

**JOHN RAWLS' POLITICAL LIBERALISM: IMPLICATIONS FOR NIGERIA'S DEMOCRACY**

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## **ABSTRACT**

Since Nigeria's independence in 1960, the country has continuously been confronted with among other issues, the problem of a weak and unjust social structure resulting in widespread social injustice. It is at the root of most of the crises and social malaise of the Nigerian society and is made more serious by the problems associated with ethnicity and arbitrariness by the state and government. Part of the resultant effects of this weak structure include unjust public institutions and social, ethnic, religious and political crises due mainly to a lack of social cohesion, political integration and an unfair principle of distribution of income, resources, goods and burdens in the society. All attempted palliatives by different administrations have all failed and a very bitter 3-year civil war between 1967 and 1970 in which more than a million lives were lost was the first major manifestation of the problem in post colonial Nigeria.

This condition of affairs not only makes political stability and development difficult but also stifles the natural ingenuity of the people to grow. And very serious poverty and underdevelopment of the people in addition to a complete absence of liberty and rights have become institutionalised. In reaction, some Nigerians have resorted to all sorts of immoral, illegal and criminal actions and conduct, including corruption, lawlessness, indiscipline, tribalism, nepotism, and ethnicism, etc. Others have joined the political class and accepted the status quo of injustice as justice and hold this to be the proper and easiest way to achieve their life goals. This has inadvertently led to a warped and distorted sense of justice in the society. This sense of justice sees nothing wrong with vices such as public and institutional injustice, crime, fraud, corruption etc and embraces them wholeheartedly.

I propose in this research therefore, the analysis of the fundamental ideas and ideals of John Rawls' political liberalism as contained in his *Political Liberalism* as a way of addressing these social-political challenges. In doing this, the merits and intentions of Rawls' two principles of justice which centre on liberty, equality and differences are examined to deduce their level of coherence, relevance and utility to the Nigerian society. An argument will be made that these two principles represent the closest philosophical and sociological paradigm that have the core ideas and ideals necessary in addressing the twin problems of social injustice and political instability in a third world disordered society such as Nigeria.

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## INTRODUCTION

Some studies tend to show that most African countries entered the 21<sup>st</sup> century with increased poverty and deficits in economic, political, and social parameters than they did in the last Millennium (Nzomo 2001), even though there were hopes, prospects and promises for the continent's growth in the 1960s<sup>1</sup> (Maathai 2010). Numerous factors have been identified as being responsible for this situation and the summary includes; failure of political leadership, poor governance, weak and undemocratic structures and processes. For Ake (1996) it was more of the colonial experience and the nature of the state in Africa.

Other factors are war and natural disasters such as famine and drought, unstable social-political structures resulting in social-political crises, unstable economic markets, and massive corruption in public offices. Nigeria is not excluded from these in any way as it has, in relative measures, been involved in the interplay of these and has been recording stunted human and social development since it became an independent nation in 1960 (Ake 1996). This is rather strange, in my view, for a continent that contributed so much to the industrialisation of Europe and America in terms of raw materials and agricultural production.

Why is Africa having these dwindling fortunes in spite of growths of the past? Having enjoyed fairly reasonable economic growth rates averaging 5.9% in the 1960s, the annual growth rates began to decline in the 1970s and reached an average of 4.1% by the beginning of the 1980s; the growth rates further declined to an average of 2% during the 1980s (Botchwey 1999, Enemu 1999, Chole 1997). This state of affairs continued in the 1990s, leading some scholars and academics to the grim conclusion that Africa has deteriorated so much that it is now outside the general scope of world economics (Adedeji 1993). In fact it is reported that the continent's growth will slow to 3.7% this year (Bloomberg 2011)

However, not all African countries are encumbered by these dwindling economic fortunes as some are still striving to move the indices in a positive direction. For instance, Botswana and

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<sup>1</sup> Because of this situation, Western Europe and North America gave loans and grants worth one Billion Dollars to sub-Saharan African countries in 1964 as there were huge potentials to develop the natural resources such as bauxite, uranium, gas, oil, gold and diamonds in those countries (Maathai 2010). Indeed growth in many African countries in the 1960s was quite robust.

South Africa in Southern Africa are two countries that have been able to put the necessary social structures in place to achieve social, political, and economic development and these efforts are pushing the indices upward. For example the continent grew by 5.0% in 2008 even though the world economic melt-down brought it to 1.6% in 2009. In West Africa, Ghana now parades democratic credentials and stable social structure that make it one of the countries in Africa making progress. Countries such as Nigeria Kenya, Zimbabwe and Uganda to name a few, however, present cases of social failures affecting economic growth.

In a different twist however, Vallely (2010), did a study which showed that in the recent past, the growth of African economies on the average has increased at a faster rate than those in the developed world- averaging a staggering 6% between 2003 and 2008 while the rate of inflation and budget deficits in the continent have dramatically declined against forecast and common expectation. With the social-political realities of the continent as bleak as they are, foreign exchange reserves of African countries have also grown in the region of 30% since the 1990s while national debts have not only slowed down but have also sharply dwindled. On a more positive side, trade and foreign investments have quadrupled since 2000 while democracies are replacing dictatorships.

Nigeria, the primary focus of this research, is a West African country on the Gulf of Guinea. It covers an area of 923,768 square kilometres of which 13,100 square kilometres are water. It has an estimated 4,049 kilometres of land boundaries with Cameroun in the east, Niger Republic in the north and Chad in the north-eastern part, and Benin in the west. It is a multi-ethnic and multi-religious federation divided into 36 component states and a federal capital territory, Abuja. There are, according to the sociologist Otite (1990), 374 ethno-linguistic groups and the three dominant groups are Hausa/Fulani in the North, Igbo south-east, Yoruba in south- west. With an estimated population of 154 million people (United Nations, 2009), and an annual growth of 2% (United Nations Development Programme, 2009), it is the most populous country in sub-Saharan Africa.

The population dynamics display profound inequalities and disproportions when analysed within the human development indicators: it has 21 doctors per 100,000 people; infant mortality rate of 112 per 1000 live births; maternal mortality of over 980 per 100,000 live births, and life expectancy at birth is projected at 50.1 years (United Nations International

Development Organisation, 2009). There is high unemployment and underdevelopment, especially among the youths, with spiralling poverty levels in the country. At the moment, the national poverty level is estimated at 64% of the population with over 70.2% of the people earning less than \$1 a day (UNDP 2010; UNIDO 2009). Despite exporting more than 2.4 million barrels of oil per day at the current rate of between \$100 and \$120 per barrel, in a 174 country world ranking, Nigeria is placed 151 on the human development Index (HDI).

Intriguingly, Nigeria and many other countries in Africa are considered rich in terms of natural and human resources but have not developed in tandem with this level of natural endowments. For example it is asserted that Africa holds, '10% of the world's reserves of oil; 30% of the world's mineral reserves; 80% of its chromium and platinum and much of the Coltan and uranium that may shape the world's high tech future; It holds the raw materials demanded by the world's two biggest economies, the United States and China' (Vallely 2010, 2). Petroleum in Nigeria is the mainstay of the country's economy, providing about 95% of the country's foreign earnings and about 80% of total revenue (Nwajiako-Dahou 2010; Lukman 2009; UNDP 2009; Omene 2002). The riches this commodity endows on the state has however not been translated to a better standard of living for the people. Instead it has led to more and more injustice and poverty among the people.

In Nigeria's particular case, when the question of what could be responsible for this state of affairs is asked, some answers would be linked to leadership problems (Achebe 1983; Tukur 2004), while others point to an unjust social structure (Anikpo 2002; Ake 1996; Awolowo 1968). Between the two arguments, the facts show that just 1% of Nigeria's population representing the elite or political class gets 80% of the revenue from oil and gas (World Bank Report, 2004) under the current system in the country. Despite huge revenue accruing from oil exports, the economic and social deterioration in Nigeria continues to the extent that even with the fact of being one of Africa's highest producers of crude oil and the world's sixth highest exporter of the commodity (Nwajiaku-Dahou 2010), the country is classified by the United Nations as one of the poorest nations on earth.

Majority of the citizens, mainly in the rural areas are impoverished, while public infrastructure declines steadily and basic amenities are out of the reach of the poor. All human development indicators also remain abysmally low and may continue that way

throughout the 21<sup>st</sup> century (Enemuo 1999, Chole 1997). The resultant effect is social and political distortions and contortions. Thousands of citizens have lost their lives in the resultant outcomes such as insecurity, crime, social injustice and the 1967 to 1971 civil war. The argument in the public domain at the moment is that the deteriorations in Nigeria are closely related to fault lines in the polity inherited from the colonial masters.

While social scientists such as Akinrinade and Ake locate the problems within the states of Africa, Nzomo (2001) puts the blame on the influence and manipulation by major international institutions such as the Bretton Woods institutions such as the International Monetary Fund (IMF) and the World Bank. He sees them as part of the problem because of policies they wittingly impose on African economies that seek help from them. In fulfilling some of the measures imposed, many leaders have had to suppress opposition from their people with brute force and violence. He argues: 'Having previously propped up undemocratic African regimes, both economically and politically, these western actors began in the 1980s to impose unfavourable economic policy frameworks and conditionalities, especially through structural adjustment programmes (SAPs)' (Nzomo 2001, 149).

The question then is, after fifty years of independence of Nigeria and other African countries, why is the quality of governance so poor and level of development still so low? Can the continent justifiably continue to blame the colonial governments as some arguments go? Academics such as Achebe, Wilmot, Ake and Mazrui who have done so much work in this direction take a contrary position as they place the blame directly on the new managers of the continent's political and social dynamics. For instance Wilmot (2006) kowtows Achebe's argument that the problem of Nigeria is bad leadership. He argues that leadership in Nigeria is without ambition, vision, intelligence, competence and integrity.

In thinking about these issues, I believe three points easily emerge: issues of social justice, social cooperation between the State and citizens, and the ideals of democracy. All the attendant social and political problems outlined above easily fall into these broad categories. In effect, these categories represent what the issues in focus dovetail into. The assumption is that sincere and altruistic resolution of these issues would automatically see a resolution of the main contentions in the polity. Ake (1996) gives vent to this as he argues

that the policies and decisions made by the state and government had always tended to be selfish, while there is never any kind of mass and popular involvement and participation in issues and matters of politics and economic policies in addition to decision-making processes in the country or what Rawls (1993) calls 'public reason'.

Historically, the issue of social injustice in Nigeria is one that has generated so much concern and trepidation over the years due basically to the experiences of the citizens and the policies of the state which occasionally brings the country to the brink of disintegration (Rotberg 2004). The citizens experience cases of class, social, economic, and political deprivation and marginalization, tribe discriminations and infringement on their human rights by some organs of the state (Ake 1996); the ethnic nationalities complain of inequalities and unjust distribution of resources (Nwajiakwu-Dahou 2010; Oyovbaire 1978, Adebayo 1993), while the state is generally accused of totalitarianism, arbitrariness and alienation of citizens in the wheel of governance and the political process, making it a kind of colonising authority (Moda 2005). The problem of lack of freedom and liberty and access to political power and office by all citizens is also very common (Maier 2000).

I believe that social justice in Nigeria is primarily a function of the social structure of the society. This structure governs, and has the capacity to corrupt all the public institutions in society that together determine the access of members of a society to the resources of the society. This aptly applies to issues such as rules that allocate rights and privileges to members; rules that specify how access is gained into political decision-making power; rules that concern business corporations, real estate development, institutions including the educational system, professions, acquisition of property, system of taxation and rules that affect the distribution of income and wealth in the society etc. (Barry 1989).

Ake (1987), in arguing the issue of social justice in the country believes that for a society to be just, it must realise and respond to basic human needs of the citizens and to do this, such a society must protect, project and guarantee a right to work and a living wage, it must guarantee a right to such provisions and amenities as shelter, health and education. And it is only when these amenities are provided and guaranteed that a society can be said to be just. This is one side of the coin and as we shall see in course of the research, the issue of

social justice goes beyond provision of social services and has more to do with the institution of just structures that can assist citizens in achieving their life goals.

## **1. STATEMENT OF PROBLEM**

The problem this research sets out to address is a profound and intricate one and the perennial crisis in the Niger Delta region of Nigeria typifies and aptly represents this. For example the oil and gas reserves in the region are estimated to be in the region of 25 billion barrels and 130 trillion cubic feet respectively (Omene 2001), but Joab-Peterside (2004, 12) asserts that: 'the region's tremendous potential for economic growth and sustainable development remains unfulfilled'. In the midst of great and abundant natural wealth, Nigerians are poor due basically to the weak and unjust social structure in place that sustains social-political institutions including laws and policies that inadvertently impoverish majority of the people. Agitators in the region also aver that while the people engaged in their traditional modes of livelihood as a way of developing themselves, the discovery of oil and gas has destroyed and dislocated them while current systems are not adequately tackling the deteriorating environment and underdevelopment conditions of the region.

The current social structure in the country occasioned by such laws as Section 44(3) of Nigeria's 1999 constitution which gives the control of all resources in the country to the central government; the petroleum Decree/Act of 1969 and the Land use decree of 1978 both take the right to landed private property such as oil wells and oil fields from citizens. And over the years, the people of this region decried the imbalance in this administration, appropriation and distribution of the nation's resources perceiving it as unjust and unfair. In all cases the people are sidelined completely, while agitations for a reversal of this trend continued with the ruling class responding by a show of force and continue with the arbitrary distribution policies. In other words, the citizens in this oil rich region call for a fair system of social relations stipulating a fair principle of justice to no avail.

My argument is that the crux of Nigeria's problem is the lack of a negotiated and agreed theory, principles and paradigm for social justice. It is the absence of an articulate system of social relations and cooperation among the people and the dearth of a coherent philosophy of society based on some form of public principles of justice that cater for the aggregate interests of all members of the Nigerian society. Many other social scientists such as Ake

(1996), Soyinka (1996), Anikpo (2005) and ethnic groups organisations such as Afenifere of the Yorubas and Ijaw National Congress (INC) in addition to civil society organisations and some political parties such as Action Congress of Nigeria (ACN) and Congress for Progressive Change (CPC) unanimously believe that Nigeria's social structure as currently constituted is unjust, weak, totalitarian, arbitrary, self serving and favours only the ruling class to the detriment of the generality of the citizens.

The common understanding is that the current social structure has enthroned poverty in the country as the state offers no form of help to disadvantaged people in the society. The structure completely cuts out majority of the people from holding public office due to the high cost of running for elections. The structure gives powerful individuals in the society including the three tiers of government absolute power to use the security agencies and the justice system against defenceless and innocent citizens. The structure in place encourages strong and powerful individuals in the society instead of strong institutions. This has thus made the system to be constantly manipulated by these individuals while poor and defenceless citizens have no access to justice and rights.

When viewed against the fundamentals of the concept of a democratic society as an institution in the social structure where the rule of law and the fundamental rights of the people are protected by the state, what Nigeria practices is far from these and should rather be described as a 'pseudo democracy' because necessary democratic ideals are absent, accounting for part of the bane of the stagnation in the country. Instead of elections, it is widely reported that there are selections (EU 2007; TMG 2007), while the people who should hold the political power to choose leaders are shut out of the process due to rigging and electoral malpractice (Mazrui 1998, Williams 1990).

The resultant effect is alienation of the people from policy formulations and implementations, widening the gap in the relations further. The people are thus excluded from taking decisions that affect them directly and indirectly (Williams 1990). The people in reaction shun government, ignore rules of society, and disobey the law as much as they can, while the elites who run the government have a field day using political power for selfish ends, accumulating wealth, and generally giving favours to themselves and their cronies (Wilmot 2006; Achebe 1983).

As noted earlier, a school of thought believes that the social structure of the Nigerian society which outlines the borders of public affairs and the interplay of public institutions was corrupted by the new managers when the British administration handed over power in 1960 (Diamond 1988). And so this social distortion has given rise to a Nigerian society without a clear national identity, national integration, social justice, political philosophy, just social system and without social security. The argument continues that politicians in government at the different levels acquire power for personal aggrandisement, act arbitrarily, make unjust public policies while the people are denied basic necessities, social services and die in poverty and disease (Ake 1996). Conversant with this, some social scientists such as Okoko (2001) draw attention to the urgent need to transform Nigeria, adopt a new form of leadership and the restructuring of the federal system currently in practice. And all these, he argues should be done through a sovereign national conference of all ethnic nationalities equally represented with freedom to discuss a new people's constitution.

It is therefore of utmost interest to this research to examine such views and analyse the root causes of the country's social-political crisis bearing in mind that the above issues and many others associated with Nigeria including tribalism, false image, corruption, bad leadership, and lack of patriotism; and issues such as mediocrity, cultism, and fraud in public office as well as nepotism, political marginalization, economic deprivation, and environmental degradation are all outcomes of the kind of system or structure in the society. Academics such as Tukur (2004), Achebe (1983) and Wilmot (2006) all propound that the problems are all caused by the failure of leadership while Anikpo (2002), Nwagwu (2006), Udogu (2005), Ake (1996) and Awolowo (1968) argue that the problem is that of an unjust social-political structure. This research takes its direction from this debate.

## **2. AIMS AND RATIONALE OF STUDY**

One of the aims of this research is to basically make a contribution to the body of knowledge existing in the field of social, moral and political philosophy, development studies, African studies and sociological studies in terms of how a disordered society can be studied within the context of a western theory of justice aimed at social justice and political stability. My interest is particularly in the dynamics of social relations, social union and social

justice in the Nigerian society. This is more compelling when viewed against the many occasions of injustice and unfair treatments suffered by the majority of disadvantaged and vulnerable people in the Nigerian society due to the unjust social and political institutions put in place and sustained by the country's public officers.

This research hopes therefore that its outcome would provoke public policy discussion more and if this happens, social and political institutions in the country would be transformed bearing in mind that part of the issues in contention in this essay is the incidence of weak social and political institutions in the society that have driven the machinery of governance aground. The argument has always been that weak institutions cannot produce sound social or political decisions (Diamond 1988). The results of this research when made public, it is expected, would also give rise to deeper exploration of basic goals, plans and desires of individuals in conjunction with the goals of the state because society has a long history of culture, language and identity as against mere personal, family and other filial affiliations. To this extent, it is hoped that these research findings should lead to a change in perception in the Nigerian society and move it in a more progressive direction.

This research therefore sets out to give a sociological, developmental, African, political and philosophical insight into how all the above mentioned issues can be studied through the analysis of different models, postulations and theories on society and politics. And one very notable theory on which this research focuses is John Rawls theory of justice in *Political Liberalism* (1993). This philosopher indisputably is a major voice and influence in the 21<sup>st</sup> century (Nozick 1974). He re-introduced the social contract theory in social, moral and political philosophy. *Political Liberalism* captures the reality of pluralism in society and the possibility of achieving political stability within conflicting social-political differences.

I therefore aim to carefully study John Rawls' political liberalism through critical analysis, reformulation, re-evaluation, and through elaboration, identify a veritable platform for a re-definition and re-invention of such issues as social Union, social relations, social cooperation and democracy and society in Nigeria. In the chapters and pages of this research, the merits, demerits and relevance/appropriateness of Rawls' postulations in relation to the situation in Nigeria will be examined and its possible theoretical and practical outcomes will be analysed. The aim is to ascertain whether political liberalism articulated and studied as a

normative reference theory, can form the theoretical basis for the analysis and understanding of the issues of ethnic dichotomy/rivalry, political instability and social injustice in the Nigerian society.

### **3. SIGNIFICANCE OF STUDY**

Apart from its theoretical significance, there is also a valuable and practical importance to this kind of research especially in these turbulent times of Nigeria's social-political development. The envisaged gains anticipated by this research in the Nigerian system can easily be realized when the relationship between the state representing the political class and the individuals representing the masses is enhanced and improved. The situation as contained in available literature including Sagay (2005), INC (2005) Ake (1996) and Awolowo (1960), shows that because of the lack of basic agreements spelling out terms of relations among the ethnic groups in Nigeria such as how to share revenue and political office and a regime of rights and liberties in the society, there is a big gap in governance on the one hand and citizens' cooperation on the other. This vacuum has further compounded the problems associated with injustice in the society.

The significance of social justice aptly captured in a public principle of justice therefore is to simply aggregate the interests of members of a society and prescribe a fair and just system of social cooperation. The principle so established through a fair procedure would set out what benefits and burdens should be and how to distribute them. It would enumerate the basic rights and duties of all members of society, regulate and appropriate benefits and also share burdens, a task duly performed by the main political and social institutions in that society. The absence of this basic societal requirement in any nation automatically creates a primitive and 'Hobbesian' state, characterised by chaos, disorder and strife. Today the situation is not too different in Nigeria and the country is sitting on a time bomb that may go off any time (Momoh & Adejumobi 2002). The entrenchment and sustenance of social injustice fuels this continuously.

It is hoped that the results of this research can assist the operators of the political and social institutions to take an inward look at their operations and take the necessary steps and measures to redress some critical areas of these institutions. The conclusions reached should therefore be of value to policy formulators, public analysts, researchers and scholars

on Nigeria's politics and history. Once this is done, the justification for this work would be seen more in the light of the overall restructuring of the polity. This intention is borne out of the idea that this thesis with time will become a public document. This aptly corresponds with Kaiser's (1966)<sup>2</sup> position that since scholars are part and parcel of the environment in which they work, they one way or the other contribute to the creation of their objective and subjective elements of research and discourse. By implication, scholars are part of both the problems and solutions of society.

#### **4. CONTRIBUTION TO KNOWLEDGE**

The Thesis seeks to contribute to the body of knowledge concerning the on-going debate on the socio-political situation in Nigeria, with the intent to identify the roots and origins of the social and political misadventures by the designers and fabricators of modern Nigeria and outline clearly relevant theories that can form benchmarks, paradigms and lessons in a reconstruction. In doing this the gap existing in the location of the problems of the society within the perspectives of social justice rather than legal justice and social ills would be filled. Also a new and fresh approach will be given to analysing Rawls' political liberalism and liberalism generally, within the context of an underdeveloped society. This study will therefore add a new approach to the study and understanding of John Rawls on one hand and social justice on the other hand.

My point of departure in analysing the issues of Nigeria's society is that so much emphasis is placed on the legal cum judicial aspects of justice while the social-philosophical dimension which is foundational is undermined. The judicial system is thus stretched to handle many cases of social injustice and in most cases, justice is never obtained from the courts because the judicial officers are in the main, part of the flawed system of social relations after independence in 1960. For example, Chief Gani Fawehinmi (1938-2009) was a legal luminary described by the *Independent* newspaper in the UK in its 8/9/2009 edition as one of the most famous figures in Nigeria. He became a house hold name in Nigeria as a result of his various fights against social-political ills in the society which spanned a major part of his adult life. But his legal victories have not stopped institutional injustice being perpetrated by the state/government.

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<sup>2</sup> Quoted in *The social construction of Europe* by Thomas Christiansen et al. (2001)

My contribution to knowledge is also seen in my contention that the essence of the theoretical exigencies of social-political construction or reconstruction in a society is a universal idea that a disordered society can partake in. Nwagwu (2006) underscored this by citing the event of July 4 1776 in which some American political leaders from the thirteen colonies under the rule of the British crown assembled in the city of Philadelphia to launch the attempt at forging a nation after a decade of operating a confederacy. After nearly a year they framed the current American constitution. Through a conference America evolved from thirteen colonies to a federation of fifty states as it is known today even though along the line New Mexico joined in 1912, Texas in 1845 and California in 1850.

Also in the mid 1970s and 1990s, Quebec, Canada and Russia underwent extensive restructuring. In Canada, Quebec sought a referendum in 1976 to separate from the Canadian commonwealth. The people chose to remain and the region remained culturally independent when the leaders of the ten provinces in the country gathered in Ottawa. The post second world war history of the USSR was one of constant struggle that in 1992, the Soviet behemoth collapsed and Russia and the other fourteen member republics of the former USSR became independent states. All these, Nwagwu argues, express the reality of restructuring as a necessary and inevitable phenomenon in society.

Compared to modern nation-states in the West such as France, England, US and Germany to name a few who all had their own difficulties similar to what Nigeria faces, Nigeria did not have the opportunity of a great outing or emergence. There is no history or record of any personality or group of personalities involved in the unification of the ethnic groups and birthing of Nigeria as a nation. For instance the history of modern day America and Germany is not complete without the role of personalities like Thomas Jefferson and Otto Eduard Leopold Von Bismark who played very instrumental roles in the formation of the American and German nation as they are known today. In most cases these events mark the turning point of nation building as heroes and political icons emerge through conscious efforts to effect changes in society.

In a typical pattern of nation building which was absent in Nigeria's history, the stories of the German and American nations occurred officially on a date and venue, USA July 4 1776 at Philadelphia ; Germany 18<sup>th</sup> January 1871 at the Versailles palace's Hall of Mirrors in

France respectively, making the events concrete historical realities. It can be argued that similar to the circumstances currently at play in Nigeria, the transformation of the American and German different states into a nation-state took place after many years of separation. Nation building most times also highlights religious, linguistic and cultural differences between and among inhabitants of a nation connoting that most western nations as they are today are as plural and diverse as Nigerian before their formalisation as unified commonwealths.

Unlike the different Western experiences, the Nigerian ethnic nationalities or groups have never been unified by any process or any personality, but were only proclaimed a nation by a decree in the British parliament on January 2 1914. There was and there is still no politically constructed understanding between the Hausa/Fulani, Yoruba, Igbo, Ijaw and over 300 other ethnic groups in Nigeria on what the 'Nigerianness' in them is. No personality or authority is on record or evidenced to have encouraged the groups in Nigeria to acknowledge and accept one central authority. The contribution of this study will in the long run add to what is already known about the process of nation-building and the possibilities of the same happening in 21<sup>st</sup> century Africa.

## **5. RESEARCH QUESTIONS**

The following questions are raised by this research:

1. Is the root-cause of social injustice in Nigeria that of leadership failure, an unjust social-political structure or both?
2. Can or how can a Western moral, social and political theory be extrapolated in the analysis of the issues in the Nigerian discourse
3. Can John Rawls' ideas in *Political Liberalism* provide a better understanding and analysis of the social-political re-structuring and redesign of the Nigerian state and society?

The above three questions are the focus of this research and an attempt will be made to answer them knowing full well that the overall intention of this work is to add to the body of

knowledge existing on the issue of social justice and social – political challenges facing a disordered society such as Nigeria.

## **6. STRUCTURE/METHODOLOGY/ORGANIZATION OF RESEARCH**

This research is primarily engaged in the expository analysis and presentation of the social and political conditions in Nigeria and the effects of the lack of a proper, well defined social structure (governed by a public conception of justice and the rule of law), the lack of public principles or a system of social justice, and the lack of peaceful cooperation among members of the different ethnic groups in the Nigerian society. The method clearly entails the presentation of facts about Nigeria in unambiguous and unbiased terms, its historical antecedents, political development, morality and Justice etc., as revealed by notable authors, commentators and publications in a plain and concise way.

It intends to explore and examine how a social, moral, political and philosophical theory is able to analyse a practical and real situation in order to delineate a context for both society and politics. This can then provide a new approach and case study for the articulation of a Western theory in an African society. It also draws a correlation between theory and practice to show the interdependence of climes and thoughts in research. I believe that once a theory is well understood and its theme is clear, it can be interpreted culturally and according to peculiar conditions such as environment, religion, language, customs and beliefs without losing its fundamental principles and ideas.

In terms of method of study, this research is primarily engaged in expository presentation of the content of the study being carried out through the analytical method. In the course of the study I shall adopt the approach that unveils and analyses the issues of theory of liberalism, justice and constructivism among other issues that are at play in the Nigerian discourse. This method puts at its core the political liberalism of John Rawls and all relevant texts that project the issues of structure, agency and Nigeria's politics and society. It will enable me to present the issues and relevant literature in a critical and analytical way. Similarly, I shall also adopt a comparative and theoretical approach in evaluating relevant texts and arguments in such a way that reveals more fundamental premises and conclusions about the issue of social justice in Nigeria hitherto unknown.

To achieve this, the Thesis is divided into four chapters with an introduction and a conclusion/summary. The direction of the work is given in the introduction where the general idea and thesis of the research is stated. The other chapters following from here will highlight the different aspects of the argument made in a systematic way as to create a connection between them. It is also expected that there shall be an overlap of the arguments in the chapters as some would elaborate on preceding ones while others treat in detail points raised in preceding chapters.

**Chapter one** examines the concept of structure from the sociological perspective and how it relates to society while the idea of its relationship with agency is also analysed to draw the significance of how the social structure and the agency of individuals affect society. A theory such as structural-functionalism is examined as an example of theories that explain how society is analysed. The chapter also carries out an analysis of the different institutions in the Nigerian society that are thought to promote injustice. From the lopsided revenue sharing formula to the closed political space; from problems of marginalisation of some sectors of the society to the agitations by minorities in the country; also, the outcomes of years of dictatorship and the absence of agreements are seen. It is shown that there are inherent failures in the society and government inherited from the colonial masters. Specifically I shall look at the State/government, Federalism, Derivation, Constitution and Democracy as the public institutions that feed the culture and tradition of social injustice and political instability in Nigeria.

The chapter goes further to take a retrospective look at the institution of colonialism in Nigeria and analyse the notion that the period may have inadvertently contributed to the current crises rocking the country. Many commentators tend to diagnose the trouble with Nigeria in terms of such issues as corruption, electoral malpractices and tribalism to name a few. But it is pertinent to do a further analysis of other elements of the society such as the basis of the social Union or social cooperation and the fundamental flaws at inception. In this direction, the problem of ethnicity and its effects as stumbling blocks to social cohesion and national political integration are highlighted, while its importance in the reconstitution of the social structure is also examined.

The chapter thus draws the attention of the reader to the thinking in Europe and the actions of European leaders prior to the scramble for the continent of Africa and the allocation of Nigeria to Britain. From this expose, we find that the administration of the colonial regime may not have been in the interest of the people of Nigeria but for the economic progress of the colonial masters. Against this background it is further analysed whether the main structures for a stable and sustainable society built on social justice, equality, liberty and freedom were undermined and were never corrected after political independence was granted to the country in 1960.

**Chapter two** focuses on Rawls' *Political Liberalism* and the lessons it presents to the Nigerian society. Here the different elements of the theory are examined within the context of providing a theoretical analysis of the restructuring of Nigeria. The core of the treatment given to this political conception of justice is based on Rawls (1993) belief that the political tradition of many democratic societies is the occurrence of diversity of opposing and irreconcilable religious, philosophical, and moral doctrines which are not only justified but also reasonable. This phenomenon well entrenched in the Nigerian social-political culture is a reflection of human nature at work within enduring equal and free institutions. This chapter thus sets the relevance of *Political Liberalism* in the Nigerian discourse.

In this chapter therefore, I offer my perspective on the fundamental ideas underlying the formulation of Rawls' theory of justice in his two publications and the developments associated with them. While doing this, I will highlight the kind of society that can emerge based on Rawls' ideas and how Nigeria fits into this ideal. The chapter thus examines the notions of the two principles of justice, original position, overlapping consensus and 'well ordered society' as they relate to current social-political discourse in the country. It is hoped that doing this will throw more light on the fact that the issue of ethnic and religious pluralities in Nigeria and the desire to establish just systems and achieve political stability are necessary evidence that Rawls' political liberalism may just be what Nigeria needs.

**Chapter three** looks at the concept of theory itself and how theoretical and analytical methods can be useful and relevant in the study of society. Here among other issues, the suitability of the Rawlsian theory of justice in a 'disordered' society is examined against the background that Rawls recommended that his two principles of justice can only be chosen in

a 'well ordered society', which is a society that is well regulated by a public conception of justice known and accepted by members of a society. In this chapter, I argue that in spirit and letter, this is not possible because societies today are so diverse and unpredictable that no policy gains complete support no matter how good and no agreement can ever be reached on a public conception of justice. To this extent the requirement of a well ordered society is too idealistic and a modification is inevitable.

On the other hand a society such as Nigeria bedevilled by serious social problems ordinarily should be able to extrapolate and rely on an existing theory or formulate one as a way of understanding and analysing their problems. And with the psyche of Nigeria, it is argued that there is a hunger in the country for a restructuring of the systems. Therefore if the society can take some actions and put in place some principles and rules, the possibility of meeting the conditions set in 'Rawlsism' and achieving a just and stable society is high. In this chapter also, the social contract theory as a relevant idea in the constitution and reconstitution of social structure is given a detailed treatment through its early advocates such as Hobbes and Locke. The essence of this is to show that though the theory is a-historical and hypothetical, it is instructive in reality.

This chapter shows that conditions in the Nigerian society already provide the necessary templates that can fulfil the conditions for the suitability of the Rawls' ideas at least in theory. The need for an all inclusive Constitutional Conference in the country being advocated by a section of the country and some public and social activists aligns with the Rawls' concept of original position while the idea of plurality of ethnic nationalities in the country and the need for compromises connects well with Rawls' doctrine of overlapping consensus. The virtue of *Political Liberalism* properly interprets the kind of liberalism that best suits the Nigerian society and this slant must be one that supports some form of government welfare principle.

**Chapter four** analyses and examines the steps and conditions Nigerians need to take to fulfil Rawls' principles of justice in line with the constructivist approach to social-political theories. Within the theory itself are conditions that must be present for the principles to be achieved. If we accept the fact that Rawls himself declared that these conditions and the results emanating from them are hypothetical and non historical, it can be deduced based

on some premises that Nigeria can achieve the Rawlsian society. The chapter projects into what the country can do and what it can achieve after deliberations by Nigerians on the way they wish to live and how they can achieve their desire for a just society.

To achieve this, the chapter will explore the arguments of the advocates of ethnic sovereignty and advocates of federalism and analyse how the arguments stand in the face of Rawls' two principles of justice. Questions bordering on whether the arguments enhance the attainment of the principles and how the principles can be applied in the outcomes of restructuring based on the arguments will be answered. The essence of this kind of analysis is to establish the fact that any argument for restructuring that can lead to social justice and political stability must be one that not only adheres to a process that is based on the two principles but must also lead to a society that is based on them.

Finally, the chapter examines the possible end of the restructuring process and the establishment of the 'well ordered society' in Nigeria as an end rather than a means for the principles of justice; and how the new social structure can catalyse the development of the Nigerian people. In doing this, the concept of development is analysed in detail.

## **PART ONE:**

### **CONTEXTUAL ANALYSIS**

#### **CHAPTER ONE: SOCIAL STRUCTURE AND SOCIAL INJUSTICE IN NIGERIA**

##### **1. INTRODUCTION**

When the American moral/political Philosopher John Rawls (1993, 1971) published his ideas on achieving political stability and social justice vis-a-vis the two principles of justice, he argued that his two principles apply strictly to the basic structure of society which presupposes the public sector as against private affairs and issues of the people. The invariable implication of this proposition is that it is in the social-political structure of society that the phenomenon of social injustice is perpetrated and it is in this same vein that it can be redressed. The understanding is that once the social structure is just, justice is guaranteed in society.

This Thesis therefore takes its cue for the analysis of the structure of the Nigerian society within the sociological conceptualization of social structure or what Rawls refers to as the 'basic structure'. Here, I convey among other things how the governance capabilities of the Nigerian state and the agency of the Nigerian citizens through their conducts and actions directly impact the society with social injustice. The relationship between structure and agency is analysed in the bid to show how the structure affects the Nigerian people as agents and how the people also sustain the structure through their actions. This chapter thus dissects the structure of the Nigerian society as scholars assert that it inadvertently encourages injustice due to inherent inconsistencies at play since 1960 when the country gained independence (Moda 2008; Anikpo 2002; Hatch 1970; Cook 1964).

The Consensus in opinion in the country is that the most challenging project for Nigeria and Nigerians is how to fashion a social-political structure that can ensure political stability and social justice in the society (Sagay 2004, Udogu 2005, Cooper 2002). This challenge is borne out of Bello's (1962) assertion that the people in terms of culture, language, morality, religion, and philosophical beliefs lacks homogeneity, uniformity in thought and is riddled with so many incompatible pluralities and diversities that it has become almost impossible to forge a united nation.

In this chapter therefore, the issue of Nigeria's social-political structure will be critically examined from the perspective of public institutions such as the state/government, federalism, democracy, constitutionalism and derivation. This chapter also traces the origin and background of this structure and how it has transited from the colonial period to post-colonial Nigeria. This is to put the issue in proper perspective bearing in mind that an important factor in analysing the colonial legacy and post-colonial experience in Nigeria within the over-all examination of the social structure of the Nigerian society today is that colonial experiences in the world are not the same (Olaniyan 2000).

While some colonised countries such as USA, Brazil, India, and China, to mention but a few, are major economic and political powers in the world in the 21<sup>st</sup> century, Nigeria and several other African countries remain socially, economically, and politically backward and I do not intend to argue, neither do I believe that colonialism is wholly and immediately responsible for the social-political problems of Nigeria and the continent of Africa as to do that would be very misleading and too simplistic. As Olaniyan (2000, 280) says, this would be as 'vulgar and unproductive as subscribing to the opposite view which holds that colonialism has nothing to do with post-colonial African crisis'.

However, even with the variations, it is safe to conclude that there were shared features in colonial rule in Africa and one of them is the fact that at the Berlin conference of 1884-1885, fourteen European powers in conjunction with the United States divided Africa without due regard for the integrity of existing cultural and ethnic/tribal groupings and systems (Olaniyan 2000, Blij and Muller 2003). Effectively there was subjugation and downgrading of the subsisting social structure in these groups, communities and societies even though the intention was not to destroy Africa but rather it was a matter of convention and trend of the time

## **2. THE DYNAMICS OF SOCIAL STRUCTURE**

The term social structure relates to an enduring pattern of a given set of public and enduring institutions, relations and inter-relations that exhibits some permanence in society. Endurance is of utmost importance in social structure as this connotes the inability of narrow or parochial interest adversely affecting it. Society is made up of public social and political institutions that network to regulate the society and the social justice or injustice

that may be perpetrated in society takes place within this interplay. To study the structure of any society is akin to studying the anatomy of an organism; and to study its functions is like studying the physiology of the organism. The concept of structure can be seen as a generic way of describing the shape of a thing, society or idea while the main operating concept is carried by 'function'. The concept of structure is the interplay of functions and relations in society.

Social structure has some basic ingredients that go with it in defining the way society is governed and these include roles, regulatory rules and laws, cultural values and groups and subgroups, thus showing that there is a kind of permanent and enduring aspect of relationships, giving rise to stability. To therefore achieve social justice and political stability, it is important to analyse the status of the social structure in society and it is this idea that makes the examination of the social structure of the Nigerian society before any kind of extrapolation of a theory or principle of justice necessary. In looking at the social structure of Nigeria, I argue that the players of different roles can change but these roles and their intention remain permanently for the good of the society.

The structure of a society can therefore be the system of that society in terms of how parts or what Rawls (2005, 1996, 1993) calls 'social-political institutions' function bearing in mind that Institutions are an articulated pattern of behaviour which collectively display one aspect of the necessary functions that have a direct influence on the overall interplay of these systems in society. It is the behaviour of these institutions which collectively form the social structure that define the status of society as just or unjust. A society with no clear and defined structure or with weak, poor and corrupt structure on the other hand, Blau (1976, 7) posits, is thus one that exhibits 'chaos, formlessness, idiosyncratic human behaviour that exhibits no regularities and hence is unstructured'. Rawls (1993, 269) believes that social structure affects individuals in society either for good or for bad:

Now everyone recognises that the institutional form of society affects its members and determines in large part the kind of persons they want to be as well as the kind of persons they are. The social structure also limits people's ambition and hopes in different ways; for they will with reason view themselves in part according to their position in it and take account of the means and opportunities they can realistically expect...more generally, the basic structure shapes the way the social system produces and reproduces over time a certain form of culture shared by persons with certain conceptions of the good.

When social behaviours show consistency and more or less persist with some regularity, we can speak of it as being structured. Social and political institutions in society in addition to the members of a society thus collectively exhibit the kind of behaviour that Blau (1976) takes as the structure of that society. To this extent the regular and consistent behaviour of some Nigerians viewed as corrupt, fraudulent, lawless and dishonest forms part of the structure of the Nigerian society corroborating the belief by observers, commentators-(both local and foreign) and students of the social and political history of Nigeria, that the country has a corrupt system. This system of collective behaviour of humans and institution is categorized by Maathai (2010) as a 'social machine' and the three legged 'African stool' which is a depiction of the interplay of democratic space, distribution of resources and the culture of peace.

Lewis (2004) believes that such issues as political instability, fiscal constraints, political patronage and corruption have undermined the ability and capacity of major social and political institutions to create economic development. He argues that political instability is both cause and a consequence of institutional decline: 'the unexpected consequence of a weak social structure is that the declining performance of institutions in turn weakens government legitimacy, aggravates crises and makes leaders more susceptible to challenge' (Lewis 2004, 116)

Homan (1976) pushes the frontiers of structure as also including institutions such as marriage and family which though are not public organizations, per se, are subject to public control, through for instance the courts. Rawls (1971, 1993) argued however that basic structure only has to do with public institutions and does not include issues such as marriage, churches, schools etc, describing these as private. Homan believes a structure can change as no social structure remains unchanged for ever. One of the ways social structures change is through the role of customs, culture and traditions of a people. But the role of culture in structure makes it difficult to exclude private issues from the structure of the society, making culture a product of public and private interplay of behaviours and interaction of people and systems.

In this sense, Nigeria's social structure as we shall see later shows inequalities in social, economic and political power, lopsided revenue distribution and lack of standard practices

in public service. The practitioners of public institutions think more of self interest and gains, while class interests have also been institutionalised into the social structure of the country by individuals and groups that enjoy the current structure in the country and strive to maintain it. We can also juxtapose the idea of weak, poor and unjust structure in respect of the Nigerian society with the analysis that the change in the form of restructuring as is being advocated by Achebe (1984) Soyinka (1996), Ake (1996) and many others will only result from the current aftermaths of unacceptable structure creating crisis in the political domain and possibly in the Niger Delta and the northern part of the country.

The idea of social structure further shows that all parts of society are not only valid, but are also very useful and render a service, thereby meeting a need. The emphasis of ideas such as the structural-functionalist theory on society is that it does not place premium on the individual per se but on group function. To this extent, functionalism holds that individual needs are not validated but only the over-all function of society is of the essence. Structural-functionalism as a sociological theory originally sought to elucidate on social institutions as collective ways of satisfying the biological needs of the individual (functionalism) but has broadened to explain also how social institutions meet social needs (Structural-functionalism).

All the parts of society are observed to be working in an automated mode for the sustenance of overall social equilibrium. Structural-functionalism sees and interprets society as a structure that has interrelated parts and addresses society (which it sees as a unit) according to the work of the different constituents and elements consisting of norms, customs, traditions and institutions. These various parts of society according to this theory can be described as organs working for the proper functioning of the body as a unit. Classical functionalist theories are analysed according to the quest to give biological analogy and ideas of social evolutionism.

Structural-functionalists are united in the view that norms, rules and regulations captured in both formal laws as constitutions and informal norms and beliefs are important elements in the effective organisation of society. They argue that social/political institutions in both the traditional and governmental respects compose the necessary constituent parts of the social structure. Every social, political or cultural event or situation is therefore observed as being

functional in that it functions as a unit to achieve balance and equilibrium and is believed to have its own individual life. The analysis of social affairs I believe should be done within the social level where members of society become mere transient occupants of comparatively stable social roles. In this way the social structure is nothing but a network of statuses connected by associated roles.

The structural–functional theory carries quite a lot of significance to the Nigerian situation because as I earlier noted, it is the social–political structure that gives rise to the myriad of acts of social injustice and acts of criminality prevalent in the country. Political leaders running governments at the different levels actually see the society as a unit and govern it as such. All the institutions of society even in Nigeria work as a unit to achieve stability and balance making it very important in the country. We see attempts by the government in Nigeria to combine its role with that of the state ignoring the fact that these two entities are different, but the idea of one organism necessitates this.

The problem, however, with this situation is that it assumes homogeneity of society and does not put into consideration human reality of plurality and conflict of interest in society. In governing the people with this belief, government most times abuse public interest while trying to satisfy government interest. Rights and liberties of the citizens have been abused most times to protect the interest of public officials with the erroneous belief that citizens can be deprived of certain goods for public interest without properly delineating what that public interest is.

The theory of structural-functionalism also fails to cohere with distortions in the Nigerian system as the interest of equilibrium, stability and balance is not the general well being of the country but personal, sectional and selfish well being of the ruling elites and their cohorts. The effect is that citizens will continue to agitate for a change in this condition of relations in the society as the main public interest objective is the wellbeing of the citizens. There is therefore no proper elucidation of the reality of social change which is a since qua non in society. It fails to properly argue the needs of individuals as they form society and are the ones that have needs. The idea that society has some needs like organisms cannot be sustained because society remains alive because it is inhabited by living individuals.

The social structure of Nigeria, Anikpo (2002) argues, is a product of the relationship between the institutional configurations of the society which manifests in a practical way in the ethnic, religious and class interplay that informs the stability or instability of the country. He traces it to the historical experiences of the people which show that the form of this interplay has resulted in distrust and acrimony among the different plural and diverse contending groups in the society, which invariably poses a threat to the corporate existence of the nation. The crisis in the social structure has thus engendered instability in the political economy of the country.

