

al Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

The opening section of the Fundamental Constitution of Carolina, written by Locke on behalf of Lord Ashley, first Earl of Shaftesbury, reads as follows:

“Our Sovereign Lord The King having, out of his royal grace and bounty, granted unto us the province of Carolina . . . for the better settlement of the government . . . and establishing the interest of the Lords Proprietors . . . that the government of this province may be made most agreeable to the monarchy under which we live . . . and that we may avoid erecting a numerous democracy: we the Lord and Proprietors of the province aforesaid, have agreed to this following form of government, to be perpetually established amongst us, unto which we do oblige ourselves, our heirs and successors, in the most binding ways that can be devised.”

What follows is 20 pages of regulations for how the Lord Proprietors shall rule based on property ownership. In other essays, Locke writes that the fundamental rights of individuals are “life, liberty, health, and indolence of body: and the possession of outward things such as money, lands, houses, furniture and the like.” The Declaration of Independence states, in direct opposition to Locke’s ideas, that the inalienable rights of man are “life, liberty, and the pursuit of happiness.”

The difference between the British concept of natural law and that of America’s founding fathers is profound and irreconcilable. The U.S. Constitution establishes the general welfare of our posterity as the basis of law, where the current behavior of society is measured against its success in providing for future generations of self-governing citizens. Locke, on the other hand, acting on behalf of the British monarchy, treats each individual as an animal only concerned with the immediate gratifications of money, property, possessions, and greed, with no concern for the common good or general welfare of society in the present or in the future.

For Nigeria to be a truly independent and sovereign nation, it must break completely from the House of Windsor, both economically and philosophically. Establishing a new Nigeria, based on a constitution rooted in the fundamental principles of natural law as expressed in the U.S. Constitution, which itself was written in direct and explicit opposition to the British oligarchy, will not only benefit Nigerians for generations to come, but will also serve as a shining beacon of hope for all of Africa.

*Other delegates to the National Constitutional Conference who were interviewed include Dr. Peter C.O. Odili from River State and Prof. E.A. Opia from Delta State. They will be printed in future issues of EIR, as will interviews with other Nigerian officials who met with the authors during their Oct. 2-16 trip.*

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## Interview: Karibe White

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# Nigeria’s fight for a just constitution

*Justice Karibe White, chairman of the National Constitutional Conference, was interviewed by Lawrence Freeman and Uwe Friesecke in Abuja, Nigeria, on Oct. 6.*

**EIR:** Could you please tell us the purpose of this Constitutional Conference?

**White:** Toward the end of the Babangida regime, there were a lot of problems. When the present regime came in on Nov. 17 [1993], they decided to set up this Constitutional Conference Commission, composed of 19 members, for the purpose drawing up the agenda for the Constitutional Conference. When the conference started on June 27, 1994, it had the agenda which was drawn up by the commission. But considering that the agenda included so many subjects, and that the conference was mandated to draw up a constitution, the conference decided mainly to take up those areas that dealt with constitutional-drafting, rather than spend so much time dealing with matters of general social importance that perhaps had no bearing on constitution-making.

Now, the head of state greeted the conference on June 27, and swore in the chairman. The chairman on his own then swore in the deputy and the delegates to the conference.

**EIR:** Could you tell us something about your background: where you came from, why you were chosen to be the chairman?

**White:** Why was I chosen? I wouldn’t know. I am a Nigerian. My parents are Nigerians, my grandparents are Nigerians; at least as far as I know, my family, up to the eighth or ninth generation, we have always been Nigerians of River State origin.

I had my earliest school career in Abbey State. I went back as secretary of education in my own state, the River State. I worked for a few years in the civil service and then went to study law in Britain. My second degree was at the University of London, and I became a researcher there, then went on field research to Gambia in 1963-64, returned to London in 1964, then came back to Nigeria in 1965. I was a lecturer at the Law University of Lagos, from 1965 to 1970. I was in Lagos throughout the civil war, and after the war, states were created. That was when the River State was created, in 1967. They needed manpower, and I was persuaded, I would say, to go to River State to assist. I went there as head



*Justice White is chairing Nigeria's National Constitutional Conference, mandated to draw up a new constitution. "There has been no pressure brought on me as chairman—none. In fact, it has been stated very, very clearly, that the administration has no input into the proceedings of the conference. They have submitted no memoranda and have not guided the conference in any manner."*

of law revision. I was the head of legal drafting, so that I became attorney solicitor general in 1975.

Now, in 1976, I was appointed a judge of the federal revenue court. In 1980, I was appointed to the federal court of appeals, and in 1984, I was appointed to the Supreme Court. I had been on the Supreme Court up to 1993, when I was elected to an international criminal tribunal.

