Introduction

That lone rifle-shot anonymous
in the dark striding chest-high
through a nervous suburb at the break
of our season of thunders will yet
steep its flight and lodge
more firmly than the greater noises
ahead in the forehead of memory.
Chinua Achebe, "The First Shot"[1]

On May 30, 1967, Sir Louis Mbanefo brought a new country into the world. Mbanefo was a widely respected judge, known to the Nigerian public as the chief justice of the Eastern Region. To his peers in the judiciary, he was a formidable moralist – a "black Englishman" who "did not mix well at parties" as one would recall.[2] A Cambridge education, a successful law practice, a knighthood, and a term on the International Court of Justice were all behind him.[3] Ahead of him was an uncertain future. A photo taken that day shows Mbanefo, weighed down under his robes and wig, taking an oath from a man thirty years his junior, clad in military fatigues and an unruly beard. The country established that day, through a series of decrees and rituals was the Republic of Biafra, and the soldier being sworn in to lead it was Lieutenant Colonel Chukwuemeka Odumegwu Ojukwu.

The Republic of Biafra broke away from Nigeria in the name of making law and order. It promised to be a new model for Africa, and its leaders pledged to "fulfill the decolonising mission which the 'stillborn' Nigeria failed to do," as they announced in the state newspaper's

[1] Chinua Achebe, *Beware, Soul Brother: Poems* (London: Heinemann, 1972): p.11.
[2] Interview with Anthony Mogboh, SAN, Enugu, October 2, 2014.
[3] Ekong Sampson, *Evergreen Memories of Sir Louis Mbanefo* (Lagos: Lomanc Books, 2002).

first issue.[4] Biafra's government would be moderate and modern, guided by humanism and the gospel of prosperity. Yet, in the war of secession that followed, it came to look very different from the country its founders envisioned. As chief justice of the Biafran Court of Appeal, Mbanefo had a prime position to watch things fall apart. Presiding over cases in the dwindling territory that the Biafran Army controlled, he heard accounts of violence that surpassed what he thought people were capable of. Mbanefo came to believe that everyone was lying to him, even his fellow judges. He presided over the expansion of martial law, which went against all his moral instincts, and he came to fear privately that the new country he had thrown in his lot with was actually a "bandit state."[5]

Matters that had seemed black and white before the Nigerian Civil War – the difference between state and private forms of violence, certainties about who engaged in crime and why, even the larger question of what constituted truth in the legal context – all became gray. A constant state of siege, compounded by the desperation of hunger, made violence and deception boom along the front. The survival tactics that people employed to endure the war's hardships were often illegal, which compelled courts to reevaluate the ethics of crime. This reckoning took place as the battle raged just outside the courtroom door. To tell the story of how warfare sowed the seeds of crime, this book mines a new source: a scattered, endangered collection of legal records from the Republic of Biafra and postwar Nigeria. Oral histories, memoirs, and other archives fill in where the legal record trails off. In aggregate, these sources reveal how Biafrans and their government adapted to the war and the humanitarian emergency that accompanied it. Court cases describe the actions that people took to survive in arresting detail, and they reveal how the boundary between crime and the "legitimate" violence of war eroded. Actions that were usually permitted became illegal – ordinary forms of commerce became war profiteering, for example; and actions that were unambiguously prohibited – like acts of killing – became abstruse in wartime. The categories of crime that thrived in Biafra included armed robbery, forgery, and fraud. Not coincidentally, these would become Nigeria's most persistent

[4] *Biafra Spotlight*, June 1, 1967, p. 2.
[5] Godwin Alaoma Onyegbula, *The Memoirs of the Nigerian-Biafran Bureaucrat: An Account of Life in Biafra and Within Nigeria* (Ibadan: Spectrum, 2005): p.147.

criminological problems in the late twentieth century. Violence and deception were connected in Biafra, and they became even more tightly interwoven after the war ended.[6]

The lasting image of the Nigerian Civil War is famously a starving child, not a judge presiding over a well-ordered courtroom. It may come as a surprise that tattered, starving Biafra had a legal system at all. A memoirist admitted how uncanny it seemed to find a divorce hearing in session on the front, or to see "a convict being led away while the enemy plane whine[d] overhead."[7] Biafra's courts, however, were in session through even the most brutal periods of the fighting, and its legal system was at the center of its political culture. Administrative tasks usually associated with other organs of state – like providing social services, divvying up humanitarian aid, and articulating a national ethos – became the responsibility of courts. In this setting, law became more than a mechanism for resolving disputes or dispensing justice in the abstract. It was what made Biafra work.

