

STATE BUILDING AND
CONSTITUTIONAL POLITICS IN A
MULTI-ETHNIC SOCIETY: THE
NIGERIAN EXPERIENCE

**State Building and Constitutional Politics in a Multi-Ethnic Society:
The Nigerian Experience**

Submitted by Ali Simon Bagaji Yusufu to the University of Exeter
as a thesis for the degree of
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Abstract

In response to competing group claims and the challenge to achieve pre-set triple national goals - recognising and accommodating ethnic diversity, achieving national unity and political stability, successive Nigerian governments from the colonial era to the present, have at various periods negotiated, constitutionalised and/or decreed state building strategies. This thesis offers detailed discussion and evaluation of some of these competing group claims and strategies using principles derived from the theoretical arguments of Michal Walzer, Charles Taylor and Will Kymlicka, and prescriptions based on the empirical arguments of Crawford Young, Eric Nordlinger, Donald Horowitz and Donald Rothchild. The thesis argues that some of the strategies adopted in response to the competing group claims were defensible in the very circumstances in which they were introduced, but were either not deep enough to offer an adequate political inclusion, or lacked the appropriate instruments that would have minimised recurrence of ethno-political conflicts and institutional instabilities. There were some strategies that either generated tension among groups, or were purely driven by strategic considerations for national unity, but were defensible. There were other strategies that were pragmatic at the very period they were adopted, but not defensible. The core theoretical finding of the thesis is that, the normative and empirical prescriptions validate the country's various strategies for coping with diversity. However, application of some elements of the prescriptions in the Nigerian multicultural society has the potential to generate tensions leading to ethno-political conflicts and institutional instabilities. The important empirical finding of the thesis is regarding the role the inherent tensions between the triple national goals and the state building strategies play in the generation and recurrence of ethno-political conflict and institutional instabilities. The thesis argues that the underlying factors responsible for the prevalence of ethno-political conflict and institutional instabilities in the country include among others, the ascension of the military to power and its costly dominance of the political scene for about thirty five years, the immediate post-civil war period which coincided with the era of petroleum boom that created a deepening crisis of corruption, the perpetuation of large scale electoral and financial corruption, and manipulation of ethnic loyalties. Given the above underlying factors, this work observes that state building and Constitutional politics in Nigeria's multi-ethnic society is a difficult task, especially taking into account the ethno-political conflicts and institutional instabilities associated with the Armed Forces over the years. On the basis of a detailed and interdisciplinary analysis, the thesis recommends constitutional and institutional safeguards for mitigating ethno-political conflicts and institutional instabilities in the course of future political development of Nigeria.

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AFRC – Armed Forces Ruling Council
AG – Action Group
APGA – All Progressives Grand Alliance
ANC – African National Congress
AP – African Petroleum Plc
ASUU – Academic Staff Union of Universities
BDC – Boundary Delimitation Commission
BDS – Benin-Delta State
BP – British Petroleum
CePaCS – Centre for Peace and Conflict Studies
CDC – Constitution Drafting Committee
CHINOPEC – China Oil and Petrochemical Company
CNPC – China National Petroleum Corporation
CNOOP – China National Off-Shore Oil Company
COR – Calabar-Ogoja-Rivers State
COSDECS – Council on the Socio-economic Development of the Coastal States
CPC – Congress for Progressive Change
CPCR – Centre for Peace and Conflict Research
DPA – Distributable Pool Account
ECOWAS – Economic Community of the West African States
EFCC – Economic and Financial Crimes Commission
FCC – Federal Character Commission
FCS – Fellowship of Christian Students
FCT – Federal Capital Territory
FEDECO – Federal Electoral Commission
GNPP – Great Nigerian Peoples Party
HRW – Human Rights Watch
ICAS – International Conference of American States
IMF – International Monetary Fund
ING – Interim National Government
IYC – Ijaw Youth Council
INEC – Independent National Electoral Commission

KNOC – Korean National Oil Company

MAMSER – Mass Mobilisation for Social and Economic Recovery

MEND – Movement for the Emancipation of the Niger Delta

MOCs – Multinational Oil Companies

MOISEND – Movement for the Survival of the Izon Ethnic Nationality in the Niger
Delta

MOSOP – Movement for the Survival of Ogoni People

MSS – Muslim Students Society

NANS – National Association of Nigerian Students

NCNC – National Council of Nigeria and the Cameroons (later Nigerian Citizens)

NDDC – Niger Delta Development Commission

NDPVF – Niger Delta Peoples Volunteer Force

NIP – National Independent Party

NLC – Nigerian Labour Congress

NLNG – Nigeria Liquefied National Gas

NNOC – Nigerian National Oil Corporation

NNPC – Nigeria National Petroleum Corporation

NOACHEM – National Oil and Chemical Marketing Plc

NPC – Northern Peoples’ Congress

NPN – National Party of Nigeria

NPP – Nigerian Peoples Party

NPRC – National Political Reform Conference

NRMAFC – National Revenue Mobilisation and Fiscal Commission

NRC – National Republican Convention

OEL – Oil Exploration License

OMPADEC – Oil and Mineral Producing Development Commission

OPEC – Organisation of Petroleum Exporting Countries

PAYE – Pay As You Earn

PCRC – Presidential Committee on the Review of the 1999 Constitution

PDP – Peoples Democratic Party

PENGASSAN – Petroleum and Natural Gas Senior Staff Association of Nigeria

PPA – Progressive Parties Alliance

PPMC – Pipelines and Petroleum Marketing Company

PRC – Provisional Ruling Council
PRP – Peoples Redemption Party
PTDF – Petroleum Trust and Development Fund
PTF – Petroleum Trust Fund
RAS – Revenue Allocation System
SAP – Structural Adjustment Programme
SDP – Social Democratic Party
SIEC – State Independent Electoral Commission
SJA – States Joint Account
SGA – Special Grant Account
SMC – Supreme Military Council
SNEPCO – Shell Nigeria Exploration and Production Company
SNG – Shell Nigeria Gas
SNOP – Shell Nigeria Oil Products
SOAS – School of Oriental and African Studies
UMBC – United Middle Belt Congress
UN – United Nations
UNDP – United Nations Development Programme
UPN – Unity Party of Nigeria
USA – The United States of America
VAT – Value Added Tax
WAI – War Against Indiscipline
WAGPCO – West Africa Gas Pipeline Company

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CHAPTER ONE INTRODUCTION

1.1 Statement of the Research Problem

With a population of about one hundred and forty million people, and with well over 250 ethnic groups, Nigeria is undoubtedly the most populated and heterogeneous country in sub-Saharan Africa.¹ Right from the British colonial era to the present, the desire to reflect plural composition or ethnic equality within the framework of one united country called for a series of state building strategies and constitutional debates. Faced with the challenges of multiculturalism, and the desire of the Nigerian government to address it, the core questions the thesis addresses therefore are: What governmental strategies have been attempted to establish state building institutions that recognise and accommodate ethnic diversity? And what roles do the state building strategies play in the generation and recurrence of ethno-political conflicts and institutional instabilities in the country? These questions arise from the recurring ethno-political conflicts in Nigeria, a country whose history has been characterised by a cycle of tensions and state building debates in the attempt of devising strategies to achieve what is popularly referred to as Nigeria's triple national goal- recognising and accommodating ethnic diversity, achieving national unity and political stability.²

In an attempt to establish state building institutions that recognise and accommodate diversity, successive Nigerian governments at different periods have constitutionalised and/or decreed several state building mechanisms. It is important to bear in mind from the onset that, competing claims for recognition and accommodation expressed by the various groups in the country, and the state building responses to the claims are too numerous to be contained within this thesis. Thus, the thesis dwells only on selected competing claims and state building strategies. Furthermore, for the sake of flow and clarity, the competing group claims and the state building responses adopted are grouped into two phases- the pre and post-independence eras.

¹ Even though every census in Nigeria since 1952 has been highly disputed because it is a criterion of revenue allocation and political representation, the 2006 population census estimates it at 140 million. See Ngozi Okonjo-Iweala and Philip Osafo-Kwaako, *Nigeria's Economic Reforms: Progress and Challenges*, Working Paper No. 6 (Washington DC: The Brookings Global Economy and Development, The Brookings Institution, March, 2007), 1. See also Siri Aas Rustad, *Power-sharing and Conflict in Nigeria (Power-sharing Agreements, Negotiations and Peace Processes)* (Oslo: Centre for the Study of Civil War, International Peace Research Institute (PRIO), 2008), 1-39.

² See Figure 1 for some of the major state building/constitutional events and ethno-political/religious violence in Nigeria.

The state building and constitutional strategies in the pre-independence Nigeria, spanning the 1940s through the 1957/58 Willink Commission, were the result of a series of debates held in Nigeria and Britain. State building in this era, involved recognition of the three most numerous ethnic groups- the Hausa/Fulani (North), the Yoruba (West) and the Igbo (East) through the division of the country into three political regions, and the adoption of a federal system of government.³ Yet, the state building approaches of the pre-independence Nigeria set the stage for future ethno-political tensions not only among the main three ethnic groups, but also among minor ones that were marginalised within the new political framework despite their demands for recognition.

The post-independence era on the other hand, witnessed a series of debates and constitutionalising and/or decreeing of state building arrangements that during the years have been constantly revised. During the early phase of the post-independence, especially from 1960 to 1969, in an attempt to include into the nation building the highest number of ethnic minority, a Quota System was introduced to guarantee their participation in the public administration of the country. For this reason, against the earlier state building strategies that recognised only the three most dominant ethnic groups, the country was re-divided into twelve administrative units termed states.⁴ Some scholars, nonetheless, have argued that the Nigerian government strategy behind state creation in 1967 was deliberately aimed to destabilise the emerging powers of the Igbos and the contingencies of Biafra's secession bid.⁵ Starting from the early 1970s to the present, especially after the Nigeria-Biafra civil war, state building in Nigeria involved the adoption of approaches that include, federal character and its subsequent revision to avoid dominance of the national institutions by a few ethnic groups, revisions to revenue allocation system and nationalisation of oil ownership and control to achieve

³ The Hausa/Fulani compose of the largest group with 29% and are concentrated in the Northwest; the Yoruba are the second largest with 21% and are situated in the Southwest. Third are the Igbo with 18%, who are situated in the Southeast. All the other ethnic groups fit into the marginal and minority category, with varying degrees of political status, depending on their numerical size and political influence. See Peter M. Lewis, *Growing Apart: Oil, Politics and Economic Changes in Indonesia and Nigeria* (The University of Michigan Press, 2007), 54. See also Appendix D for the political map of Nigeria showing the ethno-linguistic group of the country, and also, Figure 2 showing the structure of the Nigerian federation.

⁴ See Appendix B for the map of Nigeria showing the administrative borders.

⁵ There are other scholars who have also argued that, the Nigeria- Biafra civil war between 1967 and 1970 was strongly motivated by the discovery of oil in the then Eastern region, the struggle for political power and ethnic dominance. See Ukoha Ukiwo, 'Violence, Identity Mobilisation and Re-imaging of Biafra', *Africa Development*, XXXIV (1), (2009), 9-30; Rotimi T. Suberu, 'The Travails of Federalism in Nigeria', *Journal of Democracy*, 4 (4), (1993), 39-53, and Rotimi T. Suberu, 'The Struggle for New States in Nigeria, 1976-1990', *African Affairs*, 90 (1991), 499-522.

fairness and equitable distribution of revenue, division and further division of the country into geo-political zones, states and local government units to take account of, and adequately reflect ethnic ties and other elements of diversity such as religion.⁶

Despite all the effort to achieve the objectives of its national goals as previously stated, these strategies have generated deep ethno-political tensions not yet resolved. One of the core aims of the thesis is the analysis of how the recurring and escalating cycles of ethno-political tensions and institutional instabilities cannot be disconnected from the inherent tensions between the Nigerian national goals and the state building strategies that were mostly introduced and executed during the long Military rule in the country. For instance, progress made in the recognition and accommodation of ethnic diversity by the means of state creation approach, reduces progress in the achievement of political and institutional stability due to endless demands on the Nigerian government for state creation by groups.

In order to thoroughly discuss the research problems, the thesis critically evaluate competing group claims and Nigeria's key state building strategies from the immediate post-World War II period to the present over the issue of whether inclusion or denial of ethnic difference- diversity ought or ought not to be reflected in state building arrangements. To achieve the above objective, the competing claims of groups are first presented and evaluated for their normative- theoretical importance. Immediately following the above, selected state building strategies adopted in response to group competing claims whose details are considered in separate, but linked chapters in this thesis, are then critically analysed and evaluated in order to determine their desirability and fairness. If the state building strategies are found not to be fair and desirable, the thesis aims to suggest alternative strategies that are feasible under the same circumstances.

⁶ A major feature of ethnicity in Nigeria is that each group is concentrated in an identifiable geographical region/zone. The geographical concentration in turn permits overlap of ethnic cleavages and other forms of group identification such as religion. See Arnim Langer and Ukoha Ukiwo, *Ethnicity, Religion and the State in Ghana and Nigeria*, Centre for Research on Inequality, Human Security and Ethnicity (CRISE) Working Paper No. 34, October, 2007, 1-23. See also, Appendices B, C and D for the political maps of Nigeria showing the administrative borders, the six geo-political zones, and the ethno-linguistic groupings of the country.

1.2 Theoretical and Empirical Framework of Analysis⁷

In order to discuss the selected attempts successive Nigerian governments have made at constitutionalising and/or decreeing state building arrangements that recognise and accommodate ethnic diversity, as well as roles the state building strategies play in the generation and recurrence of ethno-political conflicts and institutional instabilities, this thesis explores two types of literatures that considers the relationship between ethnic identities and the state. The first type is normative philosophy debates, and the thesis explores those arguments that discuss how political community *ought* to be constructed if multiculturalism is to be taken seriously.⁸ Therefore, at the centre of the theoretical argument of this thesis is the debate in liberal philosophy over what state building strategies would be required to recognise and accommodate deep diversities. In order to explore the normative philosophy arguments in detail, they are in turn grouped into three strands as follows: the first strand of the debate associated with Michael Walzer regards human beings as culture-producing creatures and whatever they create as having *social meaning*. The argument of Walzer is that, to achieve justice- recognise and respect difference in a multicultural political community, the state building process is expected to respect *social good* for its meaning. The argument of Walzer above translates into internal autonomy for various cultural groups since each of the cultural community would have different understanding of social goods.

The second strand of the debate associated with Charles Taylor, regards identity as shaped by the recognition of others, and the demand for equal recognition requires a model of liberal society in which culturally diverse groups are treated as equal partners. Taylor's argument is basically that, in a liberal society, irrespective of size, groups

⁷ The theoretical framework of analysis of this thesis is based on the normative philosophy works of Michael Walzer; Charles Taylor and Will Kymlicka. The empirical framework of analysis on the other hand, is based on the works of Crawford Young; Eric Nordlinger; Donald Horowitz; and Donald Rothchild. It is important to mention here that, statement of the theoretical and empirical framework of analysis in this chapter is merely to serve as prelude and foundation to chapter two of this thesis where the debates of these scholars is carried out in detail.

⁸ For the normative philosophy arguments, the thesis explores the works of Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983); Michael Walzer, *Interpretation and Social Criticism* (Massachusetts: Harvard University Press, 1987), and Michael Walzer, *Thick and Thin* (Notre Dame (Indiana): University of Notre Dame Press, 1994). Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995); Will Kymlicka, *Liberalism, Community, and Culture* (Oxford: Clarendon Press, 1989). Charles Taylor, 'Shared and Divergent Values', in Roland Watts and Douglas M. Brown, (eds.); *Options for a New Canada* (Toronto: University of Toronto Press, 1991), Charles Taylor, *Multiculturalism: Examining the Politics of Recognition*, Amy Gutmann, (ed.); (Princeton: Princeton University Press, 1994). Charles Taylor, *Reconciling the Solitudes (Essays on Canadian Federalism and Nationalism)*, (Montreal: McGill-Queens University Press, 1993).

should recognise one another as equal political partners. For Taylor, therefore, in order to achieve the above, there should be some form of federal arrangement. The last, but not the least strand of the debate was developed by Will Kymlicka. The main theme of Kymlicka's argument is that, it views political institutions of the liberal states as reflecting the culture of the majority ethnic groups, while the cultures of the minority ethnic groups are threatened. Therefore, in the course of state building process, if every group has to make life choices, then the liberal state has to ensure that ethnic minorities also have access to their culture. Institutionally therefore, Kymlicka's argument translates into federal sub-units, special representation, and veto rights for ethnic minorities.