**EIR:** Do you, or did you belong to any particular party, or have any political aspirations of your own before joining this conference?

**White:** As a Nigerian, I have some idea of what politics in Nigeria has been, I've never been a party man at any time, and I've never had very strong views on any party. Never.

**EIR:** Do you think that the major issue of this conference right now is the drafting of a constitution for Nigeria, and do you think that that process is going on unhindered by the present government?

**White:** In 1963, we had a constitution. After the coup in 1966, came the military government. When the civilian regime was to come in in 1979, there was another constitution. That was the time this country entered into a federal constitution for the first time, in the real sense.

In 1983, after just four years of testing a federal constitution, on Dec. 1, the military came in again, and then that stopped the exercise of that experiment. And since then, there has been a military government.

There has been a lot of discussion, about whether the 1979 constitution itself was ideal, and because of that, a

new exercise in constitution-making was started, and then in 1989, another constitution was drafted under Babangida. Unfortunately, this one hasn't been entirely written into law, because it came in in bits. As concerns local government and state governors, the states' constitutions are in force.

Now, as far back as 1987, there had been a lot of clamor for change, and although there was a 1989 constitution, it did not fully meet the aspirations of the Nigerian people, so that many people were still clamoring for a national conference. The problem was whether there should be a national conference, or a sovereign conference. Some think there should be a conference which would be entirely sovereign, which would have no person behind it, so that everything decided in it would have the force of law. Others thought that a national conference was sufficient, provided what was decided *could* be implemented.

When this present [conference convened], it preferred a national conference, not a sovereign conference. Some think this exercise might be an exercise in futility, because it is not a sovereign conference. Others think, and I do too, that it doesn't have to be a sovereign conference to have an effect. So this is the problem now.

**EIR:** There are those in the West, in the British and American media, who say that this is not a real constitutional conference because it's being done under a military regime, headed by General Abacha, and there are those inside Nigeria, who say that this is not a serious conference because all you have in it, are "the old boys network," existing politicians who have been around for years. How would you address these two charges?

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**White:** Actually, this is, aside from 1963, one of the [only] constitutions without the military. The 1979 one was done basically by a military president of the country. And the 1989 one was done by Babangida.

Since 1963, the military has supervised. Possibly [the critics] do not understand the history of how these constitutions came to be. It is the Nigerian people who take part in drawing up the constitution. The fact that the military is in the government, did not change the character of those who are trying to draw up the constitution. The constitution was drawn up by the people, and for the people. It's not impossible that the military might have interfered with the results; *might* have. But that does not mean that the input of the Nigerian people was not considerable. It was quite considerable. It is completely wrong to say that it made any difference to the constitution-making.

**EIR:** Do you think that General Abacha's desire to have a transition from the military to a constitutional government is sincere? Do you feel that there has been any undue encroachment by General Abacha on the process that's been under way since July for drafting a new constitution?

**White:** First I'll answer the last. As far as I'm concerned, there has been no pressure brought on me as chairman—none. In fact, it has been stated very, very clearly, that the administration has no input into the proceedings of the conference. They have submitted no memoranda and have not guided the conference in any manner.

If it's a question of how well we operate, I am very conscious of the fact that we are drawing up a constitution for a new Nigeria. We know people are expecting a lot of this country, expecting a lot from the conference, and I think every other member who is a delegate here, wants to satisfy himself and the country that they should not be afraid, that we will not fail them.

In drawing up a constitution, we also have limits. We are not drawing it up for other people. So there's no point thinking that you are drawing up something which should be applied to someone else other than yourself. You have to do your best for your country.

**EIR:** There are many people in the West and in various groups who oppose the government, who say this is unnecessary, that Chief Abiola won the election, that he should be

President, and that this is covering up the fact that he's been kept from the presidency. Could you respond to that, please?

**White:** I was around when the election was conducted. I was also around when the results were abruptly stopped. I was not around when he [Abiola] was announced the winner. So I don't know more than that. If he wasn't announced the winner, I don't know how you can even talk about him being the President. It's possible there might be ways in which Abiola can become President. But according to our own electoral laws, he hasn't been announced the winner. Or even if he was, I suppose there are processes through which you go before you are made the President. You have to do it through the normal processes; and if that has not been done, it might be difficult for the country to accept him as having won the election and having become the President.

**EIR:** Could you summarize briefly what the main issues or the difficult issues for the conference are, that have to be resolved?

**White:** The conference has no other issues than constitution-making, and so far, the formal structure of the country. It has been agreed that it should be a truly federal government; that is, its composition is forming a federation. And the question of the rotation of the presidency. These are the main issues.

