since the space for civic society actions was potentially more limited under the former.
- In terms of state responsiveness and accountability, the study focused on how the state dealt with COI processes and reports, and how it responded to recommendations concerning the investigation and prosecution of named perpetrators. In terms of accountability, the study used Fox's (2007) dimensions of accountability: answerability and enforcement. It thus looked at to what extent the government has prosecuted and punished those who were named in reports; those who mobilised, instigated and perpetrated violence; and those within state institutions who stood accused of negligence and thus contributed to escalating violence. It also looked at whether the government removed certain officials from office if they responded inadequately to the crisis, or whether a political leader stepped down.

The main methodology of this study was the use of conventional, semi-structured interviews with key informants (see Annexe 1 for an overview). All participants had directly been involved in one or several COI processes either as a member, or government or civil society actor. For civil society, we selected representatives from the different contending groups, all of whom had taken various forms of action at the time of the COI process, for the publication of reports, or concerning COI recommendations. In total, researchers from the University of Jos conducted 28 in-depth interviews with key informants. To identify participants we used snowball sampling, the University of Jos and the researchers' networks. They interviewed civil society actors, some of whom were aligned with ethnic groups and others with interfaith or human rights organisations. They also interviewed government representatives. All respondents had been directly involved in one or several COI processes. We tried to have equal representation from the main contending groups (Anaguta, Afizere, Berom, and Hausa-Fulani). However, in the end this resulted in a set of interviews in which representatives from Muslim backgrounds were underrepresented. In the analysis and in this report we have paid extra attention to their views, but overall the paper represents mainly the views of actors from Christian backgrounds. This is highly important to acknowledge in this context.

The interviews focused on the legitimacy of different COIs, forms of civil society action in relation to COIs and their reports and recommendations, and government responses to different COIs and their reports. Interviews were conducted by two researchers, who are citizens of Plateau State but not from the contending groups in the conflict. The choice of the researchers was carefully considered in order not to: (i) create problems of accessing respondents, or (ii) inject bias in the data collection process, particularly in the conduct of the interviews. Semi-structured interviews were designed by IDS and the University of Jos and systematically used, which should also mitigate bias in the interview process.

A major limitation of the study was that the COIs were established a relatively long time ago (the Ajibola COI was in 2009) and therefore several respondents indicated it was challenging to remember exactly what had happened. This will have affected the level of detail on especially civil society strategies, and government responses. Another implication of this timeframe was that participants were inclined to speak about COIs in a generic sense, and had to be prompted to speak to specific COIs as they all addressed different episodes of violence and were operational under different governments. To mitigate the problem of recall we conducted a review of online media articles to check facts and events mentioned in interviews. We also reviewed online media articles for the period 2009–16, which is when we expected the media to report on the proceedings of the Ajibola COI. Although this was the aftermath of one COI, it was likely to raise debate on recommendations from previous COIs. Both state and independent media sources were reviewed.

6 Perceptions of legitimacy of COIs in Plateau State

6.1 Composition of commissions

The majority of respondents agreed that a COI needs to be inclusive of gender and religion for it to have legitimacy and be perceived as neutral. The question of ethnic representation is more complicated. The dominant view was that either COI members come from Plateau State and then all ethnic groups need to be proportionally represented, or all members should come from different states and have no links to any of the local contending groups. The Niki Tobi and Fiberesima COI were frequently mentioned for their relative impartiality as all members were from outside Plateau. While respondents recognised that ethnic affiliation

to groups in Plateau State may not necessarily jeopardise their work, they also recognised it to be a key factor in how the public at large would perceive and engage with a COI. One respondent, from a Muslim background, illustrates this: ‘People will ask “how many Muslim are on it and how many Christians are on it” because they believe that who the chairman is and who the members are is instrumental to the kind of outcome. Unfortunately, it is the reflection of our national situation that we attached a lot of value to this ethnic and religious symbols and sentiments’.⁴

Many respondents emphasised the need for a credible chairperson, whose background needs to reflect impartiality and integrity. The fact that Justice Niki Tobi was a retired High Court Judge built confidence, for instance, and despite the controversy around the Ajibola COI many expressed their confidence in someone who had served in an international court.⁵ Respondents recalled the disagreement over the appointment of Major General Abisoye as the chairperson of the panel set up in 2008, because he had presided over the military tribunal that trialled and executed prominent members of groups referred to as ‘indigene’ from Plateau State for their involvement in the 1976 coup (see Akinwale 2010: 133). One respondent commented that some members of so-called ‘indigene’ groups were afraid that General Abisoye would be biased towards the Hausa-Fulani people and criticised then President Yar Adua for putting him forward, because ‘... those kind of things automatically affect a panel, if the leader is questioned’.⁶ This dynamic affected the work of the panel itself, according to this respondent, and prevented it from looking at the deeper causes of conflict.

Looking back at the Niki Tobi COI a respondent who belongs to the Jasawa community reflected that there were at least two Muslims in the COI, and that Niki Tobi himself was a respected man without any ties to Jos and therefore neutral. He also stated that the overall social and political climate was not yet as tense and polarised back then as it is in the present. He stated there was a sense of ‘fairness and equity’, which helped Hausa-Fulani communities to engage with this COI. In 2008–09, however certain Hausa-Fulani actors boycotted the Ajibola COI in 2009: not because of individual members, but due to distrust in the State Government and feelings of increased stigmatisation of the Hausa-Fulani by the State Government.⁷

Civil society representatives stated there was usually little they could do in terms of influencing the composition of a COI.⁸ If contending groups had major objections to the composition this would shape the manner in which they engaged with its process, as became clear in the case of the Ajibola COI when Hausa-Fulani questioned the government’s intentions for establishing it, and subsequently boycotted the process, and went to court. The contestation over the composition of a commission or individual members has prompted different groups to take position on this issue. One representative from a council of elders of one of the contending groups said:

If there is any Commission of Inquiry today, I tell you we are going to look into the background of each person very very meticulously because of experience. But then [in the past] we did not look at the background of these people, we did not look at who

⁴ Interview 8, politician and representative of ethnic association of one of the contending groups, and former advisor to State Government.