The arguments of the above three strands of the normative philosophy arguments appear to reach the same conclusions with regard to their openness to multiculturalism.⁹ That is to say, all the normative philosophy arguments accept *federal system of government* as the most desirable framework for recognising and accommodating diverse groups, and also all the arguments prescribe differentiated citizenship rights as a means of guaranteeing fairness and justice in a political community.¹⁰

After a critical evaluation of the normative prescriptions proposed by Michael Walzer, Charles Taylor and Will Kymlicka against the experiences in Nigeria, the thesis accepts some of the arguments in the normative philosophy literatures, but also highlights the tensions inherent in their prescriptions. For example, the prescription that federalism offers the best arrangements for recognising and accommodating groups

⁹ It is important to bear in mind that, John Rawls proposed an opposite end of the argument. For example, in his *original position*, Rawls argues that, equality and justice requires political institutions to put in place a difference-blind system of rights and liberties- the state provide a neutral ground for groups to stand as equals in the distribution of rights, privileges and power without regard to social difference. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), see also *Ibid.*, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

¹⁰ Most federal political systems are identifiable by common structural features which include among others: (a) at least two orders of government acting directly on their citizens. (b) a formal constitutional distribution of legislative and executive authority and allocation of revenue resources between the orders of government to ensure some areas of genuine autonomy for each other, (c) provision for the designated representation of distinct regional view within the federal policy-making institutions, usually including representation of regional representatives in a federal second legislative chamber, (d) a supreme constitution not unilaterally amendable and requiring for amendment the consent of a significant proportion of the constituent units either through the assent by their legislature or by regional majorities in a referendum, (e) an umpire, usually in the form of courts or by provision for referendums (as in Switzerland regarding federal powers) to rule on disputes over constitutional powers of governments, and (f) processes and institutions to facilitate intergovernmental collaboration in those areas where governmental powers are shared or inevitably overlap. See Ronald Watts, 'Models of Federal Power Sharing', *International Social Science Journal*, 53 (167), (2001), 23-32.

have the potential to create institutional instabilities such as, endless demands for recognition, and fragmentation of internal political units into states and or local governments. Also the prescription for some form of differentiated citizenship rights has the potential to elevate ethnic membership over legal state membership as a criterion for citizenship identification. This could lead to official state sanctioned discrimination against individual citizens and constraints on their freedom. It is this type of empirical reality that the thesis uses to reveal the potential tensions the prescriptions could generate when applied in Nigeria's multi-ethnic society.¹¹ It is important to mention at this juncture that, the idea behind evaluation is to show the applicability of the normative philosophy prescriptions proposed by Michael Walzer, Charles Taylor and Will Kymlicka.

The second types of literatures the thesis explore are the empirical arguments, and the debates focusing on the design of democratic institutional frameworks that would minimise ethnic conflict.¹² With regard to the empirical literatures, the thesis reviews the arguments of Crawford Young, Eric Nordlinger, Donald Horowitz, and Donald Rothchild for the design of inclusive political arrangements. The reason for focusing on these scholars who are considered doyen and external observers of the government and politics of Nigeria is because their arguments contain important prescriptions for the type of democratic arrangements that are required in multi-ethnic states. For example, each of the last three scholars used empirical facts to demonstrate that proportional distribution of political offices and resources among groups make for moderate and co-operative behaviour. This marks a shift from the Anglo-American democratic practice of allocating offices strictly on the basis of political competition.

Similarly, all the scholars mentioned above show that a federal system is necessary to accommodate diversities, to disperse powers to those that would not have had the chance of exercising it, and to make for equitable distribution of societal goods.

¹¹ For the boomerang effects of state building attempts that recognise and accommodate groups, see chapter three and four for state creation and recognition of minorities in separate region/states, and chapter five and six for federal character.

¹² For empirical discussions on the design of democratic institutions to minimise ethnic conflicts, the thesis explores the works of Crawford Young, *Politics of Cultural Pluralism* (Madison: University of Wisconsin Press, 1976), Eric A. Nordlinger, *Conflict Regulation in Divided Societies* (Cambridge, (Massachusetts): Centre for International Affairs, Harvard University, 1972), Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1994), Donald Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (Berkeley: University of California Press, 1991), Donald Rothchild and Victor Olorunsola, 'African Public Policies on Ethnic Autonomy and State Control', in Donald Rothchild and Victor Olorunsola, (eds.); *State versus Ethnic Claims: African Policy Dilemmas* (Boulder: Westview Press, 1983), 234-235, Donald Rothchild, *Managing Ethnic Conflict in Africa* (Washington DC: The Brookings Institution Press, 1997).

The views expressed by the empirical scholars could also be considered as a shift from the dominant liberal view that separates the state from ascriptive characteristics such as ethnicity. Finally, some of these scholars in their various writings have asserted that the rules of liberal democracy in Africa's multicultural societies should be conscious of the reality that ethnic cleavages exist in African societies, and the best form of government that guarantees unity and political stability is a consociational/coalition government.¹³ By implication therefore, the empirical scholars in a way are reminding Nigerian leaders, for instance, the popular slogan that constructs Nigerians as belonging to *one nation*, with *one destiny* is unachievable.¹⁴

As for the normative philosophical prescriptions, the normative arguments in the empirical literatures have also been evaluated against the Nigerian experiences. Even though the thesis accepts some of the empirical prescriptions, it for example, highlights the possibility that the politically ambitious Nigerian elites use ethnicity as a vehicle to achieve personal ends, or that inter-personal elite conflict transformed into group conflict.¹⁵ The thesis acknowledges the importance of the discourses- normative philosophy and empirical arguments in helping to understand the complexity of Nigerian political environment but, at the same time, it also contextualised the potential tensions of the prescriptive arrangements. For example, there exist fundamental and underlying factors in the Nigerian political environment such as, the multiple groups that create tensions between the need to express difference and stability.

In general term, when the normative philosophy prescriptions proposed by Michael Walzer, Charles Taylor and Will Kymlicka on the one hand, and the empirical prescriptions proposed by Crawford Young, Eric Nordlinger, Donald Horowitz, and

¹³ The groundwork for the development of consociational model was laid by Arthur Lewis in 1965. In his work, he argued that majoritarian rule is not suited for plural societies; and that, the type of government that is needed in plural societies is that which unites them in a coalition government, i.e. African leaders should recognise ethnic cleavages in state building processes. For instance, in the contemporary time, the International Community facilitated a coalition government deal between President Mwai Kibaki and Raila Odinga after the December 2007 elections triggered bloody communal conflict. Other countries with coalition government experience are South Africa, Ethiopia, Angola, Burundi, and Rwanda. See Arthur Lewis, *Politics in West Africa* (London: Allen and Unwin, 1965), 64-65. See also, British Broadcasting Corporation (BBC News), *Bush urges Kenyan Power-sharing*, <http://news.bbc.co.uk/2/hi/americas/7248271.stm>

¹⁴ For more of this argument, see David Brown, 'Ethnic Revival: Perspective on State and Society', *Third World Quarterly*, 11 (4), (1989), 1-4.

¹⁵ The political influence of the elites from the various groups in Nigeria is a function of many factors among which demographical, historical, administrative, and economic factors are the most prominent. In the current political dispensation, the Northern elites are undoubtedly the leading group, followed by the Yoruba, Igbo, Niger Delta, and the Middle-Belt elites respectively. It is important to mention here that this hierarchy is not static, as there are possibilities of shifts depending on how much influence a group wield at a particular time.

Donald Rothchild on the other hand are applied in Nigeria's diverse and multicultural society, the thesis observes that, rather than reduce conflict, their prescriptions have the potential to generate tensions - ethno-political conflicts and institutional instabilities. In specific terms, in fairness to these scholars, the above observation is not a suggestion that the normative and empirical prescriptions are not relevant to Nigeria. Indeed, Nigeria's attempts at coping with ethnic diversity that are discussed between chapter three and eight validate the normative and empirical prescriptions. It is rather that, fundamental and underlying tensions in Nigeria's body politics such as the ascension of the military to power and its dominance of the political scene for about thirty five years, the immediate post-civil war period which coincided with the era of petroleum boom that created a deepening crisis of corruption, perpetuation of large scale electoral and financial corruption, and manipulation of ethnic loyalties. These underlying factors it is observed are the challenges Nigeria face in its attempts at state building and constitutional politics. It is therefore the view of this thesis that, in order to mitigate recurrence of ethno-political conflicts and institutional instabilities, the above mentioned tensions and prejudices would have to be minimised or completely eliminated through concerted political agenda such as, introducing and enforcing Constitutional and institutional safeguards.

1.3 Significance of Study

This thesis differs on two grounds from most writings about Nigeria's diversity, ethnicity, state building strategies and constitutional politics.¹⁶ The significance of this study lies first in its normative and empirical evaluation of competing group claims and the alternative state building strategies. There are many works on Nigeria's state building strategies, diversity and ethnicity that are conducted strictly from an empirical point of view. However, most of these important contributions either dwell on the importance of identity in politics, or argues for political recognition of groups, or evaluates state building strategies that have been used by some African States to accommodate groups, and at times mention the successful states as examples for other countries to emulate.¹⁷

¹⁶ In the five decades of its attaining political independence from Britain in 1960, Nigeria has written six federal constitutions- in 1960, 1963, 1979, 1989, 1995 and 1999 as amended in 2011.

¹⁷ The works of Crawford Young, (*Politics of Cultural Pluralism*) belongs to the first and second categories, and those of Donald Horowitz, (*Ethnic Groups in Conflict*; and *A Democratic South Africa? Constitutional Engineering in a Divided Society*). Donald Rothchild, (*African Public Policies on Ethnic*

Similarly, there are many literatures that criticise state building strategies adopted by Nigeria, especially in the post-independence era, but do not spell out possible alternatives. Such literatures, very often does not consider strategic requirements - Nigeria's national goals that include recognising and accommodating ethnic diversity, achieving national unity and political stability that have to be balanced and other socio-political circumstances that the country's government officials consider before arriving at a particular state building strategy. Criticisms tend to be unconstructive in the sense that they condemn and reject, rather than suggesting by presenting alternatives that reflect conditions and realities in the country.¹⁸

This thesis goes beyond a mere examining and criticism, but critically evaluates competing group claims against the selected state building strategies that the country has adopted in order to determine their normative importance. This work also goes further with the analysis of feasible strategies from a range of alternatives that best reflect the interest of the opposing parties. This procedure thus enables the thesis to offer an original perspective that complements the empirical approaches proposed by Crawford Young, Eric Nordlinger, Donald Horowitz and Donald Rothchild who have done extensive research on the design of institutional arrangements for minimising ethnic conflicts in several African States.

In addition, this thesis is significant because it aims to generate awareness about the applicability of theory by using the Nigerian experience regarding recognition and accommodation of diversity to reveal some tensions in the philosophical literatures. Without any doubt, the principles for reorganising societies to accommodate cultural diversities proposed by Michael Walzer, Charles Taylor, and Will Kymlicka are helpful for understanding the complexity of Nigerian political environment. However, in

Autonomy and State Control; and *Managing Ethnic Conflict in Africa*). Arend Lijphart, (*Democracy in Plural Societies: A Comparative Explanation*) and Eric Nordlinger (*Conflict Regulation in Divided Societies*) belongs to the third category.

¹⁸ This assertion is true of articles by some Nigerian academics on state building approaches such as Revenue Allocation System, the Federal Character Principle, Oil Resource Ownership and Control etc. With regards to the Revenue Allocation System, see Olu Okotoni, 'Governance, Taxation and Fiscal Policy in Nigeria', *European Journal of Economics, Finance and Administrative Sciences*, Issue 6 (2006), 387-51. For Federal Character Principle, see Peter P. Ekeh and Eghosa E. Osaghae, (eds.); *Federal Character and Federalism in Nigeria* (Ibadan: Heinemann Educational Books, 1989). See also, Ladipo Adamolekun, John Erero and Basil Oshienebo, 'Federal Character and Management of the Federal Civil Service and the Military', *Publius*, 24 (4), (1991), 75-88. For the Oil Ownership and Control, see Ekanade Olumide, 'The Minorities and Resource Allocation in a Transitional States. The Nigerian Experience 1960-1999', *Africana*, 5 (1), (2011), 74-107. See also John Boye Ejobowah, 'Who Owns the Oil? The Politics of Ethnicity in the Niger Delta of Nigeria', *Africa Today*, 47 (1), (2000), 29-47.

general terms, the ensuing analysis observes that the prescriptions, the way they are have the potential to generate tension when applied to the realities on the ground in Nigeria's multi-ethnic society. For example, the prescription that segmented autonomy offers the best arrangements for accommodating the interest of diverse groups have the potential to create recurring and perhaps, escalating cycles of ethno-political tensions and institutional instabilities with some groups asking for self-determination or for their independence from Nigeria. It is this type of empirical experiences that the thesis uses to reveal the tensions generated by principles that are meant to cut across differing societies. After a critical assessment of the country's political, social and economic environment, the thesis concludes that the normative and empirical prescriptions proposed by the mentioned researchers are relevant to Nigeria, but that there are fundamental and underlying tensions in Nigeria's body politics that poses great challenge to its attempts at state building and constitutional politics.

1.4 Definition and Conceptual Clarification

The terms *state*, *government* and recently *state building* are core concepts in political analysis. Even though they are closely linked to the extent that, often people use them interchangeably, distinctions should be drawn between them since these terms will be extensively used in this thesis.

State is an abstract term with a variety of definitions. For the purpose of this thesis, I will refer to state as a territorial and political sub-unit that operates inside and within a larger territory or country. For instance, Kogi state is a contiguous territory, with its own political administration, established by a higher level of government-Federal Government of Nigeria on the 27th August, 1991 to initiate and execute state functions inside and within the larger Federal Republic of Nigeria.¹⁹

A state in the above definition does not have a guaranteed territory or existence, as the Federal Government, operating on behalf of the entire Federal Republic of Nigeria, has in the past re-created and/or adjusted the structure and internal boundaries of states. For instance, the internal boundaries and structures of Northern, Southern and Western regions in the Federal Republic of Nigeria were adjusted in 1964. Similarly, the internal boundaries and structures of these regions were in 1967 re-adjusted to 12 states. From 1967 to the present, states in Nigeria have experienced internal boundary

¹⁹ See Kogi state inset Appendix B- map of Nigeria showing the administrative borders. For the highlights of the legislative jurisdictional powers of the three tiers of government, see Figure 3.

adjustment four times, in 1976, 1987, 1991 and 1996. This brought the total number of states in the Nigerian federation to 36 states.²⁰ Essentially therefore, a state in the above definition is a territorial and political sub-system within a sovereign country, which in turn exists as a sub-system in the international system.

In the specific of this thesis, the use of term state is based on the traditional definition provided in article 1 of the 1933 Montevideo Convention on Rights and Duties of States. The convention stipulates that, the state, as an “international person”, should possess the following qualifications: ‘(a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states’.²¹ When the main attributes of a state in the above definition are put together, the second usage of a state in this thesis is created. The state in this sense is the cumulative territorial and political association of sub-units that exists as one country, and which exercises internal and external sovereignty. An example of state in this definition is a country such as the United States of America, which exercises sovereign powers within geographically defined borders on behalf of the constituting territorial and political sub-units.

The common distinctions between the two definitions of a state discussed above are that, in the latter, state- Federal Republic of Nigeria or the United States of America (USA) are treated in international politics at least in theory, as an autonomous and sovereign entity. In addition, a state in the latter definition is also regarded as an important sub-system of the international system. In the case of the first definition, as a territorial and political sub-unit within a country- Federal Republic of Nigeria or the USA, the constituting states have no right, and are not recognised as a separate, autonomous and sovereign entity by the international community. Practically, from both definitions of a state above, the common theme is government- the means/mechanism with which the task and responsibility of achieving national goals and objectives of the concerned state is brought into operation. Even though, government is ‘the “brains” of the state ... the state is a continuing, even permanent, entity, while government is

²⁰ See Figure 1 for the chronology of major state building events, and Appendix B for the map showing Nigeria’s administrative borders.

²¹ Citation comes from Article 1 of the Montevideo Convention on the Rights and duties of States which was a treaty signed at the 7th International Conference of the American States in Montevideo, Uruguay, on 26 December, 1933. See also, Malcolm Nathan Shaw, *International Law* (Cambridge: Cambridge University Press, 2003), 178.

temporary'.²² Government being the means/mechanism that is entrusted the task to achieve national goals and objectives, the formal and institutional functions of government is therefore primarily achieved through *state building* processes.