The social structure in Nigeria has its effects cutting across the full gamut of social relations and interactions in the country and affects in a profound degree, the value system of the people because in Nigeria as in many other societies, there is a real connection between social structure, value system and national development. Social scientists such as Udoidem (1992, 2) see such value system as 'cherished principles, goals, or standards or ways of life held or accepted as desired by an individual, class or society' and in thinking of the institutions that make up Nigeria's social structure, the periods before colonialism shows a marked departure from post-colonial society where a national political value system remains a challenge.

### **3. STRUCTURE AND AGENCY IN THE NIGERIAN PERSPECTIVE**

Any argument on structure can easily make the people look like puppets and non-participants in the interplay of structural institutions. The reality is that it is actually impossible to separate social structure from personal agency (Giddens 1984, Fuchs 2001, Sewell 1992). While the structural-functionalists see society as a unit working together to maintain equilibrium, the position of conflict theorists that society is a competition of the classes in society resonates well and more with the reality of the Nigerian experience where there is an invisible conflict among the different interests for the control of the system for their own satisfaction. The relevance of this is that because of the weak social structure in the Nigerian society, people think more of themselves than the whole and this has led to the scramble for power for the development of self interest which also means ethnic interest rather than the development of institutions and processes.

The situation in Nigeria as it relates to structure and agency therefore is that instead of having a situation where the former gives direction to the later, it is the other way round thereby creating the high incidence of social injustice and social-political crisis. The most consistent attempt at reconceptualising social structure in recent social theory is the work of Anthony Giddens. From the mid seventies, he has been arguing that the concept is dual (Giddens 1984, 1981, 1979, 1976)<sup>3</sup>. This means that structure connotes 'both the medium and outcome of the practices which constitute social systems' (Giddens 1981, 27). Sewell (1992, 4) thus believes that:

In this view of things, human agency and structure, far from being opposed, in fact presuppose each other. Structures are enacted by what Giddens calls knowledgeable human agents (i.e. people who know what they are doing and how to do it), and agents act by putting into practice their necessarily structured knowledge.

This dual understanding of structure which ties it to agency explains the fate of the social structure of the Nigerian society as both a creation of the Nigerian people but also their 'Achilles' heel'. The structure put in place and sustained through the means of political leadership by the elites is now the cause of the draconian system of organising the society that has created so much social injustice and political instability. Proponents of structural theories claim that individuals are born into societies that are already constituted and they are merely individuals in a system of associations involving many others.

This system of thought undermines the way societies emerge because the natural emergence of society is a function of existing individuals in different communities pulling together based on some agreements for the common good of all of them. Individuals are the main initiators of society and should remain the fulcrum irrespective of when they are born into society. Primarily, individualist sociologists as opposed to structuralists believe that society is nothing but a body of individuals bound by interdependence with characteristics such as national, local or cultural identities, social solidarity, language or hierarchical organisations. It is individuals that create society and not the other way round.

Theorists such as Pierre Bourdieu sought to find some kind of balance and equilibrium between the different arguments on the debate by arguing that structure and agency are complimentary phenomena. While structure influences human behaviour, humans have the

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<sup>3</sup> Quoted in Williams H. Sewell, JR's A theory of structure: duality, agency, and transformation.

ability and capacity to influence and change the social structure they live in. This idea of being able to change social structure would underscore the views of advocates of the conflict theory in a way as they believe that the structure of a society can be to the disadvantage of the individuals in that society, hence the teaching of violent overthrow or revolution.

Fuchs (2001) is one theorist who has been able to put the contrasting pairs of structure and agency under the universal umbrella of formal pragmatics. This he did by dividing modern society into life-worlds which he termed micro and macro. This view seems to be a synthesis of the two views on the discussion and they both give a practical and pragmatic explanation of how society functions. The idea is that of a combination of the two spheres of characteristics. Here the argument Fuchs makes is that people can create their micro world but not their macro world. They act but under circumstances not of their own choice.

They define and redefine situations but are limited by structures in the society. It is in his sense that the structures in the Nigerian society affect the actions of the people. They can by choice and free will choose a given situation but are limited by the structures that predate them. The question then is what happens when a structure is unjust. What options do individuals in general have in this situation? The two phenomena must therefore be seen as part and parcel of a complete interplay of persons and systems.

The Nigerian society like many others is composed of people from different ethnic groups, who relate to each other through constant and persistent relations including social status, roles and social-political networks. It carries the reality of the people of a particular region or country. Giddens (1984, 32) in this direction sees society as: 'generalised connotation of social association or interaction and unity, having boundaries which mark it off from other surrounding societies... societies have no "reason" or "needs" whatsoever: only the actors whose activities constantly constitute and reconstitute those societies do so'.

In a related vein therefore, Giddens' argument can be placed side by side the idea of structure and agency translating to the fact that society is akin to structure seen as macro, while agency is micro as per the individuals in society (Fuchs 2001). The relationship and significance of the Nigerian people with the structure of the society will not be too different from the debate about structure and agency. We shall thus address this issue within this

context. Common understanding is that agency has to do with the ability of persons in any given society to act and take actions independently while making their own free choices from free will. This shows that people act freely and are not robots in the society.

Harrington (2005) in a similar argument notes that in spite of the fact that structure usually dictates the shape of social institutions and systems, individuals still have the capacity to choose what to do even though the choices at their disposal are restricted and shaped in different forms and ways by the structural realities in the society. The implication of this is that while the structure of a society may not be too favourable to individuals, they still have alternative possibilities of action.

This line of thought by Harrington falls in line with the argument of violent changes and the realities of crime and anti-social behaviour in society where structures tend to be against the welfare and interest of the people. Scholars such as Ake (1996) in this regard have argued that once people in a particular system perceive the system as unjust, they would automatically develop their idea of justice in terms of injustice and embark on actions that can be categorised as anti-social but can be justified by them as their own way of working with the system.

Part of the effects of such an unjust system in Nigeria is the fact that in 1960, the British 'arranged' and 'installed' a parliamentary Westminster type of democracy, but because the system was weak and cosmetic, it could not function effectively in the 'highly combative political environment' and in 1966 it collapsed (Wright 2008). Under the same weak state and societal structure, the country has been divided into thirty six states in a bid to stem ethnic, tribal and religious contradictions. These failed efforts indicate the challenges of building a democracy in what Wright (2008) refers to as 'a severely fractured state'.

#### **4. BETWEEN POLITICAL LEADERSHIP AND SOCIAL STRUCTURE**

Achebe (1984), in analysing the situation of things in Nigeria argued that the problem of Nigeria was that of leadership. Achebe is not alone in this as Tukur (2004) also argues that bad leadership is responsible for Nigeria's current social-political problems. Pushing the discourse further, Achebe's argument aligns with that of most Nigerians that a good leader can change Nigeria and bring all the social ills to an end. He gives the example of a military

dictator, General Murtala Mohammed, who through a coup d'état, took over power in July 1975.

Mohammed introduced a lot of measures to change the social behaviour of Nigerians for good and was commended for his effort. Prices of goods in the market were slashed by fiat, corrupt people were prosecuted, house rents were reduced by government and there was a general sense of progressive change in the country. His style was new and unprecedented and it affected the psyche of the people who out of fear resorted to obeying the law to avoid the wrath of the leader. Achebe (1984) believes that the new ruler's style of ruthlessness was enough to transform the habits of the citizens over-night.

His argument revolves around the pre-eminence of agency over structure, believing that change can happen in Nigeria if good and purposeful leaders who have the will, the ability and the vision for Nigeria can be discovered. To him such people are rare and it is the duty of enlightened citizens to lead the search for such people and create the necessary atmosphere for the emergence of such a great leader. This line of thinking marked the politics of post-colonial Africa in the 1950s and 60s as the emphasis then was on strong leaders at the expense of strong institutions.

My argument is that the euphoria of nationalism and independence led many African nationalists to ignore the role of institutions and structures and built post-colonial governments around their personalities thus establishing a 'cult personality' culture. When this set of leaders, such as Kwame Nkrumah of Ghana, Patrice Lumumba of Zaire, Leopold Senghor of Senegal, Nnamdi Azikiwe of Nigeria, Jomo Kenyatta of Kenya, Julius Nyerere of Tanzania, and Kenneth Kaunda of Zambia (to name a few who had developed a cult following among their people) left the scene, the social and political crisis which Africa has come to be associated with blew out of proportion. Mandela<sup>4</sup> on the other hand did otherwise. This he did by developing strong institutions in post apartheid South Africa rather building a cult following around him. As popular and revered as he was he reconciled all the people of the country around the constitution rather than race or colour and set out a clear

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<sup>4</sup> Nelson Mandela became president of South Africa in 1992 after spending 27 years in jail for fighting against apartheid. On assuming office he set up among other institutions, the Truth and Reconciliation commission and dutifully implemented the newly inaugurated constitution which laid the ground work for an equal and free society of a rainbow nation where all the tribes and ethnic groups were guaranteed freedom and equality.

plan of succession which saw him serve for only one tenure. Rather than being seen as a symbol of black struggle, he made himself a symbol of freedom and equality. Schrire (2008, 422.) analyses the Mandela approach this way:

Mandela took office with the recognition that his advanced years made a one term presidency probable. He made as his central mission, the reconciliation between the former oppressors and the newly liberated. His larger-than-life personality and his message of one nation with many cultures gave the new democracy an encouraging beginning.

In terms of the social structure of Nigeria and its origin, Awolowo (1960) was convinced and thus argued that Nigeria's protectorate boundaries were arbitrarily drawn and mistakenly put Yorubas and non-Hausas in the northern protectorate. It also put Ibos and non-Yorubas together with Yorubas in the protectorate of southern Nigeria. His explanation for this structural distortion and anomalies was that at the Berlin conference of 1884-1885, the imperialists were more concerned about economic interest and development of their home countries rather than the colonies. Their main desire was the need to arrive at a compromise in order to have peace among them. At the end of the day, people of one linguistic group were divided between two or more different administrations. Awolowo argued that it was a serious misconception to believe that Nigerians would easily and readily accept common standards and common leadership.

Tukur (2004) in contrast still lays emphasis on leadership as he argues that Nigerians have not been able to enjoy political stability, the standard of governance they are entitled to and the rendering of appropriate service they seek primarily because ethnicity, religious intolerance, and insensitivity have enveloped their leadership at all levels of government. Like Achebe, Tukur is passionate about the kind of leadership Nigeria has and how it is stalling any form of development in the society. But what is the implication of bad leadership? Awoniyi<sup>5</sup> (2002, 245) emphatically answers that it can lead to social-political crisis and even disintegration. 'Today, knowledgeable and concerned Nigerians believe most strongly that unless we have selfless, committed, and trustworthy high quality leadership to stop the rot, the country is in great danger of disintegration and no nation disintegrates in peace'.

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<sup>5</sup> The late Sunday Awoniyi was a popular politician in Nigeria. The above statement was a memo sent to the drafting committee of Arewa Consultative Forum in 2002 and was quoted in Tukur (2004).

Arguing that social structure is the bane of the country's social-political problems, Anikpo (2002) traces it to the period before colonisation and concludes that the different ethnic groups still hold on to their distinct idiosyncrasies at the expense of national integration and it is my belief that this is part of the Nigerian problem. He notes that the country's pre-colonial ethnic groups maintained their respective autonomies in governance and economic exploitation of their resources while those identities are reinforced by distinctive myths of origin which beclouds their religious beliefs and stratification patterns: 'Thus in pre-colonial Nigeria, ethnicity, religion and class prevented the integration of the Nigerian ethnic groups into a nation-state until the Europeans imposed nationhood on them in 1914' (*Anikpo 2002, 52*).

Between Achebe and Awolowo and their opposing schools of thought, the troubles with Nigeria are multi interpretative and like many African countries, Nigeria is a nation of nations that needs to transform into a full sovereign nation-state of one people with political and social coherence. Today national integration is yet to be achieved and people see themselves first from the perspective of their ethnicity/tribe before seeing themselves as Nigerians. This is because as has been argued in the introduction of this work, Nigerians have not gone through the normal process of nation building which is based on agreements, treaties and consensus with a strong constitution drawn up by all participants.

Nigerians still relate with each other in the same suspicious manner they did during the colonial era when they were used against each other (Bello 1962). The strong leader Achebe singled out in Nigeria's history as an example of the primacy of agency in social organization of society - General Murtala Mohammed lasted only six months in power before he was overthrown and assassinated in another military coup in 1976. This happened because, as Diamond (1988) argued, the structure of the country was not strong enough to sustain him in power even though he was a 'good leader'.

## **5. SOME BASIC INSTITUTIONS IN NIGERIA'S SOCIAL STRUCTURE**

In this section I want to identify some institutions that in my core argument fuel and sustain the incidence and perpetuity of social injustice and political instability. These institutions are the state/government, federalism, constitution, derivation and democracy. They are to be differentiated from issues such as religion, economy, morality, and family because while the

former are public institutions that impact on every member of the society necessarily, the latter are private and personal matters that affect only a few. Critics of this position may argue though that issues of religion and economy can also impact on the lives of members of society. The fact remains that they are not at the core of social-political institutions that form the basic structure of the Nigerian society that the state has control over absolutely. It is on this basis that I chose to lay emphasis on the outlined institutions below.

#### **A. THE STATE/GOVERNMENT**

Knowing full well that there is no common academic understanding of what the state is in terms of definition, I shall rely on some form of elucidation for the purpose of this research in a manner that it is not taken as absolute or exhaustive. In a sociological slant, Webber (1964) describes the state as the entity that possesses the monopoly of the legitimate control and use of force in a given territory. It can thus be seen as a system or entity involved in control and governance and to this extent, it is closely related and almost inseparable from the government. In another breath, the state can be described as a political unit of people and personnel or group of officials acting as a custodian of force, creator and enforcer of law and the custodian of justice.

Leftwich (2008) identifies the state as a set of institutions such as '*public institutions*' which co-opts the government, the legislature, the army, the courts, the civil service, and all state-owned agencies. The state also signifies '*sovereignty and hegemony*', '*formal monopoly of violence*' and an '*impartial bureaucracy*'. The state as an institution has the sole responsibility to cater for the over-all interest and welfare of the people. To this extent, Leftwich (2008, 215) agrees that: 'indeed it is essential to understand that the fundamental defining role and function of the modern state has been to promote, organise, protect, and sustain the economic and social transformation to industrialisation-and beyond into the 'post-industrial' era.

With this background, I believe the state is at the core of any society and though it looks abstract finds a clear expression in the functions of government. In this vein therefore I shall be meaning the same thing when I refer to the state or government in the Nigerian context basically because in Nigeria's peculiar social-political experiences, both entities are one and the same, even though they are distinguishable in that while the state is served by different

and successive governments, the government represents a particular collection of people involved in the bureaucracy that controls and regulates the apparatus of the state at any given time. It is therefore very common to mean the government rather than the state when politically minded people make expressions of concern on society.

The genesis of the state in Nigeria is closely tied to the incidence of colonialism. It is the belief of analysts that in this genesis of its existence, it was a social institution forced on Nigerians by a victorious colonising British authority that had defeated the Nigerian people in their traditional settings. And the primary and sole reason was nurturing and regulating the conquest and dominion of the British Empire over the Nigerian people and safely ensuring security of itself against any form of revolt from within and attacks from without. In sociological understanding of this, the conquest had no other purpose than the economic exploitation and exploration of the defeated Nigerians by the victorious Britain.

It is against this background that the state in Nigeria was transferred from British control to one by Nigerians on the 1<sup>st</sup> of October 1960 and nothing in my contention has changed in the composition, texture and purpose of the state. As an institution in the social structure of the Nigerian society, the state thus has the function of deciding, implementing and adjudicating on matters of public interest. This it does through creation and enactment of laws and policies; executing laws, administering policies and carrying out the business of the state; and settling disputes in addition to interpreting the law. The Executive, Legislature and judiciary carry out these functions and on the whole these functions are distributed between the three tiers of the Nigerian government viz federal, state and local.

The human agency actively involved in the execution of these functions includes the officials of bureaucracy such as civil and public servants including the president, ministers etc, the police, military and Para-military, and teachers in government schools and institutions in the country. In the normal sense, all these officials are expected to work for the interest of the people on whose behalf and at whose behest the state exists in the first place but what is obtainable is that they all work for the interest of the president and themselves. The issue now is how their actions and activities have contributed to the institutionalisation and entrenchment of social injustice in the country over the years. It is my contention that the

conditions of social injustice and political instability in the country point to the fact that there is a system failure.

For Leftwich (2008) institutions in any society matter a great deal and the state in any territory is not just merely one of the many social-political institutions but is seen historically as the most important focus of analysis. It is an identified and given set of institutions that has the sole authority to superintend over rules and regulations that in turn govern the people in a given society. In current dispensations, a modern state does not just exist in mere definitions but is actively a set of political institutions of rule that are aimed at the organization and continuous management of economic development of any society (Leftwich 2008). It invariably means that a state can fail or succeed in this responsibility. The state in Nigeria thus has the responsibility to organise the country for economic development and as such becomes part of the problems or part of the prospects of a society as it appears to be the first and the most important institution.

It is on this note that Maier (2000) asserted that it is difficult for the Nigerian society to sustain enduring legacies and structures that can guarantee and ensure prosperity and developments long as there are no broadly agreed rules and principles governing the social, economic, and political dispositions on the one hand, and systems of distribution of goods and resources among members of the society on the other hand. It is this set of social, economic and political rules that are called institutions.

Joseph (1987) and Kohli (2004), in their arguments note that the Nigerian state at independence in 1960 was not inherited by the nationalists for the purpose of growing social, economic and political institutions of rule that would lead to the promotion of economic prosperity or transformative development as seen in the West and elsewhere whether on a capitalist, socialist or mixed economy basis but one that was hurriedly taken over without the necessary structures and institutions. This adds momentum to Ake's (1996) argument that the Nigerian society in its present form renders it improbable for development to take place because in the post-colonial Nigeria, the emphasis on power was undue and the necessary institutional systems that moderate political competition are nonexistent. The post-colonial Nigeria is therefore characterised by a lack of institutions sufficiently developed to promote and guarantee the social, economic and political

goodness of the people. The implication of this situation is that the Nigerian state can only be described in the words of Jackson (1990) as a 'quasi- state' falling short of a real one.

Kohli (2004, 292) argues that 'in sum the British in Nigeria created a country but not an effective state'. In most African countries at independence, euphoria fizzled out on account of the stark reality of the continuation of 'colonialism' (Young 1998, Moda 2005). The basic structure of the Nigerian society in post colonialism followed from this reality and is closely tied to the form of state inherited from the colonial masters (Anikpo 2002). The Nigerian state, for Ojeifa (2004), is a state seriously shaped by the realities and aftermaths of the country's colonial experience and the consequent weak development of capitalist relations. The condition of the state in contemporary Africa is thus one in which keen personal rivalries suck its life out (Bayart, 1993)

Ake (1996,1985) believes that state power in Nigeria at independence remained immense, arbitrary, often violent, and maintained by all means and at all cost even at the cost of the people. The state in his view does not represent the general will and in most situations, the force that works for the state is not only privatised but also dictatorial. It is therefore hard to understand the dynamics of development, social justice and political stability without understanding the institution of the state and as Ake (1996, 42) notes: 'one cannot understand development policies and strategies, let alone the possibility of development, without referring constantly to the nature of the state and the dynamics of the social forces in which it is embedded'.

Ajayi (1985) argues that the state in the traditional pre-colonial era was primarily out to promote the interest of the people, just as Bayart (2010) also notes that at the primitive level, the state in Africa was not in any way tyrannical and oppressive as is the case in post-colonial Africa basically because every member of the society was linked in reality or otherwise to everybody else through either family/kinship or clan membership and in some cases through the age grade system. On the contrary, the state in post-colonial Africa 'operates as a rhizome rather than a root system...and is not formed around a single genetic trunk like a majestic oak tree whose roots are spread deep into the soil of history. It is rather an infinitely variable multiplicity of networks whose underground branches join together the scattered points of society' (Bayart 2010, 634).

The African state lacks cohesion and instead of being an instrument for the just and stable interplay of institutions in the society, the state is analysed as an instrument of what Bayart (2010, 638) terms 'politics of the belly primarily' aimed at satisfying the whims and caprices of a single individual who is able to take power. We thus find that the state is not about a structure but about leadership. In fact Ake (1985, 3) believes that it is castrated from the outset in most African countries, hence the failures:

The unique feature of socio-economic formations in post-colonial Africa, and indeed in contemporary periphery formations generally, is that the state has very limited autonomy. That is the state is institutionally constituted in such a way that it enjoys limited independence from the social classes, particularly the hegemonic social classes, and so is immersed in the class struggle.

The state, and in turn, the social structure of the Nigerian society as presently constituted is seen by many scholars of post-colonialism such as Nicolson (1969), Maier (2000), Joseph (1987) and Ostheimer (1973) among several others as composed of institutions that were shaped by the 'extractive' purposes of British rule<sup>6</sup>. Power in the hands of the British in Nigeria can be described as 'despotic' in that it was meant to oppress, suppress and control instead of the opposite- 'infrastructural' or transformational Mann (1986). The situation then was and is still the case that the state was represented as an oppressive set of institutions of rule. The liberal principles consistent with the British liberal political philosophy were ignored while doctrines of equality and respect of human rights as enshrined in international institutions and western countries were abandoned all in the spirit of colonialism.

The new managers of the Nigerian state after independence inherited this kind of state structure without any change or amendment. There was created a legacy that characterised the structure of the Nigerian society where despotic power (aimed at protecting the new elites and their empires) remained prominent. The current Nigerian state to Okowa (2005, 5) 'is for all practical purposes an agent of the Nigerian feudal oligarchy' and according to Joseph (1987, 1) it has 'increasingly become a magnet for all sorts of patronage, ranging from farmers, traditional rulers to teachers; from contractors and builders to professional politicians'. People believe in Nigeria that once patronage can be established with the

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<sup>6</sup> While the British exploited the agricultural potentials of Nigeria for their home industry, the ruling class in Nigeria is pre-occupied with the exploitation of the petroleum resources of the people.

political leadership of the country, resources would flow in one's direction; reemphasising the pre-eminence of the agency over the social structure.

This demarcation of infrastructural and despotic power aptly describes the two kinds of governments that are possible in Africa and Nigeria. While the former is a positive display of power that penetrates a given set of people with the sole aim of transforming them into a progressive developing society, the latter is primarily concerned with taking power forcefully with the purpose of projecting and protecting the narrow interest of a few individuals mostly the rich elite that helps the leader get and sustain power. So instead of the state serving as a platform upon which the people can within the ambit of the law and constitution create and recreate themselves in ways that are just, liberating, emancipatory, participatory and very importantly, in ways that will protect and promote their well-being in a sustained manner, it does the opposite (Efemini 2002). It is hardly governed by the rule of law and those who are in control of its levers spend more time thinking and taking actions that will perpetuate them in power and struggle for survival against all opposition and disagreement that they have little time for development. Ake (1996, 42) maintains categorically that:

The nature of the state and the political context of development in Africa is such that, with minor exceptions, the commitment of most African leaders to development is at best ambiguous. Given a choice between social transformations, especially development, and political domination, most African leaders choose the latter.

Efemini (2002) argues that Nigeria's political leaders, in the bid to dominate and conquer their opponents, over-militarise the state and in consequence, monetise the judiciary, and over-politicise the legislature, in so doing, the institutions of the state are transformed into terrorist institutions and no regime is exempt. Most states in Africa are thus dominated by dictators and rulers who in the guise of democracy rig and manipulate themselves into power for reasons that are not in the interest of their people. This is the legacy of the state in Nigeria and it represents in my argument one of the pillars through which social injustice is perpetrated and perpetuated in the society.

## **B. FEDERALISM**

The structure of the country in terms of the relationship between the component states and the central government has generated much scholarship and commentary such as those by

Nwagwu (2006); Sagay (2004); Afigbo (1990); and Arikpo (1967). The general argument by critics is that while the 1999 constitution in operation at present expressly declares the country to be a federal state, the contrary is the case as in practical terms the country is operating a unitary political system, and all component state authorities depend on the central government while the central government dictates to them thereby negating the spirit of federalism as envisaged by the constitution (Sagay 2004). Legal minds in the country such as Nwabueze (2005) and Sagay (2003) have argued that the constitution envisages that under the federal structure a level of autonomy and some form of devolution of power is given to the component states to take care of the pluralities and diversities in the country.

The problem, however, is that the operators of the document are not implementing the constitution properly but manipulate it to the extent that rather than a federal structure, the real system being operated is the unitary system where power and resources are concentrated at the centre. Mazrui (1998, 5) puts it succinctly that: 'In Nigeria, federalism has been substantially negated by three decades of military rule since independence. State rights and human rights have been trivialised by military arbitrariness'. Rotimi Amaechi, a governor in one of the component states that produces oil (Rivers state) in the Niger Delta describes the structure as a 'confused federalism':

...the nation is a dependent confused federal structure. Nigeria is not practising federalism. In Nigeria, power has been personalised instead of the structure being institutionalised. The political space should belong to the people. Nigeria is not practicing federalism. The rich is a non productive rich depending on oil, and once you grab oil you have made it. We are a dependent confused federal structure, a marriage of convenience. (Amaechi 2010)

Despite the lapses noticed in the practice of the structure however, and apart from the advocates and campaigners for the splitting of the country into smaller units along ethnic lines (Ojukwu 1967, Gadaffi 2010), studies show that the most desired structure for the country in view of the pluralities of the people is the federal structure (Awolowo 1968, Sagay 2002, Enahoro 2006). The advocates of this structure (modified as true federalism) for the society base their preference on the assumption that it affords the people to grow at their pace since in the first place their differences have not augured well for national integration and cohesion. Awolowo (1968, 90-91) did extensive work on this in his people's republic when he outlined and argued categorically that:

If a country is uni-lingual or multi-lingual, and also consists of communities which, though belonging to the same nation, have, over a period of years, developed some important culture divergences as well as autonomous geographical separateness, the constitution must be federal, and the constituent states must be organized on the dual basis of language and geographical separateness... Any experience with a unitary constitution in a bi-lingual or multi-lingual or multi-national country must fail in the long run.

For Nicolson (1969) the reason that the federal system did not achieve its objectives as far back as the 1950s was that Nigeria had not properly developed and the necessary social and political conditions in which such institutions could flourish were not in place. His argument is the same as Awolowo's (1947) assertion that Nigeria was not yet a nation and would not be unless certain reforms and restructurings were carried out. The requirement of common sympathies and the will to cooperate with a particular set of people more than others in addition to the desire to want to be under the same government, which are all necessary to make the structure work, they believed, are absent.

In spite of this though, some accounts such as Maier (2000) still believe that the military coup of 1966 which in a decree abrogated the regions and the federal structure, replacing it with the unitary system, set into motion a perennial and chronic constitutional crisis affecting the governance model for the country, a situation that continues to this day, resulting in the implementation of a unitary system in a supposed federal structure. Afigbo (1999, 13) posits that the federal structure bequeathed at independence was for the interest of the colonial masters rather than for the interest of Nigerians and Nigeria's unity:

The origins of Nigeria's federalism lie not in the pluralities and geographical regions or of the ethnic nationalities, but in the plurality of colonial administrative traditions imposed by the British. Different administrative traditions were especially evident in the northern and southern regions of Nigeria. These traditions produced regional rivalry and conflict that were entrenched in the Nigerian polity by the process of consolidation and nation building. After independence, these regional rivalries became the basis for triggering the conflicts between economic and ethnic areas present in Nigeria's federal system and for creating more states in attempts to accommodate various groups' interest.

It is my contention that in practice, apart from the colonial era between 1946 and 1960, at no point in the development of the country has it been a federation of national, geographical and economic regions. In fact according to Afigbo (1999, 19): 'When it attained nationhood in 1960, Nigeria was a federation in which the entire Sudan and middle belt

regions formed one large state, while the smaller but equally variegated forest land constituted the two other member states'. Some writers tend to put the blame on the colonial masters and the Indian born first governor-general of Nigeria Lord Lugard (1965, 617) gave vent to this accusation when he declared that: 'European brains, capital and energy have not been and never will be expended in developing the resources of Africa from motives of pure philanthropy.'

### **c. DERIVATION/DISTRIBUTIVE JUSTICE: THE NIGER DELTA QUESTION**

One pronounced outcome of social injustice in the Nigerian society is the issue of distribution of resources. And the resource which some scholars (Weszkalnys 2009, Sachs & Stiglitz 2007, and Ikporukpo 2005) have described as a 'curse' is crude oil and it is sourced in the Niger Delta region. Nigeria is Africa's leading crude oil producer and the world's sixth largest oil exporter. It is part of the countries along the 'Gulf of Guinea'. Weszkalnys (2009) asserts that the Gulf of Guinea as a politico-geographic region was created as part of the sustained exploration and exploitation of the commodity. The region is very crucial to the global oil market and has been elevated from obscure neglect to 'geo-political stardom' (Weszkalnys 2009, 1). It is calculated that the zone has over fifty billion barrels of oil in reserve or about a fifth of the world's reserve (Nwajiaku-Dahou 2010).

The Niger delta consists of some 20,000 square kilometres of swamp and is home to approximately ten million people, grouped into distinct nations and ethnic groups prominent among which are the Ijaws, Ikwerres, Ogonis, Itsekiris, Urhobos and Ibibios. This region has a long history of social injustice sustained by the structure using the functionality of official force and violence perpetrated by the country's security forces. The legacy includes the massacre of communities such as Ogoni, Odi, Umuchem to name a few that resisted the trading practices of European merchants. In some cases traditional rulers such as King Jaja of Opobo and Nana Olomo of Itsekiri were banished to exile for daring to challenge the flow of oil.

Agitations in the region started as far back as the 1970s and they sometimes result in interruptions in oil exploration at high costs. A study conducted by the technical committee on the Niger Delta set up by late president Yar'adua and headed by activist and lawyer, Ledum Mitte, reported that between 2006 and 2008 Nigeria lost at least one quarter of its

2.7 million barrels oil production to frequent attacks on oil installations, kidnapping of oil workers and oil bunkering- (the theft of crude oil). In financial terms, this translates into a loss of #8.84 trillion or more than \$61.6bn. According to the report, in 2006 alone, Nigeria lost #2.45 trillion or \$27.2bn due to militancy and #283bn or \$1.9bn in oil bunkering.

The following year the figure was slightly lower at #2.69trillion or \$18.8bn, while the first nine months of 2008 saw losses rise to #2.97trillion or \$20.7bn due to sabotage. In a seven month period of the same year Nigeria lost another #430bn or \$3bn due to oil bunkering. In January and February 2009 the report revealed that the country lost #440.5bn or \$2.5bn through “shut in” barrels (unproduced crude oil) which accounted for 71,482,363 barrels.

The institution of the derivation principle<sup>7</sup> which deprives the people of their wealth also deprives them of their lives. The report revealed that the human misery resulting from the frequent violence in the region gives cause for concern as more than 1,000 people have been killed between 2005 and 2008 and more than 300 others were taken hostage. Now, instead of the social–political institutions including the government addressing the structural problem of injustice, state governments and oil companies went ahead to increase their security budgets. For instance, the federal government set aside in the budget the sum of #400bn or \$2.6bn for security in the area (Mitte 2009).

With the failures of government notwithstanding, scholars in the Niger delta hardly place the problem of distributive justice at the door steps of post colonial governments but on the imperialist foundation (Oyovbaire 1978 & Adebayo 1993). Darah (2003) argues that European imperialism debuted in the Niger delta between 1472 and 1885 when different European powers and authorities conquered and stashed away the natural and human resources of the region in their home countries. So the Niger delta has always been a theatre of exploitation and even the tragedy of 300 years Trans-Atlantic slave trade was more rampant and destructive on the Niger delta than anywhere else in the country.

During discussions on the issue of derivation by subsequent Nigerian managers of the country, centralization of mineral resources was not only introduced but the percentage has moved from between 100% in 1953; 50% in 1960; 45% in 1970; 20% in 1975; 2% in 1982;

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<sup>7</sup> Section 43(c) of the 1999 constitution gives total control of all resources in the country to the federal government and allows 13% of it to be retained by the producing communities.

1.5% in 1984; 3% in 1992, to thirteen percent in 1999 ( Osaisai 2005). Why was the petroleum industry and processes nationalised and centralised? It is simple. In Dibua's (2005) and Dappa-Biriye's (2003) argument, the leaders of the major tribes of Hausa/Fulani, Yoruba, and Igbo who in turns control the government at the centre thought it was in their interest to do so and pushed for this condition thus establishing the institutional and structural injustice in the country.

Apart from economic disadvantages in the Niger delta which may affect incomes and economic fortunes, studies have also shown that the natural attributes of the area provide a huge disadvantage as it has the most difficult terrain for development (Willink's commission 1957). It is deltaic in nature with more rivers, creeks and swamps than land and this affects both the physical and mental abilities of the people of the area as they spend more time in water and face the difficult task of paddling canoe all day. At the same time they lack basic infrastructure such as roads and electricity due to the capital intensive nature of providing such. The lacks of simple and basic amenities affect their ability to excel. While the major ethnic groups are locked in political conflict of taking power at the centre, the Niger -Delta area is in danger of perpetual subjugation and penury even though the area produces the national wealth.

### **C. CONSTITUTION**

It can be argued that the most important aspect of any society is the social structure which also includes the political constitution. If we also argue that institutions in the state are collections of broadly agreed norms, rules, procedures and routines then the argument can follow that in the current discourse on the basic structure of the Nigerian society, the most important issue is the constitution (David-West 2002, Ihonvbere 2000). It is this document that stipulates the laws, rules, procedures and routines that govern the conduct of social, economic and political affairs of the Nigerian society and outlines terms of how human and other resources are used and distributed among the different tiers of government and among other institutions of the state.

Ihonvbere (2000, 343) emphasising the importance of this document therefore argues that constitutionalism has two basic tenets that are important and they are individual rights and the limited power of government. These two issues, he explains, encapsulate 'the rule of

law, separation of power, periodic elections, independence of the judiciary and the right to private property among other important aspects of politics and power'. The assessment of the social-political structure must necessarily tally with the issue of the constitution because for all practical purposes, it has the duty to reflect the specificity of any society in particular even if ideas and experiences are drawn from elsewhere

If we put the constitutionality of the British rule which produced the Clifford, Richard, Macpherson, and Lyttleton constitutions of 1922, 1946, 1951, and 1954 respectively, and the Nigerian independent society responsible for the 1963, 1979, and 1999 constitutions in juxtaposition with the tenets of constitutionalism, a clear explanation for the foundation of the balance of injustice in the Nigerian society can be observed. The question would be under what constitutional arrangement did the British rule Nigeria? Under what constitution was Nigeria created and under what constitution did Nigeria get self rule? These questions will throw more light on the point Ihonvbere raises, that:

Beyond merely asserting the sovereignty of the state and setting the basic law of the land as well as the defining of power and rights, a constitution should also serve as a basis for controlling state power and involving the political process, and should clearly articulate the aspirations of all communities and individuals in society. It must directly go to the heart of engaging not only those contentious issues that shape politics and power but also those that shape the larger society, breed distrust, intolerance and violence (Ihonvbere 2000, 343)

Diamond (1988), Crowder (1968), Moda (2009) and Maier (2000), among others, concluded that the British took over Nigeria by force and not by constitutional provisions. And going by this argument, the Nigerian society that emerged from independence has this foundation hence its faulty social-political structure. The current Nigerian state at the point of inauguration in 1914 was not based on any constitution and the communities and individuals in it were not covered by any constitutional arrangement. There are however those that will argue that the constitutions from 1948 have been fashioned so far by Nigerians and that the problem is not the constitution but the operators of the constitution (Buhari 2009). Others would argue that the idea of constitution making and the involvement of the people which is lacking so far are important for the polity (Ihonvbere 2000). It is my contention that the constitution being one of the institutions and structures on which social justice rests is part of the instruments used for the continued deprivation of the people from some of their rights. For instance:

*The offshore oil revenue Decree No. 9 of 1971*: This decree empowers the federal government to appropriate all minerals in the continental shelf of coastal or littoral states, six of them in the Niger delta; ...*National inland waterways authority decree No. 13 of 1977*: This decree vests the ownership of navigable waters to the central government;...*the land use act of 1978*: This law is the equivalent of the obnoxious 1913 Land Act of south Africa which reserves 87% of the best lands for the white minority;... *The Land use decree 52 of 1993*: This law makes the federal government the sole owner of any land within 100 metres of the coast or watercourse or river throughout the country;...*The exclusive legislative list in the constitution*: This list contained in Part 1 of the second schedule of the 1999 constitution, reserves 33 lucrative enterprises for the federal government and no component state or individual is permitted to play in them (Dara, 2003, 4-5).

In a nutshell these constitutional provisions are some of the impediments to the enjoyment of individual freedom, equality and rights of Nigerians to own some private property and they, according to the Ijaw National Congress (INC) (2006, 3), 'usurped the people's rights to own, influence, control and manage their resources for their development'.

#### **D. DEMOCRACY**

Diamond (1988, x) argues that '...democracy is the only model of government with any broad ideological legitimacy and appeal in the world'. For this reason, the institution represents a very critical one in the social structure of Nigeria, because the idea of justice cannot make any impact in any society without the existence of democratic structures (Maathai 2010; Rawls 1993), and from the perspective of political institutions, the structure of the Nigerian society shows that in theory there is a democratic government in place but in reality it is not as the necessary ingredients of democracy such as the rule of law, basic liberties and rights and free and fair elections are lacking. The implication of this is that development which is expected to thrive in a democratic environment in the long run, is stunted because of the reality of lack of true democracy.

Maathai (2010, 55-56) strongly argues that 'too often the term "democracy" has simply become bromide offered during voting rather than a means of enhancing the capacities of governmental and non-governmental institutions, providing basic services to the people and empowering them to be active partners in development'. In this vein Rudebeck and Olukoshi (1990)<sup>8</sup> contend that for politics to be constitutional, it must be democratic and be firm on popular sovereignty and social citizenship. After a long spell of military dictatorships

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<sup>8</sup> Quoted in Gavin Williams' Democracy as idea and democracy as process in Africa, 2000.

beginning in 1966 with a brief civil rule in 1979-1983, the country returned to civil rule again in 1999 and has remained so till now.

Political transition does not however translate to transition to democracy (Burnell 2008). Can there be democracy without addressing the doctrine of basic individual liberties in society? The diversity of doctrines and pluralities in Nigeria is not just historical reality that will not pass away but is also at the root of the political structure of the country; and people look up to democratic institutions to help the overall structure to ensure national cohesion. Diamond (1988) gives this idea some depth when he asserted that even if authoritarian regimes show some commitment to human rights and collective goals, it does not make them democratic, 'nor are all democracies, especially unstable democracies good for the people. But certainly, non-democracies are not likely to achieve those social and moral goals that require democratic institutions and freedom' (Diamond, 1988, xxv)

Wright (2008) argues that the political class in Nigeria, which he judged to have failed the people, carries out political activities without democratic fundamentals and necessary elements. True democracy in society will only be realised when the political class and the government involve the people in the political process (Roemer 1999, Dahl 1956). But in a wider context the understanding of the concept of democracy itself would reveal the extent to which the social-political structure of the Nigerian society needs to transform to achieve stability. It is open knowledge that the 2007 elections conducted in Nigeria were reported by almost all observers including the EU and the TMG as grossly fraudulent yet it has produced the current set of political elites and leaders thereby denying the people a basic right.

The structure in place negates Williams' (2000) belief in transparent and proper elections because they allow the people to make choices as to who will represent their views, interests, in the legislatures and other public arenas. It is this kind of criterion that attracts attention to why democracy since its emergence in Nigeria in 1922 has not delivered its dividends to the country. Even though Williams sees the institution as a process, it remains a means and not an end. Politicians in Nigeria, however, practice it as an end believing that once a man is elected into a public office, he has achieved prosperity rather being elected to work for the interest of his people. For this reason many scholars such as Diamond (1988)

and Maathai (2010) argue that democracy has failed and has fallen short in Nigeria and Africa because the purpose of democracy which is social development is not pursued by politicians.

It is my belief however that the country and continent retain potentials for democracy if structural roots of previous failures are identified and altered. The institution of democracy is a structural design aimed at giving people the power to institute governments of their choice. Maier (2000) and Diamond (1988) on the contrary argue that the institution of democracy in Nigeria has been corrupted by the agency of the ruling class occupied with the desire to keep itself in power and control the resources of the country at all cost and this has grossly negated the essence of democracy and leads to the conclusion that democracy is yet to be instituted in the country because if it is the situation would have been different. This institution is thus one of the institutions through which social injustice in Nigeria is perpetrated.

It is for this reason that the democratic institution is classified as one of the institutions in the structure through which the phenomenon of injustice is sustained. Scholars such as Soyinka (1996, 2010) and Achebe (1984, 2009) strongly contend that once the people are able to elect leaders of their choice whom they may have judged to be competent into public office, the incidence of corruption and social injustice would be minimised. This idea is based on the assumption that political leaders control the levers of the structure of society and steer them in their selfish interest and favour while elections are rigged, citizens are shut out of the process, people are selected rather than elected, and the idea of liberty and equality are absent.

The question, as Roemer (1999) asks, is thus very pertinent: does democracy engender justice? I believe it does if it is practiced in spirit and letter and it would promote injustice if corrupted and confirmation of this are societies that profess to be democratic just because they hold elections regularly but deny even basic rights. Countries such as Nigeria and Zimbabwe,<sup>9</sup> to name but two in Africa, seem to be democratic in this sense but are riddled with widespread acts of injustice so serious that the people are denied their basic right of

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<sup>9</sup> Elections in these two countries have been criticised for falling short of the standard expected. Apart from people being disenfranchised, the results were fixed (EU 2007, 2008).

choosing their leaders in a free and fair election. Elections in these countries, as studies have shown, are pre-determined.

Roemer, however, believes justice as elaborated by people like Barry (1995), Rawls (1971, & 1993) and Cohen (1996) is capable of being promoted by democracy on the condition that certain conditions are put in place. He supports those that advocate the existence of a larger set of criteria as necessary for democracy and these must be:

...institutional criteria that are designed to permit and encourage equal political participation, or equal opportunities for political participation among the citizens. These criteria should be stated in institutional terms. For example it would be admissible to say that democracy requires a system of one man one vote, where electoral districts satisfy demographic characteristics (Roemer, 1999, 58).

Ake (1996) in many of his studies argued that the role of democracy in the attainment of social justice in Nigeria within the social-political structure of the society is that of creating the enabling environment for the ventilation of opinions and the possibility of reforms in society and an undemocratic environment precludes the possibility of such. Nigerian political leaders have never denied that the practice and institution of democracy is not producing fruits in the country yet as expected they attribute this to the fact that the concept is new and its existence is relatively young. Some even talk of adapting the concept to the Nigerian environment by accepting all anti-democratic and undemocratic acts as the country's style (Yar'adua 2007). Williams (2000) argues against such a view when he noted that democracy should be discussed within the multiplicity of meanings, ramifications and implications in African contexts without rationalising and justifying tyranny in the guise of tropical or African democracy.

For Gallie (1956), Tilly, (2003), and Dahl (1956) the central point of democracy is the power of citizens to choose their government through competitive elections and the equality of opportunity for all citizens to have access to political office. It is also the ability of citizens to take full part in the political process of the society. Two ingredients that can be discerned from this are the concepts of *liberty and equality*. A society that affords citizens the opportunity to fully participate in the choice of their leaders can be said to be leaning towards democracy clearly; in the same vein a society that offers equal opportunities to its citizens to access political offices carries the image of democracy.

Going by these criteria then, Nigeria cannot be classified as democratic. This is based on the outcome of political and democratic institutions which are not in line with the principles of the concept. Democracy requires that crucial public decisions concerning some aspects of society such as law and policy depend on public opinion expressed by citizens of the society within the context of equal rights. The most important element in democracy is thus the focus on the citizens of society and the emergence of public decisions through public deliberation, while those decisions must necessarily be to the benefit of the people.

Dahl (1956) advocates 'polyarchy' and this, he claims, ought to be the vintage standard of democracy suitable for the real world and is a kind of minimum level of democracy that can be expected or demanded of societies and States that lay claim to democracy. The standards or criteria advocated in polyarchy are among other things, proper and healthy competition among the players at regular intervals with the exclusion of force; an inclusive level of political participation through regular and fair elections; freedom of expression; freedom of the press; and freedom to form and join organisations. Sadly, the consensus among observers of Nigeria's democracy is that these are yet to be entrenched in Nigeria's democratic experiences.

#### **d. COLONIALISM AND POST-COLONIALISM IN NIGERIA'S SOCIAL STRUCTURE**

Diamond (1988, 6) argues that 'there was little quest for cultural congruence between the unit of the state and the national unit or even for cultural similarities among the different units being ruled by the same colonial government'. The social consequence of this occurrence was that some large ethnic groups were split between colonial states, while smaller ones were brought together into new state boundaries. Examples of this include the Yoruba ethnic group divided between the western and northern parts of Nigeria and some parts of the Republic of Benin, the Eves who are split between Ghana and Togo, and the Hausas who populate different parts of Northern Nigeria, Niger republic, and Chad.

Olaniyan (2000), Crowder (1987), Diamond (1988), and Joseph (1987) among other scholars all accept and assert that the neglect and undermining of some important factors in nationhood as earlier discussed resulted in the fragility of nationhood and ethnic acrimonies observed in many African countries today. In the case of Nigeria, there were among other social dynamics, displacements in the structural and monarchical authority of ethnic groups

such as the Yorubas and the individualistic value system of the Igbos for example. The argument is that the imposition of political institutions by the colonial authorities described as 'alien in spirit and design' (Diamond, 1988), on the people without due regard and acknowledgment of traditional values and political pre-dispositions of the indigenous people contributed to the social- political troubles in the continent.