**EIR:** Is there agreement on the states remaining as they are now?

**White:** Yes. The states remain.

**EIR:** There was a debate on the rotation of the presidency. Where does that stand?

**White:** It's been agreed, as a rotation between North and South.

**EIR:** For what duration? How long will the President pre-  
side before he's rotated?

**White:** We've now got the two committees which determine the tenure of the President, the committee on the executive and then the legislature, which decide on aspects. When we get there, then we will know what the tenure will be.

**EIR:** I was fortunate enough to be in the gallery this afternoon, and saw you adjourn till Monday. My perception from the gallery was that it looked like some people supported it,

and some people opposed it. There was a lot of commotion on the floor. Could you tell our readers exactly what took place?

**White:** This morning, we had a problem of the party structure, the political parties. There was a committee recommendation in favor of a multiparty system, then an amendment suggesting a two-party system. It was debated fully and we took a voice vote, and those who suggested a two-party system, lost.

**EIR:** So the vote is now for a multiparty system?

**White:** A multiparty system.

**EIR:** Given this kind of debate that's going on in your conference, what do you say to the critics in the West who say there is no democracy in Nigeria, that this is not serious, just a military junta? Yet, this process is going on. How do you answer these critics, especially coming out of Great Britain and the United States?

**White:** I suppose we are familiar with the attitude toward democracy in African culture on the part of the West. They never believe that such a thing is possible, not even when it's staring them in the face. They're having discussions on radio and television. I don't see how, after all these facts, one can say that democracy is not happening. I don't know how else one can convince them. We know that there is full democracy.

Now one thing which worries some of us: If you look at the composition of the "military government," you find out that there is a predominant civilian population in the cabinet, usually. Now, if you come into this country, from the time you get to the airports, there is nothing which gives the impression that there is a military takeover. Everything looks normal. It's *not* a military dictatorship as such; but the truth is that the Nigerians want their freedom. They do not want anybody dictating to them. They want to make their own decisions, their own mistakes, and learn from those mistakes.

**EIR:** Where does the East now end up? You say North and South; where is the division?

**White:** The East is in the southern portion, as is the West.

**EIR:** To what extent do considerations of philosophy of law or natural law versus positive law enter into the debate over the constitution? Will this constitution have a clause which defines a responsibility before God explicitly? Or will it say nothing on this?

**White:** As a matter of preamble, it might constitute an unenforceable provision. If you go on having a highfalutin' philosophical proposition, it will play no part.

**EIR:** Is there not a danger that the Constitutional Conference will end up with too many technical details and different

clauses, rather than a guiding principle of what the nation should be oriented toward?

**White:** No. There is a committee which deals with fundamental rights and directed principles of state policy. That deals with these issues. The aspirations of the country, economic objectives, political objectives, social objectives; those are all enshrined in that committee's report.

**EIR:** You seem very optimistic about the future of Nigeria and the constitution.

**White:** Yes. I've always believed that in Nigeria, generally, if one is an optimistic person, one doesn't give up. I have a lot of hope, and I know that we'll succeed with respect to all the problems we are facing now. They're all marginal, because this country is potentially very rich, both in manpower and in natural resources. The climate is fairly favorable for agriculture, and the climatic conditions are quite good for anyone. You can do whatever you want to do throughout the year, without being interrupted by harsh climatic conditions. So, if people want to work, it will not be a problem.

**EIR:** I wouldn't ask you to put a timetable on when the constitution will be finished. But would you envision that sometime in the near future, that there will be a full draft of the constitution? What will happen then? Will the population of Nigeria then have a chance to vote on the constitution? How do you envision the future realization of this process?

**White:** All the earlier constitutions, the 1979 constitution at least, was never sent in for a referendum. Regionally, it was brought into force. That's what they did. And I don't think this will be quite different.

**EIR:** How do you deal with the fact that a lot of discussions are going on in the back room, as you referred to earlier? There must be tremendous pulls on you for this or the other position, as the events today were probably an example.

**White:** I discuss with them. I have no emotional attachments. It is a factual thing. If an issue arises, it has to be discussed within the context of what we are doing. Actually, I'm a very good listener. I don't get too agitated. I suppose my training as a judge [has helped me].

**EIR:** You are a member of the court to try possible crimes against humanity in the case of the war in Bosnia. Do you see a realistic chance that the atrocities that have been committed there, can be sufficiently treated by this body?

**White:** I think so. We might start our work about Nov. 7 or 8. Many of the criminals might have escaped from Bosnia. The major problem initially, was the attitude of the warring parties. There are a lot of problems. I don't pretend that there are not. But if these things are overcome, we have a very good prosecutor from South Africa. The fax machines have been working very hard.