The term *state building* which is frequently used in this thesis is a broad term. For instance, it could indicate

Those governmental policies aimed at the accumulation, consolidation and centralisation of power, as well as the promotion of state identity. In principle, state building encompasses the objectives of achieving societal cohesion and political stability within the territory of a given state.²³

The above definition of state building is relevant to the subjects covered in this thesis when adopted in two related parts. The first part of the definition is vividly relevant to some key state building strategies in Nigeria that aims to achieve *national unity* and *state identity*, but at the expensive of political stability. For example, in January, 1966, in an attempt to purportedly consolidate its hold on the entire country that was fast drifting, late General Johnson T.U Aguiyi-Ironsi, the then Head of the Military Government quickly promulgated Decree Number 34; which abolished the federal structure of government and the regions and thereby converted Nigeria into a unitary state. Another good example was when Major General Yakubu Gowon (Rtd) enacted the Petroleum Act of 1969 which vested in the Federal Government absolute control and ownership of all mineral and oil resources within the territories of the Federal Republic of Nigeria. The essence of the two Nigerian state building policies above, were to enhance the powers of the central government for the purpose of national unity.

The second part of the definition on the other hand is vividly relevant to some key state building policies in Nigeria that aims to achieve a mixture of societal cohesion - *diversity*, *national unity* and *political stability*. Examples of state building policies in the Federal Republic of Nigerian in this regard are the Quota System, recognition of minority groups - state creation, Federal Character, Revenue Allocation System etc. It is important to mention at this juncture that, state building policies that fall within the confines of both parts of the above definition are analysed in this thesis.

In this work, state building means those affirmative actions adopted by successive Nigerian governments introduced and implemented through negotiations, decrees, constitutional processes and/or executive fiat, with the purpose of constructing

²² For more details of the distinction between state and government, see Andrew Heywood, *Key Concepts in Politics* (New York: Palgrave Macmillan, 2000), 39-42, and 19-21.

²³ See Klejda Mulaj, *Politics of Ethnic Cleansing (Nation-State Building and Provision of In/Security in Twentieth-Century Balkans)* (Lanham, Maryland (MD): Lexington Books, 2008), 7.

and reconstructing policies and institutions of governance capable of providing the various Nigerian multicultural groups with physical, social, economic and political security. Examples of state building in this instance are the affirmative policies and institutions discussed between chapters three and eight below.

1.5 Methodology

Viewed from a broad perspective this thesis intends to contribute to the theoretical and empirical analysis of state building and constitutional politics in Nigeria's multi-ethnic society within a multidisciplinary framework. However, viewed against the backdrop of a multicultural society, and the Nigerian government's aim to achieve triple national goals, the thesis specifically intends to contribute to theoretical and empirical understanding of selected group claims and the Nigerian government attempts to establish state building institutions that recognise and accommodate diversity on the one hand, and on the other, the roles the state building strategies play in the generation and recurrence of ethno-political conflicts and institutional instabilities in the country.

As the task of the study involves large volumes of documents spanning over six decades, the most effective way of understanding state building attempts and its effects is to examine existing normative and empirical literatures related to the subject matter on the one hand, and documents produced by the government on the other. In order to achieve this aim, content analysis or textual analysis method of enquiry comes handy as a vital tool for generating and tracking significant and high points in both the existing normative and empirical literatures and Nigeria's state building and constitutional attempts. Content analysis is thus, a useful tool in the context of this thesis that helps dwell extensively on 'the study of recorded human communications such as, books ... (*journals, constitutional debates, decrees, memorandums*) and laws'.²⁴ Content analysis is especially a useful tool for examining and understanding the kind of formulated questions the thesis addresses as it enables it to describe in a convenient way 'who says what, to who, why, to what extent and with what effect'.²⁵ Bearing in mind time limitation, and the need to remain focused on the research questions, the thesis discusses only selected pertinent normative and empirical literatures, and state building and

²⁴ Citation comes from Earl Babbie, *The Practice of Social Research, 10th Edition* (Wadsworth: Thomson Learning Inc., 2009). The emphases in italics are mine.

²⁵ See Harold D. Lasswell, 'The Structure and Functions of Communication', in Bryson, Lyman (ed.); *The Communication of Ideas* (New York: Harper and Brothers, 1948).

constitutional strategies within the periods of the late 1940s- pre-independence to 2012- post-independence.

Even though the thesis is not intended to reject earlier researches on Nigeria's state building strategies, group claims, diversity and ethnicity that were conducted strictly from empirical viewpoint, this work is an explicit attempt to generate awareness about the applicability of theory by using the Nigerian experience regarding attempts by government to recognise and accommodate diversity through constitutionalising and/or decreeing state building institutions. The thesis thus provides an alternative and analytic approach when describing and explaining issues surrounding state building strategies, group claims, ethnicity, and diversity *dynamics* in Nigeria's multicultural society.

Using the content analysis or textual analysis method of enquiry, this thesis contextualises and evaluates normative and empirical literatures on what it takes to recognise and accommodate diversity. In order to achieve this objective, the thesis examines in detail the normative arguments proposed by Michael Walzer, Charles Taylor and Will Kymlicka on one hand and the empirical arguments of Crawford Young, Eric Nordlinger, Donald Horowitz and Donald Rothchild on the other vis-à-vis the realities on the ground in Nigeria.

In order to arrive at valid generalisations and conclusions on the formulated research questions the thesis addresses in detail selected group claims and state building and constitutional strategies in the following chapters. The group claims and strategies discussed include the type of political system negotiated for the country in series of constitutional conferences, the recognition and separation of minorities through creation of states, the Quota System and recognition of minorities, federal character principle, the revenue allocation, and the politics of oil ownership and control. The group claims and the state building and constitutional strategies are thereafter subjected to evaluation on the basis of the arguments contained in the normative and empirical literatures that form the theoretical framework of analysis in this thesis.

By adopting a multidisciplinary approach to content/textual analysis within the subject matter of ethno-political studies, the thesis draws on a wide range of reference resources which were mostly selected from large secondary sources. Thus, through content/textual analysis technique, the thesis identifies, summarises and analyses relevant data in logical order. The methodological approach adopted is, therefore, not only suitable for a detailed discussion and analysis of group claims and state building

strategies in Nigeria's multi-ethnic society, but will be of great significance for future research on related subject matter.

1.6 Synopsis of Chapters

The thesis is organised into nine chapters. The following chapter analyses the contributions of the normative liberal theorists about the potential relevance of accommodating cultural and ethnic difference - diversity in state building processes. It also discusses the empirical literature on ethnic diversity in politics and democratic institutional arrangements for conflict reduction. Chapter two suggests that even though some elements of the normative and empirical prescriptions have the potential to generate recurrence of ethno-political and institutional instabilities, they indeed validate the country's strategies for recognising and accommodating diversity. The chapter then sets a contextual framework for the discussion that will follow in all the subsequent chapters by identifying and presenting the relevant prescriptions/issues raised in the normative and empirical literatures against the realities on the ground in Nigeria.

Chapter three discusses the type of political system for coping with diversity in the period from the post-World War II era through 1958 when the country was preparing for independence. The chapter spells out claims that were made in the various state building and Constitutional Conferences between 1940 and 1958 and the type of political system that were negotiated for the country. It also evaluates the claims and considers what feasible alternative political system could have been best for the country.

Chapter four presents a detailed account and normative evaluation of competing group claims and state building strategies adopted during the period from 1960 to 1967. The chapter specifically presents a detailed analyses and normative evaluation of the Quota System and the re-division of the country from 3 to 4 regions in 1964 and into 12 states in 1967 to take account of minority groups that were previously denied political recognition.

Chapter five discusses competing group demands and the state building strategies to reflect the federal character of the country that were negotiated in the 1970s. It was during this decade and within the federal character principle that the country was divided into 19 states and 301 local government units to reflect ethnicity, and adoption of arrangements that required representation of groups in institutions at the three tiers of government to avoid dominance of national institutions by a few ethnic

groups. The chapter presents the 1975 government Panel's assessment of the demands for states. It also gives a detailed account of the opposing views of the constitutional negotiating team regarding the best way to accommodate ethnic diversity. It then conducts a critical assessment of the Panel's recommendation for the creation of additional states and considers what alternative there was. The chapter finally evaluates the constitutional agreement to determine if it was a desirable strategy for ensuring equity in government, and what should have been done if it was not the desirable approach.

Chapter six discusses the revised federal character principle (approach). This is regarding competing group claims and constitutional strategies adopted between the mid-1980s up to 2010. This was the time during which the federal character strategy of the 1970s was revised and new claims emerged which was discussed in the 1986 Political Bureau and the 1994/95 Constitutional Conference. The chapter presents the revisions to the federal character principles, the new claims that emerged from the demand for alternative political structure and power sharing/shift, and the constitutional agreement for a more equitable political arrangement. The chapter also makes a critical evaluation of the revisions suggesting viable alternatives.

Chapter seven discusses one of the most contested and controversial issues in Nigeria's multi-ethnic society - the Revenue Allocation - a state building strategy that was put in place to achieve fairness and equitable distribution of resources. The chapter discuss the background to the trend and development of Nigeria's Revenue Allocation System (RAS), and how it has generated controversies, dissatisfaction and suspicion among Nigeria's ethnic groups. The chapter also examines the relevant and potential issues in the revenue allocation system. Finally, the chapter evaluates the revenue systems and thereafter suggests normative frameworks for revenue allocation in the country.

Chapter eight examines oil ownership and control solely by the federal government (nationalisation) as a state building strategy. This chapter discusses how the revisions and the high stakes in oil ownership and control features prominently in state building politics between the various groups in the oil producing areas of the Niger Delta and the Federal Government of Nigeria. It gives detailed analyses of the claims and counter claims, and the circumstances that led to the monopoly of oil resource by

the central government. The chapter finally conducts a critical evaluation of oil ownership claims.

Chapter nine provides a summary and findings for the thesis. It employed the empirical experiences in Nigeria in order to evaluate the prescriptions of the normative theorists. The chapter demonstrates that the design of state building around ethnic groups as proposed by the normative and empirical theorists though has the potential to trigger ethno-political conflict and institutional instabilities; the design of state building around ethnic validates Nigeria's approaches to group recognition. The chapter further narrowed the ethno-political Conflict/tensions to the role of the Military and escalation in corrupt practices. The chapter concludes the thesis with policy recommendations.

CHAPTER TWO

NORMATIVE AND EMPIRICAL APPROACHES TO ETHNIC RECOGNITION AND ACCOMMODATION

2.1 Introduction

One of the greatest challenges currently facing Nigeria is how to meet its pre-set national goals - recognising and accommodating ethnic diversity, achieving national unity and political stability, and at the same time meeting claims to equal treatment in the public sphere. For this reason, the country's national goals, state building strategies as well as the political institutions have come under severe criticisms for failing to adequately take into consideration the interests of all citizens. The nature of the challenge is both a lack of commitment of the political institutions involved in state building to securing equality and justice on the one hand, and a disagreement on what it really entails to respect equality for all the diverse groups in the country.

In liberal theory, especially in John Rawls's *Original Position*, Bruce Ackerman's *Spacecraft Journey*, and Ronald Dworkin's *Dessert Island*, the assignment of uniform or equal rights for all without consideration for ascriptive criteria has been the standard mode of ensuring equality.²⁶ Recently, however, their point of views have been criticised by scholars such as Michael Walzer, Charles Taylor, and Will Kymlicka as partial, exclusionary and oppressive. Instead, there is the insistence on the part of the above mentioned scholars that the issue of equality entails recognising what is specific to each group in the society. In the opinion of these scholars, therefore, the challenge is how to ensure that political institutions recognise diversity when assigning civil rights.

Until recently, liberal theorists such as John Rawls, Bruce Ackerman and Ronald Dworkin had no difficulty devising a model of society in which groups in a country such as Nigeria with diverse social and cultural backgrounds receive fair treatment. In their view, private and public are two different spheres. For instance, they opted from a total separation between state and religion as well as between the state and any other cultural sphere of any particular group. This means that the state provided a neutral

²⁶ See John Rawls, 'Priority of Rights and the Ideas of the Goods', *Philosophy and Public Affairs*, 17 (4), (Autumn, 1988), 251-276; and his *Political Liberalism*; and *A Theory of Justice*. Bruce Ackerman, *Social Justice in the Liberal State* (New Haven: Yale University Press, 1980). Ronald Dworkin, 'What is Equality? Part 2: Equality of Resources', *Philosophy and Public Affairs*, 10 (4), (1981) 283-345. Ibid., 'In Defence of Equality', *Social Philosophy and Policy*, 1 (1), (1983), 24-40. Ibid., 'Liberalism', in Stuart Hampshire, (ed.); *Public and Private Morality* (Cambridge: Cambridge University Press, 1978), 113-143.

ground for groups to stand as equals in the distribution of rights, privileges and power without regard to social or cultural differences. Thus, the project of ensuing equality and justice requires the political institutions to proceed from a neutral turf to put in place a difference-blind system of rights and liberties for all citizens.²⁷ An example of such equality and justice project is John Rawl's *original position* whose *veil of ignorance* denies people knowledge of their social background.²⁸ A similar example is Bruce Ackerman's *spacecraft journey*, or Ronald Dworkin's *desert island* with its insurance scheme. In all these equality and justice projects, a system of rights and liberties is defined without the influence of particularistic interest and is considered to be impartial and fair.²⁹

However, the definition of the rights of groups in a manner that abstracts from their social background has in recent years attracted heavy criticisms for failing to meet the requirements of equality and justice. A number of theorists within and outside the liberal philosophy, for example, Michael Walzer, Charles Taylor, Will Kymlicka and Melissa Williams have argued that the supposedly neutral turf of the political institution is pervaded by the cultural values of a dominant set of groups. For instance, in Nigeria, the Hausa/Fulani, Yoruba and Igbo were the only group to negotiate political changes in the country and these, according to these scholars can only reflect their cultural and social values. By implication therefore, the difference blind conception of equality and justice is not difference blind after all. It is regarded to be hegemonic and oppressive.³⁰ Consequently, an alternative conception of equality and justice that recognises social differences among groups has been proposed by Michael Walzer, Charles Taylor and Will Kymlicka.

Just as an alternative theoretical conception of equality and justice is being worked out, so are empirical political scientists conducting inquiries of ethnic relations and governance in African and Asian States with a view to designing state building and constitutional mechanisms that would nurture democracy. Their empirical studies have

²⁷ For discussion on Difference Blind, see Melissa Williams, 'Justice Towards Groups: Political Not Jurisdictional', *Political Theory*, 23 (1), (February, 1995), 67-91.

²⁸ See particularly, John Rawls, 'Priority of Rights and the Ideas of the Goods', *Philosophy and Public Affairs*, 17 (4), (Autumn, 1988), 251-276.

²⁹ For criticisms of the equality and justice project, see Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990).

³⁰ See Young, *Justice and the Politics of Difference*. Ronald Dworkin, 'What is Equality? Part 2: Equality of Resources', *Philosophy and Public Affairs*, 10 (4), (1981) 283-345. Ibid., 'In Defence of Equality', *Social Philosophy and Policy*, 1 (1), (1983), 24-40. Ibid., 'Liberalism', in Stuart Hampshire, (ed.); *Public and Private Morality* (Cambridge: Cambridge University Press, 1978), 113-143.

yielded the new view that ethnically plural states such as Nigeria would have to revise the Anglo-American model of democracy to make for political inclusion of all the diverse groups in the country. The surest way of fostering inequality and injustice, and perhaps conflict, the empirical scholars argued, is to replicate the liberal democratic model that emphasises *majority rule that is difference blind*. Studies that have generated this new insight include Crawford Young's, *Politics of Cultural Pluralism*, Eric A. Nordlinger's *Conflict Regulation in Divided Societies*, Donald Horowitz's *Ethnic Groups in Conflict, A Democratic South Africa? Constitutional Engineering in a Divided Society*, Donald Rothchild and Victor Olorunsola's *African Public Policies on Ethnic Autonomy and State Control*, Donald Rothchild's *Managing Ethnic Conflict in Africa*, and Arend Lijphart's *Democracy in Plural Society*. This chapter will attempt to review the arguments contained in both the theoretical and empirical literatures.