Biafra worked – far more than it seemed to the outside world – but this is not to say that it worked smoothly. The fighting constantly interrupted legal proceedings, and what "justice" meant in the bedlam of wartime life was not a settled matter. Air raids chipped away at the law's physical infrastructure, and the lack of personnel gummed up the appeals process. When the Ministry of Justice tried to conduct an audit of the law reports that had been saved from destruction in 1968, the State Counsel in Awka wrote to the solicitor general to say that "there is no single Law Book in this office."[8] Judges and lawyers cited

[6] What to call the war is contentious. I use the name Biafra without the quotation marks or lowercase letters sometimes used to mark its status as an unrecognized state. This is neither an endorsement that the Republic of Biafra *was* a "real" state nor a suggestion that it somehow was not. Similarly, I use the terms Nigerian Civil War, Biafra War, and Nigeria-Biafra War interchangeably. Those who see Biafra as a rebel movement – one that never actually broke Nigeria apart – tend to use the first term, while those who see Biafra as a state that once existed tend to use one of the latter. The conflict described herein was a civil war in that it transpired within the boundaries of an established state – Nigeria – but it is worth noting from the outset that describing something as a "civil war" does not explain much about it. On the application of the term, see David Armitage, *Civil Wars: A History in Ideas* (New York: Alfred A. Knopf, 2017): pp. 232–239.

[7] Ekong Sampson, *The Path of Justice Chike Idigbe* (Lagos: Distinct Universal Limited, 1999): p. 71.

[8] Nigerian National Archives, Enugu [hereafter NNAE] MINJUST 25/1/1, "List of Law Books at Awka," January 26, 1968.

precedent from memory, and they often got the details wrong. Trials were held in the bombed-out shells of schools and government buildings or outdoors under the shade of trees. Proceedings were recorded by hand, and summonses went out on official stationery with "Nigeria" crossed out and hastily replaced with "Biafra." When the blockade exhausted these reserves, scrap paper was used. It is jarring to read testimony of wartime violence and despair written on the back of a prewar love letter, as was one criminal case. The materiality of an archive can sometimes say as much as the words recorded in it.[9]

Crime became so engrained in Nigeria's reputation that it can be difficult to remember that it was not always there. For decades, accounts of planes being held up at gunpoint as they taxied into Murtala Muhammed Airport vied with elaborate kidnappings and embezzlement schemes measured in billions of dollars for what would be the most outrageous crime to come out of Africa's largest country.[10] Although crime – defined here narrowly as the violation of established laws and normative orders – can be found in all periods of Nigerian history (and in the polities that made up Nigeria *avant la lettre*), I argue that the period when crime defined whole areas of Nigerian life began during the war. It ended even more recently; crime today is no longer the crisis it once was, even though it might not seem like it from tabloid reportage and Nollywood films. The forms of criminal violence, deception, and corruption associated with Nigeria

[9] One of postcolonial historiography's most important methodological innovations has been to show how processes of decay and ruination make meaning – both affective and empirical. Nancy Rose Hunt, "History as Form, With Simmel in Tow," *History and Theory* no. 56 (2018): pp. 126–144; Ann Laura Stoler, ed., *Imperial Debris: On Ruins and Ruination* (Durham, NC: Duke University Press, 2013); Luise White, "Hodgepodge Historiography: Documents, Itineraries, and the Absence of Archives," *History in Africa* vol. 42 (2015): pp. 309–318. Archives and their deterioration have captured the artistic imagination as well, such as in the work of the painters George Afedzi Hughes and Njideka Akunyili Crosby.