Young (2001, 4) equally argues that the 'post-colonial theory always intermingles the past with the present' just as Phillipson & Adebayo (1954, 49) also declared that 'a purely contemporary view of any problem is necessarily a limited and even distorted view. Every situation has its roots in the past...the past survives into the present: the present is indeed the past undergoing modifications'. In examining the actions of the colonial administration, writers such as Maier (2001), Awolowo (1947), and Obadina (2008) believe that colonialism, at the end of the day unwittingly plunged the country into political, economic and social crises that have been with the country for the past fifty years of independence.

Colonialism is defined by Young (2001) as forms of subjugation of a group of people in a geographical cohesion or by another group of people. It started symbolically according to a study by Young five hundred years ago in 1492. This history conjures images of slavery, untold and unnumbered deaths from oppression or neglect, enforced migration of millions of Africans and Arabs, Asians, and Europeans, appropriation of territories and land, the institution of racism, destruction of cultures and the superimposition of other cultures. Every colonised country in the world including Nigeria carries scars of these phenomena in varying degrees of violence, defiance, struggle, and suffering of individuals that represented values and ideas of communities, equality, self-determination and human dignity they fought for.

As far as crucial political and structural development of the continent is concerned, Davidson (1992, 72) described the decades of colonial rule in Africa as wasted: 'In every crucial field of life, the British had frozen the indigenous institutions while at the same time robbing colonised peoples of every scope and freedom for self development'. European domination, according to Chabal (1994), broke up and reorganised in its own interest settled communities in Africa with established rules and institutions for the organisation of their societies. In the imposed dispensations, power flowed without the process of autonomous

traditional and indigenous evolution from generation to generation. But were these distortions enough to make post-colonial Africa as backward as it is today?

It is not unusual to argue that postcolonial Africa represents in most spheres of living and society, sociological and political tendencies that do not represent the real African way of life or more precisely the African culture (Atanda 1985). This can be observed in the high level of sleaze and corruption in both government and public life when African culture greatly abhors these because sanctions are meted out to wrong-doers instantly. Fanon (1994, 37) explains this situation as a colossal consequence of colonialism which eroded African culture. He argued that 'colonialism is not satisfied merely with holding a people in its grip and emptying the native's brains of all form and content. By a kind of logic, it turns to the past of the oppressed people and distorts, disfigures and destroys it'

It is important to reiterate that colonialism was not a one-sided phenomenon and there was active collaboration by some African chiefs and leaders after the brain-washing that the European intrusion was for their good. The experience of the continent in this direction reveals histories of active connivance of some indigenous people who had come to accept that their cultural practices and traditions were steeped in cannibalism and savagery which really are mythical and instantly embraced the ways of the 'white man'. Fanon argues that this heritage of colonial rule in Africa still forms the basis of post-colonial societies:

For colonialism, this vast continent was the haunt of savages, a continent riddled with superstitions and fanaticism destined for contempt, weighed down by the curse of God, a country of cannibals-in short, the Negro country. Colonialism's condemnation is continental in its scope. The contention by colonialism that the darkest night of humanity lay over pre-colonial history concerns the whole of the African continent...Every effort is made to bring the colonised person to admit the inferiority of his culture which has been transformed into instinctive pattern of behaviour, to recognise the unreality of his nation and in the last extreme, the confused and imperfect character of his own biological structure (Fanon 1994, 45).

Rodney (1972), writing on how Europe underdeveloped Africa, argued that beyond awkward backwardness, ethnic crisis and lack of national cohesion, the more fundamental legacy of colonialism is the perpetual crisis and political instability of the African state. This he attributes to the inability of free Africa to shape and control its internal and external matters at the end of colonial rule from the beginning of the middle of the 20<sup>th</sup> century. It is difficult to see how all these can be responsible for the current crisis in the continent

bearing in mind that almost all the nationalists took over power from the colonial managers and had the chance to effect structural changes in the continent. But Rodney sees this inability to use power as underdevelopment. His argument is basically that colonialism destroyed Africa.

As a precursor to current state structure in most African countries, Crowder (1987) posits that the foundations of the colonial state was faulty ab initio, because it was conceived in violence as against the process of negotiation or dialogue. This legacy, Diamond (1988, 7) asserts, formed the basis of the post colonial state: 'Despite important variations, all the colonial empires had set an example of the authoritarian government'. Clear cases of this legacy best describe the current state structure of Nigeria where resistance and protest against the state are forcibly repressed, sometimes bloodily. The legacy of zero tolerance in colonial rule also manifests in African societies as political opponents are summarily dealt with through jail terms or forced exile and deaths in some cases. Many of the nationalists who eventually inherited power from the colonial rulers were victims of such tactics, so it was not difficult for them to apply the same tactics.

The system of colonialism was introduced in the territory known as Nigeria in the 19<sup>th</sup> century first through a trading company (Royal Niger Company) and later in 1900 by the British administration (Maier 2000; Alagoa 1985). Prior to this time, different tribes and different nations lived as independent entities<sup>10</sup>. Ikara (1985) and Maier (2000), tracing the emergence of the current state in Nigeria, assert that the first inhabitants of what is now known as Nigeria were the NOK people. The Kanuri, Hausa and Fulani people subsequently migrated there.

The Yorubas occupied the western flank of the territory; the Ibos were in the eastern part while several minorities dotted around the country lived as free men. When Lagos was annexed in 1851 it lost its independence and became a colony of the British crown. In the eastern part, free men and communities had been engaging in business activities with Europeans for up to 300 years (Alagoa 1985) but in the last two decades of the 19th century,

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<sup>10</sup> Alagoa (1994) for example wrote that in pre-colonial times, the people of the Niger-delta had a fully developed culture in addition to economic, educational, health, religious and political institutions that governed their societies.

the British declared and effected the abrogation of the political sovereignty of these communities.

In the western part of the country two forms of social and political organisations were entrenched; monarchy and gerontocracy (Atanda 1985), but in the years 1861-1894, the British took it over completely. Effectively, at the beginning of the 20<sup>th</sup> century the territory known as Nigeria now had come under the control of the British government and on the first of January 1901, it became a British protectorate thereby setting the stage for what was to become a long period of colonialism and forced sovereignty of one country over another and the foundation of government by conquest that the country manifests through the ruling class today (Moda 2005). Not all analysts, however, see this action as completely exploitative and detrimental though. Awolowo (1968, 32) argues that among other things, the British introduced modernity to Nigeria.

The advent of colonialism for Awolowo was not totally negative because their coming brought some positive development to the area which had been plagued by all manner of barbaric and backward activities such as killing of twins in the Efik tradition, non education of the girl child and the burying of kings with innocent men to name a few. Colonial apologists thus feel that colonialism ushered in security of life and property, freedom of movement, occupation and of trade in addition to the right to life and personal liberty and material prosperity. They argued that under the different traditional systems these were not possible. This, however, is one side of the story as Awolowo still believed that the British, apart from these positive actions, came to Nigeria in order to promote their private and national economic interests and to enlarge their colonial area of dominion.

The argument continues about the effects of colonialism but the concern for me is the legacy of British rule and its implication for the social-political structure of the Nigerian society. The effects of colonialism were that on one hand savagery was abolished and modernity was ushered in, while on the other hand a weak social-political structure subject to private and selfish manipulation and control by the ruling class and their cronies was instituted. This action can thus be interpreted as marking the beginning of social injustice in Nigeria. In the sense that as the people during colonialism lost every right to take part in decision making and distribution of resources (Hatch 1970) in spite of their established

structure to do so, the people still are shut out of decision making and the process of distribution of resources and goods.

In fact, Nicolson (1969) and Crowder (1966) argued that before the advent of British colonial administration in 1900, the city of Lagos had a well structured career service of qualified officials, including Nigerian and other African doctors, lawyers, police officials, customs and prison officials, printers, stenographers, and clerks while the northern, eastern and coastal areas of the country all had their developed systems (Alagoa 2004). And the established tradition in Nigeria and the rest of Africa is the concept of “dialogue and reciprocity” (Senghor 1994). But colonialism ushered in conquest and arbitrariness which has now become part of the heritage of the African continent.

Senghor, who was among the prominent nationalists that later became political leaders and heads of government, believed that ‘ethnologists have often praised the unity, the balance and the harmony of African civilisation, of black society, which was based both on the community and on the person, and in which because it was founded on dialogue and reciprocity, the group had priority over the individual without crushing him, but allowing him to blossom as a person’ (1994, 32). Colonial practice clearly failed to acknowledge this.

Nicolson (1969), Maier (2000) and Norton-cook (1964) all believe that the process of establishing and instituting a state and social structure was carried out without the participation of the ethnic nationalities that already had a history of hostilities among them, hence the failure of the process. They assert that based on this pattern of laying social structures for a group of people without any kind of input from them and without consideration for their values and history, it was obvious that the whole idea of amalgamating the country was for a cost saving purpose rather than to produce a nation. Norton-cook (1964) goes further to argue that the British adopted this approach to save costs and cut down expenses. Hatch (1970, 190) putting it succinctly thus argued like others that the colonial masters committed a crime against the Nigerian people that produced consequences that have outlived two generations.

After fusing Lagos colony with the southern protectorate in 1912, the plan to join the entire territory into one country started and through the ‘letters of patent and order in council’ the Southern and Northern protectorates were amalgamated into the colony and

protectorate of Nigeria in 1914 (Burns 1969). Nicolson (1969, 180) however counters this claim when he wrote that: 'easily the most remarkable thing about Lugard's amalgamation was that it never took place.' This, according to him, was due partly to the effects of the rippling aura of the first world war of 1914. Whether it was an event or a proclamation, the fact remains that in 1914, the social-political structure of the Nigerian state was established by the British state in a Parliamentary fiat.

Crowder (1966) argues that the nation of Nigeria was an imposition and with more than 300 ethnic groups and four major nations of Hausa/ Fulani, Igbo, Yoruba and Ijaw, Osundare (2008) concludes that the territory called Nigeria remains a nation yet to be united, deeply divided, pluralised and polarised both in political and cultural terms. The process of nation building, it seems, is yet to be fully actualised and there is a mere pretention of nationhood (David-West 2010, 2002). Hatch (1970, 190), corroborating this line of contention, not only sees these seeds of disaster but equally notes that:

The most profound and far reaching aspect of the policy adopted in 1914 was the continued separation of the north and south. Instead of having the two sets of societies interact which would have resulted from full amalgamation- they were to be deliberately kept apart, thus continuing the isolation of the north from the impact of southern economic activity, educational progress and Christian influence.

The amalgamation of 1914 has been described by Nicolson as a ruse because the necessary conditions for nation building were absent, apart from the fact that the people were never consulted, neither were they sensitised or prepared. All these resulted in the notion that till this day there is no Nigerian nation but the possibility of many (Awolowo 1947). My view on this is that free and strong social-political institutions vital for the sustenance of society are almost impossible to emerge in a country that is made up of diverse and disunited people that have not been forged into a political nation with a common identity outside their immediate ethnicities. Nicolson (1969), Maier (2000) and David-West (2002) therefore argue that among a people that do not share fellow-feelings and speak different languages, the united public opinion necessary for the proper function of a representative government can hardly exist.

Does this then mean that societies with reasonable and incompatible pluralism cannot have political stability? I believe they can because free institutions can be cultivated in an

atmosphere of public reason and collective opinion (Crowder 1964). And the common understanding is the failure of the British authorities to employ such tools in harnessing the Nigerian society coupled with the system of promoting different administrative procedure in different sections of the country and at the same time bringing these sections together without any clear cut policy of either unified or decentralised administrative procedure may have laid the foundation for the institutional social injustice in Nigerians. This corroborates Maier's (2000) conclusion that though the British developed railways, ports, communication, roads etc, their sixty years' presence in Nigeria was a monumental disaster.

Babalola (2001) also does not dispute the fact that a nation is yet to emerge from the exercise of 1914. He states that though it is an easy thing to give a facade or fake impression of being a sovereign state with the trappings of a constitutional and legal framework and as long as such a contraption is accepted and recognised by the international community and governments, the notion of nationhood goes beyond the fiat by men no matter how powerful they are. Nationhood is a process and not an event. So what is existing in Nigeria is the Nigerian state and not the Nigerian nation (David-West 2002).

A state carries the connotation of territory, bureaucracy, monopoly of force, public service and homogeneity etc (Leftwich 2007) while a nation carries the notions of unity in language, culture, religion, philosophy and cultural beliefs. The colonial past of Nigeria unwittingly skewed the social-political structure of the Nigerian society in such a way that it is anti people and pro the state, just as it was in the colonial period. Today instead of the people benefitting from the state and its social structure, they are strangled by it and the ruling class is most favoured by it.

According to Osundare (2008) there is no moral centre, no code of values, no canon of ideas and ideals, no rallying clarion, and no steady paradigm of patriotism is present in the country to the extent that during the colonial rule, it was difficult to have a united opposition to the imposition of British rule even though separately the different ethnic and tribal groups were ready to fight the invaders. The height of this difference was in 1953 when the western and eastern members of parliament moved for self rule but were not supported by the northern delegates pushing the date by four years (Bello 1962). Bello

recounted that the sixty years of formal rule by the British did not change the north from what they were.

#### **E. ETHNIC PLURALISM IN NIGERIA'S SOCIAL STRUCTURE**

Ethnic groups in Nigeria like any other part of Africa represent a set of humans bound together by primordial ties of cultural homogeneity with identity and commonality in customs and traditions and history. Among them is a strong degree of affinity and subservience to basic institutions such as family configurations, religion, and language. Ethnic groups have unique and distinct folkways, moral codes, dress sense, art and craft, value system and other forms of living. Members of these groups have a natural consciousness of kind and a feeling of association. Some of these groups even regard themselves as a race, tribe, and a people with a common ancestry.

Ethnic groups became the basis of the formation of the country have been at the core of scramble for power and resources in pre and post colonial Nigeria. The pluralities existing in Nigeria can only be realised among the ethnic groups unlike in professional or social interactions. There are three main ethnic groups in Nigeria Viz: Hausa/Fulani, Yoruba, and Igbo all with distinct identities and structure. A major point in this analysis is the idea that there exists among these groups some kind of object and subject to which all their members express and manifest allegiance to. These include a monarch, a religion, a language and a territory. In the Nigeria that emerged from these groups in 1914, people tend to be more committed to them than the country and the ethnic groups provide some form of social and political security.

Since the inception of the Nigerian state various Nigerians (Azikiwe 1943; Awolowo, 1947, 1960, 1968, 1986; Soyinka 1996, 1999, Ojukwu 1966, 1974, 2000; Enahoro 2000, 2002) have all called for a restructuring of the country to correct the inconsistencies in the system due to current incompatible but reasonable<sup>11</sup> differences among the ethnic groups. The argument is that the ethnic groups in Nigeria are different in terms of culture, religion and philosophy and there is every reason for this to be accepted because it is the natural outcome of plural societies and the proper thing to do in keeping them as one is to agree on terms of relations and cooperation.

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<sup>11</sup> Rawls highlighted this in Political Liberalism.

Advocates of restructuring have therefore called for the creation of an equitable social-political environment for all individuals in the society. This and other evidence of religious and inter-ethnic crisis, indigene and settler crisis and political tribalism all point to the fact that after fifty years of independence, the people of Nigeria are still divided on almost every aspect of life, from religion to education, women's rights to children's rights, and from politics to culture etc.

Nnoli (1994) notes that ethnic identity is an outcome of the desire by individuals to organise themselves in such a way that will underscore their ability to compete in situations where there is social system that creates the urgency in them to compete with one another for state resources and political position. This is indicative of the reality that if not for the issues of state resources and political largesse in Nigeria, the ethnicity problem would not have assumed the dimension it has now. It was for this same reason that the 1999 constitution of the country encourages the principle of federal character in the appointment of officials into public institutions to forestall any feeling of marginalisation of any ethnic group.

That Nigeria is a deeply polarised and reasonably plural society will be established in subsequent paragraphs and in the words of one of the founding minds of Nigeria, Enahoro (2002, 4): 'the failure of Nigeria so far may be attributed in great part to the perennial tensions and conflicts among its nationalities, resulting from mutual insecurity, jealousy and fears'. Udogu (2005) thus believes that an assembly to debate the national issues is necessary to fashion out a nation. It is in this direction that society is seen to be artificial (Rawls 1993) as it is a product of dialogue, negotiation and consensus. No doubt, Nigeria from this analysis has the potential to become a stable and just nation-state through agreements on the principles and structures that would govern and regulate the society.

Alapiki (2002, 127) describing the problem of ethnicity in Nigeria as situational, argues that the issue emerges in situations where conditions under which: 'competing actors as individuals, groups, or classes find the ethnic resource expedient. And in this process, ethnicity constitutes a serious obstacle to political integration, because it leads to the substitution of ethnic interests for the national interest'. Chozan (1988, 105) on his part notes that the ethnic cover has become a viable tool for the propagation of interests within

the interplay of competition and agitation: 'thus ethnicity has proved to be a state-linked category that places claims upon the state'.

The question of contextualising the Nigerian society within the established pluralism falls into three broad categories (Sklar 2004, 42). And they are: 'how should the constituent units of the federation be demarcated and how many of them should there be? What should be the relationship between the government of the federation and the governments of its constituent parts? And what should be the relationship between the Nigerian governments and the citizens?' These are questions that are at the root of the social-political re-engineering of the society to integrate the country's pluralities and differences. These pluralities as stated below were down played at the formation of the Nigerian state (Udogu 2005; Nwagwu 2006).

#### **A. THE YORUBA NATION IN THE WEST OF NIGERIA**

(Atanda 1985) postulated that the cynosure of the Yoruba race is the town called Lagos. As early as 1861 the town had been annexed and made a colony of Britain. But before 1900 Lagos, named after a Portuguese town in the Algarve region, had established a stable administration with professionals and other categories of personnel fully functioning under a traditional system of government by kings and Obas before the advent of British administration. The rest of the western part of what is today known as Nigeria had Kingdoms such as Benin, Itsekiri, Aboh, the non-centralised communities of Ukwani, Urhobo, Isoko, and western Ijaw (Atanda 1985) These people had their machinery for politics in place through prevailing socio-political organisations such as monarchies and gerontocracies. The machineries were distinctly different from the northern, eastern and coastal societies in every respect.

The monarchical political system in Yoruba land was such that political power and governance was in the hands of one man known as the Oba, who was chosen by the 'gods' of the land from a family with an indefeasible hereditary right and who's right to rule was divinely ordained. The king had absolute power in theory but in practice was assisted by an institutionalised council of chiefs who could dethrone him at the will of the people. This social-political institution encouraged the king or Oba to rule in the interest of the people as monitored through the chiefs. The common interest of the people which is a cardinal

condition of democracy in contemporary society was deeply entrenched and was at play in the Yoruba Kingdom for as long as the 19<sup>th</sup> century before the advent of colonialism.

In other gerontocratic societies, Alagoa's (2004, 1985) studies show that there was a tendency against absolutism for two basic reasons. First, centralisation of power in one man was non-existent and the biggest unit of government was the village. Since everyone knew everyone and was connected one way or the other, there was little tolerance for absolutism. Secondly, ultimate authority was not vested in an individual but on a council of elders who are usually heads of wards and families in the village. On the other hand a common feature to political kingdoms in Yoruba land was that both monarchical and gerontocratic systems existing in pre-colonial era encouraged mass participation of citizens in politics through their lineages, age-grades, and entitled clubs and groups (Atanda 1985).

There was an indirect influence of the people on policies which helped directly in implementing such policies. The views and opinions of the people directly and indirectly mattered in the process by which the acknowledged rulers and monarchs or elders were designed, maintained or removed if necessary (Atanda 1985). This practice became extinct as soon as the colonial masters arrived and has remained extinct till present times. This is because the social structure in the country changed with the traditional institutions losing their executive powers to the government.

The Yoruba nation had a distinct culture, festivals and beliefs and they had established philosophical and religious doctrines that were very different from those of the Igbos and Hausa/Fulanis. They had a distinct language, music and were very republican in nature. Women were encouraged to take part in politics and prompted to form social and economic groups that protected and projected their interests. They took interest in trade and farming and were active in the organisation of their societies. Over the years, traditional political institutions in the western region were attacked and courted at the same time by the colonial regimes. Yet in their regimes they ran organized systems of government which encouraged western education and modern social ethics and civics.

## **B. THE HAUSA/FULANI NATION IN THE NORTH OF NIGERIA**

There is a general consensus and rightly so that there were hardly any parts and hardly any people in pre-colonial Nigeria that lacked a conception of state, society and pattern of authority extending beyond the family unit and all these are different and distinct from place to place and from people to people (Ikara 1985). The legacy and peculiarity of the northern part, today populated by the above group and other minorities such as the Igalas, Tivs, Nupes, and kanuris etc was such that the mission by Shehu Usman dan Fodio to establish an Islamic theocracy in the region had profound and far reaching consequences on the political culture of the era.

Native traditional rulers in the provinces were overthrown and replaced by Fulani flag bearers under an emirate and caliphate system with emirs paying allegiance to the sultan of Sokoto as the head of the caliphate. The jihad led by Shehu though religious in movement involved a socio-economic and political revolution with Islam providing the ideology. Crowder (1966) notes that this Islamic legacy of the northern part of the country before the coming of the colonial administrators shows a different legacy compared to other parts of the countries that practiced Christianity.

Part of the activities of Shehu established the Islamic religion's domination of the northern part of the country such that when colonialism arrived there, it brought in its wake its own ideas about government and society, and superimposed these on the indigenous political structures which were interestingly not allowed to crumble and disintegrate any way. The distinction in the northern part of Nigeria is thus borne partly from the fact that the Fulanis, kanuris, and Hausas were related in very close connection culturally, religiously and economically to North Africa, particularly with the conquest of the Berbers by the Arabs in the 17<sup>th</sup> century (Maier 2000).

The peculiarities of the Islamic religion and transportation sources such as camels were introduced by these Arabs in addition to writing and mathematics skills. These efforts formed the basis of the domination of Islam and Arabic education in the north and Christianity and western education in the south. So the north had in place major states such as the Kanem-Bornu in the far northeast near Lake Chad and Kano, all flourishing under the

Sokoto caliphate. And around this great caliphate were smaller pagan ethnic groups scattered around the area doing farming and iron works (Crowder, 1978).

The pluralities and diversities in the north showed in their language, culture, religion, philosophy and art to name a few and the differences between the Hausa/Fulani and the southern parts of the country are significant. The point is that the north was basically Islamic with emphasis on Arabic and Islamic education. A major characteristic of the people was that citizens were overly subservient to rulers and had little contribution to make in the affairs of their governance, making their structure undemocratic and feudal. Their culture stipulated that they worship their rulers without any objection whatsoever. The rulers were absolute and there was no mass participation. Women were barred from politics and in most cases they were forbidden to be seen outside their homes. Western education for these women was a taboo. The ruler-ship in the northern region was not hereditary and there is no divine involvement in their political organizations.

### **C. THE IGBO NATION IN THE EAST OF NIGERIA**

The least centralized area in the country was the Eastern part populated mainly by the Igbos. It was populated by independent city-states and communities of people from Ijaw, Ibibio, and Ogoni groups. Alagoa (1985) who has done so much research on this part of the country explains that these people were predominantly traders and had been trading with Europeans from the 19<sup>th</sup> century and after a long period of trading in slaves, trading shifted to palm oil and palm kernel. On the Igbos, the largest group in this region, he notes that: 'the political culture of the Igbos has been labelled variously by archaeologists as acephalous, stateless and republican (Alagoa 1985, 79). Communities there until very recent times, unlike the other areas of Nigeria did not have heads or institutions of government with persons serving as chiefs or ruling political authority.

Another difference associated with the Igbos is that their communities did not possess formal structures of government with a hierarchical organization based on persons charged with functions of rule; and government was by the community at large. The Igbos did not reside power in one man with absolute authority unlike the Obas and emirs in the west and north respectively. The Igbos were republican in nature as: 'leadership is not prescriptive and permanent but changeable and flexibly assigned to persons of proven leadership

capability' (Alagoa 1985, 79). They are known today as the traders and industrialists with distinct culture, philosophy and religion. Their women are free to aspire to any height as their male counterparts and enjoy equal rights with the men except for traditional demands of marriage which makes the woman the junior partner. They were a stateless society because of their free and republican nature and outlook. They hardly have powerful traditional rulers with wide powers and kingdoms apart from the warrant chiefs created by the British to carry out the orders of the colonial government (Ikara 1985)

#### **D. THE NIGER DELTA REGION IN THE SOUTH-SOUTH OF NIGERIA**

This represents the minority ethnic groups in the southern part of the south of the Country<sup>12</sup>. They comprise the Ibibios, Ikwerres, Efiks, and the Ijaws; all being connected to the sea. The Niger Delta has an area of 70,000 Kilometres and accounts for only 7.5% of Nigeria's land mass and is third in wetlands in the world (Osaisai 2005). It is easily recognised by the three way land area traversed by the point of bifurcation of the River Niger into the Nun and Forcados Rivers in addition to the many other distributaries into the Atlantic Ocean (Osaisai 2005). Karl Maier (2000) and Alagoa (1985) recorded that when the Portuguese explorers first came to the Delta, the Ijaws lived in small fishing villages scattered around. They traded among themselves and with their neighbours in fish and salt extracted from the creeks in exchange for vegetables and iron implements.

Modest settlements in Ijaw land were later transmuted into major slave ports in cities such as Bonny, new Calabar, Okrika and Brass when the Slave trade with Europeans commenced. When the slave trade ended in the 19<sup>th</sup> century the trade in palm oil picked up and a British merchant George Dashwood Goldie Toubman who later turned out to be the British mercenary that commenced the colonization process banded the various palm oil companies in 1879 into the Royal Niger Company. And the company's main port at Akassa became the beach head of British colonial occupation of the Niger Delta and ultimately of Nigeria itself (Maier 2000; Alagoa 1985).

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<sup>12</sup> See introduction for details of the Niger-Delta region.

## **E. EFFECTS OF ETHNIC PLURALISM ON THE SOCIAL STRUCTURE OF NIGERIA**

From the foregoing accounts, the plurality of the different ethnic nationalities in Nigeria is not just in their doctrines, philosophy, morality, religion and politics but also in the colonial heritage because while the Yoruba nation was conquered by the British and direct rule imposed, the Hausa/Fulani had British indirect rule even when Goldie and Lugard (Colonial officers) had conquered them. In the East and Nigeria Delta, it was more of trading and ceding of control through treaties with illiterate rulers (INC 2006; Maier 2000). 'The chiefs who signed treaties with Goldie and the British consul of the day Major Edward Hewett often did not understand that they were effectively ceding their sovereignty to the British crown and sometimes their signatures or marks were forged or obtained under duress. Other times the British simply lied to them' (Maier 2000, 119).

Part of the plurality shows that unlike other parts of the country, the emirates of the North were such that society as noted by Anikpo (2002) was structured into social strata according to nobility, occupation, religion, ethnic group and slavery. This structure polarised the society into the ruling class- Masu Sarauta and the Commoners-Talakawas. Nzimiro (1985) explains that the ruling class is composed of all those in public office while the commoners are the peasants, serfs, and slaves who cultivated the land and paid rents to the land owners.

Anikpo (2002) affirms that the Yorubas also had a system of governance where the traditional leaders sustained their subjugation of the commoners in the guise of divine kingship. On the other hand, the Benin, Ibo, Ibibio, and Tiv groups' social stratification was different where wealth, age and success formed the basis of traditional leadership. These differences formed the basis of relations among the groups before the advent of colonialism such that integration of the groups was not attempted. This situation for (Udogu 2006) has re-enforced and re-emphasised the problem of tribal and ethnic loyalty in the country as all groups jostle for public office for ethnic preservation and ethnic enhancement.

Udoidem (1992) in assessing the issue argued that before the advent of colonialism, there was no national value system as there was no Nigeria in a geo-political sense. During this pre-Nigeria period, he notes that the social structure of the different independent communities, clans, and tribes based their value system on some form of transcendental

divine order and on some kind of humanistic communalism. The structure emphasised a brother's keeper mentality as against the post colonialism system of every-man-for-himself philosophy.

For instance, in the traditional African social structure, a man is as rich or poor as his community and every man is expected as a right and obligation to work and take care of his family both close and extended, and the community as much as his strength and ability permits. He is entitled to be provided for in the event of inability to work. Whoever has more material fortune than others is glad to share with others. Similarly, the misfortune of a family member is shared by all and unlike what is obtainable in the present setting, theft and wanton destruction of community property is forbidden and abhorred. Udoidem (1992) equally argues that in pre-colonial traditional politics, values such as respect for legitimate and constitutional authority were highly respected and democratic ideals were upheld in the system of government in respective cases despite the hierarchical structure of social relations.

This structure encouraged decision making to be a joint process and effort of the rulers and the people represented by the council of chiefs and among other virtues promoted by the traditional structure were honesty, modesty, integrity, chastity, tolerance, truthfulness, self discipline and brotherliness. These virtues are scarce values in the contemporary Nigeria society and this is as a result of the alien social structure fostered on the people. One interesting outcome of the current social structure is the fact that people commit social crimes they ordinarily would not commit in the traditional structures of their communities, because of the consequence of punitive measures that are mostly spiritual and directed by the gods.

For me the current social structure of the Nigerian society, being alien to the traditional social structure that predated colonialism is at the root of the social and political crises because in the African traditional setting, the social structure is characterised by family relationships based on interdependence and mutual help. If this social structure must be replaced by a post-traditional structure, it must be constructed by the people themselves and it must be in their interest. This failure I believe remains a stumbling block to a just and progressive system of organising the Nigerian society.

## F. CONCLUSION

The treatment of the relationship between the social structure of the society and the role of agency has shown that the two entities go together and are in fact inseparable (Giddens 1984). The best of leadership cannot achieve much under a structure that is not built for the common good. On the other hand, an unjust structure cannot guarantee good leadership contrary to what writers such as Achebe (1984) believe. Achebe posits the problem of Nigeria in the lack of good leadership rather than good social structure. The structural-functionalists theorize on attaining order and equilibrium in society which ordinarily should be the desire of any right thinking society but the incidence and interplay of injustice in the structure distorts this ideal.

For Nigeria, democracy remains the most viable option for a stable polity but the unfulfilled desire for free and participatory political process in addition to a deep concern for fairness and equitable distribution of resources and public wealth continue to be a cause for concern for the citizens who abhorred the colonial imposition and earnestly fought for the end of colonialism. The struggle for self rule and independence many thought would bring an end to all the social and political challenges confronting the country but African people are very disappointed in their systems as nothing seems to have changed (Joseph 1987). Democracy to many has been characterised by a monopolization of state power and some people in Nigeria are asking whether the country should remain as one or break up into its several pre-colonial parts (Maier 2000).

Different surveys done by both Nigerian agencies and foreign agencies such as the United Nations have reported that the social-political structure encourages corruption and this problem is seen as one of the country's most severe problems (UN 2009). The three branches of government in Nigeria are today suffering from low public confidence even though it means nothing to the politicians. Human Rights Watch (2007) also summarized the endemic nature of corruption in Nigeria by estimating that 'about \$380 Billion has been lost to corruption from independence in 1960 to 1999' (UN 2009 report, 108). However, attempts in the past to stem the tide failed because they lacked any theoretical fundamentals (Saro-Wiwa 1994). They include Ethical revolution (1981-1983), War Against indiscipline (WAI) in 1984, National orientation movement (1986) Mass mobilization for

social justice (1987), Code of conduct bureau (1999), Independent corrupt practices commission (ICPC) in 1999 and the Economic and Financial crimes commission (EFCC) in 2004.

With the foregoing, were Phillipson and Adebo (1954) correct when they asserted that every situation has its roots in the past. Without doubt, it can be concluded that the current socio-political problems in the country are basically a result of an unjust social structure in Nigeria, which has its roots in the past as the past survives into the present; the present properly understood is nothing but the past in metamorphosis. Nigeria could not have turned out better than it has with the kind of past we just analysed. So unlike Achebe (1984) who wrote that the problem of Nigeria is strictly leadership, a consensus in literature suggests that the problem of Nigeria also has to do with the colonial legacy of weak and unjust social structure. While the monumental failures of the Nigerian state may be a subject of debate, some of its founding political leaders clearly admit that “*the mistake of 1914 has come to light*” (Bello, 1962, 133)

While it may be superfluous to blame the ills of the Nigerian society purely on the incidence of colonialism, as it was an idea that was fashionable then and Nigeria was not the only country so colonized (Chirinyankandath 2008), analysis so far shows that its effects on the socio-political landscape of the Nigerian society is profound and significant. It is argued by Maier (2000), Ake (1996), Soyinka (1996) and many other scholars that colonialism remains the basis of the current institutional injustice and flawed social structure of the society because in Nigeria’s case compared to nation states such as England, France or Germany, the country did not have an auspicious debut. Ostheimer (1973, 6) notes that:

...there was no Bismarck to unify the diverse Nigerian tribes. No seventh century settlement, equivalent to those made between York and Lancaster or between catholic and protestant were made between Nigerian regions and the various tribes. No Louis xiv ever encouraged Nigeria’s dozens of ethnic units to acknowledge one central authority, nor did common linguistic and cultural traditions exist to support such political events, had they occurred.

The analogy that easily comes to mind concerning the bond of nationhood is in the estimation of Ostheimer (1973), the emotional bond shared by the majority of Americans which is derived from their common historical experiences, their mythology of national heroes and villains, and perhaps most of all from the mobility of their people. More

importantly is the enormous area of cultural mutuality such as their fascination with professional sports, propagated by the mass media. The United States is a political community which means that political attitudes are shaped by shared experiences and common personalities that command national attention (Ostheimer 1973).

Ostheimer's argument is that while countries such as USA and Great Britain are less homogenous nation-states than the Scandinavian countries, they still keep their society together through strong social and political structures and institutions that resonate and are accepted in most cases by the majority of the people, which does not mean that absolutely everybody agreed to the terms. It just means that a greater number of the society is satisfied with both the process and outcomes of these institutions. In these countries, citizens identify with public principles guiding and regulating society and are obedient to their stipulations and dictates. Under this kind of atmosphere law and order can be achieved because the people believe the rule of law is intended for their good rather than that of the ruling class.

Ake (1996) argued that the twin evils of absolutism and arbitrariness which formed the basis of state power for the colonial masters formed post-colonial politics and to underscore this, its officials showed little interest in transforming their dominance into homogeneity for the country, beyond the excuse that their domination was also a civilizing mission. The colonial situation is also likened to the Hobbesian pre-political state where all claims are arbitrary and all rights are only powers. Post-colonial Nigeria apart from the change in the personalities does not show much difference in terms of the structure of the society. Olaniyan (2000, 271) argues that,

...the nationalists' vision rarely went beyond the capture, or more expressively, the de-racialization of the colonial state and its apparatus. But racialization is not democratization. The colonial state was neither democratized, nor was or has serious thought been given by politicians or social scientists, to how African socio-political institutions that have worked well before colonial rule could be figured into the continent's perennial search for enduring democratic rule.

Post-colonial Africa started with the heritage of many years of inequalities in the global economy in favour of Europe and America; and the control of local economies by multinational corporations. Major oil exploration companies in Nigeria are all foreign. It is saddled with uncontrolled capital outflow and transfer of embezzled public funds to banks

overseas. Olaniyan (2000) also identifies the reduction in local indigenous agriculture and an over-emphasis on superficial and rudimentary enterprises such as assembly plants that only assembled parts manufactured abroad. African countries faced and are still facing underdevelopment, lack of infrastructure and the massive concentration of economic control in the hands of the state instead of the people, leading to massive corruption and over politicized economic policies.

It is on this basis that I conclude that since Nigerians in their different Ethnic groups and tribes or what Awolowo (1968) referred to as their 'nations' have never at any particular time in history entered into a social contract, they remain in the pre-society stage of civilization. Today the country is faced with all manner of crises caused by a warped structure inherited wholesale from the colonial past. But the colonial past is not the only reason for the woes of the country. In fact some apologists (Obadina 2008, Awolowo 1968, Azikiwe 1968) would argue that the colonial past recorded some mile-stones and that the new administrators failed to take advantage of its inheritance from colonial rule. They note further that it was Nigerians' inadequacies that necessitated colonialism in the first place.

## **PART TWO:**

### **THEORETICAL CONCEPTUALISATIONS**

#### **CHAPTER TWO: RAWLS' POLITICAL LIBERALISM AND SOCIETY**

##### **1. INTRODUCTION**

The core intention of this chapter is, to analyse Rawls' brand of liberalism which he labelled political liberalism and its implications for a democratic society. From there I examine how it coheres with the discourse on Nigeria's social structure, its politics and its sociology. In this direction, I shall examine studies by Efemini (2005), Ouma (2009) that concluded that Rawls' political liberalism can have a relevance to the social-political environment of some African societies such as Nigeria. Efemini (2010) argues that the notion of the original position of Rawls, if put in the Nigerian context, can translate to the convocation of a national dialogue, a sovereign national conference or a constitutional conference to discuss the 'Nigerian question'<sup>13</sup> reminiscent of the social contract theory. Ouma (2009) in his argument believes the idea of original position if adapted to a real political setting can be likened to the event in the United States of America of 1787<sup>14</sup>.

Rawls' views on liberalism also brought him into counter arguments with Robert Nozick who was against the whole theory of redistribution of resources as an explanation of justice. The Liberal ideology today exists in two forms-classical liberalism and modern liberalism (Gaus, 1983), (Raz, 1999)<sup>15</sup>. Classical liberalism emerged in the eighteenth and early nineteenth century and it asserts that the role of the State is to protect certain rights of the citizens while modern liberals who emerged in the later part of the nineteenth century thought the State should also be concerned with issues of poverty, health, housing etc. (Kukathas and Pettit 1990). Rawls falls into the category of modern liberals (Barry 1973). Nozick on the other hand belongs to the classical liberal school or libertarianism (Kukathas and Pettit 1990).

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<sup>13</sup> Interpreted in so many ways, the Nigerian question simply has to do with issues concerning the nationhood of Nigeria and its social-political structures.

<sup>14</sup> Refer to the contribution of this thesis to Knowledge in the introduction.

<sup>15</sup> Quoted in Kukathas and Pettit 1990.

Brown (1986) describes libertarianism as a purer form of liberalism. Libertarianism isolates the virtue of individual liberty from the value of welfare and equality, and formulates rules that outline what individuals can do with one another, what they can do to organise the State and what powers the State can have and exercise. The libertarians believe that the individual should have a regime of unfettered activity where it will be wrong for anyone to interfere:

The individual has the formal power to acquire property, to trade it, to hire the labour power of others or sell his own. He may acquire great wealth or struggle in poverty - all as his ability, effort and luck would have it. The State, for its part may only service this system. It may act and punish to prevent the use of force (murder, robbery and so on) and fraud, but it may not tax or confiscate property in order to help the needy or undertake great public works. The poor must help themselves or rely on charity. ...any collective endeavour beyond protecting persons and their rightful activities must be left solely to voluntary clubs and associations (Brown, 1980, 88).

This is the background of the disagreement between the libertarians such as Nozick and Rawls. Rawls advocates amidst the emphasis on liberty and rights, the doctrine of distributive justice, which is a form of redistribution of wealth and other societal goods and benefits. Rawls, as we showed earlier, believes that some members of society are faced with some disadvantage imposed on them by circumstances beyond their control and it would be against social justice for those people to wallow in their disadvantage. To forestall or mitigate this situation, the two principles of justice were advocated. Nozick does not agree with this and instead proffered his own theory which he refers to as the “entitlement theory”<sup>16</sup>. This theory emphasises the ultimate decision of what is just on the individual and the individual is entitled to what he owns.

Nozick (1974) criticised the theory of justice put out by Rawls principally from two fronts, the idea of social relations and the difference principle emanating from the original position. The argument is that, among other things, Rawls sought to arrive at conclusions on how benefits of cooperation are to be distributed or allocated, but in doing so created problems, and these problems emanated because of Rawls’ idea of social cooperation. He therefore wonders why social cooperation should create problems in distributive justice in the first place.

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<sup>16</sup> The core value of this theory is that an individual working privately is entitled to his reward and is free to transfer it to any one as he wills and no theory should attempt to redistribute this.

Would there be no problem of justice and no need for a theory of justice, if there was no social cooperation at all? If each person got his share solely by his own efforts if we suppose, as Rawls seems to, that this situation does not raise questions of distributive justice, then in virtue of what facts about social cooperation do these questions of justice emerge? What is it about social cooperation that gives rise to issues of justice? It cannot be said that there will be conflicting claims only where there is social cooperation; that individuals who produce independently and (initially) fend for themselves will not make claims of justice on each other (Nozick, 1974, 185).

Nozick argues that the introduction of a theory of distributive justice is not necessary in society as there are bound to be claims and counter claims even in a society where there is no cooperation, noting that there is no guarantee that this problem will not occur in society where individuals are on their own, doing their own things independently. Conflicting claims occur only because there is social cooperation. There must be a point at one time or the other when people will make claims. Though individuals work independently and fend for themselves, they will still make claims of justice on each other. He contrasted Rawls' doctrine of social cooperation with a situation of non-cooperation and concluded that the idea of social cooperation only creates problems and should be rejected:

In the social non-cooperation situation, it might be said, each individual desires what he gets unaided by his own efforts; or rather, no one else can make a claim of justice against this holding. It is pellucid clear in this situation who is entitled to what, so no theory of justice is needed. On this view social cooperation introduces a muddying of the waters that makes it unclear or indeterminate, who is entitled to what. Rather than saying that no theory of justice applies to this non-cooperation case (wouldn't it be unjust if someone stole another's products in the non-cooperation situation?), I would say that it is a clear case of application of the correct theory of justice: the entitlement theory (Nozick, 1974, 185-186).

Nozick's theory makes Rawls theory of justice an unnecessary one because the former believes that society does not need a theory of justice to settle issues that emanate from social cooperation as explained by Rawls. He argues that whether there is a theory of justice or not, there will always be conflicts as people will always make claims on each other even when they work and live independently where there is no social cooperation which gives rise to the theory of justice in the first place. The introduction of the idea of social cooperation in society creates problem.

Nozick's argument continues that the theory of distributive justice in society is unnecessary since individuals in society who work independently in some kind of cooperation are not

immune from issues of justice but are endowed with inherent mechanisms to seek redress for injuries and the introduction of a theory in such a free expression of liberty only creates problem. On the other hand, he notes that individuals get their entitlements in a cooperation that takes place in cooperatively produced goods when the social cooperation is based on division of labour, specialisation, comparative advantage and exchange: 'Each person works singly to transform some input he receives, contracting with others who further transform or transport his product until it reaches its ultimate consumer. People cooperate in making things but they work separately; each person is a miniature firm' (Nozick, 1974, 186).

Here each individual's product is identified and exchanges take place openly with competitive prices. In such a situation Nozick says there is no need for a theory of justice. Even if a theory of justice is inevitable it is to achieve "fair price" and not the idea of "just price". Nozick explains that people make exchanges and transfer their products in free and open transactions according to agreed terms of their entitlements, without any kind of restrictions on their freedom. And he wonders why such cooperation done through voluntary individual exchanges should give rise to any problem of how goods are distributed:

the products of each person are easily identified and exchanges are made in open markets with prices set competitively, given informational constraints, and so forth. In such system of social cooperation, what is the task of theory of justice? ... The task of a theory of justice is to set criteria for "fair price". This is hardly the place to trace the serpentine winding of theories of a just price (Nozick, 1974, 186.)

He combines the voluntarism in society with the natural and moral rights of an individual which all other individuals or collectives must accept or respect whether it favours them or not. Nozick rejects totally slogans such as progressive taxation, educational equality, and the guarantee of minimum wage prevalent in some welfare states in the west today, arguing that these violate the right of an individual to property in line with the Lockean contractarianism. In the same fashion, he contends that by taxing some people in unequal proportions in the bid to redistribute wealth as Rawls views tend to support, denies a person who is taxed in a higher proportion his fundamental right to self- ownership.

This position seriously calls to question the theory of justice according to “justice as fairness”. But can Nozick’s opposition be sustained in an underdeveloped society such as Nigeria where barriers of inequality and social crisis are strong and the only remedy is an intervention or moderation by the state? It would seem that Rawls’ ideas aptly capture the situation of Nigeria where social mobility is poor and social injustice is very rife. In slightly more relatively just societies however, the idea may be unnecessary as Nozick argues.

The argument can go on for eternity but the truth is that they are based on ideological preferences by two philosophers who see solutions to problem of justice from two different perspectives. And at the end of the day it is about which particular argument can suitably address the problems of a particular society with its peculiarities. In the case of Nigeria it is my contention that the Rawlsian model best suit the purpose, as it gets to the root of the issues of distributive justice, social justice and political stability.

Efemini (2005) further argues that notions such as Rawls’ two principles of justice aptly capture the imperatives for a society to create and sustain in an institutionalized manner, a liberal and welfare state that can promote and protect the basic liberties, equality and economic rights of the people and remain a reasonable option in organizing the Nigerian society, believing that in a political environment like the one highlighted in political liberalism where there are incompatible but yet reasonable pluralism, these two principles represent the crucial platform upon which interactions and relations among citizens and between Nigeria’s ethnic groups exhibiting the same incompatible and yet reasonable pluralism can be organised. The principles he argues hold the key to the enthronement of a regime of rights and liberties in Nigeria.