2.2 Theoretical Arguments about Ethnic Recognition and Accommodation

There are different strands of the theoretical arguments within the liberal philosophy for the recognition and accommodation of cultural diversity in a political community. Some are identity based, while others are based on sexual orientation. This thesis identifies and concentrates on three strands of identity arguments of Michael Walzer, Charles Taylor and Will Kymlicka. The arguments of these theorists are considered in turn as follows.

The first strand of the liberal philosophy arguments for the recognition and accommodation of cultural diversity in a political community to achieve equality and justice, unity and stability is associated with Michael Walzer, a relativist, and therefore a strong opponent of the Universalist conception of rights championed by Rawls, Ackerman and Dworkin. Walzer put forward a conception of equality and justice that recognises and accommodates difference among groups in multicultural societies.³¹ In his book the *Spheres of Justice*, Walzer lays out his theory by taking on the argument of Rawls that groups in an original position prevented from making claims that is particular to them would adopt universal principles for the distribution of primary goods. Rawls original position, according to Walzer, is abstract and removed from realities. In real life, goods have different meanings in different societies and it is the meanings that would determine how they are distributed. In postulating the theory,

³¹ See Walzer, *Spheres of Justice: A Defence of Pluralism and Equality*, 4-6, and 8.

Walzer put forward three arguments: first, goods do not fall from space; they are made by people and have social meaning among those people who make them. Secondly, the social meaning of goods determines their movement, and how they are distributed. And last but not the least, justice is done if the values that govern distribution in one sphere of life or a particular social good are not used to govern distribution in another sphere of life or another social good.³²

On the basis of the above mentioned postulations, one can easily infer that Walzer is a relativist, and his theory of justice, to use his words, 'is alert to differences' and 'sensitive to boundary crossing'.³³ Culture is implicated in this form of value pluralism because different cultural communities would come up with different values that should govern distribution in different spheres of life. The relevance of this postulation is that, in a culturally plural society such as Nigeria, Walzer's relativism would defend state building and constitutional strategies that aims to recognise and accommodate diversity in the society. He referred to this in *Spheres* when he makes the point about adjusting the principles of justice operative in the political community to meet the requirements of historic communities.³⁴ In his other book, *Thick and Thin*, Walzer's argument gravitates towards autonomy for groups. Moral understandings of a culture, according to him, are thick and should not be overridden by external understandings of dominant groups in the society. Criticisms have to come from within, and the standard which the critic appeals to, has to be internal to the culture as well as to other cultures. He calls it 'Minimal Universal Moral Standard' which the thesis considers to mean basic human rights.³⁵ It is thin, according to him, not thick enough to provide details of how life should be lived. Moral minimalism, therefore, cannot be the basis of political unity for diverse cultures. It rather evokes the conscience to make people solidarise in its defence whenever it is violated, thereafter people separate to their rich, thickly constituted moral life.³⁶

³² What Michael Walzer is saying in essence is that, in a multicultural society, the cultural values of the dominant groups predominate. Therefore, distribution of rights negotiated in this kind of political atmosphere cannot be free of the values of the dominant groups. Therefore, the best way to ensure equality and justice among the majority and minority groups is to recognise social differences among the various groups.

³³ Walzer, *Spheres of Justice: A Defence of Pluralism and Equality*, 314.

³⁴ See Ibid., *Spheres of Justice: A Defence of Pluralism and Equality*, 28-9.

³⁵ The moral minimum is basic human rights that are part of, and not a substituted for, local meaning that are thickly constituted. See Ibid., *Interpretation and Social Criticism* (Cambridge: Harvard University Press, 1987), 45.

³⁶ The main theme of Walzer's argument in *Thick and Thin* is basically that, life is more meaningful when a cultural group directly make decisions that affect them, rather than the dominant groups making

For Walzer therefore, pluralism of values is the most meaningful life. The view of Walzer consciously applied for instance would mean that, to supplant pluralism of values *in favour of national unity and stability as evident in most of Nigeria's state building goals* is to throw groups into a moral wilderness.³⁷ For him, the most justifiable arrangement is that derived from, and grounded on, thickly developed moral values. For this reason he settles for the right of cultural groups to self-determination. However, the chaos and anarchy that would result from the assertion of independence by one group after the other makes him think that self-determination does not provide a single best answer to all situations. The best alternative, he thinks, is a confederal or federal arrangement whose institutional checks could prevent the domination of one group by the other.³⁸

Delving into a sensitive societal issue as Walzer has done, no doubt attracts attentions. For this reason therefore, Walzer's arguments have received wide ranging criticisms from scholars such as Will Kymlicka, David Miller and Wayne Norman and others.³⁹ As far as application of Walzer's theory to the Nigerian society is concerned, some notable criticism needs to be pointed out. One of the elements of Walzer's theoretical prescription is the questionable assumption that differentiated rights or internal autonomy for groups such as those of the Niger Delta communities could ensure equality, justice and national unity. The argument takes cultural groups as cast and fixed, not subject to self-multiplication in the event of goods being distributed on their terms. Goods, like rights, power and opportunity are not just end in themselves. They are means to further goods. Consider power, for example, it could be a means to wealth, security, and even more rights and opportunities.

Bearing in mind Walzer's argument, if values such as cultural identity are used as criteria in the distribution of goods, many cultural groups in Nigeria tends to claim different values in order to have a greater share of the national wealth. To be more

decisions on their behalf. And therefore, a basis of political unity in diverse cultures is to grant cultural group autonomy to run its own affairs.

³⁷ Walzer's theory is opposed to the dominance of one cultural world by another. To judge people with an external moral standards amounts to imperialism, rather like an imperial judge in a colony who uses principles derived from the mother country to bring the natives to justice. See *Ibid.*, *Interpretation and Social Criticism* (Cambridge: Harvard University Press, 1987), 38. Emphases in italics are mine.

³⁸ For the normative prescription of Walzer, see *Thick and Thin*, 66-80, see also, Walzer, 'The New Tribalism', *Dissent*, (Spring, 1992), 164-171.

³⁹ For the critiques of Walzer's arguments, see Kymlicka, *Multicultural Citizenship*, chap.11, David Miller and Michael Walzer, (eds.); *Pluralism, Justice and Equality* (Oxford: Oxford University Press, 1995), Wayne Norman, 'The Ideology of Shared Values: A Myopic Vision of Unity in the Multi-nation State', in Joseph H. Carens, (ed.); *Is Quebec Nationalism Just? Perspective in Anglophone Canada* (Montreal: McGill University Press, 1995), 137-159.

practical, if cultural identity becomes the basic criterion for the distribution of goods, a group of families could seek political recognition by claiming to be culturally different, or some elites in search of power could mobilise members of a group of villages to claim difference. Without a universally known standard of judgement, the grounds for assessing such claims would be highly arbitrary and controversial. In any event, they have to be recognised, as cultural identity has become the criterion for the distribution of goods. Based on Walzer's account therefore, it becomes easy to understand why Nigeria's cultural groups proliferated from 4 regions in 1964 to 36 states in 2012, and the experiences so far have been institutional chaos rather than political stability and or/unity.

The problem of political stability and unity in the polity in the above discourse attracted the attention of Charles Taylor whose contribution is analysed here under the second strand of the liberal philosophy arguments for the recognition and accommodation of cultural diversity in a political community. In *Shared and Divergent Values*, an article written in acknowledgement of the Canadian political scene, Taylor explained why Quebecers are pressing for autonomy despite they having a special immigration regime, income tax, pension plan etc. they have the right to speak their own language and, addition, they hold influential positions in the federal government of Canada.⁴⁰

The paradox, according to Taylor, has to do with Quebec's understanding of Canada as a pact between two nations - English Canada and French Canada - and the country as existing to contribute to the survival of both nations. However, for a long time, the nation of French Canada had been demeaned by being refused recognition. In recent years, Taylor argues that, the transformation of the country into a multicultural society has buoyed English Canada to build political unity around the Meech Lake Accord, a Charter of Rights adopted in 1982. The Charter, according to him, accords some powers to collectives by making provision for linguistic and aboriginal rights, but

⁴⁰ Taylor's discussion in the "Shared and Divergent Values" was about the Meech Lake Accord. Although the Meech Lake Accord died at the stroke of midnight on June, 23, 1990, the subject of Taylor's argument about "regional and language autonomy" is still relevant to my discussion of multiculturalism in Nigeria. For further discussion of the Meech Lake Accord see James Ross Hurley, *The Canadian Constitutional Debate (From the Death of the Meech Lake Accord of 1987 to the 1992 Referendum)* (Ottawa: Government of Canada Privy Council, 1994).

imposes a procedural model of liberalism that provides a set of groups' rights, but prohibits discrimination on grounds such as race.⁴¹

Taylor, however, argues that procedural norms governing the way political decisions are made for the entire Canadian federation enunciated in the Charter clashed with and thwarted Quebecers' aspiration of seeking their good, for example, the survival and flourishing *la nation canadienne française* distinct culture. A request for constitutional amendment of the Meech Lake Accord to provide a *distinct society* clause was defeated despite a *de facto* special status enjoyed by the region. Taylor regards the imposition of a procedural model of liberalism in which the state is uncommitted to a conception of the good as diametrically opposed to what Quebecers opted for: a liberal society organised around a definition of the good life without having to demean those who do not share in it. Taylor speaks of multiculturalism as the sort of group rights provided in the Charter, as a first level diversity that does not come close to what Quebecers want. It is hegemonic because, in substance, people are required to conform to procedural norms.⁴² For Quebecers and Aboriginals, Taylor says, their sense of being Canadian rest on the survival of their national communities. There has to be 'a second level or deep diversity in which a plurality of ways of belonging would also be acknowledged and accepted'.⁴³ What can be inferred from the above is that, recognition of cultural difference is not for profitable ends. Rather, it has to do with the survival of a national community that is gradually being deprecated or wiped out. But, the possibility of groups proliferating to undermine stability of the arrangement that would emerge still remains, and was not addressed by Taylor.

Taylor's argument above was given a higher theoretical cast in *Multiculturalism: Examining the Politics of Recognition*. In this piece, Taylor argues that there is no real tension between fundamental liberal commitments to the principle of autonomy and recognition for cultural minorities whose survival is threatened.⁴⁴ In this contribution, Taylor also observes that group identity comes from within but is affirmed by the recognition they receive from others. Non-recognition or mis-

⁴¹ The motivating force behind the Meech lake Accord was the need for reconciliation between the rest of Canada and Quebec, which had not accented to, though it had been bound by the constitutional changes of 1982, including the entrenchment of the Canadian *Charter of Rights and Freedom*. The linchpin of the agreement and reconciliation with Quebec was the so-called *Distinct Society Clause*.

⁴² See Taylor, 'Shared and Divergent Values', 71-2.

⁴³ Ibid., 'Shared and Divergent Values', 75-6.

⁴⁴ See *Multiculturalism: Examining the Politics of Recognition*, Amy Gutmann, (ed.); (Princeton: Princeton University Press, 1994).

recognition can inflict harm or can be a form of oppression, as in the case of women in patriarchal societies or the case of colonial subjects who are induced to internalise their own depreciatory image. In pre-modern times, Taylor argues, recognition was not a problem because honour was intrinsically linked to social hierarchies. In the modern world it is a problem, because social hierarchies have collapsed and in place of honour, we have equal dignity of persons. The identity of each comes from his/her inner self, but has to be affirmed by others because 'we become full human agents, capable of understanding ourselves through our interaction with those who matter to us'.⁴⁵ The understanding that identity is formed in relation with others has engendered, in the social plane, a demand for equal recognition.

Equal recognition according to Taylor, has come to mean two different things. For some, it means 'an identical basket of rights and immunities', the basis for this being a universal human potential, namely the capacity to direct lives. For others, it means 'recognition of the unique identity of this individual or that group'. The basis for this is also a universal potential, but it is the potential to form an identity either as an individual or a group.⁴⁶ The latter views difference blindness as a reflection of a hegemonic culture; as particularism masquerading as the universal and as an attempt to assimilate or disparage others. One that results in a proceduralist model of liberal society as defended by Rawls, Ackerman and Dworkin, and the other produces a model of liberal society organised around collective goals.⁴⁷

Taylor regards both models as mutually opposed, exemplifying with the case of Quebec where the commitment to the collective goal of survival constrained individual rights to school of their choice, to carry out transaction in English, and to put up commercial signage in English. However, Taylor endorses the second view, arguing that a society with collective goals can be liberal, 'provided it is capable of respecting difference, especially when dealing with those who do not share its common goals, and provided it defends fundamental rights recognised in the liberal tradition'.⁴⁸ Taylor did not show how this could be achieved. He did not make arguments for a synthesis of the

⁴⁵ See Taylor, *Multiculturalism: Examining the Politics of Recognition*, 32.

⁴⁶ Taylor, *Multiculturalism: Examining the Politics of Recognition*, 38-42.

⁴⁷ For more discussion of procedural model of liberal society, see John Rawls, *Political Liberalism*, and his, *A Theory of Justice*. See Bruce Ackerman, *Social Justice in the Liberal State*, and Ronald Dworkin, 'What is Equality? Part 2: Equality of Resources', *Ibid.*, 'In Defence of Equality', and *Ibid.*, 'Liberalism'.

⁴⁸ *Ibid.*, *Multiculturalism: Examining the Politics of Recognition*, 59.

two models; neither did he show that those who do not belong to the favoured culture or do not share the collective good will not suffer violation of right.

Taylor reproaches procedural liberalism for discriminating against those who do not belong to the dominant culture, but the alternative prescription he presents, just as Walzer suffers from similar criticisms. For instance, his arguments for a society organised around community goals do not yield a rule that tells us when to and when not to extend recognition to those that claim it. Nevertheless, they boil down to internal autonomy for territorially concentrated groups and differentiated citizenship rights. Within this arrangement, the hopes and aspirations of those individuals who do not share in the collective goal could be diminished by what Steven Rockefeller referred to as the ‘elevation of ethnic identity over universal human potential’.⁴⁹ Take the example of Quebec that Taylor uses to exemplify his argument. There, law prohibits immigrant and Francophone Canadians living within the same jurisdiction from sending their children to English language schools. So, those of them who have no preference for French language schools cannot help but follow what has been officially decreed. Taylor acknowledges the constraint in fundamental rights and liberties of individuals but did nothing to deal with it.⁵⁰

Will Kymlicka’s argument which is considered for the recognition and accommodation of cultural diversity in a political community to achieve unity and stability has given some attention to the reconciliation of collective goals and individual liberty. He argues in two very important books about the recognition of difference, in particular dealing with Canadian Aboriginals.⁵¹ Following J.S. Mill and Immanuel Kant, Kymlicka shows the distinctive feature of liberalism to be its ascription to groups of freedom to choose and revise their conception of the good life. Two preconditions are required: first, that groups lead their lives from the inside, in accordance with their belief of what gives value to life; second, that they have the freedom to question and revise their conception of the good in light of whatever information is available. There

⁴⁹ See Steven Rockefeller, ‘Comment’, in Taylor, *Multiculturalism: Examining the Politics of Recognition*, 89.

⁵⁰ A similar example in Nigeria was when Zamfara and 11 other northern states returned to the Sharia legal codes. Part of the Sharia implementation was making Islamic religious knowledge curriculum compulsory in primary and post primary institutions. So Christians residing in those states had to either migrate or follow the provision of the sharia. See John O. Paden, *Faith and Politics in Nigeria: Nigeria as a Pivotal State in a Muslim World* (Washington DC: United States Institute of Peace, 2008), 58-59.

⁵¹ The books are *Liberalism, Community, and Culture*, and *Multicultural Citizenship: A Liberal Theory of Minority Rights*.

is therefore the liberal concern for education, freedom of association and expression.⁵² Citing the argument of Ronald Dworkin as an example, Kymlicka argues that a societal cultural membership provides the basis for freedom, the ability to understand and to make and remake meaningful life choices. Besides, it provides a secure sense of belonging and identity without limiting freedom of choice. In the above context, therefore, cultural membership is necessary for groups in a political community to live a good life.