⁵ Interview 4, human rights organisation; Interview 19, representative of ethnic association of one of the contending groups.

⁶ Interview 12, interfaith organisation, 5 May 2018.

⁷ Interview 28, politician and representative of ethnic association of one of the contending groups, 6 May 2018.

⁸ Interview 3, politician and representative of ethnic association of one of the contending groups, 15 February 2018.

they are, or their interest, we took it on face value that these were reputable people and they will do a fair and a neat job.⁹

One respondent claimed that if the composition of the COI is one-sided or challenged, 'what they want to achieve has been defeated even before they start working'.¹⁰ As the composition influences the perceived credibility, neutrality and legitimacy of the COI, it will also affect perceptions of their reports.

Other respondents, however, stated that many believe that any COI will align with the government that established it, no matter how well-balanced its composition.¹¹ 'There have been some series of imbalances [in the composition of COIs] in the favour of those who have favour in the government of the day', said one of them.¹² One finding of the study is that the perceived neutrality of a COI is impacted by the level of government it was set up by: the State Government or Federal Government. Respondents explained that some members of so-called 'indigene' populations of Plateau State feel that the Federal Government is 'compromised' as they believe it comprises parties who have good relationships to the supposedly 'settler' populations. Therefore, they believe a COI established by the Federal Government might be biased in their judgement and decisions, and this influences the ways in which different groups will engage with a COI process. As explained above, the State Government itself has objected to involvement by the Federal Government. Similarly, respondents explained how some Hausa-Fulani groups in Jos feel the State Government favours those referred to as 'indigene' groups, and would therefore feel more comfortable with commissions set up by the Federal Government. One respondent, a member of an ethnic association of one of the 'indigene' groups, felt this was particular the case for the Jonah Jang government, as suggested in existing literature (Ostien 2009; Higazi 2016).¹³

6.2 Perceptions of COI performance and process

'No matter how well the Commission of Inquiry may have done its work, no matter how well the government may have crafted its white paper, the reality is that certain people will feel aggrieved'.¹⁴

In terms of COI process respondents emphasised the importance of inclusiveness and also transparency. The invitation to submit memoranda, statements, and oral testimonies, and to attend hearings needs to be balanced and all affected groups need to be heard. One respondent commented that the live screening of all sessions on TV helped build confidence in the process. In addition to hearings, respondents emphasised the need to visit heavily affected sites to witness the level of destruction and speak to affected communities, to enhance the information flow.

Overall, respondents agreed that the COIs had been thorough in their investigations, even in the case of the contested Ajibola COI. Respondents underscored the limitations of a COI process when specific groups boycott the process (as Hausa-Fulani groups did in the case of the Ajibola COI), and when alleged perpetrators refuse to appear for a Commission when called.¹⁵ This creates an imbalance in the information a COI will assess, which will affect the

⁹ Interview 7, representative of the council of elders of one of the contending groups.

¹⁰ Interview 12, interfaith organisation, 5 May 2018.

¹¹ Interview 7, representative of the council of elders of one of the contending groups; Interview 17, representative of youth movement of one of the contending groups.

¹² Interview 17, representative of youth movement of one of the contending groups.

¹³ Interview 15, representative of ethnic association of one of the contending groups.

¹⁴ Interview 6, senior attorney, Plateau State.

¹⁵ Interview 20, human rights organisation.

perceived legitimacy of their reports. One respondent felt that COIs need to have the legal power to be able to summon individuals, as in court hearings.

In terms of the manner in which sessions have been conducted, one respondent flagged that the Committees operated more like ‘investigators’, drawing an analogy to a police inquest, whereas COIs created a space for listening that was better appreciated. Committees were not ‘asking questions but debating with people about certain facts and I think they should be unbiased. Even if they have different information they can write it in their report, but not be countering people as they present’.¹⁶ Another respondent argued that also some COIs had operated in a manner that was ‘too legalistic’: the language used in sessions was a very legal jargon, and in some cases lawyers accompanied those who gave their testimonies because they were afraid to use the wrong language.¹⁷ According to this respondent this mimics the court of law too much and can deter people from coming in. A representative from the Jasawa community felt that a weakness of the COIs was that they had no power to summon critical witnesses, which would result in a lack of balance of evidence.¹⁸

The answers of respondents reflected the deep tensions between truth, reconciliation and accountability in the form of prosecution of instigators and perpetrators of violence. One respondent declared that a fundamental weakness of the COI is that they are not real courts that can pass a verdict and determine punishment.¹⁹ The view of a different respondent reflects the opposite perspective:

Most of these Commissions of Inquiries do not promote genuine reconciliation, they end up tagging people: either these are the victims or these are the perpetrators. So it doesn’t in any sense promote reconciliation, the end result should have been a reconciliation and healing of wounds so we can have a genuine reconciliation and also have sustainable peace but they don’t do that, so these are fundamental weaknesses of these Commissions of Inquiry.²⁰

This respondent questions the role of COIs altogether. ‘Hostilities will cease but the Commission of Inquiry itself becomes a stage for exchange of salvos [gun fire]’.²¹ The hearings become a new battleground with different groups making accusations about one another, misrepresenting the views of others in the media, and thus potentially renewing tensions.