These ideas in the estimation of Efemini offer a lot to the Nigerian society in its quest for development and progress. Firstly, the idea of a society in which there is no abandoned and neglected member by the state or no member left in disadvantage is one that challenges Nigeria. This is because many people in the country are poor and lack basic amenities of life in the midst of plenty. In fact more than fifty percent of Nigerians live below the poverty line (United nations 2009). The basic institutions<sup>17</sup> as constituted at present have no commitment to the view of Rawls’ first principle that each individual has an inviolability

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<sup>17</sup> See chapter one for detailed analysis.

founded on justice that should not be abused and violated not even for the purpose of achieving the well being of the entire population except in cases of punishment for crimes committed against the state.

This point is very germane because a strong link exists between the commitment of the state to the welfare and interest of every member of society and the idea of social mobility and mobilisation. Rawls (1993, 1996, 2005), posits that the mobilisation of society necessarily rests on the back of the feeling by members that they are stake holders in the social cooperation or social union and the only way to do this is to enshrine their personal liberty in the institutions in the society represented by the basic structure. Efemini (2010) and Ouma (2009) therefore believe that if a society endeavours to respect and promote the basic and general welfare of all members of society, then it is poised to get their support and loyalty bearing in mind that social mobilisation is a necessary ingredient for the attainment of sustainable development in society.

Obadina (2008) and (Moda 2008) on their part assert that Nigerians within the society lack the capacity to be and give their best because at the moment they are not properly integrated and organised owing to the default of the present social structure which has a direct correlation to their development. Ake (1996, 125) supports this strongly when he wrote that 'development is not a project but a process. Development is the process by which people create and recreate themselves and their life circumstances to realise higher levels of civilisation in accordance with their own choice and values'. Society thus is all about development and development in its entirety seeks to show what persons in it can achieve on their own and for themselves. It is therefore important for there to be a commitment in the society to the welfare of each member for social mobilisation and social cohesion (Awolowo 1968). Do we now have a conflict between the interest of the individual and the community? And which among the two should be paramount?

Among other arguments of Communitarianism, which advocates the pre-eminence of the community over the individual, a classical argument against liberalism is that of Michael Sandel (1998). Even though they resent being referred to as communitarians, this school of thought rejects the presumed and apparent emphasis (in their own estimation) placed on the individual to the utter degradation of the community. In this direction we shall view

Sandel's objection of Rawls theory as part of that tradition. Rawls, being a political liberal, may have adjusted his liberal views to accommodate the issue of social justice, but was accused of giving a wrong interpretation of the person.

Sandel objects to the perception of the self by Rawls as one that is different from his ends. This is in response to the fact that persons in the original position are ignorant of things of the future among other issues. And they are bereft of purpose and ends in life at the point of the initial situation that Rawls constructs. But Sandel does not believe this to be possible, arguing that it is not possible to separate the self from ends and familiar phenomena of moral life such as identification with political courses and particular relationships and being affected by the dynamics of these.

Sandel notes that the liberal conception of the person does not consider the effects of commitment to families, friends and community and it is not plausible in the sense that it does not show the kind of neutrality Rawls wrote about in terms of what is good. These objections in my estimation can hardly stand the test of time because Rawls did not in any way separate the individual from his ends and the conception of the individual from the political perspective was only made to show the process of deliberation on justice. The main point Rawls made was that individuals have the capacity to frame, refine and reverse their ends and this need not be equated with a situation of a self being detached from his ends. Sandel needs to understand that for persons to be able to frame, refine and reverse their ends freely presupposes a commitment to certain ideals either politically or relationally and he needs to properly locate the ideas of Rawls concerning the person as not a philosophy of individualism.

Sandel also objects to liberalism in his accusation that liberals down-grade and undermine the place of the community while describing the individual as self seeking and self interested. He uses here Rawls' argument of society as a scheme of social cooperation where individuals choose rules and fall out of cooperation and impose the same on one another, since justice aims at how to allocate these fall outs in the first place. Sandel sees this as contrary to better cooperation in the communal life.

On the social contract, Sandel accuses liberals of not being committed to obligations and responsibilities individuals have not agreed on according to the spirit and letter of the

contract. What he means is that since individuals have to enter into contract on issues they will be obligated to, it means they will disregard issues they have not agreed to thus making the individual the centre of public policies. He notes that if extended to the private life of society and the family it will not make sense as there is no consent or agreement in choosing one's parentage. And commitment and relationships with children and siblings cannot be cancelled for lack of voluntary obligations. This gives the impression that Sandel argues that the liberal person does not take interest in the affairs of the community and other political matters. The quick reaction of any Rawls supporter will be that the focus of Rawls is the basic structure of the society with the sole aim of achieving justice and stability in a society of different and plural doctrines reasonably held by groups.

There is no justification for Sandel to assume that persons in the social contract are in it for themselves and even if the original position of Rawls is prominent, it would be a great misconception to declare that the doctrine is individualistic as the parties in the contract may as well be representing families and communities. There is absolutely nothing in the social contract doctrine that precludes the representation of families or communities as Sandel wants us to believe. Sandel may have objected to Rawls and liberalism generally profusely, but he has not put in proper perspective the focus of Rawls on the individual in his scheme of justice.

The liberals did not undermine the community in any way and the reference by Rawls to basic institutions of society can only be to a community. The parties in the original position and the social contract all represent families and communities except that there is a cloud of ignorance on specifics. Common sense even admits that communities are made up of individuals and their liberties form those of communities and community values which are reached through the collective participation of individuals in a common wealth. If individual rights and liberties are well entrenched, it becomes easier for communities to function well and disputes are minimised.

The debate is a critical one that will continue to generate discussions judging from the nature of man. Man is sometimes characterised as selfish and reasonable, meaning that man can be selfish depending on the conditions and can be reasonable - cooperating with others when the circumstances dictate. Both realities are mutually important and are

symbiotically related as one cannot talk about the community without the individual, and vice-versa. The debate should not be taken beyond the level of rhetoric because the reality of society is that individuals necessarily need the community in terms of customs, tradition, beliefs and philosophy-vital ingredients in the growth of the individual. On the other hand the community cannot exist without the individual since he is the one that combines with others in giving rise to the community and individuals collectively define the boundaries and rules of the community.

A major point in this debate in Rawls' original position by adherents to the philosophy of community would be that the separation of an agent's nature and ends is psychologically impossible, because it would deny the participants the requirements they needed to think about issues of social justice among other things. Rawls' theory of justice is thus seen as too excessively individualistic and neglects the way individuals form their values within social contexts and communal attachments. But this point is basically made out of a misrepresentation of Rawls' theory. It must be understood that the original position is purely hypothetical with the aim of helping society know accepted moral judgements about justice. Mulhall and Swift (2003, 465) see it this way:

The original position is rather designed to model the normative claim that is appropriate to exclude certain considerations or reasons when it comes to thinking about social justice. The constraints of the original position are thus epistemological and moral rather than metaphysical; they reflect Rawls' view that justice requires that people be treated as equal and free.

Instead of liberalism (including Rawls') being against the community as may be observed, it is in fact in support of the community. I sympathise with the liberals who I believe have the problem of clashing with the exponents of communitarian principles because of the individual and Rawls' belief in the capacity of the individual to frame, revise, and pursue a conception of the good creates the impression that he believes only in individuals and not community values and cares less about how their choices affect others in the community. A political philosopher like Swift, however, says this is not true:

A society whose members care, not solely about themselves or their families, but about the autonomy of all their fellow citizens and who are prepared to limit the pursuit of self interest to the extent that the duties owed to their fellow citizens require it , is a society characterised by solidarity, fraternity and community.(2006,162)

On the objection by communitarians that the original position is an unencumbered subject and even in a hypothetical situation is impossible, that the individual cannot be separated from his family for instance, the doctrine only shows that it is important for people in their impression about justice to be able to have the capacity to frame, pursue and revise the attachments they hold from time to time. And the whole exercise has to do with the way citizens think of themselves and others within their social and political relationships as specified by the basic structure.

This conception does not mean that people can step back from each and every one of their ends or be detached from them. In fact, Rawls explicitly concedes the validity of the claims about the phenomenology of our moral experience and he is happy to see such constitutive value and communal attachments flourish in the context of family life, churches, and scientific societies; what he denies is their appropriateness for the realm of politics. And that is why he stated that his principles of justice are aimed only at the basic structure of society. There is therefore no conflict between the community and the individual and the rights of the individual are not placed far and above those of the community as the communitarians assert. What happens on the contrary is as the rights of individuals in society are projected and protected, the community or society as a whole enjoys the dividends of liberalism.

The lack of capacity by most Nigerians to do the right thing and obey the law due to the weak and unjust social structure is evidenced by the fact that they are currently engaged in criminal activities such as corruption, ritual killing, fraud, theft, kidnapping, etc. basically as a result of their conception of justice that these are normal (Efemini 2005). This is indicative that there is also a link between social action and the public perception and conception of justice (Rawls 1971, 1993). The argument is that if members of a given society see and perceive society as unjust, then the tendency would be for them to be inclined to serious and organised anti-social behaviour which could lead to social-political crisis and general lack of stability and public safety (Efemini 2005). In other words, if members perceive their society as unjust, that perception can motivate them as individuals to engage in criminal activities. A well ordered society which is one that is governed and regulated by a public conception of justice will therefore promote the welfare of the people and lead to social

justice and political stability. This link, Rawls believes, has to do with human psychology and normal circumstances of life:

those who grow up under just basic institutions acquire a sense of justice and a reasoned allegiance to those institutions sufficient to render them stable. Expressed another way, citizens' sense of justice, given their traits of character and interests as formed by living under a just basic structure, is strong enough to resist the normal tendencies to injustice. Citizens act willingly so as to give one another justice over time. Stability is secured by sufficient motivation of the appropriate kind acquired under just institutions (Rawls, 1993, 142-143)

The lessons to be learnt and the relevance of Rawls from Efemini's (2010) perspective is that political leaders have to realise that without an agenda and firm commitment to the adoption of principles, theory, models and philosophy of justice, peace and stability will remain elusive ends in the society and negative behaviour will continue. In this connection the human rights of the people cannot be ignored. That is why in the two principles of justice Rawls elevates social and political rights above economic rights. This may not be problematic in a relatively developed society. But in less ordered ones, people are more interested in the economic opportunities and realities than social and political rights. The lexical ordering of the principles thus assumes an absence of a situation of lack of basic needs. This cannot be the case in some societies where there is extreme poverty.

Having been a witness to the Universal Declaration of Human Rights of 1948 and other actions of international organisations as well as the Helsinki Declaration of 1975, it is reasonable that Rawls would stoutly defend basic liberties and rights of citizens. He also witnessed the deterioration and devaluation of political liberties and citizens participation in democracies in the 'West', and in response to this state of affairs, he began the effort to revive the ethical core of democratic citizenship by sensitising the society. Rawls was moved by clear cases of social and political malfunction in society and sought to reverse this through the formulation of ideas and suggestions useful in correcting the problems

## **2. FUNDAMENTAL IDEAS OF POLITICAL LIBERALISM**

*Political Liberalism* is a follow up by John Rawls to his earlier publication, *A Theory of Justice* (1971). After a lot criticism and objections as we shall see in later paragraphs of this chapter of *A Theory of Justice* which was basically a work on a moral conception of justice in society Rawls attempted to recast his arguments to a political conception of justice in *Political*

*Liberalism.* Here he changed his focus and indicated that his theory of justice should not be understood as a conception of the good but that of the right in line with the liberal tradition of justice in society. Justice to Rawls in his new thinking demands that government should be neutral when it comes to different doctrines and beliefs on the conception of the good. This is because the concept of the good cannot be generalised in a pluralistic society as different groups hold different, incompatible but reasonable ideas of what the good is. The way forward therefore is to think of what is right for the mutual benefit of all members of society for the attainment of political stability and social justice.

In *A Theory of Justice*, Rawls aimed to generalise and take to a greater height the traditional doctrine of the Social Contract theory and sought to show that this doctrine was a very effective way to solve the problem of justice in society. In doing this, Audard (2007), believes that Rawls rescued the notion of Social Contract from the shelves of archives and history where it had remained until he re-introduced it into public discourse through his views on the original position. He therefore aimed to work out in a clear manner the main structural features of the concept through a process he refers to as 'Justice as fairness'. His objective was to develop this view as a systematic account of justice superior to Utilitarianism which at that point in time was the predominant systematic view of moral philosophy.

In *A Theory of Justice*, the Social Contract legacy was seen as part of moral philosophy and Rawls did not differentiate between moral and political philosophy even though they are different. Part of the difference lies in the subject of the discourse. Moral views of justice place the subject on a general note for individuals in their quest for personal development to study and for enhanced moral actions and judgements while a political conception of justice elevates the discourse to the level of society and the reality of distributive justice. He thus did not separate the moral conception of justice that is general in outlook and scope from a pure political conception of justice.

In a moral conception of justice, morality is an individual enterprise and the idea of either legislating of universalisation is difficult because there is no universal morality or universal agreement on what is good. Rawls thus realised that attempting to regulate and outline a comprehensive regime of morality in society is impossible due to the reality of plurality in

beliefs, religion and philosophy of members of society. On the other hand, members of society can create the platform for agreement on principles of justice they can adopt and with this they can conceive an idea of what justice is. His two principles of justice therefore, are easier understood and accepted when viewed from the political perspective where justice becomes a product and process of agreement.

The focus and direction of *Political Liberalism* therefore marked a major shift and departure from that of *A Theory of Justice*. And the nature and extent of the differences in these two endeavours arose from the attempt to resolve a problem in 'Justice as Fairness' which has to do with the issue of stability in society which was not earlier discerned but was later found to be vital. This omission, Rawls believed, affected the consistency of his theory as a whole, hence the need to address it. The mission of *Political Liberalism* therefore was to remove this identified inconsistency and correct the problem while at the same time leaving the structure and content of *A Theory of Justice* intact.

The problem identified was pertaining to the issue of 'a well ordered society' where all citizens accept the comprehensive philosophical doctrine the two principles offered. Rawls, however, discovered that a modern democratic society is often faced not just with a plurality of comprehensive religious, philosophical, and moral doctrines but also by a plurality of incompatible yet reasonable comprehensive doctrines and no particular doctrine is affirmed by all citizens generally nor will ever be affirmed in the future. So it is futile for the government or the state to legislate on what is good or on any other matter that excites the moral intuition or activities of individuals in society.

Political liberalism thus assumes that 'for political purposes, a plurality of reasonable, yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime' (Rawls 1993, xvi). As for unreasonable and irrational and even mad comprehensive doctrines which also exist in society, Rawls advocates containment to protect the unity and justice of society. In this endeavour then, the ambiguity of *A Theory of justice* is removed and 'Justice as Fairness' is presented from the outset as a political conception of justice.

Rawls' first book dealt with justice while this second book shifted focus from not just justice alone but also to the issue of legitimacy. Rawls here tries to answer questions of how and

under what conditions will someone in society properly accept a law as a legitimate one, even though he does not believe in the law or sees the law as unjust. Dreben (2003) explains that political liberalism grew out of what was an essential flaw in Rawls' first book. The flaw is the wrong notion that tackling the issue of social justice simply ends with the formulation of a theory.

The issue goes beyond that but also entails among other things, the stability of society and the reason why any society that is built on that theory will continue to function optimally. Dreben (2003, 317) therefore sees Rawls doing this in his later work: 'It is not enough to come up with something that will be absolutely good in Plato's heaven; it is important to have something that will be good in Plato's earth and will continue to be seen as usable'. The thinking here is that Rawls had to recast his focus to properly accommodate the reality of plurality in society and therefore the neutrality of state and government authorities on moral, religious, and political differences. Rawls himself notes that his two principles of justice if properly understood are concerned more with what is 'right rather than what is good' or the priority of the right over the good. And 'the right' should be able to engender the support of all reasonable individuals in the society within the context of 'reasonable pluralism'.

In *Political Liberalism*, for the purpose of presenting a sharper and more realistic view of justice in society Rawls adjusted his theoretical focus to a reflection on the norms that would guide a well-ordered pluralist constitutional democracy. Tracing the basis for his thoughts, Rawls locates his roots and recasts the fact that: 'the historical origin of political liberalism is the reformation and its aftermath, with the long controversies over religious toleration in the 16<sup>th</sup> and 17<sup>th</sup> centuries. Something like the modern understanding of liberty of conscience and freedom of thought began then' (1993, xxiv)

Rawls begins his endeavour by outlining the fundamental ideas behind political liberalism when he asked the following questions: 'What is the most appropriate conception of justice for specifying the fair terms of social cooperation between citizens regarded as free and equal, and as fully cooperating members of society over a complete life from one generation to the next'? (Rawls 1993, 4). Secondly, 'what are the grounds of toleration so

understood and given the fact of reasonable pluralism as the inevitable outcome of free institutions'? (Rawls 1993, 4).

Furthermore, still laying the foundation for a proper understanding of his ideas, Rawls combines questions one and two and asks: 'how is it possible for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical and moral doctrines'?(1993,4). The above questions aptly set the tone for the fundamental ideas behind political liberalism. Rawls realised that the issue of morality in a single prescription for society may not work in a real life situation of people who hold different moral, philosophical and religious doctrines which are reasonable and justified. In a modern understanding of social engineering it could be rightly asserted that he was advocating unity in diversity.

On the first question, his answer is simply that there is no agreement right now on how society can be so arranged as to satisfy the fair terms of cooperation among free and equal citizens<sup>18</sup>. There is no known workable formula to achieve a cordial co-existence of diversified people who live in a society on equal terms. So what is the way out? Have we come to the end of the road for social justice? If moral prescriptions will not work, what is the alternative? The alternative is the political concept of justice.

In *Political Liberalism*, Rawls believes that the concept of justice is specifically created to a specific subject, and that is political, social and economic institutions. And this, in particular, applies to what Rawls calls basic structure of society which he takes as a requirement of a constitutional democracy. The political conception of justice shows an examination on the field of political understanding of society and draws a connection between philosophy, sociology and politics. Political philosophy thus gained its steam more as philosophers examined political positions and views, established parameters and theories that guide and regulate the practice of politics; and this tradition continued in Rawls.

What then should be the understanding of the term 'political conception of justice' and how are moral principles, ideas and standards applied to a political situation known as basic

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<sup>18</sup> This is indeed a fair assessment as Sandel (2010) argues that from the attempts of Plato, Aristotle, Locke to modern day political Philosophers, there is yet no common understanding of what justice is and this he sees as capable of leading to a distancing and debilitating effect of philosophy

institutions? In response, Rawls resorts to one of the elements of *A Theory of Justice* in the notion of 'justice as fairness' through the two principles of justice which will guide the attainment of liberty and equality by basic institutions. Political liberalism is thus saddled with questions that have a strong effect on society and answers can solve problems associated with those effects. One of the questions has to do with the most appropriate conception of justice that specifies the fair terms of social cooperation between free and equal citizens in society that are fully cooperating over a complete life, from one generation to the next? This question is followed by another related one that has to do with toleration. Rawls reasons that the political traditions and culture of any democratic society is that of plurality in religious, moral, and philosophical doctrines that in most cases are diverse, opposite and impossible to reconcile.

This situation is quite normal in society and these different doctrines are reasonable in line with the power and ability of human reason working within the backdrop of enduring free institutions. From this comes the second question probing the grounds of toleration that becomes inevitable and imperative given the fact of reasonable pluralism due to the unavoidable outcome of free institutions. Putting the two questions together explains the political conception of justice as justice as fairness. So the point of concentration is how to archive mutual coexistence among citizens over time.<sup>19</sup>

The political conception of the person describes how citizens in society act in relation to one another. When we take citizens as people who can engage in social cooperation (as we earlier indicated ) in their life time, we believe they can also take responsibility for their ends by adjusting in such a way that ends can be pursued by means they can expect to acquire in return for the contribution they make. In conceiving the persons in the original position, Rawls stipulates that the notion of taking responsibility for one's ends is part of and compatible with the public political life and culture of a society which is clearly observable in practice as Rawls notes: 'A political conception of the person articulates this idea and fits into the idea of society as a fair system of cooperation' (*Rawls, 1993, 34*).

To achieve the kind of cooperation that guarantees consensus among a people, Rawls also introduced the notion of public reason as a crucial element in society especially in the public

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<sup>19</sup> All these questions are contained in *Political Liberalism*, p 3- 4. And they form a fundamental basis of the shift from a moral conception to a political conception of "Justice as Fairness".

domain or public sphere on which the whole idea of overlapping consensus and comprehensive doctrines are centred. And so, he likens the process of public reason to the process of how an agent, individual, family, association or even confederation of political societies come up with their plans and order their priorities.

Rawls terms 'public reason' the process of formulating decisions in society, but quickly notes that it is not every reason that is public. A reason is not public when it is held by a few people without the collective participation of free, equal and diverse members of the society whom we have identified as giving an accord to the political conception of justice through the overlapping consensus. What this connotes is that some decisions and processes are not reached within the purview of public discourse and as such they are not public and remain within the precinct of private affair. And there are examples that easily come to mind. There is no public reason in churches, Universities and many other associations in civil society. In typical autocratic and aristocratic regimes there is no public reason when issues that affect the public good are deliberated upon, as members of the public are left out and the process is monopolised by the rulers. Rawls describes Public reason as:

Characteristic of a democratic people: it is the reason of its citizens, of those sharing the status of equal citizenship. The subject of their reason is the good of the public: what the political conception of justice requires of society's basic structure of institutions, and of the purposes and ends they are to serve. Public Reason then, is public in three ways: as the reason of citizens as such, it is the reason of the public; its subject is the good of the public and matters of fundamental justice; and its nature and content is public, being given by the ideals and principles expressed by society's conception of political justice, and conducted open to view on that basis.(1993,213)

Over-all, in political liberalism, some values easily and readily come to mind and these values though not exclusive to the political liberalism are foundational and fundamental. These values include liberty, freedom and equality and these values are non-negotiable under any circumstance as they form the building blocks that are needed in achieving a stable and just society. In a democratic society, these ideals are necessary elements for the co-existence of members with different doctrines and the adherence to these ideals ensures the continued attainment of individual goods of the citizens. Political liberalism thus demands the enthronement of the concepts of equality, rights and tolerance. Citizens are

equal in society and are free to practice any form of religion or any other activity in accordance to the law with the State or government and fellow citizens generally tolerating the same. Tolerance also involves the right to hold views and opinions that are at variance with the opinion of the government without any harassment or persecution. Societies that do this are said to be democratic.

In the immediate, Rawls' main platform upon which he built his theory was his objection to the theory of justice in utilitarianism; but what is so wrong with the utilitarian theory that it became a point of objection for Rawls? On the surface it is easy to support the theory of utilitarianism as it depicts the very nature of humans. What then makes it unacceptable for a society in search of justice? The very tenets of the theory itself create a premise for questions of justice to be raised. As a moral theory, it is based on the principle which defines what constitutes the right or wrong action. The theory declares that actions are right when they lead to utility, happiness or pleasure and if they reduce pain. Anything that reduces pain to a rational man is attractive. Actions are wrong if they negate the above ends and increase pain.

Classical Utilitarianism is based on the perceived nature of Man, which is that men are intrinsically self seeking beings out to maximise personal utility in all they do. And men's ultimate desire is to increase pleasure and reduce pain in their lives. The main thrust and foundation of this school of thought is that actions are right or wrong in relation to their ability to enhance happiness and wrong in relation to their tendency to negate this (Mill, 1987). By happiness, the utilitarian means pleasure and the absence of pain, while the absence of pleasure and presence of pain is unhappiness. They believe that actions have an end and nobody acts for nothing but the attainment of an end and that end is to increase happiness or pleasure. In fact, Bentham believes mankind is slave to these tendencies:

Mankind is governed by pain and pleasure. Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do. On the one hand the standard of right and wrong, on the other the chain of causes and effects are fastened to their throne. (1987, 65)

Rawls may have objected to this theory, but the understanding of what Mill<sup>20</sup> refers to as the 'theory of life' motivated them to formulate their views. From their observation, they

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<sup>20</sup> Mill's ideas are read as serious attempt to bring together individual rights with the utilitarian philosophy.

noticed that 'pleasure and freedom from pain are the only things desirable as ends; and that all desirable things are desirable either for the pleasure inherent in themselves or as means to the promotion of pleasure and the prevention of pain' ( 1987, 278). In these contemporary times one may pick holes in this view as life goes beyond pleasure and happiness but one cannot dispute the fact that pleasure and happiness are more desirable to men than pain. Apart from this, utilitarianism does not give enough consideration to the sanctity of the human personality and rights of individuals, reducing everything to only the feature of pain and pleasure.

This view of political philosophy that asserts the preference for a social order that aims to achieve the greater amount of utility, pleasure and happiness by a greater number of persons is what the theory of justice by Rawls aims to tackle. As a dominant theory in the 'West'<sup>21</sup> at a point in time, is utilitarianism really antithetical to human society and human nature that it had to be discarded? Was it not based on observable human tendencies that are unchangeable? Did Rawls at the end of his presentation succeed in sending and confining utilitarianism to the dust bin of history? These questions call for deeper understanding of both theories which in my view aim at different aspects of human existence. There are clear thoughts on majority views and positions having their way in this day and age. A theory of social justice helps society to achieve justice and equality, making both theories complementary.

Every human being acts rationally at some end and that end is expected to produce pleasure, happiness and utility no doubt but when it comes to the administration of society the issue of justice becomes important. Mill acknowledged this when he declared that 'in all ages of speculation, one of the strongest obstacles of the reception of the doctrine that utility or happiness is the criterion of right or wrong has been drawn from the idea of justice'( 1987, 314). The problem of distribution of collective resources definitely makes the need of a theory of distributive justice imperative and this is the point of departure for both theories.

Rawls knew his take off point and he made it clear from the outset that he was out to tackle the utilitarian theory of morality: 'My aim is to work out a theory of justice that represents

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<sup>21</sup> Writers such as Michael Sandel believe utilitarianism was the dominant view within the Anglo- American moral and political philosophy before the emergence of Rawls

an alternative to utilitarian thought generally and so to all of these different versions of it' (Rawls, 1971, 20). In a multi-ethnic, multi-racial and multi-religious society as we have in so many parts of the world, the theory of utility and happiness which does not include how these are distributed may not go far. People are peculiar and unique in their different situations in society and the utility theory does not consider this. It is indeed historically observable that the world has transcended the satisfaction of pleasure to the achievement of justice in all human endeavours.

Instead of greatest happiness for greatest number of people, Rawls argues that every member of society no matter his social condition should enjoy a level of the best society can offer which is commensurate to the best any member can enjoy under any other theory. He wants even the least advantaged in society to have basic rights to a good life. No doubt this kind of position is one that tries to bridge the gap between the social and economic classes in society. This, Rawls believes, will create a sense of justice in society and strengthen the establishment of a public principle of justice as a way of solving the problem of social justice.

For a society seeking to be just, questions that border on social relations and social unions are not only relevant but crucial as they form the back-bone for the exploration of theory. Current views of politics and democracy in Nigeria aptly demand the resolution of issues of social justice and political stability and the main focus of *Political Liberalism* is the stability of society within the reality of divisions that are normal and born out of freedom and equality of the people. The theory aims to provide the basis for the cohabitation of different people in society harmoniously with emphasis on the aggregation of all reasonable pluralism in religion, morality and philosophy. Rawls in this work redefines his intention and focus in such a way that makes the conception of justice more of political philosophy and made the field of politics the domain of his moral views of justice. An understanding of the political conception of the person becomes the focal point in this idealisation.

Political liberalism as enunciated by Rawls aims to provide answers to the nagging and perennial problem of how to achieve a stable and just society where equal and free citizens who are different in their moral, philosophical, and religious beliefs or doctrines can live and achieve their goals. The thinking is that society is populated by people who hold reasonable

but incompatible doctrines and a unified theory of morality cannot be imposed on them in a political setting. Rawls thus thought a way out of this situation and the practical relevance of this is that societies in my view such as Nigeria made up of more than ten major groups; more than three hundred languages can have a theoretical basis for deliberation and agreement.

The attempt here is to analyse the solutions to the challenges of how a society that is democratic can be stable especially with the pluralism identified and the fact that a single comprehensive ethical doctrine may not work. And this task of a reasonable comprehensive doctrine is one that is crucial and urgent but difficult to attain in a pluralistic society. To solve this problem Rawls introduced the notion or idea of overlapping consensus and this forms another major building block of his focus in *Political Liberalism*. In fact, it can be argued that the whole idea of reasonable pluralism would be impossible to accommodate in any society without the process of an overlapping consensus:

Thus, to see how well-ordered society can be unified and stable, we introduce another basic idea of political liberalism to go with the idea of a political conception of justice, namely, the idea of an overlapping consensus, the reasonable comprehensive doctrines. In such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view. (Rawls, 1993, 134)

In adumbrating this position, Rawls is working on some assumptions. One is that unity among diverse members of society with reasonable doctrines can only be possible or achieved based on the agreement and consensus within a political conception and sphere of relation rather than moral or religious, as it is easier to reach agreements on these than on the latter. Another assumption necessitating the idea of an overlapping consensus is that the society will be stable when the diverse beliefs or doctrines forming the agreement are accepted by the political players in the society and 'the requirements of justice are not too much in conflict with citizens' essential interests as formed and encouraged by their social arrangement.' (Rawls, 1993, 134)

In a nutshell, the merits of political liberalism are such that the concept basically sets out clearly to address the problem of political instability in a plural democratic society. Clearly the endeavour did not define its scope beyond the elements of pluralism, incompatibility, diversity etc and made no limitation as to the climate or location. Therefore any where there

are such attributes as mentioned, Political Liberalism remains relevant and important. In a practical sense, any mention of a plural society instantly evokes the situation in Nigeria. So Nigeria qualifies to be referred to as a plural society and as such provides a template for the exploration of Rawls' political philosophy.

### **3. THE TWO PRINCIPLES OF JUSTICE**

Emphasising the means and end of justice, Rawls' in his conception of justice as fairness, argues that the social structure or basic structure of the society can be just only if it aligns with the notion and principle that persons that are free and equal if put in a situation that is fair to them all, would agree and choose his two principles of justice for the purpose of regulating that structure. The principles are as follow. Firstly:

Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties and only those liberties are to be guaranteed their fair value. Secondly, Social and economic inequalities are to satisfy two conditions: first they are to be attached to positions and offices open to all under conditions of fair equality of opportunity, and second, they are to be to the greatest benefit of the least advantaged members of society( Rawls 1993, 5-6).

These two principles of justice represent in my assessment the core of Rawls' contribution to the body of knowledge in relation to moral, social and political philosophy especially in organising society to achieve social justice and political stability. The two principles are to regulate public institutions in regard to liberties, basic rights and opportunities. The second part of the second principle is specifically to underwrite the worth of the institutional guarantees. The basis of these principles is the idea that society is a fair system of social cooperation among free and equal persons characterised as persons who are cooperating with each other over a life time.

Raised within the Anglo–American analytic tradition in philosophy, Rawls was mainly responding to issues thrown up by moral and political philosophies from the time of Hobbes: 'Rawls sought to engage and critically come to terms with the works of the major moral and political philosophers since Plato and Aristotle. In many ways and respects, his philosophy was a continuing conversation with them' Freeman (2007, 13). In method and style however, Rawls deviated from the tradition while at the same time as we shall see, he was systematic and painstaking in constructing the premises and assumptions that support

his main conclusions. This makes his style constructivist<sup>22</sup> in nature. His conception of justice was aimed at helping citizens regulate and formulate their social and political institutions through a better understanding of moral/political values. This approach adds impetus to the argument that the destiny of any society depends on members of that society.

It is only sensible therefore from this simple understanding of theory, that societies beleaguered by serious social problems that seek changes and aspire to attain a just social system can resort to the employment of existing theories and models with potential to govern and moderate their institutions. In this direction, it is envisaged that with the socio-political disposition of the people, there is a possibility and necessity for the restructuring of the system through a good scientific idea or theory. Therefore, it is my contention that if a society anywhere can take some drastic and positive actions, and adopt some principles and rules, the possibility of meeting the conditions set in any theory on achieving a just and stable society is quite high. It is in this light that some aspects of Rawls are seen to be relevant and attractive to the situation in Nigeria.

From ancient Greek Philosophy through modern and contemporary Western Philosophy, different ideas and propositions have been formulated on how to attain a just society or how to achieve justice in society. Plato's ideas of the stratification of society into three classes in the *Republic* (1993)<sup>23</sup>; the theory of civic virtue, moral excellence and community by Aristotle in *Politics* (1988); Locke's (1980) private property rights theory in his *Second Treatise of Government*; Rousseau's *Social Contract* (1968), and the theory of the sovereign in Hobbes' *Leviathan* (1991) all point to the place of theory and ideas in the formulation of principles and models applicable in the organisation of society. The ideas of John Rawls are an additional attempt at this, basically because societies must always seek new ways of settling disputes among their members and find ways in which members can relate with each other peacefully. And where old theories become obsolete and unworkable due to new and unexpected realities, new ones are formulated.

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<sup>22</sup> Constructivism is an approach Rawls attributed to Kant in which a hypothetical situation is created to proffer solution or give explanation to a real and concrete situation. Plato adopted the same approach in *The Republic* where he constructed a society in the bid to explain justice in the individual.

<sup>23</sup> Current editions of works of these great philosophers are used for purely for convenience of style.

#### **4. THE ORIGINAL POSITION**

The original position is the inauguration of a system or procedure that is fair for the construction of principles of justice, so that at the end of deliberations, principles of justice agreed on will be just and thus carry the kind of force that confers cooperation and anticipated justification, obedience and acceptance (Rawls 1993). Critics of this doctrine however point out that in most cases, the nature of man also necessitates elements in the society that will still oppose and reject these principles agreed (Habermas 2003, Nozick 1974). This makes the whole idea of ideal theory unrealistic and out of human reach. No society can ever boast of full or total compliance with social codes and principles.

One point to note here is that there is a basic assumption that contract necessarily means fairness and that the terms of an agreement presupposes fairness. This is however not true as Sandel (2009) argues that that two people going into a contract does not confer fairness on them automatically. So many factors may come into the issue at this point which may include advantages of one party against the other that may not be obvious to the disadvantaged party. This may create the problem of lack of fairness that the social contract sought to achieve in the first place. It may therefore be argued that the resort to contract to set up the parameters for justice may not be as simple as we may think. Rawls would defend this by the argument that all the parties in the contract are assumed to be equal and no one has any hidden intellectual or negotiating skill more than the others. Habermas (2003), however, objects to this scheme because Rawls did not consider nature in politics and human affairs.

My reformulation of the original position makes it symbolic and emblematic of a necessary balance and equilibrium that affords a people or society the opportunity for a fresh start. This resonates well in the case of many contemporary societies in post colonial governance because it is believed that the societies the colonial masters left behind have not been able to foster the required integration and cohesion. Against this background Awolowo (1947) described Nigeria as remaining a geographical expression and not a nation. In advocating this original position option for Nigeria, I am guided by Rawls' belief that the original position is like the social contract theory. Social justice for Rawls seems to rely so much on the idea of contract as he believes it is on this basis that parties in a process can offer

compliance willingly. They enter into a contract to choose one principle over another and the reasons and criteria for choosing are made public, especially within a list of alternative principles of justice that are well organised and defined:

I have said that the original position is the appropriate initial status quo which insures that the fundamental agreements reached in it are fair. This fact yields the name "justice as fairness". It is clear then, that I want to say that one conception of justice is more reasonable than another or justifiable with respect to it, if rational persons in the initial situation would choose its principles over those of the other for the role of justice. Conceptions of justice are to be ranked by their acceptability to persons so circumstanced. (Rawls, 1971, 15 - 16)

In advocating this doctrine the idea of the interests of the individual and the society are respected and one of the major accomplishments of this was the reconciliation of the two major moral theories of utilitarianism and the Kantian theory of rationality and dignity of the person. Rawls thus brought together the utilitarian principle of the greatest happiness of the greatest number without neglecting any individual for any reason and the moral human nobility of Kant's categorical imperative (Habermas, 2003). In doing this he advocates several conditions and doctrines that collectively produce his goals one of which is the prerequisite of the veil of ignorance.

Some aspects of Rawls' theory did not also go down well with Habermas. While he accepted the fact that Rawls was attempting to reconcile the ethical theories of greatest number without ignoring the least individual and the moral nobility of Kant's principle, he criticised Rawls for undermining the natural attributes of man in human and political issues. He did not agree with the idea of abandoning the views of the advocates of state of nature as that was the very nature of man. He noted that Rawls in his discussion of the original position erroneously emphasised the rational and reasonable nature of man as against the contractarians who saw otherwise.

Habermas' argument is that Rawls original position did not achieve the gains of the state of nature theory and teachings because in the original position of Rawls, there is nothing that corresponds with the real nature of man including the fear of death as the primary motive for going into the contract. He also notes that Rawls was unclear about the reason for the parties joining civil society in the first place. He propounded that what Rawls gives in the place of fear is fairness. He argues that the moment participants in the original position

leave the original position and the veil of ignorance is removed, the motive for compliance falls away with it also. But the original position according to him is a bloodless abstraction which does not give such permanent motive.

Arguments like this make the original position very difficult to accept in its letter and spirit. Truly, Rawls tried to take the social contract theory to a higher abstraction but ran into the same problem he was avoiding which was the metaphysical texture of the theory. In the long run, he was accused of also formulating a doctrine that is seriously metaphysical and unnatural. To appreciate the import of this notion the original position in Rawls should be looked at from a different perspectives. In the first place it is the starting point for the deliberation on the principles of justice and it is analogous to the social contract in Hobbes et al.

The original position in Rawls is the inauguration of a system or procedure that is fair, so that at the end of deliberations, principles of justice agreed on will be just and thus carry the kind of force that confers cooperation and anticipated justification, obedience and acceptance. In most cases however, the nature of man also necessitates elements in the society that will still oppose and reject these principles agreed, and not to think of this is to build a utopian society. This does not, however, mean that because of the dissenting elements of society, the majority of members of society cannot go ahead and agree on principles and theories that would regulate their institutions and lead to social justice and political stability

The assumption here contractarians may argue, is that this kind of abstraction by Rawls assists us to be separated from the relativity and subjectivity of moral beliefs and helps us to construct political morality in a better and clearer manner. The picture here is that of three elements involved in the project: there are the parties in the contract, the process of the contract and the choice conditions. The parties it must be emphasised are representing those that are concerned in this societal project, they are artificial, meaning they are distinct from existing humans. And this is where a lot of misconceptions are made, as some critics treat these persons as real people.

The parties in the original position should be read as hypothetical parties who only act as trustees and or guardians given citizen's most important assets – their interests. In this

hypothetical situation, the members choose the first principles of justice that are to regulate all subsequent criticisms and reform of their institutions. But while making these choices, no one knows his place in society, his class, position or social status, or his natural assets and abilities, his strength, intelligence and so forth. They are all mutually disinterested in the issues as they don't have interest in other people's interests and at the same time, they are not egoistic or selfish. They have neither envy, nor any negative psychological emotions and are not characterised by any kind of special psychologies. Their duty here is to choose the best principles of justice and nothing such as best form of government as in the social contract doctrines. So what do these people choose?

In this direction Rawls' idea of original position as a tool for understanding the procedure for setting up principles in society is not only hypothetical but also non-historical (Rawls 1971) yet it was aimed at abstracting a social phenomenon in society. One of the fall-outs of the Rawlsian thinking is the idea of ideal and non-ideal theories and it is my contention that the debate about ideal and non-ideal theory is useful to all practical intent and purposes of social reforms in Nigeria and a good understanding of this idea justifies the relevance of Rawls' theory in Nigeria' discourse. The notion of strict compliance in ideal theory as opposed to partial compliance however, absolutely creates controversy and debate on the demarcation between ideal and non-ideal theory. The controversy emanates from the fact that Rawls intends his theory for a situation of full compliance which connotes a public agreement on the conception of justice.

If we take his ideas as meant for a kind of perfect society, then the theory will remain utopian and not practical as no society as such exists, on the other hand, if the theory was born out of the need to solve specific social problems, then the element of imperfect conditions as existent in Nigeria becomes relevant and germane. The theory can therefore be relevant to Nigeria only if looked from the perspective of it being interpreted as a non ideal theory, meaning that it is meant for imperfect conditions. Rawls explains the treatment of his theory thus:

The intuitive idea is to split the theory of justice into two parts. The first or ideal part assumes strict compliance and works out the principles that characterise a well ordered society under favourable circumstances. It develops the conception of a perfectly just basic structure and the corresponding duties and obligations of persons under fixed constraints of human life. My main concern is with this part of

the theory. Non ideal theory, the second part is worked out after an ideal conception of justice has been chosen: only then do the parties ask which principles to adopt under less happy conditions (Rawls 1971, 216).

In a broader sense we can throw more light on this demarcation by looking at ideal theory as a description of principles and ideas necessary for the design of institutions in society and the conduct of members appropriate for a morally and politically ideal order while a non ideal theory concerns itself with the same objective under less perfect conditions (Phillips 1985). Less perfect conditions means a situation where the possibility of total or complete compliance is remote. Simmons (2010) doing a critical analysis of this demarcation was interested in the proper application of the theory of justice and believes that the issues involved are quite serious especially as they concern Rawls but regretted that little attention was paid to the significance of the demarcation, and where there was any it was superficial and misguided. But is the debate on the ideal and non-ideal nature of theories and their utility in solving social and political problems really necessary? It is quite important that a theory is analysed within the context of its intention, because some theories are very utopian while others are practicable.

In a way it is my belief that the debate of the ideal and non ideal categorisation of Rawls' theory was less patronising as it should have been because judging from the objections (as we shall see later) that the theory received, it was not given a chance to be ever implemented and was concluded as an academic exercise. The practical reality of a theory such as that of Rawls was not envisaged at its inception as Rawls himself shrouded some of his arguments in abstract and hypothetical references. Simmons (2010) in making a serious case out of the situation interpreted the difference and demarcation of Rawls' theory as ideal and non ideal as a transition from philosophical theory to political practice.

In giving meaning to the demarcation though, Simmons (2010) looks beyond Rawls' use of the concept of ideal and non ideal theory to other dimensions when he explains that ideal theory in Rawls idealises an assumption of strict compliance which connotes those questions that border on the kind of principles for the basic structure that can best order society, that engender full compliance and elicit just acts, and resolve on the part of the persons in society to help to sustain just institutions. It is quite obvious that Simmons has his

attention on the possibility of having this theory in operation hence the need to examine its important features.

It may help the arguments to indicate that it is not the practice for traditional moral or philosophical theorists to distinguish between theories in terms of ideal and non ideal and there is a general commitment among philosophical theorists that principles appropriate to guiding the conduct of morally ideal human beings and in morally ideal human order, are also appropriate for guiding the conduct of flawed beings (Phillip 1985), meaning that theories that work for ideal situations can equally work for non ideal ones provided the necessary conditions are pursued.

And since there is no single universal, well thought out and well defined ideal in moral and political philosophy, it is important to conclude that a non ideal theory in this understanding is so classified relative to an ideal theory. For Hassoun (2010, 1) therefore, 'on this account there is no such thing as ideal theory or non ideal theory simpliciter. Rather there are many ideal and non ideal theories and any theory can be non ideal relative to a host of other theories'.

Rawls' distinction thus seemed to have weakened his ideal theory assumption when he added that people may not abide by the requirements of justice. In defending this assumption however, Simmons (2010) maintains that the ideal theory or full compliance assumption is intended to pre-empt the effects of operating the institutions of society in such a way that though the parties have different conceptions of justice they still support the principles put in place in the well ordered society. Phillips (1985), on the other hand believes that the non-ideal theory draws the real world closer and does away with any false or perfect compliance idealisation or abstraction assumed by Rawls in formulating ideal theory. This is against the truth that when moral theories such as the *Kantian categorical imperatives* were constructed they were meant for the non ideal world, *utilitarianism* harps on utility or pleasure for greater number even though there is a reality of egotism. Instead of this unnecessary demarcation, Phillip believes the right way is how to amend moral codes that presupposes Rawls' just society.

It is in this direction that we think of how to relate the ideal of a just basic structure of Rawls to the imperatives of structural reforms in a society and since for example, morality

comprises a given set of principles, that put together produce certain goals such as justice and political stability, efforts are to be concentrated and geared toward the adoption of the theory of Rawls explaining the two principles of justice to situations and conditions of social injustice by engaging in the kind of actions that can promote the goal of justice under ideal conditions. But even though exponents such as Rawls may not be able to respond to specifying a way by which ideal principles can be transformed into historical principles that may be useful to societies in need of reforms, Phillips (1985,570) believes that it is possible and can be accomplished.

For it is clear that certain sets of historical principles express the spirit of our ideals more than others. What is required then is that we specify a set of principles that expresses the spirit of our ideals. But if expressing the spirit of an ideal means anything more than attempting to realize its goal or purpose I would very much like to know what that is. Ideal theory tells us how to realize a value or obey an imperative under conditions of full compliance; historical codes tell us what that value or imperative requires of us under less ideal circumstances.

The essence of ideal theory then is to stipulate the conditions of compliance. Compliance whether full or partial then depends on the actions of the parties in social reform but the non-ideal theory goes ahead to settle this by stipulating the actions and policies to be adopted in forcing compliance of principles. The non-ideal theory should be properly understood as one that helps to cater for deliberate and avoidable cases and unfortunate non compliance as a result of such issues as poverty and cultural obstacles, the objective being to force compliance to ideal principles. This is because societies have different reasons for non compliance. We can safely deduce from the argument so far that the idea of well ordered society has been misunderstood (Simmons 2010) and any society that hopes to examine Rawls philosophy has to look at it as one that is ideal but utilises non-ideal theory to achieve because the bottom line is compliance.