However, in multicultural liberal states, the political process and institutions in most cases reflect the culture of the majority national group. Worse still, the system of liberties and rights serve to assimilate minorities as they lose control of their land and resources. For Kymlicka, in order for the minority groups to enjoy the primary good of cultural membership which the majority groups take for granted, the minority groups should have a variety of *special rights* including a right to self-government within the polity, guaranteed representation on inter-governmental bodies, and veto rights on issues affecting them.⁵³ Kymlicka says special rights are not to be considered advantages, rather they secure for minorities the cultural context which members of the majority national group take for granted. And powers of self-government are not to be considered as temporary but inherent and therefore permanent.⁵⁴

If the above theoretical prescription is applied to Nigeria's multicultural society, the potential constraint could be that, group-specific rights may contradict common citizenship and trigger political disunity or separation. But Kymlicka addresses this problem by differentiating between *representation rights* and *self-government rights*. The former, according to him, facilitates the inclusion of minorities within the mainstream society and this strengthens rather than erodes shared civic virtue. He sees self-government rights as posing the danger of secession, but does think the latter is an option because of the problem of viability of minority groups. Multi-nation states, according to him, should promote unity not by denying particularistic differences among groups, but by respecting and nurturing it.⁵⁵

⁵² Kymlicka, *Liberalism, Community, and Culture*, 13-14, and also, *Ibid.*, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 80-82.

⁵³ See Kymlicka, *Liberalism, Community, and Culture*, chaps. 7 and 9, and also, *Ibid.*, *Multicultural Citizenship: A Liberal Theory of Minority Rights* chaps. 2 and 3, and pp. 139-44.

⁵⁴ *Ibid.*, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 30.

⁵⁵ *Ibid.*, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 189-191.

The model of society that emerges from Kymlicka's arguments is one in which minorities are accommodated in sub-units organised around their collective good with the inevitable danger of compromising the autonomy of those who do not share the collective good. In chapter nine of *Liberalism*, Kymlicka tries but fails to reconcile the autonomy of members with the community's good. Like Taylor, he did not show how the rights of those members who have different conception of the good could be defended.

Just as Walzer and Taylor, when the theoretical prescription of Kymlicka is applied to a multicultural society such as Nigeria, there are many potential difficulties with Kymlicka's arguments for instance, his assumption about justice and stability in the political community.⁵⁶ Like Walzer and Taylor whose arguments presuppose the immutability of groups, Kymlicka assumes minority groups to be discrete and immutable. Consequently, he thinks that if groups are accorded special resources or rights to pursue their conception of the good life, a just and stable normative order will be achieved. It is understandable why Kymlicka assumes that groups would not proliferate to take advantage of special rights. His argument present special rights as creating conditions for equality and discounts the possibility of regarding them as benefits. But the reality is that they are not just formal rights. They are also tangible for they entail internal self-government that goes with the setting up legislative and executive positions, political representation at the centre and job opportunities in government that have to be filled. Being tangible, and the fact of granting them on the criterion of ethnicity, would instigate new claims to minority status even from within the majority group. It automatically opens a leeway for others to claim minority status in order to receive similar treatment. The general attitude would be akin to, 'you have had yours; we need ours because we are also a minority suffering domination'.⁵⁷

Kymlicka might respond by pointing to the use of political judgment in determining and rejecting spurious claims to recognition. This could be effective if groups are homogenous, but this is not the case if some consist of subgroups with different dialects and are attached to definite territorial homelands as it is found all over Nigeria. The feasibility of Kymlicka's prescriptions becomes a real issue if a country is

⁵⁶ For the critiques of Kymlicka, see Chandran Kukathas, 'Are There Any Cultural Rights', *Political Theory*, 20 (1), (1992), 105-139; and Melissa Williams, 'Group Inequality and Public Culture of Justice', in Judith Baker, (ed.); *Group Rights* (Toronto: University of Toronto Press, 1994), 35-65.

⁵⁷ Citation comes from John Boye Ejobowah, 'Constitutional Design and Conflict Management in Nigeria', *Journal of Third World Studies*, 18 (1), (2001), 143-160.

made up of one or two major groups and several minority groups. In this scenario, the prescription will require disentangling multiple minority groups for special recognition in separate sub-political units. This would trigger a slippery slope that may elevate the concern for stability over equality and justice.

In conclusion, the theoretical approaches of Walzer, Taylor and Kymlicka discussed above make normative arguments in defence of state building and constitutional arrangement that gives recognition to group identities. The problem with the arguments especially with reference to Nigeria is that the kind of constitutional structures they support can potentially be the source of social and cultural unrest because of an unrestrained use of ethnic identity as means to power by the elites and, consequently, institutional instability and ethno-political conflict.

The problem of stability has been raised by some critics of multiculturalism in the United States of America who worry that group recognition might lead to the disintegration of the country. For example, in a polemical work, Arthur Schlesinger Jr. argues that, from the start, America like most countries has been multi-ethnic. But, unlike most multi-ethnic countries, it has cohered, endured, and achieved greatness because 'individuals from all nations are melted into a new race of men'.⁵⁸ Although he regards the American practise of citizenship as falling behind its theory, he sees the latter as modifying the former without any contradiction by the assimilation ideal. He therefore assails multiculturalism for encouraging 'separate racial and ethnic communities and advancing the fragmentation of American life'.⁵⁹ In *The Menace of Multiculturalism: Trojan Horse in America*, Alvin Schmidt likens multiculturalists to soldiers seeking to conquer and destroy the American melting pot. He regards the introduction of bilingual education and the revision of the curriculum of American colleges to reflect the concerns of diverse racial groups as a Tower of Babel that brings ethnic separateness, disunity and conflict.⁶⁰ Using Canada as an example, he shows that the ingredients of the secession tendency in the country were prepared in the 18th and 19th centuries when the British colonial government rejected a melting pot philosophy for bilingualism.⁶¹

⁵⁸ See Arthur Schlesinger Jr., *The Disuniting of America: Reflections on a Multicultural Society* (New York: W.W Norton and Company, 1998), 16.

⁵⁹ *Ibid.*, *The Disuniting of America: Reflections on a Multicultural Society*, (1998), 136 and 151.

⁶⁰ See Alvin Schmidt, *The Menace of Multiculturalism: Trojan Horse in America* (Westport (Connecticut): Praeger, 1997), chap. 8.

⁶¹ *Ibid.*, Schmidt, *The Menace of Multiculturalism: Trojan Horse in America*, 116-118.

The criticisms that emphasise the danger of balkanisation are similar to the ones made above, but they are also different in the sense that the empirical basis for the concern is less valid in the American context than in the Nigerian context. In fact, both Kymlicka and Taylor are conscious of the dangers of group proliferation in North America for which reason they limit recognition to minority historical communities- not immigrants whose survival is threatened.⁶² Thus, groups covered by this limitation would constitute a small number of cultural groups and, perhaps, a small percentage of the population. This narrowing of cultural groups that would be entitled to special protection rescues the arguments of the liberal theorists and renders the instability argument less compelling than claims to group recognition.

The liberal arguments are attractive to my study of state building and constitutional politics in Nigeria's multi-ethnic society because the concerns that motivate the theorists to argue for special rights for minorities in North America could also support the demands of many minority groups in Nigeria for political and particularistic recognition, especially in the design of state building strategies such as the type of political system, federal character principles, revenue allocation system, and oil ownership and control, etc. However, unlike North America where the demands for recognition and problems of governability and stability may not be at stake, in Nigeria's multi-ethnic society, the tension exists. For example, the prescription that a segmented autonomy offers the best arrangements for accommodating the interest of diverse groups has resulted in recurring and perhaps, escalating cycles of ethno-political tensions and institutional instabilities with some groups asking for self-determination or political independence.⁶³ In conclusion, the prescriptions analysed until now cannot work in Nigerian reality because of the underlying tensions and the ethnic conflicts inherent to its society.

2.3 Empirical Arguments about Ethnic Recognition and Accommodation

The empirical literature on ethnic recognition and accommodation attempts to understand actual relations among groups and the formal and informal state building strategies which the political institutions use to respond to demands/claims of groups for political inclusion. On the basis of such empirical observation, general rules that make

⁶² See Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 11-15, 77-9, 181-119; see also Taylor, *Multiculturalism: Examining the Politics of Recognition*, 41.

⁶³ The boomerang effects of strict application of the prescriptions in the Nigerian society are examined between chapters three and eight of this thesis.

for political accommodation and take account of group sense of worth are prescribed. Horowitz has emerged as one of the most outstanding scholars in this field, but some of the earliest empirical arguments for conflict reduction were actually proposed by Eric Nordlinger and Crawford Young. It would be worthwhile to discuss the contributions of these scholars.

In his book, the *Politics of Cultural Pluralism*, Crawford Young presented ethnicity as a variable that is dependent on the political. He saw it as coming into being and altering in accordance with changes in the political arena. With specific reference to Nigeria, Young showed that the transition to independence triggered the emergence of previously non-existing identities, for instance, the Hausa/Fulani, the Yoruba, the Igbo to mention but a few, for social goods and the creation of more states in 1967 fragmented their identities and engendered the emergence of new ones.⁶⁴ He argued that ethnic labels would always feature in the competition for scarce resources and group conflict would be inevitable. Young prescribed ways by which African States could cope with conflict. The prescriptions include first, the provision of group security through the adoption of policies that are sensitive to difference and diversity. Secondly, the principle of equality has to be envisaged for groups as well as for individuals. Thirdly, institutionalised group should have access to power through political representation, and or/by the grant of cultural autonomy, and finally, the establishment of the autonomy of groups through federal arrangements.⁶⁵

In his *Evolving Modes of Consciousness and Ideology: Nationalism and Ethnicity*, Young modified his earlier position by presenting the nationhood of the African State as an invention by nationalists who thought that nation building would open the door to modernity, and by scholars who were bent on rediscovering the African past. He argued that in the contemporary world in general, the imagined nation-state is being challenged by ethnic movements and, in Africa, the illusion that nation building would lead to modernity has been dispelled by the upsurge and intensification of ethnic pressures. Unlike his earlier work, he did not prescribe strategies for conflict reduction.⁶⁶

⁶⁴ See Crawford Young, *The Politics of Cultural Pluralism*, chapters 4-5 and 8.

⁶⁵ *Ibid.*, *The Politics of Cultural Pluralism*, 523-526.

⁶⁶ For these arguments, see Crawford Young, 'Evolving Modes of Consciousness and Ideology: Nationalism and Ethnicity', in David Apter and Carl Rosberg, (eds.); *Political Development and the New Realism in Sub-Saharan Africa* (Charlottesville: University of Virginia Press, 1994), 3-35.

Prior to the 1976 work - *Politics of Cultural Pluralism* written by Crawford Young, Eric Nordlinger had in *Conflict Regulation in Divided Societies* published a monograph in 1976 surveying six countries - Austria, Holland, Switzerland, Malaysia and Lebanon - whose open regimes were able to bring intense conflict under control at various periods in their history.⁶⁷ By open regimes, Nordlinger meant the free functioning of independent interest groups and political bargaining rather than repression as the principal means of conflict reduction. Drawing from the six countries, Nordlinger proposed six conflict-regulating measures. They are

“Stable governing coalition” between ... the major conflict organisations; the “principle of proportionality” whereby offices are distributed according to relative size of segments; “the mutual veto” which requires government decisions to be agreed upon by all conflict organisations; and “depoliticisation” whereby conflicting groups agree not to involve government in policy areas that might touch on segments values. Others are “compromise” which entails mutual adjustment of interests, and “concession” by a stronger to a weaker group.⁶⁸

According to Nordlinger, only conflict group leaders can use the above practices to reduce conflict. He did not regard federalism as a conflict regulating process rather it could be an outcome of the above mentioned six practices. He also regarded the then conventional strategies like creation of an integrative national identity and spatial isolation of conflict groups as ineffectual and counterproductive.

While Nordlinger’s six practices are a great contribution to strategies for conflict regulation, they have nonetheless been criticised on the ground that they seem to apply to a broad range of conflict. Nordlinger’s use of concepts such as conflict organisations, conflict groups, segments etc., suggest that his study covers all forms of conflict. Also, as Milton Esman has rightly argued, the restriction of his study to countries with *open regimes*, and in which there are two parties to a conflict, severely limits the relevance of his prescriptions to deeply divided societies such as Nigeria.⁶⁹

Nordlinger’s main thesis that Anglo American majoritarian democracy is unsuitable for plural societies also powered Arend Lijphart’s argument for consociational democracy as an instrument for conflict regulation. Lijphart presented four defining characteristics of consociationalism that overlapped with, but also differed from, the six conflict regulating techniques of Nordlinger. They are: segmental

⁶⁷ See Nordlinger, *Conflict Regulation in Divided Societies*.

⁶⁸ *Ibid.*, *Conflict Regulation in Divided Societies*, 21-29.

⁶⁹ For more criticisms of Nordlinger’s work, see Milton Esman, ‘The Management of Communal Conflict’, *Public Policy*, 21 (Winter, 1973), 55.

autonomy expressed through federal arrangement, coalition of ethnic parties, mutual veto in decision making, and the proportionality principle in the allocation of offices.⁷⁰

Like Nordlinger, Lijphart studied techniques used by some European countries - which include Belgium, Holland, Switzerland, and Austria - to regulate conflict and presented them as models for Africa and Asia. Both Nordlinger and Lijphart assumed that ethnic group dynamics in Europe and the developing world are similar. They also assumed that each ethnic group is a unitary actor and has united leaders who would come up with a single party that would rationally enter into coalition with others. As Horowitz has argued, 'intra-group competition or rivalry does not make for a single set of leaders with authority to speak on behalf of the entire groups'.⁷¹ A political party supposedly representing an entire group may have limited leadership latitude because of intra-group fissures and factional leadership. Both Lijphart's and Nordlinger's conflict reduction techniques grant too much autonomy to elites and do not consider the structural constraints imposed by the dynamics within their groups. No one would object to the argument that inter-ethnic cooperation is required to reduce conflict and some techniques are needed to achieve it. However, competition and conflict within groups tend to undermine coalition formation, and if formed it gets too fragile to last.

Donald Horowitz in his book *Ethnic Groups in Conflict* tries to go beyond the above limitations by arguing for a conflict reduction strategy that contains incentives for altering intra-group structural constraints that prevent inter-ethnic cooperation. His strategies are the creation of lower level political units with a view to proliferating points of power and taking heat off the centre, and an electoral system that places high premium on multi-ethnic support in the election of state officials and induces coalition building. Others are the adoption of policies that encourage alignments based on interest other than ethnicity, and affirmative action programmes to reduce disparities between groups.⁷²

⁷⁰ It's being argued by some scholars that, Arend Lijphart's consociational model for plural societies is based on Arthur Lewis assumptions. See Arend Lijphart, *Democracy in Plural Societies: A Comparative Explanation* (New Haven: Yale University Press, 1977), 25-44.

⁷¹ Horowitz, *Ethnic Groups in Conflict*, 573-576.

⁷² To some extent, Horowitz's prescriptions are very similar to those of Arthur Lewis and Arend Lijphart. For the discussion of Horowitz's prescriptions, see Horowitz, *Ethnic Groups in Conflict*, 597-599, and chapters 15, and 16. See also, Crawford Young, *The Politics of Cultural Pluralism*, 523-526.

Horowitz regards his prescriptions as having the potential of producing both politics of bargaining and minority representation in national institution.⁷³ Unlike Walzer, Taylor and Kymlicka, Horowitz warns against granting special rights because they do not last. Citing the case of Zimbabwe as an example, Horowitz shows that group rights that offer too many benefits are likely to be abolished by the majority group. For instance, Whites in Zimbabwe were guaranteed temporary over-representation by the independence Constitution of 1980, but this was abolished by the majority government of Robert Mugabe as soon as it was possible.⁷⁴

Horowitz also cautions against the drawing of internal boundaries around homogeneous groups because it is not the only way of making minorities share power.⁷⁵ Excluded groups, according to him, could be made to share power through an electoral arrangement that requires party executives to be drawn from wide ethno-regional sections, and that victory at the polls should be based on plurality of votes. He regards this electoral arrangement as having internal incentives to harness selfish calculations for inter-ethnic cooperation. Political actors and groups cooperate not because they want to, but because the cost of not cooperating is to be out of power. Nigeria and Sri-Lanka whose constitutional measures provided the strategies he prescribes heavily influence Horowitz. He particularly extols the usefulness of the Nigerian measure in producing incentives for ethnic realignment, balancing and toleration, and therefore offers it as a model for racially and ethnically inclusive post-apartheid South Africa. In his words:

If one is looking for African democracy in a divided society, the place to look is ... Nigeria ... That is where many of the African lessons are, but they seem far away, little known, and less understood in South Africa.⁷⁶

Just as Nordlinger, the empirical prescriptions Horowitz proposed are not without criticisms. For example, one major difficulty with Horowitz's argument is its treatment of group claims as unmediated by elites. As a consequence, he did not foresee his prescriptions clearing a leeway for a deluge of demands by elites interested in advancing their own agenda. This difficulty arises from Horowitz's strong view that group worth most powerfully explains ethnic conflict and that economic motives of elites have little to do with its intensity or the claims that are made. Horowitz finds

⁷³ See Horowitz, *Ethnic Groups in Conflict*, 612-613, see Rothchild and Olorunsola, 'African Public Policies on Ethnic Autonomy and State Control', 233-249.