In essence, some groups behave as if they are in the court of law. A civil society representative who had been actively involved in the Niki Tobi COI recalls how members of the contending groups had come to the hearings with their ‘teams of lawyers’: ‘Both the Christians and the Muslims were all prepared to go and do a lot of legal fireworks’.²² This affected the work of the COI as it distracts from focusing on the deep causes of the conflict, as well as from truth telling and reconciliation.²³ When the white paper was released, groups challenged it in court.

¹⁶ Interview 20, human rights organisation.

¹⁷ Interview 7, representative of the council of elders of one of the contending groups.

¹⁸ Interview 8, representative of ethnic association of one of the contending groups, and a former advisor to State Government.

¹⁹ Interview 19, representative of ethnic association of one of the contending groups.

²⁰ Interview 28, politician and representative of an ethnic association of one of the contending groups.

²¹ Interview 28, politician and representative of an ethnic association of one of the contending groups.

²² Interview 12, interfaith organisation.

²³ Interview 12, interfaith organisation.

Several respondents stated that the opportunity to air out grievances that is enabled by COIs initially 'dampened' tensions, while recognising issues remain unresolved.²⁴ COI sessions thus offer members of contending groups public recognition for the harm inflicted on them, and for the loss of lives and extent of destruction. It was also felt that COI sessions offered people the chance to contribute ideas to solutions. 'People were discussing instead of fighting', stated one religious leader.²⁵ However, the temporary decrease in the tensions risks being nullified because of the lack of responsiveness to COI reports on the part of the state.

Citizens become very hopeful once you set up such Commissions of Inquiry but I think they have stopped being hopeful because they believe it is just a game by government to ... put them under the carpet. Once you talk about the Commissions of Inquiry, people have not seen any previous reports implemented, nobody believes it any longer... I cannot blame people for the frustrations they may hold.²⁶

These findings suggest that while COI hearings were partly intended to contribute to meaningful reconciliation, their mandate to recommend instigators and perpetrators of violence for prosecution interfered. It strongly influenced the ways in which individuals and civil society actors engaged with the COIs and approached the sittings to attribute blame.

7 Civil society action and COIs

Civil society in Plateau State is very diverse. Many organisations and associations work as interest groups for specific ethnic and religious groups, whereas several peacebuilding groups exist that cut across ethnic and religious lines. There are (national) networks and platforms of religious leaders like the Christian Association of Nigeria (CAN, northern region), Nigeria Inter-Religious Council (NIREC), and the Jama'atu Nasril Islam (JNI), which have played a prominent role in peace dialogues and interactions with the government. Over time the government has created different institutions to formally interact with religious and ethnic leaders over peace in the state. Civil society organisations have engaged with COI processes in a myriad of ways: both engaging as well as opposing their processes and outcomes. This section describes the different types of civil society action in relation to COIs, and how the context of fragility has informed the dynamics of engagement.

7.1 Engagement with COIs

For many years between 1995 and 2008, when different COIs have been operational, there was a certain level of hope and confidence that COIs would be an effective measure to contribute to peace and justice. Later on, as this paper will show, this hope diminished, but before that civil society organisations had asked for COIs to be established. Public officials interviewed said that government had to respond to 'public outcries' and 'calls from civil society'. A leader of one of the ethnic associations remembered they had 'definitely requested that there was a need for even a Judicial Commission of Inquiry, not just a panel' following the 2001 crisis in Jos.²⁷ He emphasised that the expectation was that a COI would really investigate the root causes of the conflict, whereas a panel would be limited to investigating immediate triggers, cause of events, and perpetrators. Representatives from a Yoruba association stated they had appealed to the State Government to establish a COI to ensure it was officially recorded that Yoruba communities were affected by violence, not just

²⁴ Interview 12, interfaith organisation.

²⁵ Interview 11, chairperson of a Christian association.

²⁶ Interview 11, chairperson of a Christian association.

²⁷ Interview 15, representative of ethnic association of one of the contending groups.

the three main 'indigene groups'.²⁸ They also hoped that this would lead to compensation for loss of assets. Hausa-Fulani representatives expressed the hope that COIs would offer another opportunity to attain 'indigene' rights and status.²⁹ Civil society groups that worked across ethnic divides emphasised the possibility that truth telling could help build peace. Thus, motivations to make demands on government about setting up COIs depended to a certain extent on the position and nature of a civil society organisation and especially whether it was ethnically affiliated or not.

With regards to the composition of COIs, civil society actors had tried to influence the government on representativeness and impartiality of the commission members. All respondents felt unsure, however, whether they had really influenced government decisions about nominations and thought that they had never really been able to influence who had been nominated. As made clear in the previous section, the perceived credibility of COI members is important and several CSOs reported they had actively 'screened' nominated COI members, especially the chairperson. They would publicly announce disagreement if they found that 'anyone has been compromised or is not qualified'.³⁰ Thus, in addition to directly lobbying the Government, fuelling debates in the public domain constituted an important strategy to influence public perceptions of a COI, which could then influence how civil society and the public at large engaged with its work.