[10] Until 2001, one could find a reminder of how the outside world saw Nigeria at any international airport in the United States. Signs were posted warning that the Federal Aviation Administration did not advise travel to Lagos because the safety of the airport could not be guaranteed – a warning that was not even made for war zones. On the airport robberies, see "Criminal Acts Against Civil Aviation," Report by the U.S. Department of Transportation, Federal Aviation Administration, Office of Civil Aviation Security, 1992. Teju Cole paints a stark picture of the Lagos airport in *Every Day is for the Thief* (Lagos: Cassava Republic, 2007): pp. 14–16.

in the late twentieth century became embedded in public life during and after the civil war – temporally speaking, in the middle distance between colonialism and the democratic present. Crime did not begin in 1967, and the elements of Nigeria's peculiar criminological condition were already in place during colonial administration (and perhaps before).[11] Yet it took a major crisis to catalyze a reaction between those elements. The Nigerian Civil War would be the spark that started a long blaze.

Nigeria's reputation for crime was destructive and exaggerated, but it was not spun out of thin air. Crime was a stubborn social and political problem, and the questions of what caused it, how it operated, and how it might be suppressed animated Nigerian public life for many years.[12] The Nigerian Civil War and the forms of misconduct that it

[11] On the relationship between colonial rule and the African present generally, see Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (Berkeley: University of California Press, 2005); Bonny Ibhawoh, *Human Rights in Africa* (Cambridge: Cambridge University Press, 2018); Richard Reid, "Past and Presentism: The 'Precolonial' and the Foreshortening of African History," *Journal of African History* vol. 52, no. 2 (2011): pp. 135–155.

[12] The large historical and ethnographic literature on Nigerian crime, often oriented by the idea of "corruption," includes Andrew Apter, *The Pan-African Nation: Oil and the Spectacle of Culture in Nigeria* (Chicago: University of Chicago Press, 2005); Moses Ochonu, *Colonial Meltdown: Northern Nigeria in the Great Depression* (Athens: Ohio University Press, 2009); Daniel Jordan Smith, *A Culture of Corruption: Everyday Deception and Popular Discontent in Nigeria* (Princeton: Princeton University Press, 2008); Wale Adebanwi, *Authority Stealing: Anti-Corruption War and Democratic Politics in Post-Military Nigeria* (Durham, NC: Carolina Academic Press, 2012); Steven Pierce, *Moral Economies of Corruption: State Formation and Political Culture in Nigeria* (Durham, NC: Duke University Press, 2016); Stephen Ellis, *This Present Darkness: A History of Nigerian Organised Crime* (Oxford: Oxford University Press, 2016); Charles Edet, *The Dangers of Political Thuggery and Rumour* (self-published, 1992); and many of the contributions in Wale Adebanwi and Ebenezer Obadare, eds., *Encountering the Nigerian State* (Basingstoke: Palgrave, 2010). As is often the case, crime in Nigeria is most vividly described in fiction. See, for example, Seffi Atta, *Swallow* (Northampton: Interlink Books, 2010); Patrick Oguejiofor, *Fast Track* (Ibadan: Constellation Books, 2015); Leye Adenle, *Easy Motion Tourist* (Lagos: Cassava Republic, 2017); Adoabi Nwaubani, *I Do Not Come to You By Chance* (New York: Hyperion, 2009); E. C. Osondu, *This House is Not For Sale* (New York: HarperCollins, 2015). On crime, deceit, and "corruption" in the colonial period, see Stephanie Newell, *The Forger's Tale: The Search for Odeziaku* (Athens: Ohio University Press, 2006); M. G. Smith, *Government in Zazzau, 1800–1950* (London: Oxford University Press, 1960); Simon Ottenberg, "Local Government and the Law in Southern Nigeria," *Journal of Asian and African Studies* vol. 2, no. 1 (1967): pp.

spawned are a critical part of this story. The war routinized actions that violated the law – theft and fraud most prominent among them. They became embedded in daily life, and the ethics surrounding crime changed as this happened. In the long period of military rule that followed Biafra's defeat, the crimes that had become common there thrived. Theft from the state became unofficially tolerated as judges and policemen threw up their hands or in some cases joined in. Battle had blurred legal and ethical lines, and they could not easily be redrawn when the fighting ended. Legal records show how the problem of crime in postwar Nigeria was a continuation of wartime circumstances – not a wave that surged out of nowhere.