⁷⁴ Horowitz, *A Democratic South Africa?*, 136.

⁷⁵ Horowitz, *A Democratic South Africa?* 216-217.

⁷⁶ Citation comes from *Ibid.*, *A Democratic South Africa?* 136-137. The ethnic realignment, balancing and toleration Horowitz talked about is treated in chapter six of this thesis under the revised federal character.

materialist theory deficient because, it does not link elite and mass concerns to explain why the followers always follow, the role of symbolic issues, and the sheer passion with which participants engage in conflict. In his words: 'it is necessary to account, not merely for ambition, but for antipathy'.⁷⁷

Similarly, the argument that concern for identity and group esteem is what unites elites and the masses into political action does not completely refute the class argument because the problem of representational legitimacy remains unexplained. Elites claim to act on behalf of groups even when they are not elected to do so, and very often they are not. It is therefore very easy for those in quest of power and privilege to use ethnicity as a vehicle once it is given constitutional recognition. As is the case with Nigeria, Horowitz does not recognise that his prescriptions, when adopted could induce a spate of elite demands that may wreck political arrangements.

Donald Rothchild recognises the limitations in the work of Horowitz and has tried to make room for it in his very pragmatic, but dense prescriptive arguments. He presents ethnic groups as people that have consciousness of common identity that may be socially constructed. They have corporate interest that leaders maximise by pressing demands on the state.⁷⁸ Ethnic demands and state responses, according to him, are not a fixed process of one side making demands and the other side responding. The policy choices of regimes could determine how group leaders frame their demands and the nature and intensity of demands could determine the readiness of regimes to co-operate. It is a two way process that is mutually reinforcing. But because regimes wield power and formulate policies for society in general, they have significant impact on conflict management. Regime types are therefore critical in the determination of responses, and Rothchild offers three types which are: hegemonic, elite power sharing, and polyarchic regimes.

Hegemonic regimes are authoritarian. They not only regard claims by group leaders as threatening to the political system but respond by imposing their own preferences that range from subjection to ethnic cleansing.⁷⁹ Elite power sharing regimes are combinations of authoritarianism and consociational democracy. They come into being when elites in hegemonic regimes co-opt and strike bargains with powerful ethno- regional entrepreneurs in order to contain pressures from civil society.

⁷⁷ Horowitz, *Ethnic Groups in Conflict*, 140.

⁷⁸ Rothchild, *Managing Ethnic Conflict*, 3-4.

⁷⁹ For further discussion of ethnic cleansing, see Klejda Mulaj, *Politics of Ethnic Cleansing (Nation-State Building and Provision for In/Security in Twentieth Century Balkans)*, 4, 17-18.

They treat demands in pragmatic terms, and their informal rules for coalitions and balanced representation in national institutions are responses to ethno-regional pressures. Polyarchic regimes are democratic and are characterised by ‘extensive societal participation in governance and low state control over the political processes’.⁸⁰ By fact of their institutional electoral competition and accountability, they tend to have regularised public access to decision-makers.⁸¹

Both elite power sharing and polyarchical regimes are more inclined to promote unity and stability by accepting the legitimacy of autonomous groups in civil society and by accommodating them politically.⁸² However, Rothchild qualifies this by noting the tendency for some authoritarian regimes to incorporate various ethnic elites into high governmental positions. This is when dominance becomes terribly expensive either in monetary terms or in terms of intense conflict (e.g. Nigeria under military regimes in the early 1970s, mid 1980s-late 1990s, Guinea under Sekou Toure, Kenya before the 1992 election and Zaire under Mobutu Seseke).⁸³ The readiness to respond, according to him, has the positive effects of encouraging ethnic elites to frame demands in moderate terms and of facilitating negotiation by creating opportunities for them to withdraw from inflexible positions without loss of face. So, polyarchic regimes, and to a lesser extent elite power sharing, and to a still lesser extent hegemonic regimes, have the effect of providing incentives for co-operative relations.

Rothchild identifies four main incentives that encourage ethnic groups to moderate and co-operative behaviour. They are: inter-group equality as a major rule in the allocation of offices and resources, an electoral system that ensures the inclusion of various ethnic elites in decision making, the representation of various ethnic and other interests in the ruling coalition- e.g. the Transitional Constitution of South Africa, Federal Character principle in Nigeria, and a form of federalism designed to separate geographically concentrated groups into distinct sub-units, thereby dispersing power among a great array of actors. From the above, it is clear these prescriptions proposed by Rothchild are not very different from Horowitz’s recommendations.

⁸⁰ Rothchild, *Managing Ethnic Conflict*, 11.

⁸¹ Donald Rothchild and Victor A. Olorunsola, ‘African Public Policies on Ethnic Autonomy and State Control’, 233-249.

⁸² See Rothchild, *Managing Ethnic Conflict*, 43

⁸³ The emphasis in parenthesis is mine. See Rothchild, *Managing Ethnic Conflict*, 66, and *Ibid.*, ‘African Public Policies on Ethnic Autonomy and State Control’, 237-238.

Although Rothchild was optimistic about his prescription, he cautions that they might not necessarily produce regime stability, because of elites' political ambition and corruption, demand overload, and resource scarcity. Nonetheless, he hopes that if political routines for inclusion are established and repeated over time, elites would get used to norms of reciprocity and accommodative behaviour. In his words, 'the initial act of forging a constitution is not an end in itself but of a larger process of confidence building that leads to repeated interactions'.⁸⁴

What is worth mentioning here, however, is that unlike Horowitz who assumes that his prescription would definitely minimise conflict and produce stability, Rothchild is more circumspect. He recognises that elite competition and corruption could cause a reversal, and deals with it by insisting on perseverance. It is in this respect that he goes one step ahead of Horowitz and the liberal theorists.

2.4 Relevant Issues Raised by the Normative and Empirical Arguments

The normative and empirical arguments shed some light on what it means to recognise and accommodate ethnic difference- diversity in politics. For Walzer, it means recognising group claims to regulate their social space according to their own values, in which case to ensure equality and justice, unity and stability will require granting them autonomy. For Taylor, it means a formally recognised internal autonomy for groups whose culture or continued existence is under threat. For Young, Horowitz and Rothchild, taking ethnic diversity seriously means decentralising power to enable groups to have some share of it, and putting in place an electoral system that induces inter-ethnic accommodation at the centre. At the extreme, the Walzerian position means political separation, and at the minimum an arrangement that provides minority groups with federal sub-units and whose constitutional checks could be enforced by international bodies when violated.

On the other hand, the positions of Young, Horowitz and Rothchild mean a federal system of government by which minorities, in the case of Young, it is simply, groups have their own states. For Horowitz, the states need not be homogeneous because an electoral system makes it impossible for a few groups to exercise monopoly of national institutions. In between, but close to Walzer, lie Kymlicka for whom taking recognition seriously means securing minority groups by giving them sub-units of

⁸⁴ Rothchild, *Managing Ethnic Conflict*, 49.

government and guaranteed representation on inter-governmental bodies. The sub-units are rightful entitlements and should be permanent, while guaranteed representation is derivative of the right to units. When all of these arguments are critically unpacked, the thesis has the following emerging as the most relevant issues in the normative and empirical prescriptions.

The first is the desirability of federal system as a common theme among both the normative and empirical writers, but they seem to differ on why it is desirable. Horowitz's federal prescriptions is inspired by its utilitarian value, while that of Kymlicka and the prescription of Walzer, which ranges from political separation to federalism, are inspired by a sense of equality and justice. Walzer prescribes federalism because, even when separation occurs, there would be new minorities in the new state. He sees the institutional checks of federalism as an arrangement which enables minorities to control their local political space and, if the checks are violated, then an international intervention would be necessary to enforce justice. Kymlicka also finds it justifiable because the internal autonomy which it gives minorities would 'compensate for the unequal circumstances which put the members of minority cultures at a systemic disadvantage in the cultural market place'⁸⁵ Therefore, for Walzer and Kymlicka, federalism is desirable because it is what equality and justice requires.

Young, Rothchild and Horowitz, on the other hand, prescribe federalism because it devolves power to groups who would otherwise not have had a share of it, and reduces the power of majority groups over minority groups. These are desirable because they express institutional pluralism more adequately and, above all, provide the basis for the establishment of conciliatory institutions, more especially an electoral formula for mitigating zero sum politics.⁸⁶ It is all the above arguments among others that make federalism appealing to the empirical writers.

The importance of the federal system is particularly exemplified by Horowitz when he argues that inter-ethnic conflicts may be reduced by devolution of power that activates intra-ethnic conflict because 'if intra-ethnic conflict becomes more salient it may reduce the energy available for conflict with other groups'.⁸⁷ Unlike the projects of Walzer and Kymlicka that aim at fair treatment of groups, Horowitz's federal project

⁸⁵ Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 113.

⁸⁶ Horowitz, *Ethnic Groups in Conflict*, chap.15, and *Ibid.*, *A Democratic South Africa?* 217. See also, Rothchild, *Managing Ethnic Conflict*, 54-57.

⁸⁷ Horowitz, *Ethnic Groups in Conflict*, 598.

requires the shift of part of the burden of conflict resolution to groups and he justifies it with the over-all utility of the project. He cites some countries where this has occurred:

The complexity of Indian society has facilitated the flow of conflict in linguistically homogenous states into subethnic channels, just as it has in Nigeria's homogenous states. Under such circumstances devolution of a generous share of federal power upon largely homogenous federal units promises a dramatic reduction in conflict at the centre. Many issues will be contested within ethnic groups, rather than between them, simply because many contested issues become state level issues. It is difficult to infer causality from Switzerland, because it has not had intense conflict. But it has been argued that Swiss federalism with its powerful and mainly homogenous cantons is effective in dampening ethnic conflict because of the sparseness of contentious issues at the federal level of politics and the tranquillising effect of compartmentalising them.⁸⁸

The critical issue at stake is whether federalism is desirable because it makes for peace or because it makes for a balanced representative arrangement. This question could be answered by looking at what unites the universalistic theorists and those who argue for the recognition of difference among groups. They disagree on what justice requires in the political community, but they are united on the quest for justice. Once this is recognised, then any prescribed arrangement should aim at being just. But a critical view should not be held of Horowitz's federal prescription because its utilitarian cast aims at reducing domination of one group by any other, very much like the projects of Walzer, Taylor and Kymlicka, and could therefore be said to have a democratic framework.

Prescriptions of the normative theorists are on the same level as Horowitz's, for they require the redrawing of internal political boundaries around groups, at least minority groups in the case of Kymlicka and Taylor, and a massive decentralisation of power. As Horowitz argues in the case of Nigeria and India, the contest for power within the sub-political units has the effect of triggering intra-ethnic divisions and conflict thus shifting the burden of conflict from the centre. In this context the arguments of the two sets of writers are not different. In fact, Horowitz is positive about his democratic framework when he declares that his project is 'peaceful and compatible with democracy'.⁸⁹ He justifies this claim by exploring ways of achieving an inclusive democracy in a divided South Africa where any group would not be able to establish its hegemony over others.⁹⁰

The second relevant issue in the normative and empirical prescriptions is difference over the constituent federal units. While Walzer's and Taylor's arguments

⁸⁸ Citation comes from Horowitz, *Ethnic Groups in Conflict*, 614.

⁸⁹ Horowitz, *Ethnic Groups in Conflict*, 599.

⁹⁰ See Horowitz, *A Democratic South Africa?* Chapters 5-7.

require groups to have their own federal units, Horowitz holds that internal political boundaries need not be drawn around homogenous groups. Young and Rothchild are silent on this, but their views would lean towards the drawing of boundaries around homogenous groups. For Kymlicka, the boundaries of federal units could be blind to groups, but where there are national minorities they should have their own units in order to exercise self-government rights and limits their vulnerability to the decisions of the majority.⁹¹ Implicit in Kymlicka's argument is that each national minority should have its own political unit.⁹²

Among both the normative and empirical writers, Horowitz is most explicit in proposing the non-homogeneity of federal units. What is most important to Horowitz is the putting in place of conciliatory institutions that would do away with census type politics. That is, a political process whose outcome is determined by pre-formed majorities and minorities. In this type of politics, minorities know their fate in advance of an election. For Horowitz, devolution of power to homogenous groups is 'neither the only nor the best way out'. This is because conciliatory institutions could thaw frozen majorities and minorities.⁹³ His prescription is derived from his empirical study of the Nigerian Second Republic where half the total number of 19 states enclosed multiple ethnic minority groups.⁹⁴

Walzer would assent, on grounds of principle, to the view that units should not be homogeneous. But the problem of separating small groups living on small contiguous lands and the issue of their non-viability would make him qualify the view that units be homogeneous. He particularly makes room for the adjustment of moral principles to circumstances on the ground while rejecting arrangements that are determined *a priori*.⁹⁵

The third salient issue the prescriptions raise is minority group-rights. For Kymlicka, federal units in which minorities have self-government and by which they have representation on inter-governmental bodies are special rights, rights without which members would not be as equal as the majority group members. This is what his project is all about. Walzer does not say much about minority rights, but does argue that groups separated in federal units would need to be protected by constitutional checks

⁹¹ Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 182-183.

⁹² See *Ibid.*, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 113.

⁹³ Horowitz, *A Democratic South Africa?* 99-100, and 216-213.

⁹⁴ See Appendix D for the map of Nigeria showing some of the ethno-linguistic groups in the country.

⁹⁵ See Walzer, 'The New Tribalism: Notes on a Difficult Problem', *Dissent*, 39 (Fall, 1992), 167-170.

and by the possible use of international sanctions if the checks are violated by the majority. Both Rothchild and Taylor say nothing about special rights, except that the latter argues for equal recognition.

Horowitz is strongly opposed to any form of special rights- reserved seats, veto rights, federal units, etc. for minorities because they are agreements based on constraints which the majority will overtime violate if their interests so demand. The quick, though lawful abolition of special representation rights for Whites in Zimbabwe makes Horowitz regard group rights as providing illusory security, easily pierced. On this score, he makes a scathing remark about international lawyers who, ‘with little knowledge of ethnic relations, have ... been creating a whole new set of understandings about group rights’⁹⁶

The fourth relevant issue raised by the prescriptions is the problem of disunity. Federalism, from the viewpoint of all the writers, is the best possible arrangement for accommodating diversities. However, there is some wavering by Walzer and Kymlicka on how unity can be achieved. Walzer’s cultural relativism, which locates common authoritative moral values within groups, makes political union conditional upon convergence of cultural values. In the absence of the latter the federal sphere of unity would be without a moral foundation, in which case it would be a *modus vivendi*. On this, Kymlicka is not different either. He explicitly says that both minorities and majorities have different cultural values, and that both groups would have to accommodate each other on the basis of a *modus vivendi* if they cannot adopt each other’s moral principle.⁹⁷

Horowitz rejects constitutional arrangements grounded on *modus vivendi* because they are transient. Citing constitutional arrangements like the Lebanese National Pact of 1943, the Malaysian constitutional bargain of 1956, the Indian Punjabi Regional Formula of 1956, and the B-C Pact in Sri Lanka, Horowitz says that:

They are all “bargains”, “pacts”, “and contracts”. They are treaties between semi-sovereign peoples based on reciprocity, and they have all the characteristic problems all contracts have: the preferences of the parties change over time; conditions also change; the returns to the parties from the deal are uneven . . . if incommensurables are traded - X in return for Y- and if X proves more valuable over the long term, the party that received Y may nurse a grievance. Unless provision is made for amendment contract alone is not a lasting basis for accommodation. Inter-group contracts tend to be their own undoing.⁹⁸

⁹⁶ Horowitz, *A Democratic South Africa?* 136.

⁹⁷ Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 168.

⁹⁸ Citation comes from Horowitz, *A Democratic South Africa?* 149 see also *Ibid.*, *Ethnic Politics*, 581.