The most important way in which civil society actors formally engaged with the COI process itself, was by writing and submitting memoranda and sending representatives to give oral testimonies during hearings. In order to compile and present these formal contributions CSOs conducted their own investigations into a crisis by visiting and speaking to affected communities. Secondly, CSOs put a lot of effort into making communities aware of COI processes and in helping them write their own memoranda, thus enabling them to take part in the process. One respondent recalled that his organisation actively encouraged people to use the avenue of COIs, saying that CSOs 'should help in calming nerves and urging the people, for instance, that the best way to ventilate their grievance is before the tribunal'.³¹

A few respondents reflected on views held by some elements of contending groups that the State Government and Federal Government are biased: in broad terms, State Government was accused of siding with the main 'indigene' groups and the Federal Government of siding with settler groups, which would influence how each group engaged with a COI.³² However, this study did not generate enough evidence to conclude whether such perceptions are widespread. In the case of the Ajibola COI, Hausa-Fulani civil society took action against its establishment and later its process. One participant in this study had been part of taking the Government to court and recalled how he had personally issued a media statement, calling upon the Hausa-Fulani in Jos to boycott the COI process.³³ He said this act was the result of feelings of stigmatisation: the State Government reproduced the stigma of Hausa-Fulani as violent. He remembered how the State Governor appeared in the press on the first day of the 2008 crisis, stating that 'the riot was started by Muslim youths in Ali Kazaure'. The respondent felt that this Governor, as a political leader for all, had immediately taken sides and blamed the crisis on the Hausa-Fulani. He argued that, in this instance, the Government was a party to the conflict because the elections had triggered the violence; and because the police and security forces had handled the situation really badly and had perpetrated the violence. With the State Government being a party in the conflict, he reasoned that if a COI

²⁸ Interview 16, representative of ethnic association of Yoruba.

²⁹ Interview 8, representative of ethnic association of one of the contending groups, and a former advisor to State Government.

³⁰ Interview 9, private legal practitioner.

³¹ Interview 19, representative of ethnic association of one of the contending groups.

³² Interview 16, representative of ethnic association of Yoruba.

³³ Interview 28, politician and representative of an ethnic association of one of the contending groups.

is set up by the state 'you [the state government] are a judge in your own case'. In addition, he felt the 2008 crisis was a matter to be addressed by the Federal Government because of the use of firearms, the police violations, and alleged involvement of foreigners. He stated that he and his community therefore engaged with the Abisoye Panel, as they did not trust the State Government to be fair and just and the 'atmosphere was polluted'. He concluded: 'How they (COIs) come about and the political atmosphere, you know... the environment at the time of their setup is what determines the shape they take and also the response they get'.³⁴

With regards to the release of COI reports, CSOs have again taken a wide range of actions. The most common forms of action were the issuing of press releases in which organisations call upon the Government to release reports and discuss the matter in radio programmes. Organisations would bring it up in meetings even if these were called to discuss other issues, and leaders would informally ask their contacts in the Government or send mobile phone text messages. Certain organisations, like the Right to Know, went a long way to 'unearth' reports that had been kept outside of the public domain for years, and actively campaigned for the implementation of recommendations. Many other CSOs said they had only occasionally demanded the implementation of reports after the momentum had waned. One respondent said that if you would ask a permanent secretary in a cabinet's office s/he would probably not know the content of reports.³⁵ Often, organisations had to prioritise their regular activities, sensing that peacebuilding activities and dialogues were more likely to contribute to peace than pushing the Government on COI recommendations. CSOs working for the interests of those referred to as 'settler' communities carried on advocating for more political inclusion. Other CSOs felt their work was in line with some of the recommendations made by COIs to promote inclusion, and that they as civil society actors had 'taken recommendations out to communities'.³⁶

In several cases, people have taken action to protest and appeal the outcomes of COIs; both the COI reports and, in the few instances in which one was issued, the Government's White Papers.³⁷ In the case of the crisis in Namu and the report of the Justice Constance Momoh COI, the Government issued a White Paper in May 2006. Its decision favoured the Gamai ethnic group. The aggrieved group, the Pan, disagreed but did not respond violently, but instead took it to court. One respondent argued that this was a significant outcome of the COI and the Government response, saying this had prevented further any crisis in Namu.³⁸

7.2 Effects of fragility: a fragmented civil society

The previous section has made clear that the COIs, rather than becoming a space for reconciliation, became another battleground for the contending groups. The divides in society, reflected in a fragmented civil society, shaped civil society's engagement with COI reports and the Government. Civil society as a whole is strongly divided over the reports, and some segments of civil society indeed took legal action against the reports. Organisations and associations linked to specific ethnic groups may try to liaise with other ethnic groups if they find they share an interest, in order to then mobilise against other groups whom they feel act against their interests. In this conflict environment there is not a complete lack of civil society collaboration (a feature of fragile settings). Rather, bargaining and collaboration among ethnic associations is very much interest based and depends on the sensitivity of an issue. Peacebuilding and human rights organisations that were not ethnically aligned were more likely to collaborate to pressure Government on COI recommendations.

³⁴ Interview 28, politician and representative of an ethnic association of one of the contending groups.

³⁵ Interview 12, interfaith organisation.

³⁶ Interview 13, representative of a youth movement from one of the contending groups.

³⁷ www.dailytrust.com.ng/ios-crisis-lar-committee-urged-against-using-panels-recommendations.html.

³⁸ Interview 6, attorney.

A representative from the Berom community explained it as such:

We try to just liaise with certain groups to be able to see our own interests, or to see our common stands on certain issues, but I don't think we have really relied on them [for collaboration], but we have to make our positions very clear and then push for them.³⁹

This bargaining is not limited to the main contending parties. One representative from the Yoruba community explained how he seeks to maintain good relationships with other so-called 'indigene' groups in order to protect Yoruba communities,⁴⁰ who are a large community in Jos and Plateau State and also considered 'settlers'. Areas with sizeable Yoruba populations have been affected by violence, and Yoruba properties have been destroyed.⁴¹ The Yoruba community representative interviewed for this study recalled how he visited the Berom, Afizere and Anaguta leaders to communicate that his community agrees these three groups are the 'indigene' and rightful owners of Jos.⁴² This discourse further reifies the categories of 'indigene' and 'settlers' and deepens social divisions among groups.