Biafra's history is short, and, like Nigeria's reputation for crime, its origins lie in the relatively recent past. Most accounts interpret secession in May 1967 as a response to the events immediately preceding it – a series of pogroms against members of the Igbo ethnic group the year before and the string of coups and assassinations that brought down Nigeria's First Republic.[13] Biafra's population was predominantly Igbo, but it was not a straightforwardly ethnic project. It did not emerge out of grievances stretching back for generations, nor was it the reflection of an old identity, however much its propagandists tried to present it as such. There was no clear historical precedent for an Igbo state. There was even less of one for a country that governed the many communities of eastern Nigeria under one flag, as Biafra tried to.[14] To be sure, there were deeper structural reasons for the war's outbreak, despite the foreshortened way that most people understood it. The danger that permeated Biafran life was deeply felt, but it was historically shallow. This gives credence to Achille Mbembe's claim that "for many people caught in the vortex of colonialism and what comes after, the main indexes of time are the contingent, the ephemeral, the fugitive, and the fortuitous – radical uncertainty and social volatility."[15] Biafra

26–43. For a synthesis touching on many forms of government malpractice, see Max Siollun, *Oil, Politics, and Violence: Nigeria's Military Coup Culture 1966–1976* (New York: Algora Publishing, 2009), and *Soldiers of Fortune: A History of Nigeria (1983–1993)* (Lagos: Cassava Republic, 2014).

13 Nigeria attained independence from the United Kingdom in 1960 and became a republic in 1963.

14 Except, of course, for the Federal Republic of Nigeria itself.

15 Achille Mbembe, "Africa in Theory," in Brian Goldstone and Juan Obarrio, eds., *African Futures: Essays on Crisis, Emergence, and Possibility* (Chicago: University of Chicago Press, 2016): p. 222.

provides a social-historical picture of how people lived in this "vortex," and how it shaped their decisions.

The way Biafra worked was improvisational, unpredictable, and ideologically agnostic. Like the Rhodesia of Luise White's description, Biafra "made up its governmentality as it went along."[16] Its leadership was famously indifferent when it came to Cold War allegiances. As Ojukwu reputedly said at a trying moment of the war, "I would take help from anybody. I would take help from the devil himself in order to survive."[17] The Biafran state, including its judiciary, was a fly-by-night operation, and the fact that Biafran courts remained open did not mean that they dispensed "justice" as most people defined it. In the later stages of the war, the core of the state's purpose was whittled down to maintaining order, which it evermore failed to do. Biafra was a disorderly example of a "law and order" state, but it is an instructive one for the era of military rule in Africa, when order and discipline became political watchwords across the continent.[18] Biafra would shape Nigeria's politics long after 1970, both for what it taught the country's leaders and for how the public remembered it.

Historians have said very little about Biafra's inner life. This is partially a problem of sources, but it is also because a consensus emerged that Biafra had never quite been a real place. "You either believe that Biafra existed or you don't," Ojukwu later stated matter-of-factly. "In my vision, Biafra did exist, it was a state."[19] Few people were so confident. As one prominent lawyer recalled, Biafra's state institutions "never had a moment of peace in which they could fashion a separate identity," and even those who were deeply committed to the

[16] Luise White, *Unpopular Sovereignty: Rhodesian Independence and African Decolonization* (Chicago: University of Chicago Press, 2015): p. 17.

[17] School of Oriental and African Studies [hereafter SOAS] Nigerian Civil War Collections MS 321463 Box 14, "Report of the visit to Biafra and San Tome by T. McNally," November 7–16, 1968.