In order to achieve unity, Horowitz presents a design for living together premised on incentives for accommodative behaviour without sacrificing immediate group interest. The design, drawn from Nigeria's second republic, is the agreement on an electoral system that induces political parties to ethnic inclusion and requires wide ethno-regional support in the election of the President.⁹⁹

Horowitz regards an agreement on an electoral system that places high premium on accommodative behaviour as similar to the *original position* contract of Rawls.¹⁰⁰ The original position is a device that model parties who want to enter into social cooperation. It is characterised by a *veil of ignorance*, that is, parties are ignorant of their class positions and social circumstances and, as a consequence, do not know who will be at the top or lower scale of the social ladder in the society they are trying to form or agree upon. So situated, they would agree on principles that are fair and just.¹⁰¹ Horowitz takes after Rawls by saying that in an electoral arrangement where there is high premium on multi-ethnic support in the election of officials, each contesting party have to reach out and accommodate other groups. Since no group knows who would gain office, each would have to strive to reach out. The cost of not reaching out is electoral defeat or violence. And, what is more, a combination of two or a few large groups behind a single party is not enough to reach the required geographically spread of votes even if they make up two thirds of the country's total population. Horowitz regards this arrangement as 'not merely reflect(ing) transient interests but a design for living together premised on incentives for accommodative behaviour transcending group interests at the moment of enactment'.¹⁰²

Horowitz acknowledges that in Nigeria, where he draws his model from, the electoral arrangement was not enough to produce an enduring unity among the diverse groups. The arrangement failed because of politicians' ambitions and intense competition. In spite of the failure of the Nigerian innovation to arrest conflicts, Horowitz thinks that it could produce the much desired stability if it is continuously refined. He receives some support from Rothchild who argues that the incentives for co-

⁹⁹ Horowitz, *A Democratic South Africa?* 184-186. To become President of the Federal Republic of Nigeria, a candidate must win 2/3 of the 36 states and the Federal Capital Territory (FCT). For more discussion of ethnic inclusion in Nigerian body politics, see the revised federal character principle in chapter six of this thesis. See Appendix B for the map of Nigeria showing the administrative borders.

¹⁰⁰ *Ibid.*, *A Democratic South Africa?* 151.

¹⁰¹ See John Rawls, *A Theory of Justice*, 136-142; see also, *Ibid.*, *Political Liberalism*, 304-305.

¹⁰² See Horowitz, *A Democratic South Africa?* 151.

operative behaviour if built upon and nurtured, would dispose politicians to learn and get acculturated to the politics of reciprocity.¹⁰³

The four most relevant issues in the normative and empirical prescriptions that are discussed above provide a helpful framework for discussing Nigeria's attempts at coping with ethnic difference and diversity. The approaches set the agenda not only in the sense of providing models for dealing with ethno-political problems in Nigeria, but in a sense, a starting point for a discussion about ethno-political issues in the country and the interaction between the central government and the different ethnic groups claiming recognition.

2.5 Summary

This chapter reviewed the arguments among normative liberal theorists about the potential relevance of accommodating cultural and ethnic difference and diversity in state building processes. The chapter also discussed the empirical literature on ethnic diversity in politics and democratic institutional arrangements for conflict reduction. The relevant prescriptions/issues raised in the normative and empirical literatures were identified and discussed against the realities on the ground in Nigeria. The issues raised in both the normative and empirical literatures are intended therefore to be used as the contextual framework for evaluating the applicability of the normative and empirical prescriptions against the specifics of Nigeria's multicultural society. The essence of the evaluation is basically to determine the applicability of both prescriptions against the experiences in Nigeria, and whether the implementation of state building strategies for coping with diversity are connected to the inherent ethno-political conflicts and institutional instabilities in the country. In addition, this chapter analysed the inherent ethno-political conflicts and institutional instabilities in the country are aggravated by fundamental and underlying factors that are inherent in the Nigerian political environment.

On the whole, this chapter has also been able to create awareness that given the prevailing underlying issues, the Nigerian government would face enormous challenges in the designing of state building strategies that would not prejudice its national goals and objectives, unless these obstacles are minimised or completely eliminated. In the

¹⁰³ Rothchild, *Managing Ethnic Conflict*, 49.

above context therefore, the important questions to ask are two: What governmental strategies have been attempted to establish state building institutions that recognise and accommodate ethnic diversity? What roles do the state building strategies either in isolation or in combination play in the generation and recurrence of ethno-political conflicts in the country? Answers to these questions which are the research problems of the study are examined in the remaining seven ensuing chapters of this thesis.

CHAPTER THREE

COPING WITH DIVERSITY: THE POLITICAL SYSTEM APPROACH

Do we wish to see a fully centralised system with all legislative and executive power centralised at the centre or do we wish to develop a federal system under which each different region of the country would exercise a measure of internal autonomy? If we favour a federal system should we retain the existing regions with some modifications of regional boundaries or should we form regions on some new basis such as the many linguistic groups which exist in Nigeria?¹⁰⁴

3.1 Introduction

Faced with the challenges of multiculturalism, and the desire to reflect the plural composition within the framework of a united country, Nigeria has adopted several state building approaches for coping with its problem of ethnic difference and conflict. The first, beginning from the immediate post-World War II period through 1958, involved recognition of the three most numerous groups in the political arrangements of the country, but denied equal recognition to several minority groups who asked for similar treatment.¹⁰⁵ A product of hard Constitutional negotiations, this state building approach was adopted in response to competing claims made by group elites in several Constitutional Conferences held in 1949/1950, 1953/54, 1957 and in 1958. This chapter aims to discuss and evaluate claims and counter-claims that were made in the several Constitutional Conferences/Committees and the important agreements that were negotiated on the type of political system for the country and minorities' claim for recognition in separate states. It will begin by spelling out the claims of groups and proceed with a normative evaluation.

3.2 Group Claims During the Pre-Independence Constitutional Conferences

Pre-independence claims by groups' elites were not made at random. Rather, they were channelled through Constitutional Conferences that required representation of the three regions and political parties operating in them. While representation was not on the basis of ethnicity *per se*, the process was dominated by elites of the majority group in

¹⁰⁴ Citation was the proposals for discussion put before the delegates to the 1950 pre-independence regional conference at Ibadan by the British Colonial Government. See Kalu Ezera, *Nigeria: Constitutional History* (Cambridge: Cambridge University Press, 1960), 228-229.

¹⁰⁵ The most numerous ethnic groups in Nigeria are the Hausa/Fulani, Yoruba and Igbo. The prominent minority groups on the other hand include Kanuri, Nupe, Tiv Igala, Jukun, and the Ilorin-Kabba Yoruba in the Northern region; Edo, Urhobo, Ijaw, Ishekiri, and the Western Igbos in the Western region; and Ibibio-Annang, Efik and Ijaw in the Eastern region. Refer to Appendix D for the ethno-linguistic group of Nigeria showing the majority, minority and marginal groups.

each region.¹⁰⁶ Thus, claims made during the Constitutional Conferences were mostly those that reflected the views of the majority ethnic groups, and they were presented in a manner akin to what Donald Rothchild regards as non-negotiable.¹⁰⁷ The representatives took positions they were not ready to compromise, and did not wish to make concessions that would be interpreted by their opponents as signs of weakness. Claims and counter-claims, mostly on issues of political arrangement, minorities' claims for recognition and revenue allocation were therefore, repeated in one Conference after another and with greater intensity in every succeeding one.¹⁰⁸ It is in the light of the above, that Eric Nordlinger's argument that conflict group leaders alone are capable of negotiating agreements on behalf of those they represent could be regarded as valid. This is because representatives to the Conferences were not prepared for conciliatory behaviour on the issues mentioned above.¹⁰⁹ It was the British mediators who used their position as sovereign rulers to influence leaders of the three large ethnic groups to adopt a *modus vivendi* that entailed their retention of the three-regional structure and the sharing of national assets.¹¹⁰

It was when elites of some ethnic minority groups realised that constitutional agreements being negotiated among elites of the major groups would subject them to domination that they formed opposition parties or allied with the ruling party in another region.¹¹¹ This gave them access to the Resumed Lagos Conference of 1954 and the 1957 Conference for the review of the Lyttelton Constitution where they voiced demands for political separation. The outcome was the institution of the Willink Commission to examine their fears and look for ways of allaying them. The thesis presents competing claims relating to the issues mentioned above, and it begins with those pertaining to the type of political system for the country.

¹⁰⁶ Even the three-phase Conference of 1949/50 that was structured to ensure wide representation of views turned out to exclude minority voices at the higher stages because the Regional and National Conferences were dominated by elites of the majority ethnic groups in the region. See Government of Nigeria, *Proceedings of the General Conference on the Review of the Constitution* (Lagos: Government Printers, January, 1950), 60.

¹⁰⁷ See Rothchild, *Managing Ethnic Conflict*, 31.

¹⁰⁸ Claims relating to revenue allocation are comprehensively discussed in chapter seven of this thesis

¹⁰⁹ See Nordlinger, *Conflict Regulation in Divided Societies*, 40.

¹¹⁰ See Figure 2 for the structural composition of Nigerian federation before 1963.

¹¹¹ In the Northern region, the Hausa/Fulani and the Kanuri elite secured the control of the NPC and used the party to dominate the region. In the Western region, the Yoruba elites through the AG dominated the regional government. In the Eastern region, the Igbo elite elites took control of the NCNC and the region.

3.2.1 The Type of Political System

The type of political system to be adopted during the de-colonisation period was particularly important because it would structure power relations and determine which ethno-regional group would be politically dominant. The issue of power was important not only because it was a means to an end but also because, as the British colonial administration was close to end, the political elites started to prepare themselves to take over the political offices that would be left behind and the most suitable political system that would place them at comparative advantage. For example, we are going to see the leaders of the Western and Northern regions arguing for different forms of political arrangement that would make for the respect of difference.¹¹²

In the General Conference of 1950, the Western region's representatives put forward claims for retention of the three-regional structure within a federal framework but with adjustment of boundaries to take account of ethnicity. They used ethnic principle to ask for a redrawing of the northern boundary of the West to enclose the Yoruba speaking people of Ilorin and Kabba provinces of the North, and of the southern boundary to enclose Lagos and its Colony.¹¹³ They coupled it with demand for an indirect system of election so that Igbos could be locked out of the region's political positions. The concern of the representatives of the Western region with the Igbos was that their educational achievements and rapid rise in national politics would give them some competitive advantage in mass election.

The quest for territorial expansion by Western region's representatives to the 1950 Conference, which was also a quest for national political power was justified on ground that people in the affected areas had been clamouring for reunion with their kin groups from whom they have been separated by colonial administrative boundaries. On the other hand, the demand for indirect election was defended on the ground that over 90% of people in the region were illiterate. The idea behind the illiteracy justification

¹¹² In the 1950s and 1960s, the Nigerian politics was dominated by the elites from the three major groups- the Hausa/Fulani (North), the Yoruba (West), and the Igbo (East). The three political parties which represented the interests of the groups are the Northern People's Congress (Northern region), Action Group (Western region), and the National Council of Nigeria and Cameroons (Eastern region). It is important to point here that the NCNC was not originally an ethno-regional party. It was the intensity of ethno-politics in Nigeria that encouraged the party to adopt Igbo as its support base.

¹¹³ As a result of state creation by the Military Government of Ibrahim Babangida on 27 August, 1991, the former Kabba province, which used to be in the Northern region, became known as Kogi state. The Yoruba (Okun) speaking referred here above, are currently in the Kogi West Senatorial District, and comprises of Kabba Bunu, Mopa Moro, Yagba East and Yagba West Local Government Areas in Kogi State. See Appendix B for the map of Nigeria showing administrative borders. In the map, Kogi state is located in the North-Central zone directly below Abuja, the Federal Capital Territory.

was that, the people had no knowledge of national political issues, could not make leadership choice, and did not even know how to cast the ballot.

In the 1953 London Conference, the Action Group (AG), the dominant party of Yoruba elites and also the governing party in the Western Nigeria from 1951 onwards, made arguments for recognition of the federal quality of the country. The quality was identified to be the existence of ethnic groups territorially contiguous, having different political and social institutions, different educational and general development, yet desiring to unite. The AG identified ten main ethnic groups in the country - five in the North, two in the West and three in the East- and called for the grouping of each into a state.¹¹⁴ Strategically, agreeing to this demand would have made the Western region, minus its minorities, one of the largest units in terms of size and population.

The Eastern region, like the West, argued for a political federation of three regions during the 1950 General Conference, but objected to arguments for the redrawing of internal boundaries to reflect ethnicity and for the indirect electoral system. At the beginning of the 1953 Conference, the National Council of Nigeria and the Cameroons (NCNC) which later became known as National Council of Nigerian Citizens, the most dominant party of Igbo elites, had backed-off the federalist position to argue for a unitary system. The NCNC leadership argued that a political federation would undermine unity of the country, while a unitary constitution with a strong centre would make for political cohesion. They referred to the regional structure as the *Pakistanisation* of Nigeria- an analogy for the splitting of India into India and Pakistan. Their position was informed by the dominant influence of the Igbo State Union in the party after 1950, which required that the latter responds to the need of migrant Igbos for equal political rights. It is important to emphasise here that the Igbos at this time had migrated to all parts of the country to take advantage of whatever the modern market economy could offer, and also to make a living because their land was not fertile enough and smaller than the other regions to support their numbers.¹¹⁵

Like the Easterners, Northern leaders stood for a federal system during the General Conference of 1950. Suspicions about the relative educational advancement of

¹¹⁴ See Government of Nigeria, *The Record of Proceedings of the Nigeria Constitution Conference* (Ibadan: National Archives, July/August, 1953), 6-13.

¹¹⁵ For more discussion of this argument, see Udo Udoma, *History and the Law of the Constitution of Nigeria*, (Lagos: Malthouse Press, 1994), 146. See also, Obafemi Awolowo, *Awo: The Autobiography of Chief Obafemi Awolowo* (Cambridge: Cambridge University Press, 1960), 180. See Appendix B for the location and size of the Eastern Region.

the two Southern regions translating into political dominance influenced them to opt for retention of the three regions so that each can advance at its own pace towards self-government. They opposed any boundary adjustments that would transfer their territory to the West, arguing that the area conquered by the Sokoto jihadists in the 19th century extended far into the East and West, but had already been reduced when the British imposed the regional boundaries. Besides, at the Northern fringes of their region there were groups that were split by the international boundary drawn by the French and British.¹¹⁶ A revision of boundaries to unite groups would be the beginning of a slippery slope. If the Yoruba of Ilorin and Kabba provinces had genuine grievances, which they believed was not really the case, there could be better ways of resolving them. However, if the West insisted on its position, then the affected people should migrate while the territory remained.¹¹⁷

The Northern position, however, changed in 1953 when the AG sponsored a motion in the central legislature calling for self-government for the country in 1956. The Northern People's Congress (NPC), the dominant party of Northern elites especially those of the Hausa/Fulani ethnic group, went to the London Conference with an 8 point plan demanding a political confederation in which the three regions would enjoy complete autonomy. The idea was that if the Southern regions were bent on political dominance by virtue of their relative educational advancement, then each should go its own way.

The above competing claims were hardly reconcilable, and unless each of the three parties was prepared to make some concessions, a compromise would be elusive. The British colonial office whose officials presided over the Constitutional Conferences had decided after the 1953 self-government motion crisis that a loose federal association of the three regions was the best way of keeping Nigeria together. It was this objective that the colonial office had in mind when the London Conference was convened and, in fact, the Colonial Secretary had declared it a loose federal association in the House of Commons in May of 1953. Oliver Lyttelton, later known as Lord Viscount Chandos, the Colonial Governor during the period, further made the point when he wrote that:

The only cement which kept the rickety structure of Nigeria together was the British ... What was the present Conference for? It had been convened by us to keep the diverse elements in Nigeria together: left to themselves they would clearly fall apart in a few

¹¹⁶ The international treaty between the British and the French resulted in excising some part of the north-east of the Northern region to join their kits and kins in north-west Cameroun.

¹¹⁷ See speeches by Mallam Aliyu Makaman Bida, Muhammadu Ribadu, both in the Government of Nigeria, *Proceedings of the 1950 General Conference*, 109-110, 130 and 150.

months ... it was clear that Nigeria, if it was to be a nation, must be a federation, with as few subjects reserved for the central government as would preserve national unity.¹¹⁸

Perhaps the commitment of the British to forge an agreement that would keep the country together urged the AG, the NCNC and the NPC to reach a compromise. For example, the AG dropped its demand for a reconstruction of internal boundaries on ethnic lines, while the NCNC shifted from its unitary position to accept a federation of three regions.¹¹⁹ In turn the NPC backed-off its confederation demand to settle for a loose federation in which the centre had limited list of subjects while the three regions had an unspecified list of subjects- Residual List. This compromise agreement which technically accorded semi-sovereign status to the regions, together with a promise from the British government that any region desiring self-government could have it in 1956, subsequently fuelled political demands by minority elites for recognition in separate states.