Representatives from a Hausa-Fulani association stated they had collaborated with the Igbo associations over the recommendation to reconstruct markets and commercial centres, and demands for compensation, despite their differences over other matters. Representatives from Christian networks said they had collaborated with Muslim religious leaders over the protection of places of worship. However, on issues related to 'indigene' and 'settler' rights and citizenship, the faultlines were very deep and 'then there are frontiers nobody wants to cross', according to a journalist.⁴³ The issue of prosecution was heavily contested, with each group wanting to protect their own, especially when named suspects were important leaders.

The representative of a women's organisation, which has worked across ethnic divisions said:

There are fractures along political fall lines, sometimes people have their vested interest as well. And then sometimes we have politicians themselves trying to get their tentacles into civil society to cause that dissipation of energy, or to make sure there is no unity of purpose. Civil society itself is fragmented by politicised interest, so who is civil society? Civil society itself is fractured. To me the only hope is when civil society will actually arise, together it will play its role as the watchdog of government.⁴⁴

In addition, she also indicated that in the current climate people were afraid to contest the views of government and preferred to keep quiet.

³⁹ Interview 7, representative of a council of elders of one of the contending groups.

⁴⁰ www.thisdaylive.com/index.php/2018/10/08/yoruba-community-laments-loss-of-members-property-to-jos-violence/.

⁴¹ www.thisdaylive.com/index.php/2018/10/08/yoruba-community-laments-loss-of-members-property-to-jos-violence/. Interview, representative of Yoruba community, (Dr Adeyi).

⁴² Interview 16, representative of ethnic association of Yoruba.

⁴³ Interview 23, journalist.

⁴⁴ Interview 14, representative of Christian women's association.

8 State responsiveness to COI recommendations

As was noted in Section 4 of this report, the literature on COIs in Plateau State is limited. Existing articles and reports underline they are rather top-down instruments, and that the Government has largely failed to give any follow-up to their recommendations. This is underscored by the fact that the State Government has only issued White Papers in response to two COIs: Niki Tobi COI and Fiberesima COI. This study concurs with these views: there was overwhelming agreement among civil society actors that the Government has failed to be responsive to COI reports, and in doing so has hampered the process of achieving peace. In fact, only one respondent came up with a positive note on Government responsiveness. This section analyses the extent of responsiveness to COI recommendations that called for the investigation and prosecution of individuals that were named in reports, and/or the removal of officials from public office. It ends with a discussion of the effects of the lack of responsiveness to COI recommendations for state legitimacy. The section integrates a discussion of the nature of fragility in Plateau State, centred mainly on weakness of state institutions at both State and Federal level, which helps to explain why COIs have not produced 'hard' accountability. In turn, since the lack of responsiveness has deepened mistrust in the state it may have deepened fragility.

Section 3.3 of the report by Ajibola COI explicitly states that the recommendations made by the Niki Tobi COI and Fiberesima COI were not implemented, and that this had contributed to the continuing crisis and re-eruption of violence in Plateau State. Both commissions recommended the prosecution of named individuals and officials, and to monitor certain organisations that the commissions believed played a role in instigating and encouraging violence (Ajibola Commission of Inquiry 2009: 56–58). The Ajibola report states that the Niki Tobi Commission had already noted that the Government had failed to implement recommendations made by the Fiberesima COI (*ibid.*: 59). Further, it concludes that:

There is no indication that these recommendations concerning persons, group of persons, organizations or institutions directly or indirectly allegedly responsible for the previous crises as found by the two Commissions were implemented by the Government [p.59]. (...) We find as a fact that the non-implementation of the previous reports is one of the major remote causes of the November 28th, 2008 crisis. (*ibid.*: 61).

In our interviews, all respondents indicated that none of the named individuals was ever taken to court and convicted. 'They are today walking the streets of Jos as free men!'.⁴⁵ The review of media articles also confirmed that none of the individuals that were recommended for prosecution by the Ajibola COI were indeed prosecuted. On the contrary, numerous prominent leaders and politicians that were accused of instigating violence continued to hold public office and/or play a role in Nigerian politics. For instance, Senator Ibrahim Mantu is still involved in political decisions with his current political party, the People's Democratic Party (PDP) in Plateau State.⁴⁶ Sheikh Jingir was appointed the Plateau State Amirul Hajj by the State Governor in 2015.⁴⁷ After he died in July 2018, the late Alhaji Saleh Hassan was described as a peacebuilder in statements by former Plateau State Governor Simon Lalong and Nigerian President Mohammed Buhari 2018.⁴⁸

⁴⁵ Interview 25, journalist and former chair of a journalist association.

⁴⁶ www.thenewsbook.net/2019-senator-mantu-to-engage-plateau-pdp-guber-aspirants-on-consensus-arrangement.

⁴⁷ www.dailytrust.com.ng/null-412.html.

⁴⁸ www.dailytrust.com.ng/top-politicians-residents-mourn-late-sale-hassan-261014.html.