[18] I use the terms "order" and "disorder" here as they were used in Nigeria and Biafra itself; they are native categories to the history of Nigeria in this period. In the writings of judges, journalists, and others, "order" invokes the idea of a society organized and bound by legal institutions and their various agencies of enforcement. "Disorder," conversely, was associated with a high incidence of violent crime, chaos in the political system, and corruption. Neither term had much coherence, but both were rhetorically powerful.

[19] "Chief Chukwuemeka Odumegwu-Ojukwu," in H. B. Momoh, ed., *The Nigerian Civil War, 1967–1970: History and Reminiscences* (Ibadan: Sam Bookman, 2000): p. 763.

Biafran cause often felt like their government was a façade or a mimicry of what a state should look like.[20] Biafra's adversaries constantly reminded the outside world that it was not a "real" country. Biafra never received the diplomatic recognition that would make it sovereign in the eyes of other states, and Nigerian propaganda consistently (and poetically) referred to it as "Ojukwu's Dream Empire." They were right that there was something dreamlike about Biafra. Even in its own records Biafra comes across as fleeting; sometimes the state could interpellate its citizens and provide structure to daily life, but at other moments it wholly failed to do so. The Biafran experiment lasted less than three years, but the fact that Biafra's state institutions (including its courts) were ephemeral did not mean that they had no force of compulsion.[21] The postcolonial state is not only, as Jean-François Bayart called it, a "shadow theatre" of ethnic politics masquerading as governance. Nor is it always a "relatively empty shell," outside of which real politics takes place, per Patrick Chabal and Jean-Pascal Daloz.[22] Even a postcolony as skeletal as Biafra had internal factions, an administrative philosophy, and a political culture, all of which are visible in the remains of its legal record. If this chaotic place

[20] Interview with Jerome H. C. Okolo, SAN, Enugu, September 17, 2014.

[21] Whether Biafra can be considered to have been sovereign is a related question. It fails some tests, including that of broad international recognition by other sovereign states, but passes others, like the acceptance of its currency, stamps, official documents, and other trappings of state. See Douglas Howland and Luise White, "Introduction: Sovereignty and the Study of States," *The State of Sovereignty: Territories, Laws, Populations* (Bloomington: Indiana University Press, 2008); Charles Piot, *Nostalgia for the Future: West Africa After the Cold War* (Chicago: University of Chicago Press, 2010); Nathaniel Berman, "Sovereignty in Abeyance: Self-Determination and International Law," *Wisconsin International Law Journal* vol. 7 (1988); Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law*, 1870–1960 (Cambridge: Cambridge University Press, 2002); Brenda Chalfin, *Neoliberal Frontiers: An Ethnography of Sovereignty in West Africa* (Chicago: University of Chicago Press, 2010).

[22] Jean-François Bayart, *The State in Africa: The Politics of the Belly* (Cambridge: Cambridge University Press, 2009): p. 41; Patrick Chabal and Jean-Pascal Daloz, *Africa Works: Disorder as Political Instrument* (Oxford: Oxford University Press, 1999): p. 95. On theorizations of postcolonial states in general, see also Jean Comaroff and John Comaroff, eds., *Law and Disorder in the Postcolony* (Chicago: University of Chicago Press, 2006); Achille Mbembe, "The Banality of Power and the Aesthetics of Vulgarity in the Postcolony," *Public Culture* vol. 4, no. 2 (1992): pp.1–30. See also Didier Fassin, ed., *At the Heart of the State: The Moral World of Institutions* (London: Pluto Press, 2015).

can have a meaningful, distinct form of governmentality, it stands to reason that other African nation-states – including ones much more tangible and lasting – would as well.[23] Biafra was a passing and unusual example of the nation-state form, but the forces that emerged there were not unique to it. Broader conclusions about the relationship between crime, warfare, and governance can be drawn from its brief, bloody history.