Whether meant for an ideal situation or a non ideal situation, the essence of theory should not be undermined because in a practical sense, theory is resorted to deliberately, as a way of explaining a body of ideas having related concepts, variables and formats, all designed in form of a single statement to give practical explanations to events, situations and objects: 'It attempts to give satisfactory account of why events occur the way they do or why an event does or does not occur (Aliyu 1992, 27). The resort to theory in analysing the social and political issues confronting the Nigerian society is because it will help to connect the present

facts to the past through a plausible explanation of the relationship between them. A clear example of this is the connection between pre-colonial and post-colonial Nigeria and how they affect the current social structure of the country. Aliyu (1999, 31) believes:

Through conceptualisation, a theory enables sociologists to capture moments of reality. This further assists in the classification of concepts so as to know which concepts commonly qualify what event. By this a theory helps in the focus of any research activity and gives a sense of direction.

For Simmons therefore, non-ideal theory simply means the actions and policies that can be taken to achieve the ideal of justice in the basic structure of society. This involves actions and policies as earlier stated that are such that they must be morally permissible, politically possible and likely effective; unfortunately Rawls did not indicate how this can be even though he avoided imposing any comprehensive moral doctrine. It is therefore wondered which moral permissiveness he advocates. To this extent Simmons sees Rawls non-ideal theory as transitional and not comparative and interprets it as an integrated goal targeted at the effective and possible assessment of policies needed in achieving justice as ideal theory.

In practical and historical terms and in the tow of traditional Philosophical theorists, non ideal conditions and societies or human beings in less perfect or less fortunate circumstances should continue to find ideal theory relevant and germane. In real life conditions, every theory can be seen as non ideal because as Hassoun (2010) argues, it depicts the reality of this world where perfection or perfect order is not only practically impossible but also a mirage. Thus the possible connection between Rawls and the Nigerian social situation ought to be embraced as the practicality of ideal theory employed in social reforms in a less ordered society that can be achieved through non-ideal theory.

### **1. ORIGINAL POSITION IN NIGERIA'S CONTEXT/DISOURSE**

The idea of the original position if given flesh supports the clamour in Nigeria for a national dialogue with absolute sovereignty or a Sovereign National Conference (SNC)<sup>24</sup> of all the ethnic nationalities to deliberate on the structure and interplay of social-political institutions that should regulate the society. Many commentators, as available literature indicates, see

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<sup>24</sup> Over the years, so many rights activists have advocate the convocation of a conference of ethnic nationalities with power of sovereignty to discuss the nation.

the positions of those clamouring for this as a veritable opportunity for Nigerians to agree on fundamental features of their state and the basis for their social union and relations (Udogu 2005; Maier, 2000). The core of this clamour is that there must be a positive reaction to Awolowo's categorisation of Nigeria as not yet a nation and it is only after the dialogue expected to produce basic agreements that the issue can be laid to rest.

It is however proper to point out that some people may argue that that discussing Nigeria's future cannot be left in the hands of only ethnic groups as advocates insist. To support this argument, Obasanjo in 2005 invited all 'stakeholders' to the National Political Reforms Conference held the same year to produce a new constitution. Unfortunately, in my view, because of the unwieldy nature of the composition, the members were distracted and they lost focus, to the extent that the work was abandoned while the reason for the conference remained. My belief is that in an original position, members are only to agree on a public conception of justice and public principles of justice that would regulate social-political institutions. These institutions would in turn govern the social structure that would produce social justice and political stability.

The original position can also be looked at from other perspectives. In the first place it is the starting point for deliberation on the principles of justice and it is analogous to the classical social contract theory. In the Nigerian contemporary society, the original position can be the convocation of a constitutional conference aimed at fashioning out principles of justice by which society will be regulated and goods, benefits and wealth distributed. It is in the original position that principles are chosen with full knowledge of the character of human nature and the laws of society and economics but in ignorance of economic and social advantages that distinguish one member from another. The rationality and reasonableness of men as having goals and needing each other is highlighted here but specific status and positions in real life are obscured for the purpose of forestalling selfishness and self interest in designing society.

A major lesson for Nigeria in the idea of original position is what Udogu (2005) and Saro-Wiwa (1994) see as the need for the diverse people of Nigeria to enter into a proper social contract that is fair to all the parties and groups that currently inhabit the country. The process of having the contract itself must have mechanisms that develop fairness rather

than winners and losers. Mechanisms such as impartiality, mutual disinterestedness, sufficient understanding of economic and political matters and critical rationality are vital in this enterprise. The original position and the ideal of a social contract necessitates the urgency of a constitutional conference in which in letter and spirit the outcome of negotiations on agreements reached are adequately reflected.

History shows that there is a parallel in Nigeria in form of convocation of conferences and apart from the colonial era, there were postcolonial attempts in 1967, 1979, 1989, 1995 and 2005 to fashion out a new constitution to iron out all the contentious issues in the Nigerian federation. They all failed because in Saro-Wiwa's (1994) estimation, there was no theoretical foundation and they lacked the necessary scientific reasons for the organisation of society. The rulers in these dispensations are accused of putting their individual interests ahead of that of the federation and the people. This created a situation of unsatisfactory outcomes and outright rejection of the results by the ethnic groups. Saro-Wiwa, who was an ethnic activist, sums it up this way:

one reason Nigeria has failed woefully has been the penchant of the military to create "no go areas" or to add and delete whatever they pleased to decisions of constituent assemblies. This happened at Aburi in the important discussion between Ojukwu and Gowon and it led to the civil war of 1967. The Obasanjo administration smuggled the land use decree into the 1979 constitution and the disgraced dictator, Babangida, so amended the 1989 constitution that by the time he was done, it looked like a rude letter to his girl friend, instead of the highest law of the land (Saro-Wiwa 1994, 527)

In a related vein, Sklar (2004, 46) argues that 'a national conference of delegates chosen by ethnically oriented sectional organisations would almost certainly produce a draft constitution that would maximise both the legal consequences of cultural differences and sectional control of economic resources'. The likely organisations to provide the parties to the conference (original position) are already in place as part of the social-political structure of the Nigerian society and they are Afenifere for the Yorubas, Arewa consultative forum for the Hausa/Fulani, Ohaneze for the Igbos, Ijaw national congress for the Ijaws and the Middle belt forum for the minorities in the northern part of the country etc. All these show a template in Nigeria for a possible variation and adaptation of Rawls' original position. The difference however, is that Nigeria's case will be historical and real, and as such principles must be agreed on to stimulate equality, freedom and self-lessness.

Activists and scholars collectively believe that only a constitutional conference can save the country (Sagay 2003, Abegunrin 2007, Saro-Wiwa 1994, Tukur 1994). Sagay's argument for example is that a conference of ethnic nationalities would tackle not only a restructuring of functions between the centre and the component states but also a regrouping of the state along nationalities and ethnic lines. There are other myriad of voices that support Sagay's argument and they all agree that the solution in Nigeria has gone beyond judicial intervention and political posturing as only a return to the starting point is viable. In specific terms one of the most fashionable and trendy theories that have been espoused and critically examined is this idea of a sovereign national conference (SNC).

Udogu (2005) proposes that the country's political problems are so complex that the elite have a responsibility to find solutions. Perhaps we need to remember Achebe's (1983) and Tukur's (2004) arguments that the elite is corrupt, morally bankrupt and inefficient. However Udogu supports the call for a discussion:

And this could be done by debating the issues in an assembly to deconstruct the fragile state and restructure the state-system so that every group, nationality, and individual is a stakeholder in the polity. The terms applied by activists interested in this matter to such a meeting include sovereign national constitutional conference, National conference, sovereign national conference, and so on (Udogu 2005, 2).

Sagay (2003, 2004), Enahoro (2006), Udogu (2005), Nwagwu (2006), Momoh & Adejumbi (2002), Maier (2000, 2002) among others have all concluded that it is only the convocation of a Sovereign National Conference (SNC) of ethnic nationalities that can tackle and enshrine the theory of true federalism, fiscal federalism and restructuring of all national institutions in the country to achieve fairness and justice. This aligns well with Rawls' doctrine of the basic structure of society as the appropriate subject of justice and in line with the Aburi accord of 1967 in Ghana where feuding parties in the social-political crisis preceding the civil war agreed on certain principles. Exponents of this process of nation building believe that the conference is expected to produce a new constitution that will put to rest the lingering problems and put in place the People's Republic (Awolowo 1968, Maier 2000, Akinrinade 2008).

## 5. OVERLAPPING CONSENSUS

Overlapping consensus in the context of a society in search of stability can be analysed as the social device achieved when citizens, endorsing different reasonable comprehensive doctrines, agree on and accept the same liberal democratic vision for their society. Through this understanding, which may also be termed as an agreement on justice reached by citizens who have opposite religious and philosophical views, members of society establish their sense of justice. It means that a pluralistic society can indeed achieve a common conception of the just irrespective of their cultural diversity. This is because it is not so straight forward and easy in the political domain, which happens to be the fulcrum of society to achieve the good. Achieving a common understanding of the good in political society is so impossible that the 'good' has to be replaced with the 'right' (Rawls 1993). Overlapping consensus is all about agreeing on a conception of justice from different perspectives:

In such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view. Social unity is possible when the doctrine making up the consensus are affirmed by society's politically active citizens and the requirements of justice are not much in conflict with citizens' essential interests as formed and encouraged by their social arrangements (Rawls 1993, 134).

The importance of this idea is that Rawls attempted to achieve the feasibility of a liberal consensus despite differences that people and groups in a given political setting may accept, especially if and provided they are amenable to compromise, are reasonable and rational. The spirit of the 'overlapping consensus' derives from the situation where often different and opposing accounts of morality, nature etc held by people in a socio-political set overlap with each other on the issue of governance after a consensus, compromise or agreement is reached as a result of reason and rationality. Former Nigerian president Babangida, arguing for this, notes that academics, scholars and social scientists are united in their belief that a deeply divided society along ethnic lines poses a very grave and viable danger to the growth of democracy and social relations among the people. So the idea of overlapping consensus in power sharing, power distribution and power negotiation have become essential ingredients that must be and remain permanent in pluralistic societies (Babangida 2010).

It is believed that among the laws that rule human societies, there is one which seems to be more precise, clearer and more useful than others. And the idea is that if men are to remain civilised in society, or wish to become so, the process of associating together must grow, and improve (Tocqueville 1985). Social relations in society therefore throw up the need for social stability and organising social and political institutions the right and just way is likely to result in political stability (Rawls 1993). The kernel of the doctrine of overlapping consensus in its abstract form connotes a situation where there is an agreement on the conception of justice and this agreement leads to the agreement on the two principles of justice as the best choice among others. In a concrete social-political reality the doctrine simply brings to the discourse the need for parties in any forum to reach and abide by the principle of agreement despite differences in religion, morals and philosophy.

### **1. OVERLAPPING CONSENSUS IN NIGERIA'S CONTEXT/DISOURSE**

Commentators (Tukur 2004; Achebe 1983; Maier, 2000) believe the social ills and political instability in the Nigerian society is due to failure of leadership and weak social structure. This they blame on the inability of the political class to fashion and build the consensus needed to address existing social and political disorder and set up institutions that are appropriate and adequate to engender political stability. The country is thus bedevilled by problems and cankerworms that are related to historical antecedents and social malfunction. National embarrassments such as issues of federal character, the north-south dichotomy, ethnic patriotism, minority rights, Niger Delta and the sharing of the national cake have become topical in all national discourse to the detriment of the welfare and justice of the society and persist because there is no consensus on them.

The closest explanation of overlapping consensus in any real situation is the game of "give and take" or what is popularly known as political compromise where people with different positions agree to soften their stance and give room for each other's positions by overlapping their positions for the purpose of reaching a common agreement. This is a tool that is usually employed in negotiations and political settlements in cases or situations of plural and seriously diverse interests that need to work together to achieve a purpose or produce a desired result. In both the abstract and real situations, the spirit behind overlapping consensus as Rawls intends is to agree on what is right. This is because

sociologically and philosophically it is difficult to arrive at an overlapping consensus on what is morally good but it is far easier to agree on what is politically right.

Atiku Abubakar<sup>25</sup> makes an argument for zoning or rotational presidency based on political consensus. Even though I do not subscribe to his views, in a practical way they align well with the doctrine of overlapping consensus. He believes the issue of consensus in Nigeria is made manifest and operational in the political arena through the principle of rotational presidency or zoning. This principle is a middle ground approach to politics in a country where there is an overlapping display and interplay of the interests of the various ethnic groups and regions of the country. The principle of consensus building has the capacity to safeguard the stability and unity of the political process. Abubakar argued that there should be a consensus by the political class to abide by the zoning principle. Sadly, however, it is outside the control of the people, making it undemocratic. Going down memory lane to accentuate his theory, he notes that:

We have seen it in the first republic; the practice of “winner takes all” led to the collapse of the first republic. Zoning provides fair and equitable distribution of power at all levels. It is not something new, undemocratic, or uncivilised. Western countries practice it, a developed democracy like Switzerland has nationalities such as French, Italians and Germans and they rotate the presidency every year. Belgium does it and zoning is in developed democracies in Europe (Abubakar 2010)

For Saro-Wiwa (1994), Nigeria’s pre-independence conferences arrived at decisions through consensus but those organised by the country’s subsequent military administrations and civilian governments in post-colonial periods deviated from this principle and are often based on voting, where the highest numbers carry the day. He argues that in assemblies comprising large ethnic groups decisions based on votes invariably favour them and ultimately injures the minorities. Democracy in his estimation may be about majority rule, but it also pre-eminently guarantees the rights and interests of the minorities. Overlapping consensus as adumbrated by Rawls (1993) in *Political Liberalism* on the other hand can be translated to national consensus in society where there is a constitutional protection for both majority and minority rights through mutual understanding and shifting of positions to accommodate the views and interests of others. In a multi-ethnic state such as Nigeria where some ethnic groups number a few thousands, while others go into tens of millions,

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<sup>25</sup> Atiku Abubakar was the vice president of Nigeria between 1999 and 2007. He was one of the strong advocates of the zoning of political office principle as a way of promoting national consensus.

creating a just and fair society must guarantee that the disadvantaged are properly protected and this can only come through consensus.

## **6. A WELL ORDERED SOCIETY**

Rawls' notion of the well ordered society assumes three things. One is a society in which everyone accepts the principle of justice and knows that everyone else accepts it. Secondly, there is an effective regulation by a public conception of what justice is and society's basic structure is publicly known, or with good reason believed to satisfy those principles of justice. And thirdly, citizens have a normal effective sense of justice. A well ordered society in Rawls is a society that is organised based on a public principle of justice. It is public in that the decision of the principles is not arbitrary but one that the people originate. In a well ordered society, Rawls says people understand and agree on the principles of justice.

A society is well ordered when it is not only designed to achieve the good of members but when it is also effectively regulated by a public conception of justice. That is, it is a society in which everyone accepts and knows that the others accept the same principles of justice and the basic social institutions generally satisfy and are generally known to satisfy these principles (Rawls, 1971, 4).

Rawls argues that while men make excessive claims on each other, they have a common point of view through which their demands can be adjudicated and no matter how personal or selfish their interests, in a well ordered society they know what the society has put in place to moderate such selfish tendencies and they make demands within the principles of justice. He further argues that among individuals with different aims and purposes, a collective and public conception of justice creates the basis for civic friendship. One can understand Rawls as noting that a public conception of justice constitutes the fundamental charter of a well ordered human association.

He also notes that even though people hold varied conceptions of justice, they can still agree that social and political institutions are just when there is no arbitrary discrimination among persons in the distribution of basic rights and duties. People tend to live together in diverse beliefs when they are confident that the institutions that affect their lives are just. The above represents the views of Rawls in his first book, *A theory of justice*. He continued this theory in political liberalism.

I believe that the concept of a well ordered society conjures the image of highly developed and sophisticated society and it is likely that they have outgrown the social contract theory or any theory of justice for that matter as a high level of sophistication is assumed for such a situation. My argument is that the intentions of any theory of justice are more necessary and relevant in less ordered societies as I believe that though Rawls proposed his theory for a well ordered society, in practice it can only address social injustice in practical realities (Audard 2007). If followed as it is, no society can fulfil its ideal as a theoretical contraption, because obtaining total compliance of the membership of society on the principle of justice is pushing expectations too far. There is thus no evidence in literature that it was ever attained. In reality, well ordered societies don't deliberate on social justice as it is assumed in their system, leaving the possibility in only less ordered ones. Rawls (1971, 5) admitted this much:

One may think of a public conception of justice as constituting the fundamental charter of a well-ordered human association. Existing societies are of course seldom well-ordered in this sense, for what is just and unjust is usually in dispute. Men disagree about which principles should define the basic terms of their association. Yet we may still say, despite this disagreement, that each has a conception of justice.

#### **A. A WELL ORDERED SOCIETY IN NIGERIA'S CONTEXT/DISOURSE**

Nigeria, in the Rawlsian scheme is not a well ordered society as it is obviously not regulated by a public conception of justice. Either by commission or omission, the different people that make the territory do not have any national belief, religion, morality and culture as we saw in chapter one. As West (2002) argued, Nigeria is yet to assume nationhood in the true sense of the concept despite pretensions otherwise but is merely a conglomeration of ethnic nations without any commonality whatsoever or an agreed public conception of justice. The country is described as an amalgam of different people, each with their distinct nationalities and culture consisting of language, philosophy, morality and religion, a fact of the historical reality before the colonial invasion. In line with the basis of political liberalism, Nigeria is a country of ethnic pluralism and polarisation which are incompatible but reasonable (Rawls 1993). This is a natural situation that cannot be denied and any attempt to ignore this reality plunges the society more into crisis.

Like Babalola<sup>26</sup> (2001), David-West also posits that for a nation to emerge, and have all the necessary social and political structures such as a public conception of justice or public principles of justice, it has to experience a deep rooted fundamental desire to be one nation with the trappings of all spirituality and consciousness. This process is born out of the acceptance of a shared vision, goal and desire to live together in harmony and justice. People must agree that social contract and social compact (where realities of unavoidable differences and unlikeness are divested of divisive tendencies akin to the original position under a veil of ignorance in Rawls) are channelled to achieving unity in diversity as the first step in the march to nationhood. This correlates with the opinion of not a few that the greatest challenge facing the society since independence is how to harmoniously integrate the various ethnic nationalities into a nation and give them a common vision beyond and above the narrow confines of the ethnic cocoons (Achebe 1983).

In the ideal setting, Rawls did not envisage a realisation of his ideas in less ordered societies such as Nigeria and many other African societies. Apart from the fact there is no public conception of justice, most African societies including Nigeria, are underdeveloped, and steeped in social problems such as entrenched and institutionalised injustice, deep distrust in social and political relations, and mutual suspicion by members of the different ethnic groups. There are serious material and physical poverty, dearth in basic infrastructure and amenities. The societies are full of economic deprivation, social-political marginalisation, and environmental degradation due to exploitation of natural resources, moral bankruptcy and political instability. Rawls may be right because in a situation of disorder no theory, political conception or public principle of justice can thrive. But does it then mean that such ideals cannot be applicable in such climes if the conditions change? The answer is in the negative as the concept of a well ordered society is one that has the potential to help society in such practical ways.

Because it is impossible to achieve perfect agreement in society and the desirability of realistic facts about social relations of members, it is yet to be seen how the condition of a well ordered society can be accepted for the full implementation of Rawls theory of justice.

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<sup>26</sup> Chief Afe Babalola is one of the legal luminaries of Nigeria. He delivered a lecture in 2001 in Rivers state where he outlined the process of nation building.

Can the theory of Rawls be applicable in all societies then? It seems that on face value, it does not, as there are societies that may not be democratic or as organised as the one envisaged by Rawls and as such may not be suitable for the theory. The question then is, in terms of methodology, how does the idea of well ordered society fit into historical societies? The answer, it would seem, is that in the abstract form there is no chance of achieving the ideal but if adapted for practical purposes then less ordered societies can be accommodated.

Granted that there is sense and virtue in advocating a well ordered society as the major difference between it and the less ordered society is that there is a social construction or an agreement on what justice is in the society and members know and are regulated by this knowledge. In our own case, over the years Nigerians have fought for the right to have public reason in the formulation of policies that affect them but to no avail. A contentious claim however is that among the different ethnic groups, a well ordered society existed and they had their public conception and sense of justice entrenched in their psyche and their principles of justice were also known but the advent of an imposition of western style civilisation lacking in depth and popular support distorted this sense of justice and has thus created a generation of people who are grappling with modern and traditional senses of justice at the same time (Ikara 1985; Atanda 1985; Alagoa 1985)<sup>27</sup>.

For a society like Nigeria this condition of Rawls may not be easily observed because of this historical antecedent. In traditional Nigerian societies people held on to their idea of justice and these ideas were not constructed by the people but were given. The country in its current form and structure being multi-cultural and multi-ethnic suffers from a lack of common understanding of what justice is and this makes it difficult for the condition of Rawls to be realised. The different tribes and groups hold religious and cultural beliefs that confer on them the absolute obligation to obey the moral codes, social rules and religious dogmas dictated by the 'gods' (Awolowo, 1968). The Ibos, Yoruba, Hausa/Fulani and the Ijaws all possess this code. The problem is that when these tribes were amalgamated into a nation in 1914, nothing was done to integrate their different doctrines under an agreed and acceptable political scheme.

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<sup>27</sup> Refer to the effects of ethnic pluralism on the social structure of Nigeria in chapter one.

Political liberalism interprets the protection of pluralism and the rights of individuals on the one hand and the promotion of socio-economic equality as an outcome of a single assessment which is equality among people made operational by their common political and social institutions on the other hand. But this position places much emphasis on individual rights and liberty devoid of any kind of control by the State or any other authority. In this direction, Rawls introduces some kind of mutual agreement by citizens to put certain measures in place through the State and other authorities in order to achieve justice in society. This is where he is seen to be making a difference in traditional liberalism which advocates the exercise of personal liberty with little or no interference from the State.

The salient point is that in the political society created in 1914, even though people hold varied conceptions of justice, they can still agree that social and political institutions are just when there is no arbitrary discrimination among persons in the distribution of basic rights and duties among other things as self evidently, people tend to live together peacefully in plural beliefs when they are confident that the institutions that affect their lives are just and that decisions that affect them are agreed on in fair processes. The condition of a well ordered society in my opinion in the case of Nigeria should not be a precondition but one that will be achieved at the end of the envisaged social reconstruction or reconstitution through the gathering of the ethnic groups that were put together as Nigeria's version of Rawls' original position. In this national dialogue, a public conception of justice created out of an overlapping consensus would be instituted; public principles of justice and other aspects of social union and social cooperation among the people would also be agreed upon after deliberations.

## **7. CONCLUSION**

Having seen Rawls' theory in *Political Liberalism* and how it outlines his beliefs and philosophy of society, reactions and other opinions, analysis and commentaries against the theory and in support of it, my contention is that Rawls' theory on society in spite of its perceived short-comings represents the vision of a society worth striving for and one that can be a stimulant to reform and can transform any contemporary society that shares similar conditions of injustice occasioned by lack of liberty, presence of inequalities etc envisioned by the theory. I believe that the theory remains the best option for the Nigerian

society in comparison to the present situation of oligarchy where a few people form themselves into the ruling class to dictate what justice is to the rest of the society. Political liberalism is also preferable in Nigeria to utilitarianism which guides the state and government organising society.

The idea of a social contract (Hobbes 1991, Locke 1980) based on the principles of compromise and consensus building is an ideal that a society like Nigeria grappling with social disorder and social injustice will find useful especially with its multi- ethnic and multi-cultural nature. I believe that countries that are less ordered will find the spirit behind the original position as a platform for a social contract necessary for change to begin and at the same time an overlapping consensus notion is a tool that will be relevant in forging the kind of compromises and unity Nigerians yearn for. The original position may be hypothetical and non-historical but it represents the virtue in creating a situation for the discussion of social issues that will usher in the social points of view that are acceptable to all. In line with relying on theory for resolution of social problems, Awolowo (1968) argued seriously against the attempt at shying away from translating theory to practice noting that:

the exposition of all forms of political, economic, and social principles and theories must strive to be of universal applicability and those that indeed are of this truly demonstrate the possibility of applying methodology to all kinds of social problems and without any kind of undisguised implications, all social problems can and should be solved by employing the tools of scientific investigation. The very idea of scientific investigation which can take various forms such as observation, empiricism, analysis, classification, synthesis, induction, and deductions and generalisations are at the disposal of the social researcher and social scientist in his quest to unravel and give proper understanding to the dynamics of society(1968, vii).

Rawls in his second principle of justice introduced the idea of the least advantaged in the society without giving an explicit definition of what he meant by the term. The problem of relativity and objectivity will not allow us to have an easy interpretation of what the least advantaged would be in any society but we can still refer to them as those that are economically the poorest. We know in society there are always different economic groups or classes: the rich, middle class, junior workers, unemployed and the poor; the haves and the have-nots, the well off and worst off etc. The idea of least advantaged must mean those that cannot help themselves in society. If the theory of justice must be pragmatic, the very helpless, jobless, elderly, and abandoned children and the very indigent of the society

should be classified as the least advantaged for the theory to make sense and avoid any vague understanding. This makes the theory more focused, sharper, and more realistic.

In analysing Rawls, I also noticed a big gap in the doctrine of 'well ordered society' which he describes as *one* 'effectively regulated by some public political conception of justice, whatever that conception may be' (Rawls, 2003, 5). He believes that with the fact of reasonable pluralism, a well ordered society is that where there is the possibility of members accepting the same comprehensive doctrine. To Rawls therefore, the theory of justice works in a well ordered society. Granted and accepted that this is true; the question then is: why should there be need for a theory of justice in a well ordered society? Isn't there a contradiction here? A well ordered society in the sense of Rawls should not have a problem of lacking a theory as it should be a near perfect society.

The idea of distributive justice primarily carries the impression of a mediating, moderating, judging and balancing philosophy and is always aimed at settling disputes and disagreements. This point was alluded to by Nozick (1974) when he argued against the introduction of a theory of distributive justice in a situation of entitlement. Rawls had a picture in mind when he formulated the theory of justice and it was in response and reaction to that picture. The picture I believe was that of a society without rule of law, justice, human rights, equality and without a public conception of justice. If the opposite was the case in America, Rawls would not have dreamed of a theory of justice. The argument would now be that either the America of the 1950s was the kind of society described above or Rawls had another society with the stated problems in mind. The submission of this thesis is therefore that the idea of a well ordered society should be properly interpreted to mean the end or purpose of a disordered society.

I strongly believe that the theory of justice is targeted at any society that is democratic or aspires to be; any society that is unjust and not stable; any society that lacks basic liberties, rights and equality for its citizens; any society that has no public conception of justice; any society that has some goods, burdens, income, and wealth to share but has a problem of how to distribute them or how to attain justice in a fair and equitable way; it is also any society that is plural in nature but the people wish to live together, and finally any society that has weak social and political institutions. The theory of justice by its very intention is

not for any perfect society. The very essence of the theory is the attempt to restore justice in society.

Despite all its short-comings, Rawls' theory of justice in *Political Liberalism* basically concerned with the primacy of justice in society and this research explores the practicability of relating it to a concrete democratic society. In the first place the theory was a response to a real situation, one that the American society presented in the 1950s (Audard, 2007). This point is made to show that the theory can in the same vein apply to any society that shows signs of the problems America faced. Rawls himself in a lecture in 1980<sup>28</sup> alluded to the presence of some social problems in America at some point in time.

Rawls' thoughts and philosophising were on the socio- political situation in America in the middle of the 20<sup>th</sup> century<sup>29</sup>. And having seen the social conditions prevalent, he sought to provide a solution through a theory of justice. And he stated that he was constructing a theory that resembles the Kantian form of constructivism. So the question will now be: is there any reason why another attempt based on this premise, cannot rely on the 'Rawlsian' constructivism approach to reflect on a contemporary society saddled with problems of unjust social structure, lack of basic rights and liberties, tribalism, poverty, inequality, and insecurity similar to social issues of social injustice occasioned by inequality, racial segregation, lack of opportunities for minorities that confronted the American society in the mid 1950s and construct a theory? The answer is no. The following points will suffice therefore.

Rawls' theory of justice from the above account was not merely a thought experiment or an academic exercise, but was a conscious attempt to proffer solutions to societal problems. Rawls proffered *Justice as Fairness in A theory of justice* and *Political Liberalism* (1971, 1993) as a way of achieving a just and stable society. And I believe that this theory, though not perfect or infallible, is one that a society can use in kick-starting a socio-political reformation or transformation. This is born out of the idea that society is knowledge driven and is always based on models and theories that provide the tools for its engineering and

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<sup>28</sup> The lecture is titled "Kantian Constructivism in Moral Theory and it was delivered in 1980.

<sup>29</sup> In the historical background to Rawls at the beginning of the chapter, some points were made about the social situation in America then.

tinkering. It is on this basis that I identify the importance and relevance of the Rawlsian theory of justice, especially his liberalism.

Rawls' endeavour conforms to the role of political philosophy as enumerated by him. He explained that political philosophy contributes to how a people sort out their political and social institutions and all that goes with it as a society and not as individuals. This is as a result of inevitable divisive conflicts in society and the need for settlement. Another role the theory like political philosophy plays is in terms of reconciliation. We can reconcile after the fact of reasonable pluralism and a proper understanding from a philosophical view point is achieved. So the theory of justice by Rawls can form the basis of orientation, reconciliation, and the attainment of a predictable political possibility such as a reasonably just, though not perfect democratic regimes (Rawls, 2003).

And one of the highlights of a strong theory is to be able to challenge established and existing paradigms that may be problematic but are still strongly held by members of an academic community the Kuhnian way. In Science, it takes a scientific revolution to change some paradigms. Rawls joined the discussions on social justice when the ideology of utilitarianism held sway as the most accepted theory on social justice and was the basis for the system of justice in so many societies (Audard, 2007). Rawls challenged it as not being adequate for society because it neglects the plight of the minority on the altar of the good of the majority.

## **PART TWO:**

### **THEORETICAL CONCEPTUALISATIONS**

#### **CHAPTER THREE: THE IMPERATIVES OF THEORY IN NIGERIA**

##### **1. INTRODUCTION**

This chapter examines the theoretical significance and impact of the extrapolation of theories and principles generally in the understanding of the social structure of a society in the quest for social justice and political stability. This is in contradistinction to Saro-Wiwa's (1994) and Nnoli's (1994) analysis of banal, whimsical, emotive and unscientific patterns and approaches adopted by the Nigerian state since independence. The chapter will progress in the manner of first taking an over-view of what a theory is and its necessity and relevance in the search for social-political solutions in society. This is accentuated by the observation by thinkers such as Awolowo (1968) that many African leaders in organising their states ignore the role of theories and social science unlike developed democracies such as Europe and America that pattern their societies in line with social and political theories, models and principles.

The notion of theory and its practical usage in society is examined in consonance with arguments on the relationship between theory and practice. The idea of an ideal theory and a non ideal theory is examined also in relation and reaction to the parameters set by Rawls for his theory. Rawls (1971) wrote that his theory of justice is intended only for a 'well ordered society' but with possibilities of non compliance in less ordered social conditions. Rawls believed that perfect conditions are quite possible for the application of his two principles of justice while at the same time he thought that lesser conditions of social order are also possible. It is therefore confusing that he threw up the debate, especially with the belief that he postulated his ideas though as a non historical and hypothetical contraption but actually in reaction to the social problems of the American society in the 1950s (Audard 2007)

Here, I posit that most societies in the world are so diverse and pluralistic that agreements on a public conception of justice are not in existence, a situation that categorises them as lesser societies in the first place. To this extent the requirement of a well ordered society is too much of an ideal to be attached to the function of a theory of social justice, especially if

it is intended to be a practical theory aimed at addressing the age-long problem of injustice in society, well ordered or not. In this direction, it is normal to argue that most theories may look ideal in the first instance, but when they are expected to address social problems, then perfect conditions are not possible. It is based on this that I address this issue of ideal and non ideal theory.

In employing theory for the analysis of the social-political crises in Nigeria, we are guided by the notion that theories are synonymous and emblematic of doors and windows through which we can analyse society and interpret its events and actions with the intention of arriving at policies that can solve problems therein (Joab-Peterside 2004). To this extent, theory is to the social scientist what the software is to the computer scientist (Anikpo 1996), and a theory is not opposed to practice in any way but they are both dialectical in action. A theory gives rise to practice and gives it the basis for explanation while a theory emanates from practice.

Rawls was of the conviction that special cases of conceiving justice in society can be made possible with the application of theory: 'the significance of this special case is obvious and needs no explanation. It is natural to conjecture that once we have a sound theory for this case, the remaining problems of justice will prove more tractable in the light of it' (Rawls 1971, 7). Theory in his view can be used to determine a perfect condition for the selection of his two principles; meaning full compliance of parties in the original position and less perfect conditions aiming at the possibilities of non compliance with the principles.

## **2. ARGUMENT FOR A SOCIAL RESTRUCTURING THROUGH THEORY**

The agitation for reconstituting the social structure of Nigeria has a long history, dating back to the 1960s when the eastern part of the country led by colonel Ojukwu suggested the theory of confederation. Other ethnic groups such as the Ijaws and Yorubas have since followed up with their own clamour for change. Interesting as the different positions and agitations may be, it is indubitable that since the 1990s several episodes of what Tamuno (2005) terms micro-nationalism have been recorded. They are simply ethnic and cultural agitations. The south-west recorded the advent of OPC (Odua People's Congress), in addition to groups such as Yoruba council of elders and Afenifere; Northern Nigeria espoused ACF (Arewa Consultative Form) while Ijaws had INC (Ijaw National Congress) and

IYC (Ijaw Youth Council) and the south-east propagated Ohaneze indlgbos etc. All these groups want better bargains for their people and this makes the argument for restructuring valid (Tamuno 2005).

While there is the possibility of members of society designing their social order, Christiansen et al. (2001) argue that at an abstract level of reasoning, advocates of this way of organising society are right to claim that indeed there is such a thing as socially constructed reality because social constructivism is a definite idea in the philosophy of social sciences (Jorgensen 2001). Though this claim may not be easily accepted by sceptics, Searle (1995) and Collin (1997) in the same vein argue that contrary to the reality of physical and material existence, social orders and truths exist only by human conventions and agreements, meaning that social realities do not only have the potentials to change but also to be contestable and durable. Christiansen et al. (2001, 3) note that:

Constructivism focuses on social ontology including such diverse phenomena as, for example inter-subjective meanings, norms, rules, institutions, routinised practices, discourse, constitutive and/or deliberative process, symbolic politics, imagined and/or epistemic communities, communicative action, collective identity formation and cultures of national security.

Constructivism as a theory on the process of building and organising society recognises the importance of the causal role of ideas and values in the explanation of human behaviour as against the more abstract structural features accepted as social facts by social theorists who believe that society is given (Haas 2001). In emphasising the important function of ethnic groups and individuals in the construction of a society of choice in Nigeria therefore, it is instructive to be consistent in similar thoughts such as one by Haas that: 'actors, whatever their values and interests act deliberately in pursuing what they want. Their preferences do not result from random choice; their selection of means is the result of calculation; they can and do change their minds and hence their preferences and thus whatever passes for the "national interest" of the state' (Haas 2001, 25). The corollary of this idea is that the socio-political life in any society can be constructed by human practice and is subject to change from time to time.

In effect the idea of constructivism in a 'disordered' society such as Nigeria has a legitimate and proper place in social and political philosophy because the organisation of society

bedevilled by factional, ethnic and personal loyalties and rivalries in a fair and acceptable procedure and pattern gives impetus and legitimacy to the constitution of the society's principles of social justice. If this is not done, our societies in Africa will continue to wallow in crises and underdevelopment. Bayart (1993, 632) asserts that: 'we will simply observe that the structuration of African political societies around factional networks derives from historical continuities and recurrent sociological realities.' Rawls (1993) in his own thinking believes that the constructivist views of justice as fairness have some kind of link and symbiosis with the constructivist idea in the philosophy of Mathematics:

Before turning to the constructivist aspects of justice as fairness, a preliminary remark; while constructivist views have a legitimate place within moral and political philosophy, they also have some affinity with constructivist ideas in philosophy of mathematics. Kant's account of the synthetic a priori nature of Arithmetic and geometry is of course one of the historical origins of those view (Rawls 1993, 102).

Rawls' concern and preference for the Kantian conception of justice rooted in constructivism is in response to the impasse in political history which is made clear in the absence of a unified view and agreement over the past two centuries of American history on the way basic social institutions should be arranged to function in achieving the requirements of freedom and equality of citizens (Kukathas & Petit 1990). As it was in the American society, so it is in Nigeria as there has not been any principle or theory on how the structure of the Nigerian society can be arranged to achieve freedom and equality of members of the society. The Kantian approach adopted by Rawls therefore aims to introduce the freedom and ability of members of society to collectively create their social world based on agreement. Nigerians in the same vein can collectively agree to build their social world.

While we see constructivism in Kant through the categorical imperatives, and we see in Mathematics the procedure expressed in the natural numbers being generated from the basic concept of a unit, each number from the preceding; in political constructivism, Rawls' postulation which I find relevant to the process in Nigeria is that the content of political conception of justice is constructed and the content in justice as fairness are the principles of justice selected in the original position. In Nigeria's case, the parties in the sovereign National Conference or Constitutional Conference have the task of choosing and agreeing to the principles of justice built around liberty, equality and welfare. The reason for this is that

the ethnic groups in Nigeria should be given the basis to form a nation from their diversity and as Scarritt (2008, 112) argues:

A reasonably strong sense of civic or multi-ethnic nationalism and interactions among politicised ethnic groups based primarily on cooperation and institutionalised competition rather than on conflict tend to moderate economic and religious cleavages, strengthen civil society, and enhance state building, democratisation, economic development, and the provision of human rights.

The process underscores the importance of ethnicity and nationalism in a country. If the fight for independence in Nigeria had been fought as a nation, the social-political situation in the country would have been different, but it was fought within the precincts of ethnic nationalism. Saro-Wiwa (1994) in a similar argument recommends that representation in any conference should be by ethnic nationalities so that the federating units can each have a proper voice with their interests well protected in the absence of national cohesion. If there is to be national cohesion in Nigeria however, he argued that all the constituent parts must be made to find something attractive for themselves in the country. This argument supports the claim that structure and agency are dual in nature (Giddens 1984) and states are made for people and not the other way round. He continues that:

Historical circumstances, the will of the people, economics, these together determine what happens to any group of people who seek to live together. But perhaps the most important factor in human life is ethnic. That is probably why the Soviet Union and Yugoslavia where different ethnic groups were held together by force as in Nigeria, had to disintegrate. If Nigeria is to avoid the fate of these nations, we must recognise our differences and build that recognition into the constitution. Since Nigeria is composed of several ethnic groups, and all Nigerians owe their first loyalty to the ethnic group, it will be suicidal to evolve a constitution which does not take this fact into consideration (Saro-Wiwa 1994, 529).

The purpose and end of the constructivist view in Nigeria is the attainment of a well ordered society that is accepted and viewed by all persons as a fair system of cooperation between citizens that are not only reasonable and rational but also regarded as free and equal. The argument is that, if the procedure for the achievement of a well ordered society is followed and carried out properly, the deliberations would result in the most appropriate and suitable principles of justice that would govern the socio-political relations between the ethnic groups that make up the country.

Rawls (1993) posits that the assumption upon which political constructivism is built is the nature of the person and the society. One aspect of this assumption is that political constructivism moves from the unity of practical reason of members of society who from their ability to reason believe that they need each other and an appropriate conception of society, person and the public perception of principles of justice. Here the emphasis that the conceptions of society as a fair system of cooperation and persons as reasonable and rational are complimentary. This mix enables the constructivist notion of society to thrive. It then means that because persons are free, equal, rational and reasonable, they see their limitations and desire to enter into cooperation with others in order to meet some of their needs and at the end of the day this association formed would be viewed as a fair system of cooperation by free and equal persons.

With about 347<sup>30</sup> ethnic groups with diverse, different and incompatible, comprehensive, moral social, religious and philosophical doctrines, Nigeria is saddled with problems associated with societies envisaged in Rawls' political liberalism and while not limiting his political ideas to any clime in terms of application, he frontally sought to engage the problem of political instability in a modern democratic society. The fact that the inception of the Nigerian state may have been wrong and flawed from the outset does not render the Rawlsian concept of Political liberalism unfeasible. This is against the background that there was no foundation of liberty and rights laced with freedom and equality in the formation of the Nigerian nation by the Nigerian people and this is what political liberalism seeks to do.

Our analysis of democracy in the previous chapter, presupposes the presence of some ideals such as the rule of law, popular consent, political equality, majority rule, popular consultation, freedom of speech and association, open and transparent governance etc. Subsequently, the virtue of democracy in the society is that it ensures the establishment of liberal principles and one thing the Nigerian society lacks are the above in addition to individual liberty, freedom, and human rights. The right thing for any state concerning these is to respect and administer the people with regard to equal rights and freedom of speech. Viewed against some of the ideals of Rawls Nigeria falls short in many respects as social injustice is strongly rooted in the society.

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<sup>30</sup> Otite 1990.

In thinking of how to make Rawls' principles govern the social and political institutions of a real society, Phillips (1985) posits that moral and political ideals have inherent in them, groups of principles and codes that collectively elevate certain goals and this being the case, what can be done is to search for the relevant principles that can lead to the attainment of those goals and achieve them under historical conditions. This means that society needs to look for the kinds of principles that can be adapted to draw the goals latent in an ideal theory to historical and practical conditions.

All moral, social and political theories have values behind them and they go further to dictate the conditions to be met for these values to be attained. A moral theory applied to a political environment in the same vein has a value and the conditions necessary for these values are also stipulated by Rawls in his theory. It therefore behoves society acquainted with the theory to fulfil those conditions. The utilitarian ideal aims at human well being and happiness, the Kantian ideal at rational agency, the Rawlsian ideal at liberty and equality, and various religions in the world have as eternal bliss as their sumon bonum. In all, the different philosophies following this tradition are only out to prescribe codes of action which if obeyed promote requisite values. If Kant's ideal prescribes how to act in order to realise the human nature as rational agents and permit others to do the same, then the Rawlsian ideal should mean to prescribe what a society can do to achieve justice whether it is well ordered or less ordered.

A very pertinent point to make at this point is the feasibility of a change in Nigeria's social structure when the ruling elite, accused of perpetrating the unjust structure may not be pre-disposed to it. However, what such a point ignores is the fact that several attempts have been made by the ruling elite in the past to restructure the society. Diamond (1988) believes that the whole essence of the nationalist struggles in Africa by the elite was to seize power. The change came when most of them assumed power in their countries as a result of independence. For Nigeria as an independent nation, attempts at social change began in 1966 when a group of military officers seized power with the intention of changing the social structure in favour of justice but ended up introducing a unitary system of government as against the federal system (Diamond 1988).

In the same year, there was another coup to change the structure followed by yet more in 1975, 1984, 1985, and 1993, and thereafter the enthronement in 1999 of the longest democratic dispensation in Nigeria. All the governments that emerged from these changes argued for change and went as far as introducing some populist programmes such as Ethical Re-orientation in 1981 by Shehu Shagari; War Against Indiscipline (WAI) in 1984 by Mohamadu Buhari; National Orientation Movement (NOM) in 1986 by Ibrahim Babangida, and Mass Mobilization for Social Justice (MAMSER) in 1987 by Babangida. The political leaders at one point or the point emphasised the need to change the social structure of the country, giving credence to the argument that Nigeria is not averse to change. The missing link in my view is a sociological, philosophical, theoretical and scientific foundation for such programmes of change. A former head of state, Gen. Sanni Abacha, before the 1995 constitutional conference asked: 'Given the previous experience, what went wrong, and where should we go from here?' (Saro-Wiwa, 1994, 527)

If we assess Giddens' argument that there is a duality in structure, meaning that it is both 'the medium and the outcome of the practices which constitute social systems' (Giddens 1984, 27), then we can push forward the view that structure shapes and gives form to people's actions and practices while people as agents in their actions constitute and reproduce structure. Rawls (1993) referred to this as the basic structure of society affecting the welfare of the citizens. To this extent, both structure and agency presuppose each other. This means that structure is created by agents, agents are created by structure and agents can change structure (Giddens 1984). How does this translate to changing the social structure of society?

Again we follow Giddens' argument that the social structure of a society is enacted by people who understand their actions and how to take those actions. These people can therefore through the knowledge they have, use the same to affect the society. Sewell (1992), interpreting the concept more, argues that the idea of human agency being knowledgeable means that agents are capable of actualising their structurally formed capacities to work in creative or innovating ways. Change in society from these views means that it is inherent in humans to aspire to change or effect change when they need to and this is common among peoples and nations in the world. Sewell (1992, 4) therefore interprets Giddens as suggesting that:

If enough people or even a few people who are powerful enough act in innovative ways, their actions may have the consequence of transforming the very structures that gave them the capacity to act. It is no accident that Giddens calls this theory “the theory of structuration,” indicating by this neologism that structure must be regarded as a process, not as a steady state.