Respondents highlighted the informal impunity of government officials and politicians implicated in the violence. This was considered a major reason for the delay in public release of reports, as well as lack of implementation. One respondent highlighted that those in charge of handling reports are afraid of more senior officials: 'if they release the reports, it might hurt one or two persons and it will affect their [own] political career'.⁴⁹ Another respondent stressed that recommendations to indict senior officials, party leaders, and politicians can become 'political liabilities', and that pressing for those recommendations that are unpopular among a certain constituency is a risk as one might lose elections.⁵⁰ The following respondents explain how impunity is the effect of informal, multi-layered networks:

Every untouchable political actor is covered by a godfather. Secret cults in the polity... and there are many of them, quite frankly. [They are] Well linked-up, well-connected nationally, internationally. Some of their names they are there in the Commissions of Inquiry [reports]. I don't know how these people would be prosecuted. The moment you start as a matter of fact you would..., you will hit the rocks. That is why the security agencies like the Police would be reluctant to go arrest some of these characters. It means people are above the law.⁵¹

This issue of impunity is connected to the reluctance of the State Government to release reports in the interest of 'public security'. Some named perpetrators were influential in their communities and, if arrested, they would possibly be able to mobilise and instigate violence. Some respondents talked of how such actors 'hold the state hostage' by threatening to trigger violence.⁵² These respondents felt the state is complicit in maintaining a culture of impunity by giving in. A representative of the Yoruba community felt that government officials use the risk of insecurity as an excuse to sweep things under the carpet.⁵³ This person preferred a more hardline approach to resolving violence through prosecution, rather than a peacebuilding approach in which there is room for amnesty in exchange for truth telling and reparation.

The question whether security concerns hampered the implementation of COI recommendations provoked varied responses. Many respondents felt this was a false excuse by various governments in order to avoid the prosecution of prominent officials and leaders. They strongly felt that a government should stand above all parties and not shy back from difficult decisions.⁵⁴ One respondent stated that each government became 'sloppy' once the crisis was over, thinking there was no longer a need to implement recommendations.⁵⁵ Another respondent thought the Government felt it was better not to implement recommendations as it would open old wounds and it is better to let sleeping dogs lie. Some respondents pointed at specific recommendations that would have security implications, and acknowledged this could be a reason for the State Government's reluctance to implement them. The Ajibola Commission had recommended redrawing the territorial boundaries of Jos North LGA (Right to Know 2010: 8–9), which was likely to provoke tensions and possibly new conflict, according to one respondent. Even those civil society representatives who were very vocal about the lack of government responsiveness acknowledged the risks of arresting high-level officials for security in Jos. Referring to the Ajibola report, which recommended the prosecution of high-ranking officials across different

⁴⁹ Interview 1, representative of a youth movement from one of the contending groups.

⁵⁰ Interview 6, senior attorney, Plateau State.

⁵¹ Interview 8, representative of ethnic association of one of the contending groups, and a former advisor to State Government.

⁵² Interview 14, representative of Christian women's association; Interview 18, academic and representative of an ethnic association.

⁵³ Interview 16, representative of ethnic association of Yoruba.

⁵⁴ Interview 7, representative of the council of elders of one of the contending groups; Interview 14, representative of Christian women's association; Interview 16, representative of ethnic association of Yoruba; Interview 17, interview with representative of a youth movement from one of the contending groups.

⁵⁵ Interview 20, human rights organisation.

groups, a respondent stated that, if implemented, it would very likely have triggered large-scale violence. Certain groups might protest the arrests of prominent leaders and provoke contending groups. However, he felt at least the Government should have put them under surveillance.

With regards to lower-level perpetrators (those participating in the violence, riots and mobs on the streets) one respondent made the critical observation that the Government did not follow due process and this has hampered legal justice procedures. He recalled that during the 2008 crisis many more suspects were arrested and imprisoned than ever before. For ordinary court procedures, the evidence to support the charges for most serious crimes, like murder and arson, was never adequate. There was also no capacity to properly investigate each case. Someone could be charged for the illegal possession of firearms, if caught with one, but in most cases there was insufficient evidence to prosecute the suspect for murder, the respondent claimed. To properly investigate and indict these 'rank and file' among perpetrators after the long process of a COI would practically be impossible. In his capacity as a lawyer he had directly engaged with the Attorney General in 2008, asking for better documentation of evidence. In his view, the Federal Government came in because the State Government could not handle the cases properly, especially when firearms were used.⁵⁶ Several other respondents spoke of the issue of perpetrators being 'taken to Abuja': it was synonymous for Federal Government interference.⁵⁷ The rumours that suspects were released and protected by the Federal Government reflected deep-rooted ideas that networks between elites in the state and at Federal level worked against justice.

Government officials echoed the sentiments that the Federal State had interfered with justice processes. A former senior official from the Ministry of Justice confirmed that suspects who were caught with arms were taken over by the Federal Government and taken to Abuja.⁵⁸ He stated that, since the Federal Government is in charge of police forces, the Plateau State Government had limited control to ensure the police would carry out a proper investigation. He felt the Federal Government was frustrating the justice process, and at the time the State Government had written to the Federal Attorney General to ask for suspects to be handed back to Plateau State authorities for local prosecution.⁵⁹ This was granted, but many suspects were not handed over. Answers thus reflected deep suspicion of the Federal Government: '...legal justice procedures in this country are flawed. Whatever it is... the federal government can actually frustrate whatever judicial process you are taking as a state'.⁶⁰ In an interview, a former State Governor of Plateau State claimed he was convinced that the Federal Government was frustrating legal justice at State level. He argued that it was not the fear of renewal of violence that stopped him and his government from implementing the COI reports, but the obstacles created by the Federal Government-controlled police force and the army.⁶¹ According to him, the army and police were instructed not to arrest any person indicted by the COIs. He said that when the State Assembly passed the law preventing the use of motorcycles in the streets of Jos (as recommended by a COI) the implementation was frustrated by the police, which had received instructions not to implement the law.

⁵⁶ Interview 20, human rights organisation.

⁵⁷ Interview 23, journalist.

⁵⁸ Interview 25, Journalist and former chair of a journalist association.

⁵⁹ Item number 2 on the Second Schedule of the 1999 Constitution of the Federal Republic of Nigeria (as amended) gives the Federal Government legislative powers over 'arms, ammunition and explosives'. In terms of prosecution, the Federal Police operating at the state level has powers to prosecute. Cases do not have to be taken to Abuja for trial. The states fought and won the case against transfer of accused persons to Abuja for trial; the Court granted that accused persons should be tried in the jurisdiction of the crime.