The Argument

Certain behaviors that are permitted – even encouraged – during wartime become crime once the war is over. Along the Biafran war front, people regularly used forgery, robbery, and extortion as tools to survive in impossible circumstances. After the war, as one prominent lawyer told me, those who had lived through it "did not forget how to forge a document, or how to use a gun."[24] In the heat of battle, a soldier might legitimately requisition property from civilians, but if he "appropriates" a car or a bag of grain after the fighting has ended, most courts would consider that action to be theft. Similarly, the cloak-and-dagger intrigue that takes place in any conflict – spying, espionage – looks more like fraud once the fog of war has lifted. The difference between survivalism and crime becomes murky. "Only the vision of the jurist," wrote Jean-François Bayart of Zaire, where people lived "mysteriously" through similarly hard times, "imposes a difference between these categories, labelling one criminal and another not."[25] Biafra's history offers a larger lesson for the study of war and society: when a war ends but the *habits* of the war do not, the situation that results is often something like a crime wave. The persistence of a "martial spirit" in times of peace has serious implications not only for

[23] The idea that the African nation-state has no ideology reaches its apogee in works on Nigeria, many of which posit that categories like "left" and "right" mean little in national politics. A valiant counterargument is made in Adam Mayer, *Naija Marxisms: Revolutionary Thought in Nigeria* (London: Pluto Press, 2016).

[24] Interview with Kola Babalola, SAN, Port Harcourt, March 5, 2015.

[25] Jean-François Bayart, "The 'Social Capital' of the Felonious State, or the Ruses of Political Intelligence," in Jean-François Bayart, Stephen Ellis, and Béatrice Hibou, eds., *The Criminalization of the State in Africa* (Oxford: James Currey, 1999): pp. 38–39.

politics, as many historians have understood, but for the everyday problem of crime.[26]

In 1986, Chinua Achebe wrote that "indiscipline pervades our life so completely today that one may be justified in calling it the condition *par excellence* of contemporary Nigerian society."[27] The notion that Nigerian life was defined by unruliness, deceit, and wariness, while not universally shared, became common enough to be cliché in the decades after the war. Ojukwu would write in 1989 that Nigerian society "is imbued with every quality of the unreal, of fantasy and of a grotesque spectacle."[28] Their depictions were perhaps overdrawn – lamenting Nigeria's unruliness is something of a national pastime – but there was a kernel of truth in them. The country Achebe and Ojukwu described was not only a postcolonial society but a post*war* society – and one where the conditions of conflict were still very present.[29] Violence, vulgarity, indiscipline, and grotesqueness are all common features of war, and Nigeria was contorted by them long after Biafra was wiped off the map. Crime was perhaps the war's most durable legacy, even though few people made that connection at the time.

It was not just any crime that emerged from the crucible of the war – two overlapping types of lawbreaking were connected to it. The first was armed robbery and the second was the expansive category of misconduct known as "four-one-nine." Today, 419 is known as an opportunistic form of advance-fee fraud usually conducted over the Internet, and its poetics will be familiar to anyone who has had an email account in the last thirty years. "Dear friend," begins a typical example

[26] I borrow the term "martial spirit" from John Hope Franklin's study of the militaristic culture of the antebellum American south, which informs this study in many ways. John Hope Franklin, *The Militant South, 1800–1861* (Cambridge, MA: Harvard University Press, 1956). On the lasting effects of military cultures forged in war, see also Isabel V. Hull, *Absolute Destruction: Military Culture and the Practices of War in Imperial Germany* (Ithaca, NY: Cornell University Press, 2005); Mary Dudziak, *War Time: An Idea, Its History, Its Consequences* (Oxford: Oxford University Press, 2013).

[27] Chinua Achebe, *The Trouble with Nigeria* (Oxford: Heinemann, 1984): p. 27.

[28] Emeka Odumegwu-Ojukwu, *Because I Am Involved* (Ibadan: Spectrum, 2011 [1989]): p. xii. This language prefigures Achille Mbembe's description of the outlandish "aesthetics of vulgarity" at the center of the postcolonial African state. Mbembe, "The Banality of Power and the Aesthetics of Vulgarity in the Postcolony."

[29] In this respect, it bears similarity to the Kenya of Daniel Branch's description. *Defeating Mau, Creating Kenya: Counterinsurgency, Civil War, and Decolonization* (Cambridge: Cambridge University Press, 2009): p. xvii.