The possibility of social change in society may have been enhanced by the studies of Rosaldo (1980) and Sahlins (1981, 1985) who demonstrated that the same ability to reproduce basis of structure which explains the powerful continuities of relations in the society among members also makes it possible to explain the paths followed in situations of change (Sewell 1992). In reflective equilibrium, Rawls (1993, 1971) notes that parties in the original position have the capacity to change their minds based on consensus while the innate nature of man to be rational and reasonable shows the possibility of change also. It is in this regard that Sewell (1992, 20) further argues that:

To be an agent means to be capable of exerting some degree of control over the social relations in which one is enmeshed, which in turn implies the ability to transform those social relations to some degree. As I see it agents are empowered to act with and against others by structures; they have knowledge of the schema (rules) that inform social life and have access to some measures of human and non human resources.

The situation in Nigeria is not different in the sense that since social structure is dynamic, and continually evolves from the results and dynamics of a process of social interactions among the people, change for a Rawlsian society is possible. It has to be emphasised that even a seemingly perfect structure is subject to change as the same agency that sustains the continuity of its just structures also ensures that they are transformed. State and political structures most times are in constant contention, struggle and fight rather than taken for granted as if they are not changeable. States and structures from history change from time to time: ‘Compare, for example, Britain and France between 1750 and 1850, the United States and Germany from 1870 to 1950, Costa Rica and Nicaragua, El Salvador or Guatemala since world war two, or India and China over the same span; even the relatively stable United States are subject to periodic structural transformations’ (Sewell 1992, 24).

It is almost inevitable that a major restructuring in a scientific mould will take place in Nigeria. Momoh and Adejumobi (2002, 250) in this vein posit that restructuring Nigeria is the most important issue for any administration in the country: ‘a national consensus seems

to gravitate towards the issue of the restructuring of the Nigerian federation, although there are different views on the approach and strategy to it. Perhaps a strategic, yet simple approach to it is through a process of constitutional engineering that should be inclusive, just and democratic'. Their position is that the restructuring of the country should follow a process that will centre on the re-negotiation of the social pact or have a social contract between ethnic groups in the country and between the citizens and the state.

### **3. THE STATUS QUO THEORY**

To leave things as they are in the country is the position of the apologists of the establishment and it is no wonder that while the majority of the people of Nigeria yearn for the kind of structures that will guarantee social justice, government officials and politicians in power do not see anything wrong with the system. In doing this, they rely on the organs and apparatus of the state especially in suppressing opposition and quelling any revolt. But are there implications for sustaining the status quo? Indeed, every social and political decision has implications and below, I examine some of the likely implications for the promotion of the unjust structures and systems for the Nigerian society. I look at the continued absence of any ideology or Philosophy on the kind of society required, the problem of lack of freedoms and liberty; and the incidence of inequality.

#### **A. DEARTH OF POLITICAL PHILOSOPHY/IDEOLOGY**

Philosophers and sociologists believe that societies that are governed by a political philosophy that gives direction to the structures in society aimed at achieving individual plans and societal goals tend to be more stable than the opposite (Kelly 2001; Brown 1986). It is based on this principle that many societies in the Europe and America operate the capitalist, welfarist and the liberal philosophy. It is this political Philosophy that also dictates the type of social system in place and answers questions that border on issues such as justice, rights, property, goods etc. Political philosophy gives a clear direction to both citizens and the State and prompts them on lines of actions and relations. Kelly gives more insight into the role of political philosophy this way:

We begin by distinguishing four roles that political philosophy may have as part of a society's public political culture. Consider first its practical role arising from divisive political conflict and the need to settle the problem of order...surely the greatest work of political philosophy in English-is concerned with the problem of order during

the turmoil of the English civil war; and so also is Locke's *second treatise* (Kelly, 2001, 1)

This lack of ideological foundation in Nigeria's case is more evident in the kind of political arrangement in the country where there are sixty three political parties without distinct political ideologies, leanings, differences or ideas<sup>31</sup>. There are about four major parties with seats in the national assembly with no marked differences between them, neither is there any form of ideological rivalry or competition among them as they all speak the same language and believe in the same things. Philosophy and ideology drive systems and regimes in specific directions and indicate in clear terms what they stand for and where they lean on major issues (Rawls 1971). This much Azikiwe<sup>32</sup> (1979) emphasised when he noted that Nigeria needed to make a choice among capitalism, socialism and welfarism.

Ideology is very vital in politics because it is the basis for the creation of a detailed design of society proposed by the controlling classes of society to all their members. The main purpose of ideology in the Nigerian context is to stimulate change through a process that involves normative thinking and extrapolation. Ideologies are interpretations of abstracts that can be applied to public affairs and governance, making it central to the practice of politics. Inevitably, every political dispensation necessarily attracts an ideology even though it may not have been propounded as an explicit system or thought. Nigeria to this extent needs a political ideology to properly delineate the ethical and political ideas, principles, doctrines, myths, and symbols that explains how the society should work.

Political ideology is necessary in the Nigerian democracy also because it produces the kind of blueprint needed to establish a social-political order. It helps to design the mechanisms and systems that outline how to allocate power and to what ends it should be. In a nutshell, the goals of political ideology in Nigeria are; how society should function or be organised and the most appropriate way to achieve this goal. It is therefore of great importance that efforts are made in the social structure of Nigeria to create a political ideology as a way of setting up permanent institutions that act collectively to protect and promote the direction of the society and its people but the position of the establishment works against this.

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<sup>31</sup> The late Attorney-general of the federation, chief Bola Ige in 1999 described the major political parties in existence in Nigeria as fingers of a leprous hand.

<sup>32</sup> Late Dr Nnamdi Azikiwe was the only indigenous Governor-General of Nigeria at independence. He was one of the country's ideologically driven politicians.

## **B. LACK OF CIVIL LIBERTIES**

From the Rawlsian perspective (1971, 1993, 2001) every member of society has a set of liberties that even the welfare of the entire society cannot undermine. In his two principles of justice he places the first one which concerns liberty in a lexical order above the second which has to do with equality of opportunities. The implication is that social-political rights are more paramount to him than economic rights. Mills (1987), in a similar argument advocated that no central authority or members of society have any right to interfere with the liberty of any individual as individuals are free to protect what rightly belongs to them as long as it is their personal property.

In examining the possibilities of the Rawlsian society in Nigeria, the issue of establishing a liberal state is paramount because at the moment, the country is not a liberal one. The liberal ideology thus has to be established before the two principles of justice can even find room for consideration. The incidence of the liberal ideology in the country would necessarily create ideals such as freedom and equality in the society which enables the citizens through their ethnic groups to reconstruct a new nation that can conform to the requirements of the Rawlsian conditions for justice and political stability.

In Nigeria at the moment, the situation is such that the social structure as argued by Anikpo (2002) has engendered instability in the nation to the extent that citizens have absolutely no liberties. The system is such that it is the state and the political leadership that determine what the citizens are entitled to. The clearest manifestation of this is the gagging of the press, unlawful arrests and detention without charge of political opponents and labour leaders when they tow positions that are at variance with those of the central authorities and the suppression of anti-government protests.

The core of the liberties Rawls advocates in his first principle of justice include social-political liberties such as the right to vote and be voted for; freedom of speech and assembly; freedom of conscience; freedom of thought; right to life; freedom to hold personal property, and freedom from arbitrary arrests. The denial of these liberties can only be justified if it is to raise the level of civilisation so that in due course these freedoms can be enjoyed (Efemini 2010). All these liberties and rights are been fought for in Nigeria

and Anikpo (2002) argues that the structure that produces these inadequacies is a product of the interplay of institutional configurations of the Nigerian society.

### **C. *INEQUALITY IN THE SOCIETY***

Inequality in Nigeria means the problem of limited opportunity for upward social mobility, few jobs, poor income and low purchasing power for the employed. It also exhibits poor infrastructure and institutional failures in key sectors of the society. In economic terms, the gap between the haves and have-nots is wide. The United Nations revealed that 20% of the population own 65% of the national assets while 70% of the same population are peasant rural workers and artisans (UNDP 2009). The inequality in the society also shows in the area of access to legal justice and the big gap between rural and urban development where rural dwellers lack the most basic social amenities such as electricity, water and roads.

If the advancement of society is measured by the barometer of how its poorest and most vulnerable groups live, then as recent figures released by the United Nations show, Nigeria has a systemic structure of inequality and the situation is getting worse yearly. From 0.43 in 1985, it rose to 0.49 in 2004, ranking the country among the countries with relatively high inequality in the world. Rawls (1999, 1993, 1971) argued that social and economic inequalities are arbitrary and unacceptable unless they lead to the greatest benefit of the least advantaged members of the society. In a just society, opportunities to rise to higher social, economic and political levels are open to those in the lower levels. Efemini (2010) asserts that equality has a deontological value that is good without regard to consequences.

From the foregoing, it seems that the present social-political structure of the Nigerian society is favourable to both the state/government and the ruling class. Sagay (2004) refers to them as the Pro-establishment group (Sagay 2004). While the structure ensures the continued domination of power and strategic sectors of the state, it deprives citizens of all forms of liberty, equality and welfare. In addition it stifles the development of private initiative and private property in terms of natural resources and turns a section of the country to mere consumers of the national cake and another part producer (Sagay 2004).

In terms of distributive justice and the distribution of revenue from the exploitation of hydro carbons in the Niger Delta, the dominant forces represented by the ruling class

abhors and deprecates any move to re-structure the country as this may tilt the pendulum against them (Nwajiakwu-Dahou 2010). This same school made sure that from the pre-independence revenue allocation formula of 100% control of resources, it plummeted to 1.5% and rose again to 13% in post independent Nigeria where it is today. At the 2005 constitutional conference in Abuja, the formula was proposed at 17% but was not concluded and therefore not instituted. The experience in the country is that major decisions and policies of this magnitude are arrived at unilaterally without any resort to citizens' rights (Maier 2000).

To achieve its continued domination and firm grip on the national till, this status quo school is accused of maintaining an unfettered manipulation of the country's Armed forces and other paramilitary forces therefore perpetuating the Nigerianised colonisation of the country akin to the British colonisation (Moda 2005). It is a fact that the command structure of the armed forces is within the control of the ruling class and dances to the whims and caprices of those in power contrary to the ideal situation. Critics continue that when it suits the government, they seek to amend the constitution or draw up an entire new one without fundamental changes and without addressing fundamental issues of social justice (Mustapha 2006). The establishment on its own part rejects any kind of sovereign national conference on the excuse that it would break up the country. There is however no reason or evidential need for this fear.

Instead of addressing major issues that affect the social-political structure of the society, different cosmetic measures are introduced from time to time. In 1967 the Establishment group created twelve states ostensibly to address the problem of development but really to weaken the position of the Biafra struggle for self determination (Anikpo 2002). The trend of state creation continued to nineteen in 1976, twenty one in 1987, thirty in 1991 and finally thirty six component states in 1996. All these actions were taken because more and more ethnic groups agitated for more autonomy and sovereignty. The thinking was that state creation would bury agitations for more liberty and equality to be given to these groups and their people (Mustapha 2002). The Establishment also amended the constitution in 1979, 1996 and in 1999 basically changing nothing but creating a false impression of work in progress.

In recognition of the need for reforms in the society, the establishment also set up institutions such as the Federal character commission which is saddled with the responsibility of ensuring that all sections and ethnic groups in the country are well represented in government/public offices and activities (1999 constitution). The issue of distributive justice was equally being resolved through the establishment of the ministry of Niger-Delta and Niger-delta development commission with the sole charge to coordinate the development of the region and address the agitations for control of resources by the people on whose land the resources are being exploited. All these measures are yet to make the desired impact as the agitations persist.

The two principle of justice are incompatible with this school of thought as citizens are left without rights and without basic liberties while inequalities and economic deprivation continue. This status quo has remained recurrent despite the fact that agitation against this dates back many years primarily due to the lack of national consensus and national identity in the country (Mustapha 2006). The lack of a common agenda and a commonality in desire, vision and perspective make it difficult for the situation to be confronted head on and conclusively.

This may be true but current evidence shows that a new movement comprising educated radicals, academics, and civil society groups in the country are rallying round the common desire for social-political reforms and social justice. And the impetus for this may not be unconnected with the common feeling of poverty and squalor among citizens and squandering of riches by the political class. The implication for the status quo is that social injustice and socio-political instability would continue and a bloody revolution remains a viable threat (Nwabueze 2010).

The firm grip of proponents of the status quo on their position which negates in every sense the principles of liberty and equality faces grave danger. Critics however, warn that a society such as Nigeria striving for bare subsistence should not depart from laws and principles that have been sufficiently proven and avoid social and political routes contrapted which empirical and historical verdicts declare to be seriously ruinous (Awolowo 1968). This is worrisome as the ruling class is reluctant for positive action to restructure the society

because the strains and tensions such state of affairs is generating will only worsen the socio-political situation in the country.

The supporters of the status quo however react to this kind of thinking by arguing that attempts by various political regimes to amend the constitution and address some of the issues should be seen as worthwhile and should be commended. Apologists point to the different political and social measures ranging from the change from parliamentary system of government in the 1960s to the presidential system in 1979 and war against injustice and corruption aimed at achieving the much needed stability and justice. Critically assessing these would reveal what critics see as measures that are not only cosmetic but do not affect the socio-political institutions responsible for these injustices in the first place. The argument is that only a restructuring of the basic structure can have impact.

The conclusion on the position of the pro-establishment group is that socio-political instability and social injustice persist with all their attendant consequences. Corruption in all sectors of the public service and bureaucracy cripple all sound initiatives while the people continue to suffer deprivation, communities in the oil producing region experience environmental degradation while a big majority also suffers political marginalisation (Saro-wiwa 1994). The cancerous problem of tribalism in addition to inter religious and intertribal conflicts would continue with loss of lives. The country continues to suffer international isolation and the much needed national identity remains elusive.

#### **4. THE ROLE OF THEORY IN RESTRUCTURING SOCIETY**

Sociologists and philosophers often develop and employ theories and ideas in explaining social and political phenomena as theories and ideas represent a proposed link between two or more concepts. In other words, a theory offers an explanation as to why some phenomena occur. It is in this direction that I believe that in order to understand and interpret the social-political world of Nigeria properly and adequately, it is necessary to extrapolate a theory and an idea to draw the necessary connections between the different concepts identified in the Nigeria discourse. Without theories, we would not be able to understand the causes and effects of the relationship between structure and agency in the Nigerian society in terms of the social–political life of the people.

Social scientists would argue that the understanding of nature or society and the quest for change cannot progress without the active existence of contemplation and speculation, which is theory. It is therefore very important to have some form of theoretical background in interpreting the dynamics of natural and social activities (Awolowo 1968). In doing this we may discover that theory is very different from practice or action but the reality is that they are necessarily the two sides of a coin. In the case of society, social and political theories help to study and understand the causes, effects and nature of social relations and the thinking behind actions and activities by members of society. There is thus a close connection between theory and practice in society and the first step in analysing or explaining different phenomena about society begins with employing relevant and appropriate theories. The practical aspect of this endeavour is the attempt to make concrete changes in society either in politics or ethics as the case may be.

As Joab-Peterside (2004) argues, theory and practice can be very different and independent on one hand and yet be related strongly on the other hand; they are different and independent in that one can exist without the other and related as being complimentary. Thus it is possible to do research on society without any practical application or implementation of the outcome of the research and it is also possible for changes to occur in society without a proper explanation of how they happen (Joab-Peterside 2004). The implication of this train of thought to my mind is that it is not true that it is impossible for society to make progress without the introduction of theory. The truth however is that there can be no change in society without a theory behind it. For example the Soviet Union disintegrated in the 1990s based on the theory of 'Glasnost and Perestroika' or openness and reconstruction. As in most cases, this theory was not clearly articulated. Joab-Peterside (2004, 14) gives further example:

For decades the so called modernisation theory dominated intellectual thinking in the social sciences. From the modernisation point of view the process of societal change results from the traditional to modern, from simple to complex, from particularism to universalism, to use concepts developed by Parsons in the Weberian tradition.

In this connection the social contract theory for example was a response to the problem of disorder in the state of nature. Without passing any judgement on the veracity of this theory, my understanding is that while ancient and modern philosophers deliberated on

how society should best be organised, the imaginary state of nature was a way of explaining what happens when there is no agreement among a group of people and emphasises the need for such. The social contract theory, around which Rawls built his moral/political Philosophy, Preiss (2009) argues, remains a veritable manner in which the political authority in a society can appropriate and justified a western political philosophy. Depending on the perception, the significance of the theory is that a real or imagined agreement is reached which serves to articulate the scope and extent of political or social capital, including what it would mean for social institutions to be just.

And the attempts by the contract philosophers, Preiss further notes, have guided most societies in achieving stability and justice even if not completely. Modern free societies such as South Africa in the 1990s and Kenya in 2009 followed this same pattern when after fierce social unrest and social injustice, they called a conference of different groups to fashion a new constitution based on agreements and consensus. Apart from that, improvements and advancements in societies all follow either a theory on society of the past or those formulated from the perspectives of the present or those in practice. One way or the other every society must rely on a paradigm, model or theory in organising itself and the one chosen affects the society positively or negatively.

The beginning for a lot of theories on this issue is a holistic examination of the kind of situation obtainable when society lacks social order. These theories on the social contract simply explain how society is formed in order to maintain social order. It clearly shows the process of people giving up some of their rights in exchange for social order through the rule of law. This formed the basis of the propagation of this theory by Hobbes (1651), Locke (1689) and Rousseau (1762). Their work laid the theoretical foundation for constitutional monarchy, liberal democracy, and republicanism as they exist today in different political climes (Preiss 2009). Preiss concludes his argument that the social contract principle or theory was a shadow in the declaration of independence in America sign-posting the fundamentals of democracy and more recently gave impetus to works of thinkers such as John Rawls.

For Habermas (1974), a theory can be conceived for a practical purpose and intention. Using the theory of historical materialism as an example, he argues that theory could be aimed at

explaining the phenomenon of social development and evolution that is comprehensive in nature and binds together the interconnectedness of the origins and application of the theory. The theory of historical materialism, he argues, stipulates the conditions under which thoughts that govern the understanding of the history of the human species by members of the human species themselves are objectively possible. It also announces the people whom the theory addresses and how these people through the theory gain an understanding of their emancipatory role in the process of history. Theories such as that of Marx, he notes, specifically address an issue which needed some kind of explanation:

The theory occupies itself with reflections on the interrelationships of its origin and with anticipation of those of its application, and thus sees itself as a necessary catalytic moments within the social complex of life which it analyses; and this complex it analyses as integral interconnections of compulsions, from the viewpoint of the possible sublimation –resolution and abolition of all these...the theory thus encompasses a dual relationship between theory and practice (Habermas 1974, 2).

With this understanding, the political philosophy of John Rawls follows the same pattern as it was formulated to address the issue of injustice in the American society in the 20<sup>th</sup> century. As any observer can see the socio-political realities in some underdeveloped societies today, so it was in the 1950s when the American society and other western societies were facing situations that needed some social reformation aimed at correcting issues of social injustice identified. For example in the 1950s, the issue of racism was very rife, inequality among whites and blacks were quite rampant while blacks were not allowed to share facilities with whites etc.

In a related vein, in Nigeria, people are disenfranchised from voting, the gap between the rich and the poor is getting wider, in some parts of the country, women are not allowed to own property while on the whole rights and civil liberties are denied the people. It therefore becomes imperative to think of the kind of theories that can give adequate explanations to these phenomena and others and proffer solutions at the same time. Rawls' foray into his ideas on society started during the Vietnam War and his ideas were widely described as a new departure from the traditional liberal ideology<sup>33</sup>. Freeman (2007) and Audard's (2007) in this respect also emphasised that political philosophy at that time had practically ceased to exist and Rawls' substantive conception and method changed the situation and revived it.

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<sup>33</sup> Audard and Freeman in their different publications gave some historical accounts that surrounded the content of Rawls moral philosophy.

It is useful and helpful, therefore, to explore the political philosophy of Rawls on society in *Political Liberalism* and examine how a society can be in compliance to its conditions in order to achieve the goal of the theory which is a just and stable society. This is because it is believed that theories with practical intentions can contribute to the resolution of social problems (Habermas 1974; Awolowo 1968). It is therefore safe to argue that societies that are 'less ordered' or 'disordered' can eminently be in a position to conform and comply with Rawls' theory if they are willing and ready to adopt principles and policies necessary for such.

In Nigeria, different administrations have shown the desire to tackle the problems of social order and have designed policies that are aimed to address social problems. However, some political leaders vehemently oppose any discussion of social construction. The actions of these African leaders feed this kind of thinking but the door is not shut against a new way of thinking and as Skinner (2003) argues, there is a legitimate reason to understand the extent to which a state must go in ensuring freedom and rights for its citizens and members of its society. It is therefore widely accepted that this is an issue that is quite central, topical and auspicious in political philosophy. Skinner equally believes in discussing the different theories that form the basis of discussing and choosing theories of such issues and this underscores the place of theories in restructuring African societies.

In this era of positivism, science and empiricism, explanation of social and political issues concerning the Nigerian society can no longer be based on myths, legends, emotions and cultural practices but on concrete scientific explanations. This is the stage where the people have to conjecture on social and political events and phenomena through the observation of hypothesis, theories, laws and principles governing the occurrence of such events. To achieve a plausible and reasonable understanding of society therefore, the tool used is referred to as theory (Aliyu 1999) and emanating from this is that without a theory, it would be difficult understanding social issues in Nigeria and predicting their future in terms of solving every day social and political problems.

My interest following from this is how a social-political theory can become reflective in a society and become the catalyst for transformation, bearing in mind that it is not the theory that actually transforms the society but it is the people as agents of the society that take the

necessary actions that would comply with the theory. This analysis attempts to show that Nigeria can indeed attain the just and stable society even though it is still a less ordered society in a sense and this is possible through the implementation of some social reforms and application of some social, moral political principles, policies and codes stipulated in the non-ideal theory. The challenge is how to create the conditions and principles necessary for this in real terms and how can Nigeria and the rest of the other less ordered societies organise themselves in order to comply with the letter and spirit of the theory of justice and achieve a just and stable society?

## **5. TRANSITION FROM THEORY TO PRACTICE**

In thinking of how to make a theory relevant to society, is there really an issue about its practicality or abstractness? Are moral/political theories formulated with a practical intention or not? It seems to me that one may be asking questions that are rhetorical in nature and therefore may not get the right answers. Moral theorists formulate their theories in response to some moral problems identified and the circumstances surrounding the formulation of the Rawlsian theory as earlier seen attests to this notion. Looking at the progression of history we discover that to the issue of justice in the person and the society in ancient political philosophy, Plato formulated justice of the three classes in *the Republic*, for rationality and moral conduct within the confines of deontology; Kant formulated the categorical imperatives in *critique of pure reason*. For justice in the community we associate Aristotle with *Politics* etc. It is therefore not out of place to respond to the social and political challenges confronting Africa and Nigeria by adopting Rawls' two principles of justice to the analysis of African societies.

The convention is that the treatment given to a theory often times determines its practicability, as such a theory is either ignored because it is utopian, unrealistic or it is too abstract; or engaged and well debated and analysed because of the potentials it has and possibilities it presents for the resolution of some problems. Theories carry within them seeds and kernels of solutions for different fields where they are relevant. Like scientific and natural subjects, the issue of society and how society can have political stability and achieve social justice for its members is based on some principles and many theories are born out of

the desire to solve perennial problems confronting a people, community or discipline (Habermas 2003).

Furthermore, in the reasoning of a theory transmuting to practice, Locke's theory on property found a wide audience popularised by Voltaire and others. He 'supplied' critics and reformers with the kind of doctrine they needed to assail the absolute monarchy and social injustice of pre-revolutionary France. History is replete with situations where popular theories, thoughts and principles have formed the basis of revolutions, coup d'états and social reformations. Theories provide the intellectual, logical and ideological platforms for most social changes and the situation in most societies cannot be different. Almost all the military administrations in Nigeria relied on the Marxist theory of communism for its policies and general directing principles. The first set of African leaders such as Nkrumah of Ghana and Lumumba of Zaire were students of socialism.

Just as the doctrines of Locke provided practical influences in Europe and America after his books were widely circulated in the colonies, especially in the phrasing of state declarations and constitutions, I believe the doctrines and ideas of Rawls if properly propagated in Africa can cause major shifts in the understanding of African societies and the Nigerian state. The liberal ideology and the concept of capitalism in addition to liberal democracy as practised by the west have their origins in John Locke. Indeed, there was practical natural harmony between Locke's ideas and those of the 19<sup>th</sup> century USA and this goes to show that good ideas and theories can impact any African society just as they did and still do in the west. Paschal Larkin, putting it succinctly, argues that 'Locke's individualism, his glorification of property rights and his love of conscience have been interwoven into the economic and social texture of American life' (Locke 1980, xx).

It is against this background that I explore the possibilities in the political theory of Rawls and the social and political transformation of an African society. In response to the question of injustice in society and for the purpose of attaining a just and stable society Rawls formulated Moral/Political theories on society. So the question is: Can the ideas and theory of justice as formulated by Rawls become a practical possibility in a historical experience? Why did Rawls formulate the theory in the first place? The analysis in the last chapter has

already determined its practicality and the attempt in this endeavour is simply to do a theoretical analysis of its utility in the quest for social restructuring in the Nigerian society.

In line with the notion that a theory can be formulated for a practical intention and for a practical purpose, political liberalism sought to answer the historical realities of 1950s' America with the aim of influencing a change because theories are formulated to effect changes in situations or in societies. Just as Africa faces a myriad of social and political problems, twentieth century America and Europe also faced serious issues showing distortions and divisions in society that created and promoted injustice. And it was based on these realities that Rawls began his adumbration and propagation of principles of justice:

A new world order and normativity was emerging after the second world war and Rawls as a young soldier in the pacific, New Guinea, the Philippines and Japan and then as an academic in the 1960s was a witness to all these. He sought to translate into first principles of political morality the new sensitivity to moral issues and to questions of justice expressed after the horrors of the Jewish Holocaust and the Nuremberg trials and then the anti-Vietnam war demonstrations, the civil rights movement, the rise of humanitarian concerns of NGOs such as Oxfam, Amnesty international, Human Rights Watch and the dissident movement in the Soviet Union (Audard, 2007, PP 2 – 3).

Rawls could thus be seen as the bridge between ancient philosophy where the study of social justice originated and contemporary philosophy where the study still persists in the subject of social justice. This is rightly so because his themes and lines of arguments are continuation of the discourse on justice in society that had been discussed at different eras. In Rawls, therefore we see the actualisation of all these thoughts in a detailed systematic moral/political theory. The issue of justice resonated in Plato, Aristotle et al. in a different way but aimed at the same intention of attaining justice in society.

He was not just interested in the way people thought- in their mind set, and the background culture of the people concerning the institutions responsible for constitutional democracies, (including issues such as self government and political independence) but was also concerned about equality in society as ends in practical terms. He believed that society should be such that people see each other as equals and respect each other as ends in themselves and not as means. The influence of Kant is easily seen here. Audard's idea on this is that politically 'Rawls appeared to be both an expression of his time, as he typically

expresses the concern of the liberal left of the 1960s, and a precursor of a third way, between libertarianism and social democracy' (2007, 3).

We can deduce that Rawls formulated his ideas with a practical intention and that intention was to advocate change in the situation of injustice in society and create an egalitarian society of free and equal people. But in a society such as Nigeria where there is a serious problem of distribution of resources and lack of basic liberties and rights, finding the right principles and formula and getting the political will and courage on the part of government and the state to resort to theories on the way out remains a very daunting task that that has lived with the Nigerian state since independence. And without the extrapolation of a theory, the likely outcome is that the vicious cycle of crises continues. This is where a sociological and philosophical approach to a theory of social justice in Nigeria becomes urgent and expedient.

A resultant effect of the unjust state of affairs in the Nigerian society among other things is as earlier highlighted, the absence of personal liberty among the citizenry in any form, while human rights are non-existent. In making this point I am aware that there are different arguments on the principle of liberalism and how it should be applied in society. While Locke (1980) advocates absolute liberty where government is forbidden from any kind of interference in the liberties of the citizens, Rawls' theory on political liberalism envisages a situation where there is some kind of intervention of government in the society for the purpose of egalitarian and fair distribution of goods, income, benefit and resources in the interest of all members of society.

To this extent the Lockean model which Nozick (1974) latched on to will create divisions of haves and have-nots in Nigeria but Rawlsian political liberalism moderates such outcomes of social relations. Classical liberalism thrives well in developed societies in Europe and America where the gaps in economic conditions are narrow and a good social security system is in place. A social/political theory that easily fits into the Nigerian template therefore is the 'Rawlsian' political philosophy as captured in *Political Liberalism*. This is because it caters for the dichotomy in economic means and differences in the society; it aptly captures the social situation in Nigeria and provides the means needed to tackle the issues at stake.

In moving from theory to practice therefore, Rawlsian liberalism can stimulate Nigerians to start thinking of issues such as liberty, freedom, equality and the development of social institutions that strengthen the basic structures of the society in at least theoretical terms. The appropriation of the Rawlsian doctrines to the Nigerian experience is thus borne out of the fact that Nigeria presents templates that attract the adoption of the ideas through the implementation of schemes and social adjustments. Rawls' ideas on justice can become a kind of 'normative theory' or ideal that beckons on all interested societies without discrimination or qualification. The only pre-requisite is the readiness for positive and proactive social changes.

Giving weight to the argument that any society can have the potentials to equate with the Rawlsian theory of justice, and the fact that an ideal theory can be useful and can indeed be exploited in historical experiences, I see similarities in arguments by Habermas who wrote on issues concerning the European Union in terms of states advancing social justice at the domestic level in spite of increased capital mobility and the question of whether international organisations can advance schemes of right against states that are not observing such rights with respect to minorities, women, workers, immigrants etc. This thinking has put him in a position to be identified by those interested in such issues as among leading contemporary social and political theorists best equipped to handle such issues because of his antecedent of combining moral/ philosophical, social/scientific, and historically grounded system of analysis (McCormick 2007).

Being a theorist, Habermas sought to move from theory to practice by believing and adumbrating that the EU can expedite the self-government and economic equality that is needed for the autonomy of humans without going to war or engaging in genocide and all forms of discrimination. At the same time McCormick (2007) argues that Habermas' analysis of the issues against globalisation which were handled by the Union is dependent on the back drop of historical developments and the political economy of European states that have some tensions among them. A theory that has the intention of practicality easily finds space in reality as long as the beneficiaries make the necessary adjustments.

To a curious mind, after critically analysing the theory of justice by Rawls, the question still remains as to whether this philosophy can actually achieve the goals it sets out to solve

which are justice and political stability in a pluralistic society and address cases of injustice in society, especially in the area of distributive injustice. Is it an all time theory or one that has no relevance to contemporary issues of justice? Reading Rawls in his detailed outline of measures for social justice therefore raises a lot of questions. The first question would be how to translate a beautiful and systematic theory of justice into a practical implementation of its ideals and tenets and achieve practical results, or does it remain a good thought experiment? How can these principles of Rawls be put to practice?

One explanation is that the process must move in accordance with the criterion of legal regulation because it is ultimately by means of positive law that the life of a political community is legitimately regulated. This shows that the central authority in any society which is the state or government occupies the best position to effect these reforms in line with the theory of justice. The role of positive law is therefore a sine qua non in the achievement of this endeavour and the agency of citizens can insist on this through advocacy and agitation.

Without any doubt, the analysis of Rawls, if juxtaposed with the analysis of a historical reality, will indicate that for the issue of social injustice in a less ordered society and for the socio political situation of the Nigerian society to move from theory to practice in its quest for full compliance, the vociferous calls by Nigerians for restructuring cannot be ignored and is in fact the starting point. Theory alone cannot transform the society in the manner of a palliative but the people can become better organised using the basic assumptions and doctrines centred on the particulars of the original position, Political Liberalism and an overlapping consensus. These ideas are such that an underdeveloped society seeking an ideal can appropriate and make the necessary amendments. The responsibility is on the people to desire the change after the realisation of the merit in the same.

## **6. THE THEORY OF LIBERTY, EQUALITY AND WELFARE**

The urgent need to restructure the social-political structure of the Nigerian society as available literature suggests accentuates the essence of Rawls' two principles of justice which puts a premium on liberty and emphasises the ideals of equality and the wellbeing of the less privileged. This emphasis on Rawls' first principle can be understood as his strong and unbreakable link with the liberal school and in relation to Nigeria, the two principles

which will apply only to the basic structure of the Nigerian society, would regulate some of the contentious issues earlier identified such as distribution of rights, duties, privileges, etc. The principles would also govern the distribution of social and economic advantages but it is important to state that until Nigeria becomes a liberal society, these principles would make no meaning.

Liberty stresses the importance of the inviolability of individual members of society without any exception. The liberties necessary for the proper governance of society cut across religious, moral, philosophical and political (the right to vote and hold public office), and promotes such fundamentals such as freedom of speech and assembly; liberty of conscience and freedom of thought. Liberty also encourages freedom of individuals: 'freedom from psychological oppression and physical assault and dismemberment (integrity of the person), it encourages the inalienable right to hold personal property, and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. These liberties are to be equal to all citizens by the first principle' (Rawls 2001, 53).

The two principles to be translated in the Nigerian context as Liberty, Equality and Welfare (LEW) would also ensure that no matter what the economic, social and political situation of the delegates to the national dialogue, the ideal of liberty represents a meaningful option while considering the kind of social-political structure for the country, especially when they are not too sure of the events of the future. It is only reasonable then that the ethnic groups in the country would also favour the second principle which requires equality of opportunity. It is strongly advocated that the second principle ensures that Nigerians with similar talents and endowments face similar conditions while inequality in the society works to the advantage and benefit of the least advantaged.

The difference principle emanates from the second principle where issues of inequalities are mentioned. Even though it is lower in the lexical hierarchy, this principle is an important and cardinal part of the overall intention of Rawls' ideas which partly stipulates the well being of the least advantaged in the society. This principle thus: 'requires that however willing people are to work to earn their greater shares of output, existing inequalities must contribute effectively to the benefit of the least advantaged; Otherwise the inequalities are not permissible' (Rawls, 1999, 64).

But how important is the liberty principle in society? Between the two principles, Rawls categorises the first higher than the second, meaning that in lexical order, liberty is more important than equality. Is he right in doing this? No doubt liberty, freedom and individual rights for citizens are universal and uncompromising. In elevating and emphasising the primacy of liberty, Mill (1987) like Rawls in his first principle advocated that no central authority or members of society ought to have any right to interfere with the liberty of any individual as individuals are free to enjoy what rightly belongs to them as long as it is their private property. If society has no jurisdiction whatsoever to interfere with an individual on matters that concern him or her, does it then mean that individuals can act with impunity? Will this not breed anarchy, chaos and confusion in society? The liberty of an individual must not be to the detriment of any other individual. Freedom goes with responsibilities and an unregulated regime of rights and liberties may be counter-productive. Can the State at this point interfere?

The duty of the State at this point is to arrest cases of breach of liberty of members of society by offenders. The State is also to enforce the responsibilities that enhance the enjoyment of these liberties. Outside this, members of society have perfect freedom both legal, and social to carry out actions as they deem fit and face the consequences of such actions. No member of society is therefore allowed an absolute liberty that carries no responsibility but there are cases of persons in society carrying out actions that may not affect the interest of other members, as Mill wants us to believe, but may be injured themselves by those actions; is it not proper for there to be an intervention by either the State or other members? The liberty principle for Mill is that such intervention must be at the instigation of the individual and the individual must be the final judge:

Neither one person, nor any number of persons is warranted in saying to another human creature of ripe years that he shall not do with his life for his own benefit what he chooses to do with it. He is the person most interested in his own well being; the interest which any other person except in cases of strong personal attachment can have in it is trifling, compared with that which he himself has; the interest which society has in him individually is (except as to his conduct to others) fractional and altogether indirect; while with respect to his own feelings and circumstances, the most ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by anyone else( Mill, 1987, 133)

While Mill and Rawls may be advocates of liberty, I don't think they are compatible totally in their views. Mill's conception of liberty can be likened to that of Nozick as they are both against interference categorically but the same cannot be said of Rawls who introduces the issue of distributive justice. You cannot be too firm on liberty and still advocate social justice at the same time (Nozick 1974). In Rawls, basic institutions of society are saddled with the responsibility of regulating society and part of the process will be the redistribution of wealth to cater for the least advantaged in society. To this, Mill states that for relations among members of the society to be smooth, general rules should be set which outlines what people should expect but when it comes to personal matters, an individual should be allowed his freedom.

In a way Mill regulates his idea of liberty by limiting it to only private matters. Conventional wisdom should dictate that a person's private matter does not welcome any kind of interference from the State or members of society. Society can only make inputs into members lives through advice or suggestions but the individual is the final judge of his own matters and whatever he suffers from turning down advice or refusing to accept ideas of others cannot be compared and are in fact far outweighed by the wrongs of letting other people constrain him to their judgement of the good.

According to the 2010 United Nations Development Programme, inequality in the Nigerian society is an issue that continues to reverberate in all national discourse and is seen as one of the contentious issues in the distribution of both resources and positions in the public service. The Igbo nationality has always accused the Nigerian state of discrimination against them in the distribution of political offices while the Niger Delta region agitates against injustice in the distribution oil revenue and local government councils. The difference principle thus applies to the public principles and the policies of government that regulate social and economic inequalities in society.

The intention of this principle is to give a direction for the adjustments and tinkering of the system of entitlements and rewards coupled with the standards that this system uses in its operations. The principle applies to, for instance, income and taxation, fiscal and economic policy. It does not apply to particular circumstances and conditions of transactions but rather the background against which these take place. Inequalities in practical transactions

are inevitable, common sense dictates, but the point is that there must be a general principle guiding the organisation of society.

Critically, the difference principle may be seen to encourage a lack of initiative as the rewards of labour may be redistributed. The concern being that for the least advantaged to be as well off as they can be, there has to be some form of redistribution of the rewards of the well off. The issues would now be whether a person deserves all of his reward or not. What will be the rule guiding the acquisition of wealth and to what extent will the government interfere in the private business of people in the quest to redistribute wealth? Do you take from the well off and give to the worse off or do you allow the worse off to remain where they are; and do you base society on the principle of meritocracy where the benefits of society are procured purely on merit? Sandel (2009) sees these as moral issues the difference principle has to contend with and these formed part of the objection to Rawls<sup>34</sup>.

The point worth making in response is that the difference principle does not stop private initiative or industry as people are encouraged to use their endowments to better their lives and acquire property; rather the institutions in society must be able to fend for the least advantaged who do not deserve the content of their disadvantages and as such need the society for benefits. And so, it can be argued that ethnic groups in the envisaged constitutional conference in Nigeria ought to be agreeable with the principle as they may find themselves in situations that may see them disadvantaged due to circumstances beyond their control in future. The essence of the difference principle is practically to make sure no member of society is left behind under any condition.

The summary of the two principles of justice by Rawls and its significance to the national dialogue of ethnic groups means that unlike the Rawlsian scenario where they are chosen by parties in the original position in a non-historical, hypothetical assumption, the two principles must form the basis for the agenda of the deliberation of the parties in the people's constitutional conference (Nigeria's 'original position'). The discussion in the Nigerian scenario is not how to arrive at the two principles but to work out a new system or social-political structure based on these two principles and at the end of the agreements,

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<sup>34</sup> See Sandel's objections to Rawls in the last chapter.

these ethnic groups would fizzle out for the entronement of individual liberties and rights established in accordance with the Rawlsian intentions. This is likely to be acceptable since the interests of all citizens are given equal treatment and the covering for the ethnic groups would no longer be necessary.

An important point to make here is that one of the factors that adversely affect the attainment of justice in society is the absence of an agreed conception of justice and it was for this reason that the idea of a well ordered society was advocated by Rawls (1971). This means a society that is regulated by an agreed public conception of justice which necessitates the existence of an idea of justice that is known and agreed to by the people at a time of their history. It can thus be seen that part of the social/political crisis of countries such as Nigeria is the absence of this agreement in the society. There was a clear lack of an agreed public conception of justice at the point of Amalgamation and birth of Nigeria in 1914. There was also a visible lack of any theory, paradigm or principle for the development of the basic structure of the Nigerian society at the point of independence in 1960. These fundamental failures in my opinion gave rise to the castration of the social and political fabrics of the Nigerian society from its inception.

It is for this and other reasons that I see the liberal ideology as one that has come to stay and which Nigeria cannot avoid. It is one that emphasises liberty, freedom of individuals, rights and the need for constitutional democracy, free and fair elections, equality and open access to institutions of society and the observance of human rights. It started at the end of the 16<sup>th</sup> century and has gone through several developments but maintaining its basic tenet (Kukathas & Pettit 1990). Liberalism is antithetical to any form of arbitrariness and totalitarianism associated with the post Socratic political philosophy beginning with Plato and Aristotle. And the main thrust of this ideology is the idea of people's participation and the notion of social contract in the society.

The need for the participation of the people in the running of their society also presupposes the liberty of these people to enter into all kinds of contracts, treaties and alliances as they deem fit. Chapter one of this work already showed how this vital process was undermined in the emergence of the Nigerian nation. Liberty thus confers the right for persons and ethnic

groups in Nigeria to determine the structure of their society either in a 'Social Contract', an 'Original Position' or in 'Sovereign National Conference' (SNC).

## **7. NIGERIA AND THE SOCIAL CONTRACT THEORY**

The main essence of extrapolating the social contract theory as a way out of the Nigerian social problem, is the need for social and national integration and as Efemini (2002) argues political integration is relevant due to the existence of ethnically plural and diverse society in which each group holds on to its own language and other self-conscious cultural qualities. Political integration is also germane when there is a political system that is composed of formally distinct independent political units that people identify with. Hass (1958, 36) in underscoring the process of political integration describes it as: 'a process whereby political actors in distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing nation-state'. From this accounts, social and political integration through the social contract theory should be desirable in Nigeria.

Just as Rawls (1993) argued that society is artificial, Maathai (2010, 184) in the same vein but dwelling on the subject within the African context equally argued that 'the modern African state is a superficial creation: a loose collection of ethnic communities or micro-nations, brought together in a single entity or macro-nation by the colonial powers'. The fact remains that at the inception colonisation many African countries were multi-ethnic and multi-tribal societies. For example, Kenya has 42, Cameroun 200, Mozambique has 10+, Gabon 40+, Zimbabwe less than 10 and Burundi and Rwanda 3 (Maathai 2010). The problem, however, as examined in chapter one, is that nation-states are yet to emerge from these mosaic of people living together in one political nation. Maathai (2010) argues that because national integration is yet to be achieved in most of these countries, the people still identify more with their ethnic groups and tribes:

Most Africans did not understand or relate to the nation-states created for them by the colonial powers: they understood, related to, and remained attached to the physical and psychological boundaries of their macro-nations. Consequently even today, for many African people, a threat to their macro-nation or those they consider their leaders within their micro-nation carries more weight than a threat to the nation-state (Maathai 2010, 184)

The normal and usual thing to do therefore is for all stakeholders concerned to assemble and agree on some basic principles and institutions. Conflicts in many Africa countries such as Kenya and Zimbabwe as recorded recently have a direct bearing with failure to do this. For example, Maathai (2010, 216) relating the issues to the Kenyan perspective notes that 'if at the outset of independence in Kenya, a conference had been held of the 42 micro-nations and they had all negotiated a constitution under which they agreed to co-exist and work together while honouring a set of agreed-upon rights, the community violence that has periodically wracked Kenya since then might not have occurred'. The absence of such a practice rightly equates with the idea of state of nature and the need for a social contract of all the micro-nations involved.

The idea of 'state of nature' which precedes the 'social contract' theory can be described as a symbolic representation of a thinking that articulates the myth that human nature before and without the advent of civilisation is predominantly and innately selfish and egoistic (Hobbes 1991) or peaceful but insecure (Locke 1980). The Hobbesian account suggests that man only seeks and protects his own interest resulting in a permanent rivalry among men. The Lockean account on the other hand suggests that man is by nature peaceful but lacked security of life and property.

In practical terms therefore, this condition of man in the social contractarians' sense irrespective of its historical reality and truth should be interpreted to mean a situation where people live without ground rules or norms guiding their relations, behaviour and conduct. In this respect, it can be argued that a nation can be in a state of nature when the necessary contract and agreements that would regulate the society of people forming a common union is inexistent due to forced emergence or as a result of conquest. This is made more real by the fact that about 100 years after the colonial experiments of making most African countries nation-states these agreements and contract are yet to be enacted (Maathai 2010).

Based on this argument it can be alluded that Nigeria from the Hobbesian perspective is still in the state of nature so to speak and this is manifested in the ethnic and tribal selfishness

and rivalry exhibited daily in the society<sup>35</sup>. The fact of the country's history when interpreted from the perspective of social relations and social union reveals that the absence of a social contract between the component parts of the geographical entity called Nigeria in 1914 validates the assertion of many scholars that Nigeria is yet to be a nation-state (Udogu 2005, David-West 2002, 2010 and Awolowo 1947). The country, according to Awolowo (1968), is synonymous with a Hobbesian society as Hobbes in his theory describes this state of affairs as being a state of anarchy. But can this analogy be justified when Nigeria is not in a state of war and has a common political power? Nigeria in its fifty years of independence fought a bitter war between 1967 and 1971, experiences ethnic and religious crises regularly and some opinions interpret this to be a reflection of the Hobbesian legacy.

It is noted that in the state of nature some fundamental requirements for civility are lacking and they include laws, authority, morality, sense of right and wrong, and justice. Everybody simply pursued the satisfaction of his self interest and whatever satisfied anybody's appetite was for him good and he would pursue it; and whatever a person had aversion for was for him bad and he would avoid it (Hobbes 1991). This is the condition of the typical natural man. Only the preservation of the self mattered in this state according to Hobbes. Put in the proper perspective, the analogy captures the social-political heritage and situation of people whose moral norms and beliefs have been completely eroded by many years of state and institutional injustice.