⁶⁰ Interview 25, senior official, Plateau State Government.

⁶¹ Interview 29, a former state governor of Plateau State, 9 September 2018.

Apart from the absence of court convictions, the study found no evidence that appointments or the removal of officials from public office could be attributed to reports and recommendations of COIs, whether at Federal or State Government level. The fact that some named individuals were even promoted has contributed to mistrust in the state and weakened the legitimacy of COIs. A respondent from a human rights organisation in Jos recalled that the Federal Government (under President Goodluck Jonathan) appointed former Commissioner of Police, Alhaji M.D. Abubakar, as the acting Inspector General of Police in 2012.⁶² Among other individuals, the Niki Tobi COI had named Abudakbar in its report as someone who had perpetuated the 2001 crisis. The Government had indicted him in its White Paper and recommended his retirement.⁶³ The human rights organisation respondent and a journalist stated they had alerted the State Government to the appointment, and that the Government publicly disapproved.⁶⁴ Despite concerns raised by the Plateau State Government and some civil society actors, the appointment of Alhaji Mohammed Dikko Abubakar was not revoked.

Between 2008 and 2018 there have not been major outbreaks within Jos city: patterns of violence were more diffuse and mainly involved clashes between Hausa-Fulani pastoralists and others in rural areas. A former senior government official stated this was the main reason for the absence of COIs, as COIs were usually set up after major outbreaks of violence that took many lives within a short period of time.⁶⁵ Another reason, according to respondents, is that a COI is no longer needed as the deeper causes of recurrent violence are quite well understood. Rumours about informal networks between the Federal Government, the State Government, and ethnic elites functioning to protect the position of certain groups still exist. To illustrate, two respondents suggested that the present Simon Lalong Government protects Fulani herdsmen, saying their votes helped the government into power. By setting up a COI, they felt, Simon Lalong might risk losing their votes when he will run for his second term in 2019, as Hausa-Fulani would not like it. Although Simon Lalong's party, the All Progressive Congress (APC) had indeed benefited from support from Hausa-Fulani communities when it first came to Plateau State during the 2015 elections, Lalong has rejected allegations that he would be a 'Hausa-Fulani protégé'⁶⁶ and also denied the rumours that he would have promised 'cattle colonies' to Hausa-Fulani communities in exchange for votes.⁶⁷ Such allegations against political leaders indicate the mistrust in government among some, and this continues to hamper peaceful relationships.

While the absence of legal justice could to some extent be caused by a lack of clarity over jurisdiction and responsibilities on the part of the State and Federal Governments, and the inability of both to resolve this, findings show deeply rooted suspicions about the role of the Federal Government in protecting mainly Hausa-Fulani groups and senior officials.

[The governments] just use them [COIs] so to placate people to be seen that government is interested in addressing crisis or resolving crisis and then after the commissions have done their work or whatever, writing beautiful reports then the reports are just there more or less gathering dust.⁶⁸

It was clear from many sides that the perceived lack of responsiveness by the State Government has had detrimental effects for its legitimacy and public trust. It had led to strong feelings about the State Government protecting the individuals responsible for instigating the violence, thus sustaining impunity. Many respondents made allegations about

⁶² www.vanguardngr.com/2012/01/2001-jos-crisis-reactions-trail-ag-igs-appointment/.

⁶³ www.vanguardngr.com/2012/01/plateau-govt-condemns-abubakars-appointment-as-igp/.

⁶⁴ Interview 23, journalist, 5 October 2018.

⁶⁵ Interview 23, journalist, 5 October 2018.

⁶⁶ www.vanguardngr.com/2018/05/new-permutations-plateau-useni-versus-lalong/.

⁶⁷ www.thecable.ng/lalong-rejects-cattle-colonies-says-not-imagination.

⁶⁸ Interview 7, representative of an elders' council of one of the contending groups.

the state potentially benefitting from the conflict. Even if certain initiatives for dialogue and the inclusion of 'settler' groups were a response to COI recommendations, which was hard to prove, the overall feeling was that the state had failed to take COI recommendations forward and obstructed justice as well as peace. As also indicated in Section 6.1 some respondents felt that government was not interested in genuinely finding out about the causes of the conflict, but just wanted to signal to the population that it was looking into the events in order to diffuse tension, showing that 'it did something'.

Many were critical about government setting up COIs if it was not prepared to sue perpetrators, while knowing that the identification of perpetrators was part of the mandate of COIs. Since governments must have been fully aware of the possibility that COIs would raise sensitivities, while not wanting to then address these, it had wasted public resources.

9 Conclusion

This report has highlighted some of the key factors associated with fragility in Nigeria, and how they have played a role in the processes and outcomes of COIs in Plateau State. The findings show that COI processes themselves have helped bring about transparency and some degree of answerability (Fox 2007). Many felt that they had done a thorough job on documenting violent events. Due to the investigative powers of the COIs and their mandate to name perpetrators, they arguably did contribute to answerability as the role of individuals and institutions was recorded in detail in reports. Violent events and their impact on communities were recorded, and the voices of those affected were formally acknowledged. According to some, the process of providing testimonies had helped 'cool down' the volatile situation temporarily. However, the findings clearly show how COIs were embedded in a setting imbued with power dynamics and societal divisions, which were then transferred into the space of the COIs themselves. In this particular context, which is still a context of cyclical violence rather than a post-conflict situation, the mandate of COIs to 'name names' and recommend individuals for prosecution created a dynamic in which COIs became another battlefield for contending groups, as well as for the State and Federal Government in some cases. COI reports and the 'truths' they contained were challenged by some, in particular their standpoints concerning ownership of Jos.