Awolowo (1968) argues that the Hobbesian description rightly fits Nigeria and the reason is not far-fetched, the people lack any national sense of morality after a forced nationalisation by the colonial masters leaving them with no common morality culture, religion, justice and nationality and encouraging private, relative and subjective morality. There is a common penchant most times for Nigerians in public service to think more of what they can amass for themselves than what will benefit society as a whole because their sense of justice revolves around self and tribal interest. This is the reason for the rampant cases of nepotism and tribalism in public service (Achebe 1984).

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<sup>35</sup> The latest ethnic rivalry and concern is the issue of which part of the country should produce the next president in 2011. There is tension between the north and other parts of Nigeria who are against the zoning arrangement in the ruling People's Democratic Party (PDP)

It is also argued that in the state of nature, man craves for and claims right for something or anything he likes and has no obligation to refrain. Every man has a right to all things and whatever gave man pleasure was pursued in his bid to preserve himself. It was the rule of might in the jungle. The common understanding in Nigeria today is the survival of the fittest and the legacy of institutional injustice has left the people fending for themselves basically because the unjust social-political structure of the society does not favour them. Here all men are equal not in terms of rights but as every man pursued his own liberty for his own sake but had the desire to have authority and dominion over others and this urge is dictated by the innate hunger for self preservation. Hobbes captures it thus:

Whatsoever therefore is consequent to a time of war, where every man is enemy to every man; the same is consequent to the time, wherein men lived without other security, than what their own strength and their own invention shall furnish them withal. In such condition, there is no place for industry; because the fruit thereof is uncertain; and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commanding building; no instruments of moving, and removing such things as required much force; no knowledge of the face of the earth; no account of time; no Arts; no letters; no society; and which is worst of all, continued fear and danger of violent death; and life of man, solitary, poor, nasty, brutish, and short. (Hobbes, 1991, 89)

This situation for self preservation at all cost in Nigeria gives rise to social and political conflicts among the people on both religious and political grounds as these actions and desires are not exclusive to any one part of the country but identified in all parts. In a state of nature there is no property, no justice or injustice, there is only war; and force and fraud are, in war, the only two cardinal virtues. Though it may not be as graphic as it is being portrayed, the Nigerian society is predominantly non-liberal and still presents a situation similar to this and the reality is that where the views of liberalism are down played, this condition is inevitable. It was in the light of this that the US intelligence unit in 2005 predicted that Nigeria would be a failed state in fifteen years but they ignored the fact that Nigeria was already a failed state as it lacked every sense of statehood and had failed since 1914 when the British created a country from abroad (Nicolson 1969, Awolowo 1947).

The consequent implication of the continued state of nature in Nigeria is that in the condition of every man against every man, nothing is unjust and morality becomes personal. The idea of right, wrong, justice, and injustice become unnecessary as it is natural and commonsensical that where there is no common power, there will be no law, hence no

injustice. Force and fraud become the two cardinal virtues while justice and injustice are not part of the faculties of the body of the mind (Hobbes, 1991). It is obvious from this exposition by Hobbes of the state of nature that no peace or progress could be achieved and the individual, if left on his own with all his excesses and unchecked insatiable hunger for self preservation, was a problem to his fellow man. Man became problem to man and to himself.

The idea of a social contract which is seen as a direct aftermath of the state of nature translated in concrete terms can be interpreted as aimed at avoiding or reversing the kind of trend prevalent in Nigeria and cannot be avoided in the proper organisation of society. The social contract came into being as a way of escape for men in the state of nature. It is understandable that in their state of reflection and reasoning, men in the state of nature came to the understanding that the law of nature itself pushes them to renounce their way of life and combine themselves into a community and have each subject come under a central authority. Hobbes argued:

The passions that incline men to peace are fear of death; Desire of such things as are necessary to commodious living; and a hope by their industry to obtain them. And reason suggested convenient Articles of peace upon which men may be drawn to agreement. These Articles are they which otherwise are called laws of Nature. (Hobbes, 1991, 90)

Conventional wisdom dictates that the essence of the restraint men decided to put on themselves in the state of war is still for self preservation from the universal war, of love of self, liberty and thirst for the domination of others. They had no choice in the state of nature but to form the commonwealth as every man faced a danger far greater than his wealth or strength. And because the condition man was subjected to (that of war of everyone against everyone in which case everyone was governed by his own sense of reason which was very limited), every man has a right to everything he can lay his hands. And as long as this natural right of every man to everything endures therefore, security of life and property was difficult.

In a similar vein, it is understood that men created the State basically to help develop their individual capacities further and move society forward (Leftwich 2008). This point is very important and needs to be remembered and emphasised because today there is evidence

that so many countries in Africa such as Nigeria and Zimbabwe have political leaders and politicians who have forgotten the primary reason for the State and have turned themselves into lords of their people. This fundamental instinct in man to secure his self preservation via the social contract, Hobbes refers to as 'precept or general rule' or theorem of reason, which he captions '*the first law of nature*' (Hobbes 1991, 91). It is safe to argue that Hobbes' ideas in the *Leviathan* aim to give society a solution to conflicts and societal organisation that had the potentials of elevating and promoting justice and peaceful coexistence among the people through effective leadership.

Social Justice from different accounts is a matter of individuals in the social contract after coming together to further their interest, putting all their rights in the hands of the sovereign and allow him to protect and preserve those rights. The sovereign on the other hand, exist to carry out those responsibilities. Achieving social justice in society, therefore, is this order. In other words, justice is a matter of leadership and authority in society within a structure and in the commonwealth so created. It seems Hobbes advocates a Monarchy created by the people themselves but the focus of this research is not the type of government best suited for society, but my interest is in drawing a link between the people and the formation of the State and its institutions. The idea is to paint a proper picture of the question of a people's involvement and participation in their own affairs through the liberty principle.

The core of Hobbes' political philosophy in the area of social relations captured in his *Leviathan* is the belief that Man's life in the state of nature is characterised by a life that is not only solitary and poor but also nasty, brutish and short. This argument and belief may be seen as a bit over exaggerated but it is aimed at conveying the impression of the situation preceding the social contract to underscore the importance of political construction of society through deliberation rather than dictation. If the state of nature has not been historically situated in time, these attributes can only mean the nature of man in his natural setting. Other philosophers would, however, argue that man in his natural state before civilization corrupted him was good and even had no need for civilisation (Rousseau 1968).

The argument will be that if by nature, man is evil as Hobbes argued, the monarch Hobbes believes so much in to redeem man was not chosen from among the gods or from among

the angels but from among the same men. This is a gross contradiction. If it was established beyond mere abstraction that man in the state of nature was at war with his fellow man in practical terms, the assumptions of the state of nature can only be carried too far by Hobbes. On what basis is man naturally evil, one may ask? And how would man end the evil of man when he is also evil? And if men are by nature self-centred and as such they need strong supervision, I doubt if any man in the state of nature would be willing to surrender his rights to another man that will rule him with such strong authority. In contemporary political Philosophy, it is common knowledge that putting absolute power in one hand or one individual without any form of separation of power and making the sovereign one man is nothing but disaster. Not because it is bad on its own or in itself but because it can lead to abuse.

Perhaps, it is in John Locke that we begin to see the origin of modern libertarian or liberal ideology that is the basis of most countries in the present day Western world. The United States of America and Western Europe are seen today as the freest societies in the world and have attracted people from all over the world who believe in this freedom. Locke is considered to be one of the “social contractarians” and his position uncompromisingly centres on the primacy and pre-eminence of the individual and he starts by recasting the picture of men in the “state of nature” before the advent of government or the State in a distinct way different from the views of Hobbes. For Locke:

to understand political power right, and derive it from its original, we must consider what state men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave or depending upon the will of any other man. (Locke, 1980, 4)

In asserting his position as a libertarian, Locke argues that the state of nature is governed by the law of nature which motivates and governs everyone in that state. He also believes that reason is that law of nature and teaches all mankind that all men being equal and independent in the state of nature should not harm each other’s life, liberty or possessions. His position is based on the notion that man possesses the nature to be his brother’s keeper. Locke, in the steps of Hobbes conceives this natural condition of humankind as a kind of logical abstraction from the essential nature of man rather than a historical condition existing before the emergence of civil society (Locke, 1980). He however

emphasizes the fact that man was born free and has the fundamental right to remain free to act without the interference of another man. His argument is that:

from the presumed intention of the creator it followed that men were naturally equal in the sense that no one had more power or jurisdiction than another, and were naturally free to order their actions and dispose off their possessions and persons as they think fit within the bounds of the law of nature which forbids anyone harming another or destroying himself and requires each to try when his own preservation comes not in competition to preserve the rest of mankind. This law of nature would be generally observed but there would be some transgressors; hence some power must be left to every man individually, but only as much as is necessary for reparation and restraint. (Locke, 1980, 8)

This is a clear proposition for big society and small State. The notion propounded in Locke's treatise is that government or the State is a product of individuals' construction and it is subject to laws of the society and must at all times subordinate itself to the popular will of the people. In other words, government is a trust being held on behalf of the people. But how does government emerge? If men were doing well what was the essence of forming the State and government in the first place when they have the propensity to limit and moderate the rights of men?

Locke's idea of the social contract is that men in the state of nature only surrendered the power of enforcement of the law of nature and retain all other rights. This is in line with the belief that the State or government must be limited in its power and must operate based on the consent of the citizens. This power to control government by the people through different processes such as political participation, representative governance, free and regular elections advocated strongly in contemporary times can thus be traced to Locke.

The emphasis on the people is borne out of the notion that the social contract was entered into between and among free, equal and independent individuals and not between leaders and the led (Locke 1980). The leaders were merely delegated a fiduciary power or trust to be used solely for the common good of society. And the idea of trust laps properly into the best relationship between the leaders and the led more than the contract. The people must be the gainers from the trust while the leaders shoulder the responsibilities and duties involved in the trust. Within the parlance of Nigerian politics this point firmly makes government and politics unattractive to anybody seeking it for selfish ends. A situation where the citizens gain from the trust held by government while government shoulders the

responsibilities involved in servicing this makes the State totally at the mercy of the citizens and only selfless people will be encouraged to go into government.

Society in a liberal understanding is primarily initiated by the voluntary union between men and women in a given environment such as the state of nature who wish to cooperate. It is in this sense that Maathai (2010) sees society as a social machine in which individuals play their part and the smooth and proper working of the machine depends on the proper workings of the individuals. The situation in Nigeria is, however, exceptional because the citizens are absolutely at the mercy of the state or the government. It is so bad that even the power to choose their leaders is taken away from the people. Today in Nigeria as in many other societies, contrary to the dictates of the constitution, the state literally dictates the terms of life including rights and powers to the citizens and the citizens are now at the mercy of the state.

Social Justice for liberals and libertarians is the ability of the State to protect the individual rights of the people in their property and private interest. The growth of individual rights is paramount in the tenets of liberalism and the only reason for the State is for the implementation of the social contract in the area of securing the lives of the people. The people retain all other rights and justice can only be ensured when the people are allowed to own their property and do what they wish with it. This is a kind of advocacy for small government. This means that the people are more important than the government, making it possible for them to continue to hold the power to retain sovereignty.

John Locke can be viewed from his emphasis on the citizen's right to life, liberty and property to be the precursor of modern day liberal democracy and capitalism. And any observer of the ongoing global crisis would agree that its origin is in the inordinate and excessive greed for profit and economic capital by man. The problem of unchecked liberty and unregulated acquisition of property is one that is living with man and has continued to trouble him. Men have grown to use their liberty to limit society and their fellow men so many times. And the hunger to own property has also led many men to be immoral in their ways.

The position of Locke on big individual and small State is a not bad idea after all but in contemporary times when societies have grown so big and so powerful, it is almost

impossible to have small governments as we are confronted with individuals and corporations that are so big that if care is not taken they can become more powerful than government. In the days of Locke, merely mixing labour with a piece of land automatically makes it your own as long as there is enough for others. Good, this was in a small world with plenty of land.

But in these days where nothing is enough and the inequalities among men have grown beyond imagination, the place of government cannot be over emphasised. Society is made up of different men with different conditions of living and the lack of a strong State would breed more dichotomies and will climax one day in the 'have-nots' rising against the haves. To avoid this, therefore, a strong government that protects individual and societal interests is necessary. Individuals are free to have rights to life, liberty, property etc, but there is need for a strong government that also has the right to moderate these rights, especially, when they tend to be a danger to society. To totally strip the state of such powers would make the state naked, powerless, and not able to protect some weak individuals and this leads back to the state of nature.

## **8. CONCLUSION**

My analysis of theory is that there has to be a pragmatic implementation of ideas and ideals in a way that can cause a great change in society. But the broader concern for me is in the area of practical implementation of theory because I acknowledge that theories and ideas are formulated to help society. For a democratic society, there is the element of politics, which is fundamental as Cohen (2003) pointed out. There are also elements of constitutionalism, elections, political parties, civic education and such matters. The question is at what point does a theory become operational? And who carries out the operation? My view on this is that theory is a progressive work that does not stop with the theorist but one that uses the foundation laid by the theorist to further the theory. This effectively means that the practical operation of Rawls liberalism rests with a society's leadership, political party, political associations and civil society through advocacy.

Because society and human relations and social relations are historical realities that have become part of humankind's heritage and for the sake of constantly seeking solutions to problems and challenges that fall out of these processes, it is my contention that political

philosophers and social scientists should not shy away from making and abstracting generalisations concerning man and society despite the fact that man who is the central subject of the social sciences is unpredictable and imponderable.

The extrapolation of theories and conclusions must not be avoided because over the years Philosophers and Social Scientists have formulated principles and theories on the best form of organisation for society but most of these remained interpretations and rationalisations of existing political institutions. Awolowo (1968) dismisses the defence and excuse that man and society cannot lend themselves to the fixed form and unchanging and predictable behaviour of the solar system and other forms of nature. An interesting point in this direction is the fact that before the formalisation of the inductive principle, science and learning had always been by trial and error.

In seeking solution and doing research into the theoretical implications of Nigeria's socio-political problems and challenges therefore, and the extrapolation of Rawls in Nigeria one ought not to shy away from exploring the scientific pattern of analysing theory within the parameters of adding to the positive heuristics of solutions. Awolowo in this quote discloses that: 'mankind has now reached a stage in its development when it will be inexcusable ignorance, pig headed stupidity and unpardonable dishonesty on the part of any one society or community to adopt an unscientific approach to any of its problems' (1968, vii). Emotivism and sentimentality in responding to social and political issues associated with leadership, politics and society in the past thus have to give way to the rigours of Philosophy and Science in research into the country's socio-political structure.

## **PART THREE:**

### **CASE STUDY ANALYSIS**

#### **CHAPTER FOUR: A FAIR PROCEDURE IN SOCIAL STRUCTURING IN NIGERIA: THE IDEA OF CONSTRUCTIVISM**

##### **1. INTRODUCTION**

As I indicated in chapter one, there is a strong connection between the social structure of a society and the development of the people. It is also the case that a people are responsible for the social structure of their society because ultimately, they are the beneficiaries of the development process. This is the basis for my contention that the solution to the perennial social-political problems of Nigeria as captured in the preponderance of social injustice is in the restructuring of the society by the agency of the Nigerian people. And available literature and public opinion in this regard generally indicate that there is a common consensus that change in the social structure is desirable and necessary if social justice and political stability are to be achieved (Okowa 2005; Udogu 2005; Nwagwu 2006; Rotberg 2004; Sagay 2004; Momoh & Adejumobi 2002; Okoko 2001).

The point of divergence however is the kind of action needed to achieve this goal of change. While there are calls for a revolution (Nwabueze 2010), other opinions advocate the convocation of a conference to deliberate on the issues and find solutions. In this chapter therefore, an exploration and analysis of some of the possible scenarios on the process of change based on different views and ideas that have been made public over the years is made in the light of Rawls' two principles of justice which I translate as Liberty, Equality and Welfare (L.E.W)<sup>36</sup>. It is in this chapter that theoretical steps and possibilities of restructuring necessary to conform to conditions for the two principles are outlined, examined and evaluated.

The chapter examines the measures necessary in Nigeria to achieve the twin objective of social justice and political stability within the reality of the plurality of ethnicities, the lack of and pre-requisites of integration of all tribal groups, inequitable distribution of resources and regional disparities in social- political development. This effort takes its cue from the

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<sup>36</sup> Refer to chapter two discussions on theory of Liberty, Equality and Welfare.

social-political school of nationalist Anthony Enahoro and others who advocated a restructuring of the Nigerian society.

The need for the creation of permanent social-political institutions and a national political culture in addition to the development of a reservoir of voluntary compliance on the part of most citizens is also examined. In doing this I shall examine the two main scenarios adumbrated by Nwagwu (2006) and analyse them as they relate to the conditions for justice and stability. My analysis of these models is strictly analytical. My intention is not to recommend the best model as this would go beyond the scope of this research but to offer a theoretical assessment of the positions and their implications for the country especially within the ideals of the Rawlsian society.

## **2. EXTRAPOLATING POLITICAL LIBERALISM IN AN AFRICAN SOCIAL SETTING**

It may not be out of place to propose that for proper analysis of moral, social and political issues problems confronting most underdeveloped societies in Africa and other parts of the world, it is imperative for sociologists, philosophers and social scientists especially in Africa not to shy away from making generalisations on theories and principles that concern man and society in general despite the belief by people like Awolowo that people, being at the centre of the social sciences, are unpredictable and imponderable. Awolowo (1968) argued that scholars in Nigeria and Africa have erred in their failure to extrapolate universal theories, principles and conclusions in the analysis and resolution of problems in their societies. Over the years, western and oriental Philosophers and Social Scientists have formulated principles and theories on the best way of organising society and their societies have benefited from such efforts<sup>37</sup>.

While some societies in Asia and the west have extrapolated views of some oriental and western Philosophers such as Marx, Confucius, Ghandi, Tao, and Western ideals of liberalism, capitalism and welfarism at one time or the other in their history, the impression

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<sup>37</sup> Locke's political philosophy spread widely in the 18<sup>th</sup> century Europe. In England, the Whigs referred to it in their landed oligarchy, agrarian reformers like Spence and Oglive relied on it for their argument for landed oligarchy, in France, and people like Voltaire were influenced by Locke to assail the absolute monarchy and social injustice of the pre revolutionary France. In 18<sup>th</sup> century America, Locke's books and ideas formed the backbone for the phrasing of state declarations and constitutions. In fact "Locke's individualism, his glorification of property rights and his love of conscience have been interwoven into the economic and social texture of American life" (McPherson, 1980, xx).

seems to be that African and Nigerian academics and writers have simply interpreted and rationalized existing political institutions within the confines of the academic realm thus making sociology and philosophy distant activities from their society. They easily align themselves though with the obsolete argument that man and society cannot lend themselves to the fixed form and unchanging and predictable behaviour of objects of nature and science (Awolowo 1968).

The challenge Awolowo poses for contemporary philosophers and sociologists in Africa and Nigeria is to resolve to extrapolate and apply universal theories to their societies in historical and real situations. The idea is that as it was with Plato in Republic (1993), Aristotle in Politics (1988) and Confucius, so it was with Hobbes (1991), Locke (1980) etc., all of whom were involved in the moral, social and political theorisation and analysis, classifications and definitions of past and existing political institutions of their time with the purpose of presenting better ways of explaining and organising the society. Their efforts were never in vain as most social-political policies and practices in the west are based on some of their views. The same thing, Awolowo believed, could be done by African and Nigerian scholars, philosophers and sociologists.

For Nigeria to have political stability and social justice, the consensus as earlier stated is that there have to be major structural changes in the country (Momoh & Adejumobi 2002; Sagay 2004; Nwagwu 2006; Udogu 2005). How these changes can be actualised and what they mean for the society and the people however remain ambiguous and vague. Many writers have noted that social change is affected and effected by many factors and no single factor is responsible for it (Lauer 1982). And since it has been overstated that change is in fact desired by both the rulers and the ruled, this need can only be fulfilled through the collective efforts of members of the Nigerian society, a point emphasised by the ideas of Sewell (1992) on how change in social structure can occur in society. The clamour for change in Nigeria is not a new one because it has been on the front burner even before the bloody civil war in 1967 when the Eastern part of the country led by the Igbo nation fought to secede from Nigeria in reaction to cases of social injustice and inequality meted out to them in other parts of the country (Sanusi 1999).

### **3. THE TWO ARGUMENTS RELATING TO A NEW SOCIAL STRUCTURE**

The ideal of achieving freedom and equality of citizens is what the restructuring of Nigeria's social structure will achieve. To properly aggregate the main lines of argument for restructuring in terms of ideas, I shall rely upon the outline of Nwagwu (2006), which captures in-exhaustively, though broad, directions or propositions for change within the convocation of a conference or national dialogue where a social contract of ethnic nationalities would be entered into. He listed among others a federalism that stipulates separation of powers and responsibilities among the three levels of government, the middle belt forum proposal which is also a federalism that outlines the division of power between the federating units and the centre and the Movement for National Reformation (MNR) argument which calls for a restructuring based on ethnicity.

Led by the late Anthony Enahoro, "the Movement for National Reformation" advocated eighteen regions as the federating units. Nwagwu also lists Ojukwu's theory which spells out a restructuring of the federation into six regions. The six regions would consist of a cluster of states put together on the basis of ethnic homogeneity. Waku's theory recommends a peaceful dissolution of the federation; Azikiwe's theory of 1943 suggested a restructuring into eight provinces, while the Patriots' theory proposes six regions; Ekwueme in his theory advocated six regions of eight states with a president, six regional governments headed by governors-general and six vice presidents who are to form a presidential council. All these propositions can be aggregated into two broad categories of those who advocate ethnic self determination and supporters of true federalism. The analysis of these categories is to ascertain their level of coherence with the Rawlsian conditions for social justice vis-a-vis the two principles.

#### ***A. ETHNIC SOVEREIGNTY, AUTONOMY AND SELF DETERMINATION***

Autonomy for the ethnic groups in Nigeria as a way of achieving social justice and political stability was first adumbrated by Chukwuemeka Odumegwu Ojukwu<sup>38</sup> in 1967. At the Aburi (Ghana) conference of the nation's leaders just before the outbreak of the civil war, Ojukwu

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<sup>38</sup> Chief Chukwuemeka Odumegwu Ojukwu is unofficially held as the political leader of the Igbos. As a military governor in 1967, then colonel Ojukwu led the eastern region in the three year war between Biafra and le

advocated that the ethnic groups in the country should move apart and form a system of government that would control their people:

I, in all sincerity, in order to avoid further friction and further killings, do submit that the only realistic form of government today until tempers can cool is such that will move people slightly apart and a government that controls the various entities through people of their areas. It is better that we move slightly apart and survive, it is much worse that we move closer and perish in the collision (Joseph 1987, 185).

The kernel of the argument for ethnic autonomy is that ethnic sovereignty should be the building blocks of a just Nigerian society since the natural order prevalent in the country favours ethnic sovereignty. As one of the major ethnic leaders, Ojukwu has never denied the fact that he is a tribalist and argues that the very nature of the circumstances surrounding the emergence of the country permits his sentiments: 'the very circumstances of Nigeria only permit an idiot to be de-tribalised' (Maier 2000, 286). Restructuring the Nigerian society along this line has not attracted wide support and acclamation due to fears by non Igbos that it could lead to a break-up of the country.

To buttress the point for this theory, reference is made to the primordial sovereignties that existed among the ethnic groups and people before the advent of colonialism. For this school of thought, the issue is not whether a unified government for the entire nation is desired or not but what kind of accommodation and arrangement can be put in place for the various ethnic sovereignties that cannot be papered over or ignored. This is because in the current socio-political system, there is a constant feeling of alienation and isolation by some ethnic groups such as the Igbos who are deprived of some political offices and position and the thinking is that ethnic sovereignty and autonomy is the easy way out of this.

This school of thought led by Ojukwu, Enahoro, and Ekwueme hinges its position on the belief that Nigeria is a nation of many nations. Emphasising this notion, Awolowo (1968) outlined ten nations that can emerge from this current country that will be as viable as any viable nation anywhere in the world. The ethnic autonomy theory also acknowledges the fact that there is no homogeneity among the ethnic groups, judging from pluralisms in culture, morals, religion, Philosophy and traditional political systems. It is difficult to

contradict this school because their premises are quite true and their views are manifested in the realities of the Nigerian society as attested to by the consensus in literature.

The Yoruba and Igbo ethnic groups, which are at the fore-front of this school of thought, claim that in pre-colonial times, their societies were flourishing with all the trappings of civilised societies (Afenifere 1995; Ohaneze 1996). This is equally true for other sections of the country before the colonial administration and amalgamation that gave birth to the present country. In reality it is a fact that the differences and pluralities in the Nigerian society are working against the interest of the ethnic groups rather than for them because the social structure in place does not allow the groups to explore their potentials fully (Udogu 2005). This reality confirms the inter-ethnic rivalry and the fact that it is a fatal affliction of the Nigerian political process (Afigbo 1989). Forging a national identity has thus become almost impossible. Within the two principles of justices, individual freedom, basic liberties and equal rights would connote that people are free to associate without interference and it is in the interest of the peoples to form associations as they want and wish without any arbitrariness by any central authority.

The position of the Yorubas within the political dynamics and realities of the country remains a very viable option if the facts are anything to go by. If the major ethnic groups had established social, economic, religious, cultural and political systems before the advent of colonialism, and if sixty years of colonialism did not produce a united nation, the position of ethnic sovereignty may be justified. Also if fifty years of independent indigenous administration has not built a united country, then it may be wise to explore the option of self determination (Afenifere 2005). The status quo school will not have anything to do with this position for obvious reasons.

Ethnic autonomy and self determination will automatically eradicate the kind and scale of social injustice as it concerns distributive justice as there would be no more 'free petro – dollars' to appropriate and misappropriate. It is in this direction that the country experiences the kind of political and social tension it has constantly. Generally, the ideals of liberty, freedom and equality as universals would allow people with viable economic options, homogeneity and cultural affinity to form nations in the natural process or through contrived political construction.

This theory, as against the current system is bound to address most of the socio-political troubles facing the country basically because of its inherent virtues in organizing society and creating social coherence and loyalty to state which is very important in society. These ideals, conventional wisdom shows gives the people absolute power to choose their leaders and contribute to the way they are governed. This collaboration between the people and the state can thus create industry in the citizens and motivation for the state and the government to render service. The common good or common interest of the people and the society is promoted and social justice and political stability are better achieved. The question remains however, as to the real issue of viability of this clamour for ethnic autonomy or self determination. Those against this proposal would argue that most of the ethnic groups as they are constituted at present cannot go it alone (Arikpo 1967).

On the other hand, proponents argue that some of these groups are bigger, better organised and have more resources than some existing nations in Africa and Europe (Awolowo 1968). This argument has its plausibility when viewed against some African and European countries with small populations of less than one million standing on their own compared to the Yoruba, Igbo, Hausa/Fulani and Ijaw having more than twenty million people in addition to various natural and human resources.

Advocates of ethnic sovereignty believe that decentralisation as a form of restructuring is an idea whose time has come because simplification it is argued would lead to more efficiency in the country. As a leading supporter of this school Ojukwu elevates his Igbo ethnic group above every other thereby highlighting the fight for ethnic supremacy in the country. To him:

the Igbo nation constitute the largest homogenous ethnic population in Nigeria and it is a well known fact that in every state in Nigeria outside Igbo land, Nd'igbo always constitutes the second largest population next to the indigenous population, Igbo economic investment outside their homeland greatly outstrip the economic investment of other ethnic groups outside their ethnic enclaves indeed in most communities in Nigeria, Nd'igbo are at the forefront of development. This to me is unassailable evidence of the great faith which N'idigbo has in Nigeria. But is Nigeria a nation? (Ojukwu 2010)

These sentiments are shared by other ethnic groups such as the Yorubas and Hausa/Fulani making ethnic groups more relevant to the people than the country. This scenario makes

the argument for ethnic sovereignty and autonomy a very attractive option among the scenarios for social justice and political stability in Nigeria. Ekeh (1990) argues that the power and influence of ethnicity in Africa has deep roots in pre colonial times. All over the world it is believed that people have the freedom and right to determine the country they wish to belong to without hindrance. It is this principle of liberty that advocates rely on.

The argument for ethnic autonomy and self determination is accentuated by the misfortune of fifty years of disunity and political instability (Udogu 2005) because the institutions necessary to ensure unity and stability are lacking and cannot be built in the country; and also because it is made of different nationalities that lack the necessary commonality and homogeneity to cohere and pursue the same vision (David-West 2002). The ethnic groups are people without fellow-feelings; they speak different languages to the extent that the unified public reason necessary to achieve a visible democracy and representative government does not exist. The influences that form opinions and direct political and social actions are different from the North to the South. Different sets of political and religious leaders are respected and recognised differently by different sections of Nigeria.

While the same education, books and other instructional educational materials do not reach all of Nigeria, they defer in current opinions and instigations circulating in other parts of the country different from theirs. The same incidents, actions, system of government and structures of society affect the different sections differently and each group fears more injury to itself from the other nationalities than from the common arbiter which is the state (Nicolson 1969). The scramble for the control of central government is thus seen as the most viable option for ethnic and group protection.

In terms of how this school of thought on restructuring coheres with the Rawlsian vision, I believe the two principles of justice can be very attractive and will drive the active players to understand better the essence of equality and freedom. And to choose this route to restructuring will also involve the need for an overlapping consensus and must be through a national dialogue or constitutional conference analogous of the original position. I believe that this proposal for restructuring does not contradict or disqualify the application of the ideas of Rawls and coheres well with them and can in fact lead to political stability and social justice because of the emphasis placed on the homogeneity of people and culture.

## ***B. TRUE FEDERALISM, FISCAL FEDERALISM AND RESOURCE CONTROL***

The second route to restructuring is the theory of true federalism. Agitation for a federal state in Nigeria according to advocates (Dambazzau 2006; Azikiwe 1943; Middle belt forum 2005; Ijaw national congress 1995) dates back to the 1946 constitution by the then governor-general Sir Arthur Richard. It was the belief then that some of the pluralities could be adequately addressed if component parts of the country had a level of autonomy. The Ijaw National Congress (2006) and Saro-Wiwa (1994) became strong advocates of this thinking also. The problem of the country, civil rights activist Ken Saro-Wiwa (1994, 529) argued was 'the abandonment of federalism by the military for the force and violence of unitarism'.

The reason and philosophy behind federalism was seen by many as good, judging from the fact that political leaders including late Awolowo advocated this strongly as a panacea against future crisis. When it was first introduced in the 1946 and 1956 constitutions, Nigeria had only three regions. From the time of independence in 1960 and up to today Nigeria now has 36 component states. The agitation for true federalism cutting across all segments of the country is that component states should have a level of autonomy and be unchained from the incessant control and manipulation of the central government. Sagay (2004), Awolowo (1968) and Nwagwu (2006) all propound that this will allow states to grow at their own pace and utilise their resources fully. Their position eliminates the central control of the petro dollars by the ruling class and revert the centre of development to the component state.

Sagay's (2004) argument is that federalism makes governance at the centre which is so corrupt and rowdy because of the scramble for the national wealth more unattractive by de-emphasizing the pecuniary consideration for national service by shifting the attention of governance and economic production to the federating units. This makes these units stronger because, political and economic powers would be exercised by locals in their daily living, interactions and activities as obtained in developed democracies. It is believed that once people see less of the national till and more of local initiatives, local development will be enhanced as people more easily identify with their locality than with the nation except for the purpose of taking the national cake as is done at present:

The constitution of a country is or should be a reflection of its historical and socio-political experience. In this regard Nigeria cannot be different. The deliberate choice of federalism as the only viable and acceptable form of government for Nigeria was a product of the diversity of its people, politically, historically, culturally, and linguistically, and of the experience gained from the attempts to create a viable polity out of the forced amalgamation of northern and southern Nigeria beginning in 1912(Sagay 2004, 85).

Former military President of Nigeria General Ibrahim Babangida, the governors of Rivers and Delta states Rotimi Amaechi and Chief Emmanuel Uduaghan have all condemned the current federal structure in place and called for a true practice of Federalism. Babangida argued that the country has not progressed and does not enjoy social justice and political stability because of the lack of true federalism: 'Until Nigeria enthrones a true federalism, we cannot enjoy justice and stability and the country must have real federalism as the only solution to our problems' (*Babangida 2010*). Uduaghan argued that 'if you want this country to grow, there must be proper federation-a true federalism' (Uduaghan 2010).

To free the country from the straight jacket of the self serving unitary arrangement currently in place, Osundare (2008) asserts that Nigeria is urgently and seriously in need of a true federalism aimed at generating cooperation, harmony and interdependence among the constituent parts and at the same time ensure that no part of the country is so powerful and so big as to be able to dominate either directly or indirectly the other parts and no part is weak enough that it cannot function adequately without being seriously and desperately dependent on other parts. All the component states it is argued will enjoy the kind of equality that will ensure social justice and ensure political stability as the absence of these are caused by feelings of cheating and lack of adequate resources from the centre.

Genuine federalism as advocated by many groups guarantees decentralisation and the granting of legal rights to federating units to have ownership of their affairs, resources and culture (Sagay 2004; Saro-Wiwa 1994). Being a popular and universal system, federalism recognises the unevenness in the society and seeks to address this by throwing a challenge to federating units to develop at their pace and assist weak ones through fiscal tools such as tax and revenue rather than an outright assumption that all federating units must be at par. The inequalities recognised in federalism is not to leave the weak ones helpless but to give them a sense of belonging as the central authority is empowered to cater for the least advantaged which would be in line with Rawls' difference principle.

Awolowo (1968) was convinced that Nigeria's protectorate boundaries were arbitrarily drawn and mistakenly put Yorubas and non Hausas in the northern protectorate. It also put Igbos and non Yorubas together with Yorubas in the protectorate of southern Nigeria. His response to this aberration is that at the Berlin conference of 1885, the imperialist masters were less concerned about linguistic or ethnic affinities. Their main interest was the need to arrive at a compromise in order to have peace among them. Ijaw National Congress (2006, 36) equally asserts that at the end of the day, people of one linguistic group were divided between two or more different administrations and 'the natural recourse is for Nigeria to be restructured as a federation of ethnic nationalities'.

The sheer territorial size of Nigeria warrants the adoption of a federal system of constitution with the division of the country along ethnic lines Awolowo argued. An example of this imperative for advocates of federalism is the institution of Obaship and Emirship which are established in the western and northern parts but totally irrelevant in the east (Anikpo 2002). Also among the various ethnic groups, there are different standards of civilisation and unequal levels in the adoption of western education and the adoption of western civilisation (Maier 2000). A system of ethnic delineation would make each linguistic group to not only develop its own peculiar culture and institution but to progress at its own pace without being pushed or slowed down by others (Maier 2000). Federalism campaigners contend that it is a misconception to believe that Nigerians would easily and readily accept common standards and common leadership (Awolowo 1960).

The philosophy of true federalism in Nigeria means among other things the complete reconstitution and discarding of the present constitution, which is more unitary in practice but masquerades as federal (Nwagwu 2005, Sagay 2004)). In very specific terms, it would involve the institution of a non-centralised scheme of fiscal federalism whereby each part of the federating unit will explore, exploit and produce its resources, keep the money and make the necessary contribution in form of tax to the central purse (Sagay 2004). The philosophy would also necessitate the restructuring of the current over centralised unitary police structure, and the recognition of state rights over the local government system etc. For Mazrui (1998, 5):

Clearly federalism is at best only a necessary condition for pluralistic liberal order and not a sufficient condition. What has been remarkable since independence has

been, loosely, Africa's reluctance to seriously consider it as a solution to its tumultuous ethnic upheavals and secondly, the United State's reluctance to sell federalism as part of the American liberal legacy.

Nwagwu (2006) contended that from the submissions at both the 1995 and 2005 constitutional conferences in Abuja, all the major ethnic groups in the country, namely Yoruba, Igbo and Ijaw represented except the core Hausa/Fulani groups favoured a restructuring of the country along the lines of federalism. The Igbos, in advocating restructuring, anchor their argument on the same dynamics of the 1967 Biafra secession bid occasioned by persecution of the Igbos in the northern part of the country and other acts of inequality and injustice; but in recent times the Igbo agenda has received a boost from intellectual organisations such as Aka Ikenga, Ohaneze Nd'igbo and Mpoko Igbo while Dr Alex Ekwueme<sup>39</sup> presented their position at the National constitutional conference in 1995.

Core points of the Igbos at that conference included an increase in the derivation formula for the distribution of revenue to federating units from 3% to 13%, the classification of the country into six geo political zones, while the office of the president was asked to be rotated among the zones. The Igbos in contributing to the attempt to produce a just society and build political stability, also advocated that the geopolitical zones should be the federating units because the component states as currently the case are too poor, too many, too weak and too small: 'it has to be admitted that the federation upon which Nigeria was born and founded no longer exists' (Nwosu 2010, 57)

They hold on to this argument mainly against the backdrop that they enjoy cultural and language homogeneity in the south eastern zone of Nigeria. They have always, like the Yorubas advocated ethnic autonomy and self determination as a panacea to the socio-political crises in the country. From the arguments of the advocates of restructuring along federalist lines, the theory is seen to be well served by the presence of only two tiers of government in the nation, central and regional, and each autonomous arm is equal to the other and has defined areas of jurisdiction.

Showing some affinity with justice as fairness which emphasises the importance of process and decisions on principles, it is not clear what the decisions on the principles of justice in

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<sup>39</sup> Dr Alex Ekwueme, an Igbo man was the vice president of Nigeria. He Played a very pivotal role in the 1995 constitutional conference led the Igbo delegation.

Nigeria will be but one clear mark is that there must be a process to restructure the country and in choosing the federalism, supporters condemn the present social-political structure as arbitrary and based on an erroneous decision of banding together nations with distinct languages, historical, cultural and political systems in a crude bastardisation by the imperialists and successive military regimes (Sklar 2004).

In place of this, a group like the Yoruba nationality calls for a regional configuration akin to the Igbo position. The arrangement is that of constituting into one nation people that are ethnically identical with very strong geographical contiguity to each other while the issues and requirements of material resource in addition to human resources are settled. Above all there must cordiality among the people who should also be interested in a social cooperation and exhibit a demonstrable willingness to co-habit. These people should compose the regions that are to be the federating units and become useful coordinators of regional activities:

While the market potentials and military strengths derivable from one Nigeria are attractive, the contradictions in the present constitution bear no appreciable benefit for the Yoruba. Therefore, with regard to all matters of economy, internal security and social responsibilities, the Yoruba yearn to be autonomous, while they prefer to continue to collaborate with, but not to be subordinated to other ethnic nationalities in administering the central government of Nigeria. Unfettered self determination to achieve our goals set as a federating region of one Nigeria is the only requirement currently lacking in the efforts to industrialise the Yoruba nation (Afenifere, 2005).

Giving credence to the Liberty, Equality and Welfare principle emanating from Rawls' two principles of justice, the Yoruba position strongly advocates a system of government that is not only indigenous to ethnic nationalities but strongly regard the person as the unit and prime focus of development. They argue for such a system and structure where all parties have equal opportunity should be instituted for the maximum development of persons, communities, regions, and the nation (Afenifere 2005). Here the virtue of individual liberty and equality are emphasised for social justice and political stability to be achieved.

In this regard the Yorubas have the historical record of being the most egalitarian region in the country (Maier 2000). From the time of regionalism up to the present time, free education among other welfarist policies of government remain a part of the socio-political heritage of the Yorubas. The difference principle thus occupies a prominent part of the

philosophy of their politics even though they have never at any time based their principles on this Rawlsian postulation. Their avowed commitment to these egalitarian principles from the first republic in 1963 aptly shows that they believe in the well-being of the poorest in society.

The proponents of federalism (Sagay 2004; Afigbo 1990) also believe that it affords the country the best opportunity for the issue of mass participation of the people in the affairs of the state, government and politics. The emphasis in this regard is that the sovereignty of the will of the people shall be uncompromised while human rights shall be respected (Mazrui 1998). The system that is being proposed also embraces and encourages equal political, social and economic opportunities i.e. political and economic empowerment for every Nigerian citizen while at the same time equity, justice and fair-play are to be the ethical basis of politics and national unity, and transparency and accountability are to be the basis for governance (Saro-Wiwa 1994). Saro-Wiwa equally believes 'it is only a loose federation based on the ethnic groups that can offer a measure of cohesion and offer the Nigerian nation-state a slim chance of survival' (1994, 530)

Mazrui (1998) asserts that federalism remains a necessity in African societies, noting that it was the only missing item on the list of exports of the American system: 'The missing American agenda is federalism. For the first half-century of postcolonial experience in Africa, the word federalism has been anathema almost everywhere in Africa, other than Nigeria' (Mazrui 1998, 4). The reference to the American system is quite instructive because it is the quintessential example of a working federalism as the fifty states operate successfully under a federal constitution while the reference to Nigeria is because it is the biggest federation in Africa and the fifth largest federation in the world after India, US, Brazil and Russia (Sklar 2004). Nwagwu (2006) in this context believes it is important to adopt a structure that will make Nigeria a sovereign nation of one people as against the sovereign state it is at the moment.

Momoh & Adejumobi (2002) propose that whatever options parties in the conference adopt has to be a product of compromises and horse trading especially with the reality of the pluralities and in tandem with the efforts of the founding political leaders, there has to be the spirit of an overlapping consensus. This doctrine ensures that the structure to be agreed

on is based on consensus, national interest and common interest of all ethnic groups, thus necessitating the forfeiture of any selfish, narrow or tribal agenda. It is after this process of social-political engineering is accomplished in such a fair and transparent manner that Nigerians can talk of a nation they can call their own where all groups have a common identity and that identity that will elicit a national movement for national greatness based on the production of a people's constitution.

While assuming the original position of Rawls may not be literally applicable in our discourse, the metaphor it presents is emblematic of the process of ethnic groups in Nigeria or any society with similar demography coming together to discuss and reach agreements on fundamental issues concerning the organisation of their society (Efemini 2010). And for the resolution of the problems of social injustice and political instability in Nigeria, a conference of the people especially ethnic nationalities is very desirable and possible akin to Rawls' idea of free and equal agents deliberating on principles of justice in the original position. It has been argued in the last chapter of this research that the idea of an original position in practical terms must mean a national dialogue or constitutional conference where the issue of principles of justice are deliberated and agreed on. If not it may not be useful in analysing a society's quest for solutions.

But can Nigeria conform to this doctrine after carrying on for about fifty years as an independent nation? The consensus is that the kind of original position the country deserves is yet to be convoked and unless this is done social justice and political stability would remain a mirage. The argument is that this exercise which should have preceded the emergence of the nation was side-stepped buttressing the notion that Nigeria is yet to be a nation (Awolowo 1947, Ojukwu 2010). There are advocates of restructuring who firmly believe that the issue of national unity and national integration is at the root of resolving some of the thorny social and political problems confronting the nation (Enahoro 2006)

Ekwueme<sup>40</sup> agrees that half a century after independence, Nigeria is yet to forge and engender a strong sense of nationhood that transcends ethnic cleavages and transforms the country into a Nation state. This point counters the opinion of the pro-status quo establishment who argue for unity in diversity within the current social-political structure.

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<sup>40</sup> Alex Ekwueme was vice president of Nigeria between 1979 and 1983.

To this, Ekwueme notes that if Nigeria were a nation state, the crises in different parts of the country such as the Niger Delta, Jos- Plateau state, and Bauchi to name a few would not have occurred. He therefore argued that the current crop of Nigerian leaders must pursue national integration with renewed fervour and discourage ethnic and religious discrimination nationwide. In addition to the cacophony of civil society and academic voices calling for a conference to chart a new beginning for the country, Christian leaders also added their voices to the call for a sovereign national conference (SNC):

We can no longer continue to build a nation on falsehood. I believe there is need for a national sovereign national conference (SNC) for Nigeria. After almost fifty years of political independence, I think it is time for us to come together and discuss our reasons for being one because sometimes if you do not understand why you marry a woman, once in a while you may be thinking of all kinds of games to outwit her, believing that she has no parents (Oritsejafor 2010)

In advocating a new beginning, the argument is that Nigeria's history shows that from the 1946 Richards constitution, the process of gathering the political leaders for the drafting of a constitution has gone on without addressing fundamental issues of a theory of justice. Ordinarily the attempts by constitution making committees instituted in 1975, 1995 and 2005 to fashion a constitution should have been decisive but they were based on a wrong premise and devoid of the philosophical basis in the shape of a clear theory or principle of society. They therefore turned out to be mere jamborees. In particular, the 1995 and 2005 attempts attract more examination as they are very recent and were reactions to urgent calls for restructuring in the society. The failure of the 1995 edition was basically a function of the fact that it was organised by a military regime that lacked necessary legitimacy.

The interpretation for the failure of the 2005 edition by many is that there was a hidden agenda to extend the tenure of the president Olusegun Obasanjo but the proper analysis for the failure again is that it was wrongly conceived and lacked a philosophical basis, theoretical platform and socio-political principle which are necessary ingredients in the engineering of society. For example the conference should have been convoked through the ethnic nationalities with absolute sovereignty (Sklar 2004). This is based on the belief that the pluralities in Nigeria are attendant within ethnic, tribal, religious and cultural realities and must be addressed within these precincts.

Instead of convoking a constitutional conference of ethnic nationalities in the country to deliberate the crucial issue of justice and stability, the government involved what it called respected elders, retired civil servants, retired diplomats and traditional rulers selected by the government, and academics. Labour leaders, women's groups, manufacturers' associations, civil societies, religious leaders, student associations and press representatives were also selected. The list continued with newspaper proprietors, physically challenged people, Nigerians in the Diaspora, ethnic nationalities associations and political parties, retired military personnel and other paramilitary retired personnel, and six representatives from the thirty six component states in the federation. Instead of being what it should have been the exercise turned out to be what commentators called a fiasco. The issues at stake in the country are still recurrent.

Nnoli (1994, 28) equally notes that past reformist approach by different administrations in Nigeria to the issue of social and political integration does not look promising and attempts failed because the state did not see the ethnic problem in its over-all organic structural unity with the social structure of the society: 'The experience in Africa has shown that a state-led process of integrating ethnic groups and reducing tension tends to be a mechanical process which does not permit the ethnic groups flexibility and opportunities of pursuing their interests through interactions and negotiations with one another'. Chozan (1988) also believes that ethnic groups' participation in the struggle for state resources, remains a factor in current African political system that reflects the imperative of the times which cannot be wished away by rhetoric and exhortations of rulers, hence their origination and convocation of any dialogue and system.

It is therefore safe to argue that the original position doctrine (Rawls 1993, 1971,) translated as a constitutional conference or national dialogue should be between the ethnic groups that were banded together wrongly in 1914 where issues of social justice and principles of justice that will govern the basic structure of the society are properly deliberated on and concrete agreements reached. This procedure necessarily lays the groundwork for every other issue concerning the country. The long term outlook of the country from the terms of the doctrine of an initial position envisaged by Rawls cannot be achieved without this first step. The shape of the nation and the interplay of ethnic nationalities, the type and system of politics and the basic structure of the society that will produce social justice and political

stability are matters that only a properly constituted conference can handle. Ayodele Adewale, writing in the Independent newspaper, put it succinctly when he cried that:

We are calling for a sovereign national conference (SNC) whose deliberations and adoptions would not be tempered with by anybody or government but would be subjected to a referendum for adoption by the people because that is the only thing that can move this country forward. The elected representatives of the people must come together at a round table to design an acceptable formula to move the country forward. In South Africa, Liberia, Benin republic and other parts of the world, they had it. It is not war, it is about people coming together to chart an acceptable course for their survival (Adewale 2010).

#### **4. IMPERATIVES OF A NATIONAL CONSENSUS**

The core of Rawls' (1993) idea of an overlapping consensus is for the purpose of finding how a well-ordered society can be unified and stable. In the case of Nigeria however, there is no attainment of a well-ordered society yet. It therefore means that as part of the process of achieving a well ordered society which is the ultimate lessons of Rawls' Political liberalism, the parties in the Nigerian original position must imbibe the spirit of overlapping consensus. In this sense, each member of the deliberation has to endorse the political conception of justice agreed to. Social unity badly needed in Nigeria has to be based on a consensus on the political conception of justice. And this is only possible, according to Rawls, 'when the doctrines making up the consensus are affirmed by society's politically active citizens and the requirements of justice are not too much in conflict with citizens' essential interests as Formed and encouraged by their social arrangements' (Rawls 1993, 134).

Events in the world show that it has become extremely expedient for all the citizens and ethnic groups desirous of living together in a multi-cultural and plural country such as Nigeria to share certain common national values outside their immediate regime of values through consensus. The thinking in many quarters in the country is that no socio-political arrangement can endure and ensure justice and stability if there are no shared national values. The argument is that if the international community can devote so much time and energy to establish global practices and values, Nigeria can do same.

The imperative of consensus on the social-political structure of Nigeria is especially emphasised and canvassed as the reality of a constitutional conference remains inevitable

and the thinking is that the major socio-political issues confronting the nation such as political office, revenue distribution formula to name a few can only be solved through negotiation rather than the strong-arm dictatorial tactics employed by governments in addressing matters which are occasioned by naked exploitative systems (Momoh & Adejumobi 2002). The popular opinion is that the doctrine of consensus incorporates persuasion, discussion, debate, compromise, concession and mutual accommodation (Enahoro 2006).

Other contents of national consensus by parties to the constitutional conference should be issues such as the country's presidency. The ethnic nationalities must therefore face the challenge of producing the nation's president either irrespective of his ethnic background or otherwise. The current reality is such that ethnic groups scramble and scheme to produce the president as a way of developing their area and their group. It is obvious that a national consensus should be reached to set the stage for a permanent structure of national politics. For Sanusi Lamido Sanusi, current governor of the central bank of Nigeria, a consensus is inherent in the interplay of historic, ethnic and religious dynamics of the nation:

The people of this country have a long history of being together. Yet each group jealously guards its own identity, be it ethnic or religious. This is so only because our cultures, our religions teach us core values within which we find full expression of our humanity. If only we would look we would find that the values that make a good Fulani, Yoruba, Kanuri, or Bini man, the values that make a good Christian and a good Muslim are the same. If only we had in each part of this country, a leadership with the vision to recognise this to harness this, to bring together good Yoruba, Hausa, Igbo, Ogoni and Angas, men and women; good Christians and Muslims; to run the affairs of this country, we would find peace(Sanusu 1999)

Another crucial issue that demands consensus is how to distribute the revenue and resources. While the south-south or Niger-delta region, which produces the bulk of the country's wealth through its petroleum resources, advocates total resource control, the northern part of the federation, arguing that all resources found within the federation are national wealth, insists that such resources must be shared among the component states in the federation. To avoid a winner- take- all situation, an overlapping consensus on this thorny issue is inevitable. Earlier instances of decisions reached without consensus is the unilateral adjustment of the derivation formula from 100% percent to 50% in the colonial

era; from 1%, to 3% in post-colonial administration and finally to 13% in 1996. Though there was no agreement on this, the formula is being sustained by fiat and decree.

## **5. A WELL ORDERED NIGERIAN SOCIETY: SOCIAL JUSTICE AS DEVELOPMENT**

The expected outcome of the conditions of the above deliberation and construction is the institution of a well ordered society. This, in turn logically sets the stage for the attainment of development since the argument by people like Sen (2008) and Ake (1996) is that individual freedom and liberty in society are indicators of development. Ake (1996, 125) specifically draws attention to the fact that development must focus on the people because the concept is man-centred. He argues that: 'men being the bearers and sustainers of social life must be the beneficiaries of the development process. In fact development is a concept that is interested in the good life for man'. The concept of development in society has many interpretations and the least we can do is to take a particular perspective that does not seem exhaustive.

Okowa (2005) quotes Todaro (1981, 1981, 70)<sup>41</sup> who sees development as:

representing the entire gamut of change by which an entire social system, tuned to the diverse needs and desires of individuals and social groups within that system moves away from a condition of life widely perceived as unsatisfactory and toward a situation or condition of life regarded as materially and spiritually better

Justice and poverty reduction in society are now a more explicit concomitance of any development policy while economic objective of development policies and economic growth as a measure of progress in society is now seen as more of a means to an end rather than a final objective in itself (Addison 2008). In 2006 the World Bank reported that there are over one billion people in the world living in extreme poverty today; people having less than one US Dollar per day to survive and the situation in Sub-Saharan Africa is especially desperate as almost half of the population are poor. It is also reported that some 799 million people or 17% of the population in developing countries are undernourished, and in sub-Sahara Africa one third of the population is undernourished, the largest of any developing region (world Bank 2003)

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<sup>41</sup> See Okowa, W. 2005. Socio-economic emancipation of the Ijaw people. Presented at the 2005 Ijaw day/world summit at Yenagoa Bayelsa state.

Sen (2008), writing in this vein, draws a link between liberty and development and affirms that development is all about the possibility of expanding the capability of individuals and the freedom of individuals in society to choose ways of thinking and living among many choices. This means development has a direct influence on the quality of human life and the ability to make choices in life, at the same time political liberties are necessary for sustainable development. The success or assessment of any government therefore should be directly related to the welfare of the citizens of the country. This clearly indicates that the structures of the state and government in addition to their actions and policies directly affect the wellbeing of the citizens. In this direction there is a link between the social structure of Nigeria and the wellbeing of Nigerian people.

The emphasis by the United Nations development agencies now is for effective states to achieve development objectives by providing pro-poor service and infrastructure. Human development is taking the front burner as against the crude belief among policy makers in the past that industrialisation and urbanisation were synonymous with development. But while this debate and that of the propriety of the state in the provision or not of development continues, Addison (2008) argues that an ideal society must achieve absolute poverty reduction through the agency of individual enterprise. This however, cannot be the case in underdeveloped countries where individuals lack the capacity for self help and need the assistance of the state.

On the other hand however, there are arguments that favour state action to reduce overall income inequality and other failures. While Rawls (1971, 1993, and 1999) falls into this latter group, others such as Nozick (1974) vehemently oppose such egalitarian ideas, insisting that individual freedom, including the right to accumulate wealth are “no-go-areas” for the state. So what should be the position and how responsible are the states in Africa in the developmental shortcomings of their societies? Ake’s (1996) response is that development rather than being a project is a process through which people can create and recreate their life goals and realise higher levels of civilisation based on their personal choices and values. So the role of the state is the constitution of a just and stable social structure.

For the purpose of precision and brevity, this research assesses the development in Africa through the eyes of Nigeria within the perspectives of poverty and inequality and these two parameters aptly capture and represent some of the conditions for development in the society and among the people and to get authentic information on this subject I referred extensively to the conclusions of the 2009 Nigerian Human development Report of the United Nations development programme (UNDP). The report outlines the progress of countries in terms of Human Development Index (HDI) which shows the level of development of a country within the precincts of the wellbeing of people. And to properly put in perspective the developmental initiatives of the country within goals and targets, the Millennium Developments Goals form the benchmark.

The normal practice in Nigeria over the years had been for the different governments at both component states and federal levels to use issues such as construction of roads, bridges, and airports etc as indices of progresses while the people are neglected and abandoned. This situation makes an interesting contrast with the work of Amartya Sen (2008) on development. The implication of the adoption of Sen's ideas by the United Nations is that the focus of development has shifted to the people and this marked departure has exposed the practices of governments in Nigeria and given the proper picture that after fifty years of independence, Nigeria remains a poor country according to the World Bank 2009 report. In this concept of development, Ake (1996, 42) argues that 'while other regions of the world have experienced development in one way or the other, the problem in Africa is not so much that development failed as that it never really began. This means for Ake, Africa is yet to start the challenges of over-coming underdevelopment and my contention is that this can only start with a new social structure that is just and fair.

In September 2000, Nigeria joined 190 other member countries of the United Nations to agree upon and subsequently signed the United Nations Millennium Declaration. The declaration set out eight goals all member countries are to strive towards by 2015. The goals are: eradication of extreme poverty and hunger especially in underdeveloped nations, achievement of universal primary education and the promotion of gender equality and empowerment of women. Others are reduction of child mortality and improvement of maternal health. The goals also include combating HIV/AIDS, malaria and other diseases while environmental sustainability and the development of a global partnership for

development is ensured (UN 2009). As lofty as these goals are, it is believed they can be met (Benn 2006). The optimism is based on progress by countries such as China and India and in terms of colonial experience, these two countries share the same legacy with Nigeria but they have long restructured their societies.

The intention of the international community in setting the millennium goals was to reduce poverty and advance social development for the world's poorest people. This intention invariably rubs on the Nigerian people. But how have they fared under the current social structure? Clearly available evidence from the world body shows that the nation is far from providing the kind of governance that enhances the development of the people. The twin existence of an unjust social-political structure of the country and the agency of corrupt people both in and out of government has left the country undeveloped (UNDP 2010). The role of good governance in society by the government, as a catalyst and vehicle for the personal development of the people is well emphasised by literature and administrators of international development institutions. Benn (2006, 1) argues this further:

Good governance starts and finishes with developing countries themselves. Development does not happen without effective states capable of delivering services to their citizens and helping economies to grow- states that respond to the people's needs and which in turn can be held to account. While we will continue to help build the capacity of public institutions for good governance in developing countries, we will now do more at the grass roots to re-inforce their demand for good governance.

The unjust social-political structure and agency of corrupt leaders in the country as the arguments continue have not been forthcoming in delivering necessary opportunities for development in this direction. To buttress this, a report released by the Nigerian government on Thursday 19<sup>th</sup> August 2009, admitted that the country is unlikely to meet the deadline for the Millennium Development Goals in areas such as poverty eradication as fifty percent of the people are said to still live in poverty. The report also clearly expressed the inability of the country to meet the deadline on issues such as an improved maternal health and environmental sustainability. This admission of failure in spite of the wealth of the country shows the failures and corruption in the structures of the Nigerian society that have kept majority of the people poor (Nwokeoma 2009). These structures discourage functional collaboration among various tiers of government in the country and accommodate corruption in the disbursement of funds.

While the country exports more than two million barrels of oil per day at the cost of more than \$100 per barrel, the government cannot halve the proportion of people whose income is less than \$1 a day. It cannot ensure that by 2015 children in the country are able to complete a full course of primary schooling. The government and its corrupt structures cannot reduce child mortality and cannot reduce by three quarters the maternal mortality ratio by 2015. The report of the government equally indicate that it is making some progress in reducing the incidence of new HIV cases but it cannot integrate the principles of sustainable development into its policies and programme and reverse the loss of environmental resources.

The 2009 United Nations Development Programme report on Nigeria also notes that a variety of internal problems have slowed down the growth of the country and these problems include stark realities of inadequate human capacity development, obsolete agricultural practices, poor infrastructure, dwindling growth of the manufacturing sector, a poor policy and regulatory environment and abuse of resources fifty years after independence. This conforms with Nwagwu's (2006) argument that the current social structure of the country with its inherent tensions and antagonism is at the root of Nigeria's debacle. Various studies also link the corruption to the lack of development (Afrobarometer 2005) while Human Rights Watch (2007) notes that corruption has led to the misappropriation of about \$380 billion from 1960 to 1999. A major effect of the unjust structure and corrupt leadership is the level of inequality in the society.

While it is common to believe that the true measurement of the progress of any society is by judging how its poor and most vulnerable groups or what Rawls (1971, 1993, 1999) refers to as the least advantaged, live, the United Nations reports that recent statistics indicate that there is a systemic structure of inequity in Nigeria because only such a 'system would permit just 20% of the population to own 65% of national assets while as much as 70% of the same population are peasant rural workers and artisans' (United Nations Human Development Report 2009, 47). Inequality in Nigeria, being a direct outcome of the unjust social structure, means opportunities for upward mobility are few, there are few decent jobs and poor income, low purchasing power for the employed, poor infrastructure and institutional failures in key sectors such as education, health, and transportation to name a few.

The inequalities in the country also exist in the economic fortunes of different parts of the country, so that while the Niger-Delta zone had a GDP of \$63 billion (8 trillion Naira) in 2008, the North-West had \$34.58 billion (4.3 trillion Naira). The South West had \$33.38 billion (4.2 trillion Naira), while North-Central zone of the country had \$23.04 billion (2.9 trillion Naira). The North-East had \$5.36 billion (675 billion Naira) and the South-East had \$5.1 billion (642 billion Naira). Translating this into per capita income means that people in different zones of the country live under different conditions because of the unjust social structure. The UNDP (2009) also reported that since 1999 under the corruption perception index (CPI), Nigeria has been labelled the most corrupt nation thrice- 1996, 1997, and 2000. It was among the bottom five four times; fourth from the bottom in 1998, second in 1999, 2001, 2002, and 2003.

While the debate continues on the primary cause of Nigeria's problems being structural or leadership, the United Nations (2009) touts a line of argument similar to that of this study and believes the situation is a reflection of fragility of the entire system in addition to some fundamental weaknesses in the affairs of the resources of the nation and governance in economic and political terms. The weaknesses in the structure inhibit proper, equitable and effective distribution and redistribution policies, regulations and mechanisms and the only remedy to reverse the current trend of development in the society is reformation and restructuring in the realm of social governance that would remove weaknesses identified.

On the one hand the United Nations Development Program in its 2009 report on Nigeria's Human Development asserted that in fifty years of its emergence as an independent nation, Nigeria has built up social and institutional structures aimed at pushing forward its course and quest for a respectable place in the country of nations. On the other hand, it notes that the progress of any nation is always measured according to its history giving credence to the argument that under the colonial arrangement the welfare of the Nigerian people was not paramount hence the present situation (Addison 2008). The question then is why has the country not gone far enough in its developmental strides after fifty years of indigenous government? Diamond (1988) responds to this situation with the proposition that the African nationalist elite were only interested in taking power rather than establishing just structures and institutions for their societies.

Ake (1996) in explaining the demise of these ruling elites argued that African states inherited authoritarian structures from the colonial administrations and these structures created a political environment that was hostile to development. To him, there is really no lack of development in Africa. 'The problem is not so much that development has failed but that it was never really on the agenda in the first place and by all indications, political conditions in Africa are the greatest impediments to development' (Ake 1996, 1). While Ake may pursue the argument that African politics has been un-intentionally constituted to prevent the pursuit of development and the emergence of relevance and effective paradigms and program, what stops the current indigenous elites from changing the structures responsible for this?

Post colonial theory shows how many former colonists have become masters of their former colonial masters in terms of development and the constant attribution of Africa's woes to its colonial past may not be defensible again. Ake's (1996) position is that unlike in Europe, America and Asia, colonialism in Africa was unusually statist. He believes that the political context of the development project in Africa render it unlikely because in post colonial Africa, the undue emphasis on political power is unnecessarily so high that the institutional structures to moderate political competition are scarce. The result is that political competition among parties and individuals tends to be tense. Also, the struggle for power is so consuming that the quest for development is marginalised.

What this means in effect is that, as the United Nations recognises, for fifty years the yearning for development in the country has been there but the social and political structures lay more emphasis and puts more premium on power rather than development. The accumulation of power tends to be the pre-occupation of African elites. In Nigeria the scramble for political power is so violent and fraudulent because seekers of this power do so only for selfish and personal aggrandisement rather than for public service or socio-economic development of the country. This, I believe remains the underlying reason why the political class has resisted any fundamental change to the social-political structure in the country.

In crystallising the effects of the convocation of the original position in the form of a national dialogue or constitutional conference where the requirements of national

consensus are fulfilled on the society therefore, we need only look at societies where similar processes took place. With this it becomes possible to argue that there are high tendencies and possibilities that the new social contract by the people can institutionalize just basic institutions composing the social structure. This will in turn lead to the enthronement of social justice and the idea of development being its concomitance can begin to make sense in Nigeria. It is logical therefore in analysing the processes outlined in this chapter that development is indeed possible when a people are responsible for the outcomes and agreements in their society.

Rotberg (2004, 3) notes that the institutionalisation of social justice promotes development in society both for the state and for the citizens made manifest in the following ways:

Good governance, good performance, delivery of political goods in the form of personal security and freedom from deprecation; a predictable, recognisable, systematised method of adjudicating disputes and regulating the norms and mores of society, an effective rule of law; the essential political freedoms to participate in political life and express dissent openly; medical and health care; schools and educational instruction; roads, railways, ports and harbours, the physical infrastructure of commerce; a functional money and banking; a fiscal and institutional context within which citizens can pursue personal entrepreneurial goals and potentially prosper; a vibrant civil society; and a sharing of the environmental commons.

## **6. CONCLUSION**

It is certain that with clear reality of problems and distortions in the social-political structure of the Nigerian society, the Rawlsian ideas and theory are imperative, useful, relevant and instructive. They present important points that can form the basis of study on practical solutions to these problems. With the adaptation of some of the notions from Rawls' theory and postulations, there would be an organised regulation of the preferences and choices in institutions in the socio-political arrangement to be agreed on in a constitution in which the primary elements of social and political relations are properly outlined.

Reconciliations and reorientation of the national psyche of the people seems to be gathering momentum as the possibility of the principles of liberty and equality in the organisation and participation of the people in the socio-political restructuring of the society gets a boost. The vociferousness and volume of contribution of the people in the ongoing

national debate lends credence to the conclusion that the recognition of the fact that sovereignty lies with the people is at the root of the quest for social justice in the structure and political stability in the polity.

The preponderance of opinions and literature is that at the moment Nigerians crave for liberty and equality. It is what the advocates of self determination and ethnic sovereignty propagate and it is the desire of the proponents of federalism. These groups in line with Rawls' two principles of justice believe that the question of social injustice in the country's structure would be greatly addressed if the people are allowed to carve and chart the course of the country's journey into nationhood. The conclusion of most writers also is that the time is auspicious for a socio-political re-engineering in the society and in my contention the liberty, equality and difference principles of Rawls present the best guide for progress.

The preferable choice of federalism is a veritable option of the ethnic groups for the full expression of their potential and vision for their lives. The full impact of liberty and equality is that ethnic groups in a federal structure would be free to organise the society as they wish and the arbitrariness and dictatorships currently associated with the state and the government are jettisoned. Federalism affords equality of groups and individuals in the society as each explore to the fullest their potentials and their resources. And as Rawls saw liberty as the Prime principle, the feeling among Nigerians is that the liberty of the people must be cherished and preserved.

It is safe to conclude that if the principles of liberty, equality and welfare, form the pillars upon which a restructured society is built, then the light at the end of Nigeria's dark tunnel is breaking. The previous practices of the contending groups attending conferences with narrow, selfish and primordial tribal interests must give way to universal and objective assessments, deliberations and collective decisions favourable to all parties. This conforms to the notion of the veil of ignorance in Rawls. But because the veil of ignorance in Rawls is unrealistic, impracticable and non historical, the caveat is that the veil of ignorance in real

terms must be national in outlook. It is important to highlight this notion of veil of ignorance because as Tukur (1994, 245) asked:

How can we be sure that even when delegates to the conference were wholly elected they will represent the genuine wishes of the majority of the people of this country who we know have no interest in contracts, creation of states, appointment to ministerial positions and general access to public resources.

From the analysis generated so far on the different positions taken by the three schools of thought, viz; Establishment/status quo, ethnic sovereignty and federalism, the theory of justice propounded by John Rawls in response to the state of social affairs in America and Europe in the 1950s, has all the trappings of transforming the social-political structure of the Nigerian society and assure social justice and political stability. The bottom line is that all the steps outlined in the chapter if followed to the letter will serve the purpose Rawls envisaged and envisioned which is justice.

Philosophers and social scientists from the ancient times to the current day unanimous in the notion that a society and nation is an artificial creation that builds on the concept of people coming together to form and create the principles governing their societies (Plato 1993, Aristotle 1988, Hobbes 1991, Locke 1980, Rawls 1971). It is also unanimous that people tend to agree and conform to rules and principles that are made in fair and open processes they partake in formulating. From all that has been written and analysed about the situation in Nigeria therefore, it can be argued that a process of nation building and decision making that involves the people of Nigeria is bound to receive support and elicit obedience more likely than the current situation where even the formation of the nation was arbitrary and dictatorial and the formulation of policies that affect the country are done without the distinct interest of the people (Awolowo 1968).

It therefore follows that the ethnic groups in the country who are the major stakeholders in the Nigeria project are able to convoke a people's constitutional conference where they can deliberate on the state of the nation, its structure, processes and principles governing their socio-political relations in a fair and open manner. These groups can eschew selfish and

parochial interest and fashion out principles that promote national interest, social justice and political stability. And if these groups during their deliberations and discussion will reach consensus on all the issues at stake with each group bending back and forth in either their demands or oppositions, and being considerate of the view points of others in a negotiated settlement and bargain, then there is every likelihood that Nigeria will be a well ordered society.

The social-political structure of the society after being made just will produce justice in other sectors inevitably. It is a conclusion achieved in other societies that went through this procedure and if it happened in these societies, then it can happen in Nigeria because Nigerians like other people are rational and reasonable. And it is this rationality and reasonableness that will move the emerging managers of the Rawlsian processes to see the direct link between social justice and development. We saw how injustice created all the distortions enumerated in the course of the argument and the logical reverse in my analysis is that development will continue to elude the Nigerian society until there is social justice.

## CONCLUSION/SUMMARY

Part of the summary and conclusions deduced from the analysis in the foregoing is that Nigeria's problems go beyond leadership, corruption and other vices. It is a situation of institutional social injustice sustained through an unjust social structure. It was established that social structures have a lot to do with how a society functions because they determine how the people are governed and how they determine rules. From the positions of the structural-functionalists and Rawls as we saw in chapters one and three, the implication is that inconsistencies and distortions in the social structure of a society can have adverse effects on the wellbeing of members and create injustice. This structure was put in place by the ruling class shortly after independence and it is being nurtured and sustained by it. In the latest UNDP report on the Human Development Index on country, Nigeria is reported to have a high level of poverty and inequality while 64% of the population is poor. For the 6<sup>th</sup> largest exporter of crude oil to be in this situation can only mean there is something wrong with the organisation of the country.

In 1900 the British crown began the process of colonisation in Nigeria, and available literature shows that what was supposedly a good intention and a worthy mission on the part of the British, according to the arguments of critics of colonialism, eventually turned out to be a waste and an unprecedented displacement of years of social, cultural and political heritage of different groups of people in Nigeria. Different arguments were made and seen in early chapters of this research on the merits and demerits of the colonial period in Nigeria but one undisputed point was that current experiences of social injustice and political instability have their origin in the colonial past. The conclusion on this also showed that colonialism in Nigeria would not have been so criticised and the role of the British in Nigeria's under-development not so condemned if the amalgamation of January 1914 had not occurred or had been done differently with the full involvement of the people.

My conclusion includes the argument that amalgamating the Northern and Southern parts of the country endowed with different cultures, religion, moral beliefs and life style into one nation called Nigeria by fiat without the active collaboration and participation of the people as seen from available literature is the root of ethnic crisis and social tensions experienced today to the extent that it has become unsafe and dangerous for a Nigerian to live outside

his or her region. In the first place it is common knowledge that the social and political intervention of the British colonisers deprived the people of their most important assets; liberty, life, and private property (as the Nigerian people were conquered and ruled by force). Locke is famous for his argument in respect of these ideals and he rightly asserted that the role of government is primarily to protect life and property but the era of colonialism left the opposite behind with conquest and dictatorships as the hallmarks of colonial administration in Nigeria.

The chiefs and people living in the country from all parts lost every liberty, freedom and equality in the face of sixty years of domination and dictatorship of the colonial masters as during this period the will of the people was subdued while their rights to self determination were denied and the seeds of social injustice were sown and cultivated. By the time it was all over, the British left a broken, disunited and completely divided country for local administrators and politicians to handle. The result is fifty years of misrule and multiplication of social injustice by the Nigerian political class. Attempts by successive administrations to address this brokenness one must add have not succeeded because the fundamental issues highlighted above were constantly ignored or downplayed.

In practical terms the perpetration of colonialism has not ended but has been localised. Institutions such as the State, Democracy, Constitution, Derivation principle, and Federalism have been identified as some of the critical grounds for social injustice and political instability in the country. And the reason for this state of affairs from the different views examined is that these institutions are alien and anti- people. The way out in my contention points in the direction of the people forging a nation themselves with the necessary institutions re-ordered. And this they can do through a conference that will produce an authentic people's constitution to replace the current one which has been described by many critics as illegitimate and a document that lies against itself (Patriots 2003)

The pertinent question to ask at this point however would be how to introduce a social contract in a society that has existed for almost a hundred years without it. In this regard the president of the country was recently quoted by a Newspaper as dismissing any call for a conference of ethnic nationalities, arguing this should have been done shortly after 1914. Critics of this thinking however counter with the argument that the clamour for a new

beginning is basically borne out of current, chronic and perennial presence of social injustice and political instability in the country from the time of amalgamation. Calls for a national dialogue are only indicative of the fact that the mistakes of 1914 are still harmful to the people.

The Nigerian situation is not an isolated social event without any precedence as there are indeed veritable examples of societies and people who took conscious steps to reform their polity as a way of resolving social-political problems. In the early 1990s, South Africans had to end the apartheid era through the convocation of a constitutional conference of all ethnic groups and stake holders in the country where a new constitution that guarantees freedom and equality of all was achieved. Also in 2010, the government and people of Kenya adopted a new constitution in a referendum to address age-long social-political problems in Kenya after the violence and protests that accompanied their 2009 elections.

The conclusion that Nigeria needs to go back to the original position where the nation and its society are properly designed based on social contract, deliberation, consent, agreements and treaties is also compared to the American federalism which was founded on the American declaration of independence in the 18th century and the creation of the European Union which was based on a number of treaties agreed to in Paris in 1951, Rome in 1957, and Maastricht in 1992 (European Union, 2007). These treaties are the basis for everything the EU does and all amendments to them are normally carried out through special conferences of the Union's national governments. Nigeria on the other hand has no treaty entered into by the member ethnic groups as the basis for their Union and there are neither broadly agreed principles of justice nor broadly agreed regime of rights and liberties.

The basis of the existence of Nigeria was a mere pronouncement in the British parliament on the 2<sup>nd</sup> of January 1914 and current and past ethnic agitations for more resources and political power at the national level add more credence to the argument of the advocates of political restructuring. The social-political history of the country show a bitter and tense fight for political power at the centre mainly for the control of the national wealth and this is because there are no institutions that guarantee how political power is accessed and an equitable agreed principle for the distribution of resources is grossly in demand. This has

thus created the culture of impunity in government and unrestricted looting of the public till.

I tried to establish that there was a clear lack of a public conception of justice at the point of Amalgamation and birth of Nigeria in 1914. There was also a visible lack of any theory, Paradigm or principle for the development of the basic structure of the Nigerian society. This fundamental failure thus gave rise to the castration of the social and political fabrics of the Nigerian society from inception. The outcome of this unilateral action was the putting together of people and groups who had serious suspicion for each other in addition to continuous and incessant rivalry and unhealthy competition and envy. The tension so generated by this animosity among the ethnic groups led to a three- year war where two of the major ethnic groups fought against one (the Igbo tribe). The events predating that war are still present today, making the clamour for social justice still topical and urgent.

The heritage of the society in Nigeria today is that of people with different traditional and cultural belief systems and different beliefs in justice and morality brought together to live in one country without an adequate and appropriate structure to harness and accommodate these differences. So what is at play today is a kind of totalitarianism, aristocracy and authority driven by a unitary government or an oligarchy purporting to be federal. This system of government, which has been in place in other forms as a military dictatorship, has negatively affected the community and tribal beliefs in justice and morality without a viable and alternative regime of moral and societal rules of engagement. The current malaise, such as the corruption and other social / political crises including the problem in the Niger Delta, are all resultant effects of this failure.

The cumulative resultant effects of the failures of the past and the reluctance of leaders in the country to honestly and with sincerity address these socio-political challenges in the country is that morality in the country has broken down, leaving the citizens act out of self interest irrespective of its effect on the common good. And since the coming of foreign civilisation introduced a different kind of morality which was more of political morality at the expense of traditional morality, the distortions in the concept of civilisation, modernity and political government in the mould of western culture has led to the multiplicity and

incompatible moralities. It is therefore inevitable that there will be moral, social and political malaise in the Nigeria society and forms part of the identity of the people.

The interesting thing however is that every nation and people with similar characteristics to Nigeria that have overcome their challenges passed through similar dynamics and one time or the other experienced change in their society. In the this direction, Nigeria has gone through several failed processes of change through political pronouncements and social engineering while different political systems imported from other abroad wholesale have been implemented but have not solved the problems. The ruling class has also introduced different economic and social measures to help the people and the society over the years without much success. It is however the opinion of different writers as examined in chapters one and four and rightly so that arbitrary imposition and dictatorship on the part of the ruling class sidetracks the issues and only gives a cosmetic treatment to a problem that requires a surgical procedure.

Having tried different ways of addressing the issues associated with Nigerian society, it is the contention of this research that the best way out is to explore moral, social and political theories that can recognise, acknowledge the pluralities and diversities of the people, emphasise and promote liberty and equality in opportunities, and cater for legitimate and inevitable inequalities in the society. Such theories and principles among many others are the two principle of justice by Rawls (1993, 1971) which I choose to summarise as the Liberty, Equality and Welfare (L.E.W.) Principle. Any resolution of the crisis in Nigeria within the confines and dictates of this principle I believe has a good chance of coming to fruition because of the inherent outcomes of the principle. This principle, like the Kantian categorical imperatives, it can be argued is potentially objective and universal from its a priori element and can therefore work in line with its meaning and intention.

These principles to comply with their conditions and requirements are targeted at only the basic structure of the Nigerian society. And why would this be so? In line with Rawls' argument, it is because the cases of social injustice are clear consequences of the interplay of social and political institutions. The basic structure displays how the goods, resources and benefits of society are distributed and an unjust basic structure automatically results in social injustice. At the moral, religious and philosophical levels, the different ethnic groups

and their members follow a pattern handed down by their cultures over the years in shaping their private plans for life and their goals. It is when public distribution is concerned that an acceptable principle(s) that cuts across the different and opposite doctrines becomes a thorny problematic issue.

It is therefore my contention from the arguments seen so far that the application of the L.E.W. principle can be viewed as a possible catalyst for the proper integration of the Nigerian people. The principle demands a social contract among the people in a Sovereignty National Conference (S.N.C) where the unity and integrity of the nation in addition to the terms of Social Relations or Social Union among the people are discussed with broad based agreements reached and made public. It can guide the conference in writing an acceptable constitution and achieve national consensus on all the issues highlighted in this work. And because of the core liberal philosophy of the principle, ethnic groups and tribal colourations would fizzle out for the proper and permanent institutionalisation of individual liberty, equality and welfare.

The logical assumption based on the nature of man being rational and reasonable (Rawls 1971) is that the principle is likely to be acceptable to every rational and reasonable Nigerian in the Conference to the extent that the question of national interest or common good is viewed within the limit of and in the light of the L.E.W. principle. It is envisaged that the delegates are likely to accept a political conception of justice and, based on this, agree on the public principles of justice for the Nigerian society. The meanings and intentions of the principle when fully assimilated by the delegates will compel them to engage in a process of considering and reconsidering their proposals in the face of superior arguments during which long held opinions and world views can be changed for the purpose of national interest and the over-all interest of the society.

In the wider argument, it is only logical that since all men cherish liberty and equality and desire social security, they are likely to choose principles that promote these. Also, whenever any group of people enters into any social contract within their liberty and freedom as free agents with the capacity for reflective equilibrium, they are likely to choose principles that would uphold their wellbeing and safeguard their future. History also records that people with diversities and pluralities have always solved social and political

problems by entering into treaties or a social contract that sets out clear terms of the social co-operation in a fair manner. And this process leads to stability and social justice because once the people have collectively agreed on some public principles of justice, full compliance of the terms of the framework is easily ensured.

Historically, people in society who hold contrasting and incompatible but reasonable doctrines can enter into a contract to live as one society through the process of constructivism. Under this process, they will in spite of their difference agree on terms of cooperation and principles of justice by which they govern their basic society. Although members of a society may be divided and pluralistic, they can strive to reach an agreement and understanding on the principles that can properly regulate their basic social and political institutions and while they may not be able to achieve agreements concerning religions, moral and philosophically doctrines, they can in a political construction that takes into cognisance their rationality and reasonableness, agree on questions that border on social and political conception of justice and this solidifies their ties of social relations, civic friendship and national integration; it also secures the bonds of their association and union as either a society or a nation. The idea of constructivism holds the key for societies with sharp divisions and pluralities to maintain stability and achieve social justice.

The ethnic nationalities in Nigeria during the planned constitutional conference act as agents of construction in the assessment and adoption of the Liberty, Equality and Welfare principle for the sake of their members in particular and the nation in general. The efforts towards the ideal of a well ordered society must be that of the process of building or creating a society with commonality and solidarity woven together in the overall process of constructing a new society of their dream. And in reaching agreement on the above principles the groups are aware of the full implications of their efforts and the impact they will have on other aspects of the social cooperation.

Unlike the Kantian constructivism which assumes that parties in the construction would accept certain principles because they are well versed on the relevant and true beliefs about human nature and social theory, the ethnic groups in the Nigerian conference would keep aside their different moral, philosophical and religious beliefs and doctrines and deliberate on the principles guiding them with full knowledge that they have groped in the dark for

almost one hundred years without success. They are aware of all the systems imposed on them by their rulers and they are aware of their mutual rationality and reasonableness. This awareness propels them to go beyond their selfish interest to choose and support the L.E.W principle on the strong understanding that they are acceptable and favourable to all the groups in their quest to achieve social justice in the country.

In the attempt to construct a new society therefore, the parties in the conference are not focusing on their different cultural and religion beliefs or doctrines but this process sees the groups being rational agents and representatives of the people subject to reasonable conditions adopt and assess the L.E.W. principles that will regulate and govern the basic structure of the Nigerian society. But is it a restriction for the parties to rely only on political construction, and not religions and moral? The plural nature and reasonable incompatibilities in the Nigerian structure does not require any common ground on morality, religion and philosophy of the different ethnic groups because that is who they are and no attempt can change their view. Bello (1962) confirmed that sixty years of British colonialism did not change the beliefs of the ethnic groups after all.

Having seen the dynamics and imperatives of a just social-political structure in society, the conclusion can only mean that the entire structure of the Nigerian state and society needs to be upgraded and must metamorphose into a nation-state with the concomitant particulars of the agreed principles and laws, if the current component groups and states are expected to work to the overall structural functionality of the nation and its people. This is against the present situation where the general well being of the society is being undermined by the agency of a few individuals engrossed in selfish motives thus affecting the structural functionality of the whole.

As noted in chapter one, there are indeed agitations for the protection of minority rights in the country and the basis of these agitations remains a potent factor in the arguments of the advocates for the proper negotiation of the terms of social relations among the ethnic groups and people that populate the entity known as Nigeria. Two very prominent personalities are known in the Niger Delta region to have contributed to the discourse. Ken Saro-Wiwa and Harold Dappa-Biriye stood at the forefront of the intellectual argument for the political restructuring of the country as a way of addressing the Niger Delta question,

which remains an issue that continues to be on the front burner of Nigeria's national discourse.

Dappa-Biriye (2003),<sup>42</sup> having grown up in the Niger Delta region, championed the cause of the region with the strong argument that only political development principles can form the basis of the resolution of the clamour in the region rather than economic development principles. If Rawls' (1993, 1971) arguments on the imperatives of a just basic structure is put in the perspective of Dappa-Biriye's argument, then there is definitely sense in analysing the political development principles in addressing issues of social injustice in society. His position centres on the granting of self determination or political autonomy, an idea that resonates with the arguments in chapters One and Four concerning the perceived wrongs of the past and the necessity of a social contract in Nigeria for the proper birth of the nation-state.

The pro-establishment and status quo advocates would quickly counter this with the argument that it is too late for this process. This group argues instead for the economic development principles. Their approach from the time of independence involves the setting up of development agencies basically dispensing palliative measures as a way of pacifying the Niger Delta people and other minorities. Dappa-Biriye saw this principle as a stop-gap measure that is incapable of addressing the fear of the minorities expressed even before independence. For advocates of a social contract in the country, the control of political or state power guaranteed the attraction of resources for the physical and human development of the region. This argument can be likened to the argument of Sen (2008) which emphasises the place of freedom in the development of society.

My conclusion from arguments such as Dappa-Biriye's in addressing social injustice in the Niger Delta and other areas is that the establishment in adopting and pursuing their economic development principles to solve issues of social injustice set up the Niger Delta Development Board (NDDDB) in 1962, the presidential task force on oil mineral producing Areas Development in 1989, Oil Mineral producing Areas development Commission (OMPADEC) in 1992 and the Niger Delta Development Commission (NDDC) in 2000. Contrary to their expectations, however, agitations for social justice in the distribution of

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<sup>42</sup> See Alagoa's Harold Dappa-Biriye: His contribution to politics of Nigeria.

resources in the country aptly attest to the argument that the model has not worked and accentuates the argument for political restructuring as seen in chapter four.

The political construction therefore relies on the general capacity of the Nigerian people as delegates to reason, infer and judge properly the propriety of different principles of justice in the light of the L.E.W. principle which appears to be the most reasonable. It is also believed that the groups in discussion have to agree to adopt a political conception or sense of justice based on their philosophy and it is on the strength of this premise that the political construction proceeds. This is because the idea of a political construction views the delegates as being involved in a process that enable them to see society a fair system of social cooperation for generations before and after them. Nigeria should be seen by them as offering a political union and as such they have a part to play in its construction.

A likely conclusion at the end of the construction process is that the emphasis on ethnic groups will cease and be replaced with individual rights which are at the core of the liberal ideology and the Rawlsian political liberalism. It is on this note that the whole idea of a Rawlsian approach to society will benefit Nigeria. Before this the different ethnic groups to be involved in the national dialogue are only instrumentalist by nature. The ultimate aim of the extrapolation of the two principles of justice by Rawls in Nigeria as seen in the entire work is how to free Nigerian citizens to enjoy all universal rights available to them.

From the historical perspective underlying Rawls' theory, one can also conclude that among other objectives, political liberalism was aimed at solving a concrete situation in American society; as such any other societies sharing similar conditions of social injustice qualify to appropriate the theory. It can therefore be relied on in societies that exhibit certain tendencies that are unjust and do not allow for a proper cohabitation by members. This effectively means that the theory of justice can be applied in any society that can fully comply with its conditions within the nuances of constitutional governance, democratic society, and deliberative democracy (Cohen, 2003). Rawls himself admitted that Justice as fairness does not present itself as a conception of justice that is true but one that can serve the citizens as free and equal people in reaching political and social agreement ( Rawls, 2001).

Can these ideas be practical and are they feasible in Nigeria? This is the likely question in the minds of many people who are deeply troubled with the situation and yet are greatly weary of any drastic and fundamental changes that the views in this research promote. The logical response would be that serious problems demand serious solutions and further attempts to downplay the serious socio-political challenges facing the country would only exacerbate the incidence of injustice. And not addressing the issues permanently may just precipitate the prediction of the American Intelligence Unit in 2005 that Nigeria will become a failed state within fifteen years. And whether it is believed or not, Nigeria from available evidence in the literature shows all the signs of a country that would fail and plunge into major socio-political crises if the needed restructuring is ignored.

The legacy of the status quo is nothing but a weak and unstable system because since 1960 Nigeria has had just under thirty five years of military government, four different constitutions and republics, both parliamentary and presidential forms of government, at least eight governments overthrown by the military, and numerous different sets of political parties. The internal federal structure has evolved from three regions to thirty six states in an effort to undermine the strength of regional and ethnic politics. In this environment of experimentation and instability, it is little surprise that democratic institutions and structures of government have been unable to establish themselves.

It is instructive to know that all the above events were aimed at making correction to the faulty system even though some critics would argue that most of the military interventions were selfishly motivated. There is clearly no evidence to prove this other than the fact that all the interventions failed. This makes the call for a new approach attractive. The challenge this research faces now is how to achieve the aims of this work. How do we practically translate these ideas into reality especially the issue of convoking the constitutional conference? Who calls the conference and how binding can its outcomes be?

While there are calls by advocates for a Sovereign National Conference with complete sovereignty, the government says there can be no alternate sovereignty to it and it would not allow that kind of gathering. On the other hand the people desire this conference. Two important questions are therefore answered by this research. They are how can a group of people convoke a constitutional conference to work out the terms of a social contract to

govern their union? And how can a group of people initiate fundamental changes to an unjust structure sustained by an unjust state and government? The answers to these questions are part of the outcome of this research.

It is the honest belief of this researcher that the doctrines of political liberalism, the original position, the two principles of justice and overlapping consensus may not be magical and definite in their possibilities and prescriptions for the transformation of the Nigerian society, but can go a long way in generating further discussions and actions on the search for codes and principles that will lead to the solutions to the social problems of the Nigerian society and work toward the ideal of social justice and political stability. The reasoning being that to solve the social crises of social injustice in the country, the a priori propositions of men's rationality and reasonableness which Nigerians partake in would move them to accept the theory and transform their society, putting it on the path of justice.

The method also acknowledges the fact that many societies have built their systems based on one theory or the other including the liberal and social contract theory. It therefore follows that if advanced societies have succeeded in attaining social justice and political stability as a result of the application of moral, social or political theory and the fulfilment of some conditions, then Nigerians can do the same if certain conditions are met. And the conditions for this were highlighted in chapter four.

The question of whether Nigerians are actually ready to make the changes necessary to achieve social justice and political stability is more relevant when viewed against the social-political realities in the country and the arguments of the different positions in the last chapter. But the more poignant point to make is that this research concerned itself mainly with the analysis of the possibilities of the Nigerian society conforming to the Rawlsian ideals while a real model on how the society can make progress depends on the application of the ideas in this research by Nigerians themselves once they are aware of its findings.

This analysis and conclusion, however, are not a be all solution to all the social-political issues confronting the country because a problem that dates back many years cannot be solved with one stroke of a theory, but at least the society can change its direction and move in the right direction by developing its social institutions and its basic structure, thereby charting a new course. And this process can only be meaningfully and reasonably

initiated and driven to its logical conclusion by a willing people. It is in this direction that the conditions of a constitutional conference and a national overlapping consensus are very important in the creation of a nation-state, a people's constitution and a just basic structure.

It should also be borne in mind though that no single attempt or postulation answers all the problems of justice in society. Ancient Philosophies of Plato and Aristotle through Philosophies of Machiavelli, Hobbes, Locke, Rousseau, Kant, Bentham, Mills etc. and Rawls all sought to give an explanation to the best way to achieve justice in society. The continuous discussion of the subject in contemporary times is because there is no agreement on the best idea (Sandel 2011). Does this then lead to scepticism, distancing of philosophical inquiry from reality or a debilitating and isolating effect of philosophy on the philosopher? I do not think so.

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