With respect to accountability in terms of enforcement, however, the COIs have not been effective: not in and of themselves, and not by prompting government actors to prosecute. One major reason for the absence of legal justice and enforcement is the weakness of and pervasive corruption in Nigerian state institutions; key characteristics of fragility. This involves the antagonistic relationship between the Federal Government and the Plateau State Government, and possibly the assumed networks between political elites at the Federal and State level that link to leaders of ethnic groups, as was alluded to by some respondents. These dynamics also influenced the perceived neutrality of COIs, no matter how strong the credentials of individual members. In the absence of state responsiveness, the potential role of COIs in furthering accountability through legal justice was undermined, eventually leading to lack of trust in both COI processes and the state. Yet the findings have shown diverging views within civil society on whether the absence of legal justice and accountability has caused further violence. In the context of Plateau State, it is uncertain whether prosecution and punishment would have led to peace.

Whereas the literature recognises that civil society has an important role to play in maintaining pressure on governments to implement recommendations (Crocker 2000), the momentum to act on COI reports has waned. Before 2010, it seemed that many civil society actors believed that COIs had the potential to contribute to justice and peace, but this positive feeling diminished due to the lack of government responsiveness. Many civil society

organisations resumed their focus on peacebuilding and rights issues, disillusioned with the state and its lack of political will to take COI recommendations further. The state is involved in various peacebuilding initiatives and is taking security measures, which various COIs spoke about in their reports, but this study could not determine to what extent these efforts were a response to COI recommendations. It is more likely that these have been the result of other dynamics, given the sustained efforts of human rights and peacebuilding organisations, as well as ethnic and religious leaders from all ethnic groups.

In June 2018, after a three-year period of relative calm, over two hundred people lost their lives in violent clashes in three Local Government Areas in Plateau State, and over 10,000 people were displaced.⁶⁹ Within days, the Plateau State Police Commissioner was removed from office and a new one installed.⁷⁰ In July 2018, efforts were underway by the State Peace Building Agency to address recommendations presented in the White Paper of the Berom and Fulani Peace Committee, which had the endorsement of State Governor Simon Lalong.⁷¹ These appear to be unprecedented and remarkably quick steps to achieve institutional accountability on the part of the police force. A new COI has not been called for. There is no indication that the State Government is undertaking any steps to implement any of the COI reports on the Jos conflicts.

The causes of recurrent violence in Plateau State are rooted in the differentiated nature of citizenship for those considered to belong to 'indigene' and 'settler' communities, as is well-documented, and it is beyond the mandate of a single COI to resolve this. Sha (2005) therefore argues the deconstruction of ethnicity and religion through democratisation and inclusivity nationally, should serve as a foundation for reducing the scale of violence and give true meaning to citizenship. Measures need to be in place to avoid the selective application of citizenship status. Secondly, state institutions need to be democratic and also decisive in sanctioning violators of the laws, while a culture of observing the rule of law needs to be promoted. Finally, given the social and political dynamics, it seems that peacebuilding and reconciliation efforts are likely to be more effective in contributing to peace than COIs.

⁶⁹ <https://punchng.com/plateau-killings-idp-figure-hits-11515-death-toll-233-report/>.

⁷⁰ <https://punchng.com/its-unjust-to-say-im-silent-on-killings-by-herdsmen-buhari/>.

⁷¹ www.premiumtimesng.com/news/top-news/256756-plateau-governor-denies-ceding-land-cattle-colonies.html;
www.vanguardngr.com/2018/07/plateau-committed-to-berom-fulani-cttees-white-paper-gov-lalong/.

Annexe 1 Overview of interviews

No.	Organisation/Department	Date of interview
1	Representative of a youth movement from one of the contending parties, Jos	13 January 2018
2	Former Secretary to the Government, Plateau State, Jos	20 January 2018
3	Politician and representative of an ethnic association of one of the contending parties, Jos	15 February 2018
4	Human rights organisation, Jos	23 January 2018
5	Representative of a youth movement of an ethnic group	27 January 2018
6	Attorney, Plateau State government, Jos	30 January 2018
7	Representative from a Council of elders of one of the contending parties, Jos	12 February 2018
8	Politician and representative of an ethnic association of one of the contending parties, Jos. Also a former advisor to State Government.	04 April 2018
9	Private legal practitioner, Jos	06 April 2018
10	Representative of Muslim women organisation, Jos	10 April 2018
11	Chairperson of a Christian association, Jos	28 August 2018
12	Representative of an interfaith organisation, Jos	05 May 2018
13	Representative from a Youth Movement of one of the contending parties, Jos	08 May 2018
14	Representative of a Christian Women organization, Jos	06 September 2018
15	Representative from a Youth Movement of one of the contending parties, Jos	05 September 2018
16	Representative from the Yoruba community in Jos	12 September 2018
17	Representative from a Youth Movement of one of the contending parties, Jos	20 September 2018
18	Representative of an ethnic development association	22 September 2018
19	Representative of an ethnic development association for one of the contending groups	21 September 2018
20	Representative from a Human rights organization	05 September 2018
21	Representative from a Youth Movement of one of the ethnic groups, Jos	18 September 2018
22	Representative from a Human rights organisation, Plateau State	19 September 18
23	Journalist, Jos	05 October 2018
24	Retired senior official, Ministry of Justice, Jos	23 September 2018
25	Journalist and former chair of a journalist association, Jos	24 September 2018
26	Senior official of Plateau State Government, Jos	26 September 2018
27	Senior official, Plateau State Government	20 September 2018
28	Politician and representative of an ethnic association of one of the contending parties	06 May 2018
29	Former state governor	09 September 2018

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