3.2.2 Minorities Claims to Separation

Minorities' claims for recognition in new states were driven by what Richard Sklar has referred to as the 'big tribe chauvinism within the major political parties' and by fear arising from the 1953/54 Constitutional agreements which guaranteed regional power and security to each of the three big groups.¹²⁰ It is worth noting that some minority groups were not relatively backward, both in terms of education and social provision. For example, non-Muslim minorities in the North were more exposed to Western education provided by Missionary schools, had more trained personnel in the region's civil service, and were supreme in the army compared to the Hausa/Fulani. The NPC's adoption of an 8 point plan in 1953 which amounted to Northern secession drove some of them, especially the Tiv, to express their separate identity by demanding a separate state.¹²¹

¹¹⁸ See Oliver Lyttelton (Viscount Chandos), *The Memoirs of Lord Chandos* (London: The Bodey Head, 1962), 409.

¹¹⁹ It is important to note that the kind of agreements reached at this stage preferred a system which preserves the hierarchy of power among the dominant ethnic groups, with the North being the leading group, followed by the Yoruba and the Igbo. See Udoma, *History and the Law of the Constitution of Nigeria*, 147-148; also see Awolowo, *Awo: The Autobiography of Chief Obafemi Awolowo*, 181.

¹²⁰ Richard Sklar, 'Nigerian Government in Perspective' in Robert Melson and Howard Wolpe, (eds.); *Nigeria: Modernisation and the Politics of Communalism*, 42.

¹²¹ The most prominent Middle Belt politician and United Middle Belt Congress (UMBC) leader that spearheaded the recognition of the minorities of the Middle Belt was Joseph S. Tarka. See Martin J. Dent, 'Tarka and the Tiv: A Perspective on Nigerian Federation', in Robert Melson and Howard Wolpe, (eds.); *Nigeria: Modernisation and the Politics of Communalism* (Ann Arbor: Michigan State University Press,

Similarly, in the Eastern region, the NCNC was assembled and led by elites of the minority Ibibio and Efik ethnic groups.¹²² The first NCNC government in the region was led by Professor Eyo Ita, an urbane, polished, articulate and principled United States trained educationist of the minority Efik group. It was after he was expelled from the party leadership position to make way for an Igbo leader that minorities in the region followed him en-mass to form an opposition party - the National Independence Party (NIP) to spearhead the demand for separation. These historical realities call for a modification of Tedd Gurr's thesis regarding autonomy claims. The thesis states that psychological stress and cultural difference, not political or economic discrimination drive group demands for autonomy.¹²³ But evidence from the pre and post-independence Nigerian experience rather shows that fear of permanent political domination and its economic consequences give rise to separation demands.¹²⁴

Minorities' fear of permanent political exclusion intensified with the 1953/54 Constitutional agreements that shared the country among the three big ethnic groups. This fear was first driven into them during the 1949/50 nation-wide three-stage Conference when the demands of some minority provinces of the Northern and Western regions for political recognition in separate states were suppressed at their respective regional conferences. Some minorities' provinces of the North and the West had responded to the question regarding the form of political arrangement by recommending separation in 'Central Region' and 'Warri-Benin State' respectively. These recommendations were rejected at the regional conference level dominated by representatives of majority groups who then proceeded to retain the three regional structures at the highest level of the three stages Conference.¹²⁵ One of the questions asked at the Provincial Conference in the North was: 'Should there be a centralised or federal system of government?' To this question, the people of Benue province

1971), 450-451. The Tiv is a marginal ethnic group, and are predominantly found in Benue state, and also in Nassarawa and Taraba states. See Appendices B and D.

¹²² Ibibio and Efik were among the minority groups of the Eastern Region. They are currently found in the Niger Delta states of Akwa Ibom and Cross Rivers' states respectively. See Appendices B; D and E.

¹²³ According to his thesis, political and economic discrimination give rise to demands for political and economic rights, not separatist demands. See Tedd Robert Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts* (Washington: United States Institute of Peace Press, 1973), 79 and 82.

¹²⁴ For more of this discussion see, Rotimi T. Suberu, 'The Struggle for New States in Nigeria, 1976-1990', *African Affairs*, 90 (1991), 499-522; and also, Rotimi T. Suberu, 'The Nigerian Federal System: Performance, Problems, and Prospects', *Journal of Contemporary Studies*, 28 (4), (October, 2010), 459-477.

¹²⁵ See Government of Nigeria, *Proceedings of the 1950 General Conference*, 60.

answered: 'There should be a fourth region, comprising Adamawa, Benue, Ilorin, Niger, and Plateau provinces. It should be known as 'Central Region'.¹²⁶

The forceful removal of elites of the ethnic minorities from the leadership position of the government of the Eastern region heightened the fears of the minorities of the other regions in the country. By the 1953 London Conference minorities of the country could no longer contain their fears. Having lost leadership positions because of ethnic identity, they had to attend the 1951/52 Conference as delegates of the official minority opposition party in the region. They demanded a strong centre as safeguard against majority dominance in the regions. They were, however, rebuffed and therefore forced to withdraw early from the Conference. At the resumed Lagos Conference of 1954- for the discussion of Louis Chick's revenue allocation report, the fears of the minorities could no longer be contained. Elites of some minority groups in the East and West submitted memoranda asking for recognition of Benin-Delta State (BDS) and Calabar-Ogoja-Rivers (COR) State respectively.¹²⁷ They were soon followed by demands from elites of some non-Muslim minority groups of the North for a Middle Belt State. The demands were based partly on fear of leaving 'minority groups ... entirely at the mercy of the majority groups'.¹²⁸

The response of the dominant parties to the demands of the minorities for separation was dictated by their strategic interests. In the Eastern region, the strategic interest of the NCNC was to break the political dominance of the Northern region and reduce the size of the West by having several states. It therefore advocated the division of the country into seventeen smaller and weaker states linked through a strong centre-quasi federalism.¹²⁹ This required that, in principle, the regional government agrees to separation demands. It actively backed demands in other regions but tried to open a schism among its own dissenting minorities by secretly sponsoring or encouraging rival state movements in the Ogoja and Rivers provinces. Demands for Rivers and Cross Rivers States emerged to compete with the COR demand.

¹²⁶ See Northern Nigeria, *Review of the Constitution*, NC/32A (Ibadan: National Archives, 1949), 3. The Central Region mentioned above later became North-Central geo-political zone. See Appendix C for the map of Nigeria showing the six geo-political zones.

¹²⁷ The minority groups of the Western region were later carved into Midwestern region in 1964. They are currently in Edo and Delta states. The minorities of the Eastern region on the other hand are the Niger Delta groups, currently carved into nine states. See Appendices B; D and E.

¹²⁸ Government of Nigeria, *Record of Proceedings of the Resumed Lagos conference* (Lagos: Government Printer, 1954), 271-272, and 285.

¹²⁹ See Donald Rothchild, *Safeguarding Nigeria's Minorities* (Pittsburgh: Duquesne University Press, 1964), 44-45.

In the West, the AG arguments for ethnic states required that it support separation demands. The AG, however, initially opposed the Benin-Delta State-Midwest State because the area was controlled by the NCNC, and also because it did not wish to narrow its territory to the advantage of its rivals. The AG queried: ‘Why should we gratuitously widen the area of our opponents’ influence by offering them another state practically on a platter?’¹³⁰ It was when the AG became a patron to the COR State Movement in the East and thus gained a foothold in that region that it argued that the creation of COR State be a condition for the creation of Midwest State, or that the two be created simultaneously.

In the North, the demand for the Middle Belt State was supported by the AG who felt that the ‘time had come when the North should be broken into at least two separate states.’¹³¹ The NPC was deadly opposed to it, threatening trouble if the territorial boundaries of the region were tampered with.

By the start of the 1957 London Conference which convened to evaluate difficulties that may have arisen from the practical workings of the 1953/54 Constitutional agreements and for the granting of self-government to regions, separation claims and the positions of each ruling party were already set. What emerged from the Conference was the institution of a commission to examine the fears of minorities and recommend ways of allaying them. In each region the Minorities Commission, as it was popularly known, received separation demands and they were all based on political exclusion, cultural domination, and discrimination in the provision of social services and infrastructure.¹³²

In its report, the Commission observed that minorities’ allegations of domination and discrimination were exaggerated, but that, when the latter was discounted, there still ‘remained a body of genuine fears and ... the future was regarded with

¹³⁰ See Awolowo, *Awo: The Autobiography of Chief Obafemi Awolowo*, 183. During the First Republic, the term Middle Belt was defined politically as the area of Kabba, Plateau, and Benue Provinces. See John O. Paden, *Ahmadu Bello Sardauna of Sokoto: Values and Leadership in Nigeria* (Portsmouth, N.H: Heinemann Educational Books, 1986), 343. The term was later extended to accommodate the political aspirations of the minority groups in North-Central Nigeria. The Middle Belt of Nigeria inhabits a large number of marginal and minority ethnic groups who have historically resisted the political and religious domination of the Hausa/Fulani. See International IDEA, 2000, 343. See also Appendices A to D.

¹³¹ *Ibid.*, *Awo: The Autobiography of Chief Obafemi Awolowo*, 184.

¹³² See Government of Nigeria, *Report of the Commission Appointed to Enquire into the Fear of Minorities and the Means of Allaying Them* (London: Her Majesty’s Stationery Office, 1958), 12-28, 38-46, and 57-70. Here after simply referred to as Minorities Commission.

apprehension'.¹³³ However, it did not regard state creation as a remedy for the fears and apprehensions. The reasons given by the Commission were:

- a) In each of the regions, the area of the proposed state was made up of several groups some of who preferred to be excluded. It was therefore difficult to draw a clean boundary that would not create a fresh minority. For example, the Middle Belt State that was demanded from the North had no definite boundary. Proponents of the state had suggested that it should enclose predominantly Christian areas, but it was difficult to draw a neat line, and the Commission was not provided with a definite map despite its insistence. It was believed that the area would comprise four provinces and parts of other three provinces, but there was uncertainty about the latter and it was left for the Commission to draw an arbitrary line.¹³⁴ The same applied in the Eastern region where the area of the proposed COR State covered that of the Rivers and Cross Rivers States. It was on account of these difficulties that the Commission ruled that the areas to be covered by the two states were not ethnically homogenous, and that a slippery slope would be triggered if the demands were granted.¹³⁵
- b) The second reason given by the Commission was that, until the last few years, modernisation, especially the development of education, had been blurring ethnic differences in the country. It was when the prospects of independence became real that the tendency was reversed. This was not likely to continue, especially in a few years' time when Nigeria would face the outside world and would find within herself forces working for unity. For this reason, 'we do not accept in its entirety the principle of ethnic grouping, that is, the principle that a recognisable ethnic group (should where ever possible) form a political unit'.¹³⁶ The Commission felt that it was more important to find means of allaying fears. Some Constitutional safeguards were therefore recommended. They were: the incorporation of fundamental human rights into the Constitution; a single

¹³³ *Minorities Commission*, 88.

¹³⁴ *Minorities Commission*, 71.

¹³⁵ *Ibid.*, 32-323, and 51. The above difficulties made the Commission consider the possibility of paring down the proposed state in each region to an area in which it enjoyed unanimous support. However, it observed that, such states would be of 'lesser status' than the older regions. The Constitutional Conference of 1957 did not completely rule out the creation of states with lesser powers, but argued that they would be unfeasible because, in the words of the Commission, 'it is hard to picture the successful working of a federation in which there were first class and second class states. Nor the latter will be content with such a state. This ... consideration, when combined with the difficulty of finding a clean boundary, was ... decisive in recommending against separation'. *Minorities Commission*, 32 and 87.

¹³⁶ *Ibid.*, 88.

Nigerian Police Force serving both federal and regional purposes but controlled by the federal government; the creation of a special area in the Niger Delta to be developed by the federal government and the governments of the East and West, under the auspices of a Board; the Constitution of parts of the Western and Eastern regions into minority areas for purposes of fostering cultural advancement and social and economic development.¹³⁷

Leaders of the state creation movements were not satisfied. They attended the Resumed Conference of 1958 that gave the final touches on the transfer of power from the British- with the slogan of *no states, no independence*. The British decided that political independence for the country which was two years away would be postponed in order to conduct a referendum among the affected minority groups with the aim of testing the popularity of the demands. This would then be followed with other rounds of Constitutional negotiations. The idea that the country's freedom from colonial rule would be compromised prompted the leaders of the three major parties to opt for the Commission's report. Clauses for boundary adjustment and states creation procedure in the future were inserted in the report and also incorporated in the independence Constitution.¹³⁸ The minority groups in the country who advocated for separation entered the newly independent Nigeria with their demands unrealised, and as a consequence they became more assertive and violent in the pursuit of their goals. For instance, the Tivs waged series of resistances against the NPC leadership in the Northern region.¹³⁹

3.3 Evaluating the Claims and Agreements

If there is one problem that emerged from the lengthy discussion above, it is the issue of the political system that would best accommodate multiple groups in the country. Of all the opposing proposals/positions by the elites of the three majority groups, federalism triumphed over unitarianism, but the question remained as to whether it should be used

¹³⁷ *Minorities Commission*, chapter 14.

¹³⁸ Subsequent state creation by the military leaders flouted the clauses, as states creation turned out to be a means of sharing the national cake. See Jonas Isawa Elaigwu, *The Politics of Federalism in Nigeria* (London: Adonis and Abbey, 2007), 115. Rotimi T. Suberu, 'The Struggle for New States in Nigeria, 1976-1990', 499-522; and also, Rotimi T. Suberu, 'The Nigerian Federal System: Performance, Problems, and Prospects', 459-477.

¹³⁹ For more of the Tiv resistances in Northern Nigeria in the pre-independence, see, Godwin A. Vaaseh and O.M Ehinmore, 'Ethnic Politics and Conflicts in Nigeria's First Republic: The Misuse of Native Administrative Police Forces (NAPFS) and the Tiv Riots of Central Nigeria, 1960-1964', *Canadian Social Science*, 7 (3), (2011), 214-222.

to accommodate minority groups. The following sub-sections of the thesis evaluate the claims regarding the type of political system and minorities' claim for recognition in separate states.

3.3.1 The Political System and Diversity

There are three positions to be considered: One regards ethnic federalism as the best; the second refers to federalism based on the three regional structures as the most desirable; and the third position considered a unitary system as the ideal. Then there were some minorities who went for ethnic federalism that entailed their equal recognition in separate regions. Each of these positions could be interpreted as rationalisations by group elites who were out to maximise power for themselves and on behalf of those they were representing. However, it is not enough to look at these different positions in strict ideological terms. The positions were used as rationalisations because there was something good about them. For example, a unitary system that secured the social and economic needs of Igbos was defended in the name of qualities that would make it acceptable to the general public. Similarly, the Hausa/Fulani elites used fear of Southern dominance that was shared by Non- Hausa/Fulani in the North to justify their hold on a region they regarded as an inheritance from their forefathers. To make a fair judgement about what arrangement was desirable and what was not, one has to examine the inherent qualities of these proposals and not simply dismiss them as ideologies.

To begin with the position of the Western region, there was an assumption in the claim for ethnic federalism. The assumption was that, the creation of a common civic bond in the new Nigeria that was coming into being would need decentralised political structures which allowed identity groups to organise their lives according to their cultural requirements and needs. Political autonomy for groups was presented as a prerequisite for political coherence and stability. The common wisdom was that ethnic loyalty would not be transcended with time, and without the granting of autonomy to identity groups, nation building would be futile.¹⁴⁰

The above assumption had validity on two grounds. One was the strong attachment by a vast majority of the population to their ethnic communities. For instance, studies conducted by Peter Ekeh showed that the people enclosed within the

¹⁴⁰ See Werner Kaltefleiter and Ulrike Schumacher, 'Constitutional Engineering as an Instrument for Conflict Management in Societies with Changing Cultures', in Louise Niemerijer and Renee Du Toit (eds.); *Multicultural Conflict Management in Changing Societies* (Pretoria: HSRC Publishers, 1994), 112.

Nigerian boundary have always felt stronger obligations to their communities than to the state.¹⁴¹ Commitments to the former overrode and displaced commitments to the latter. It was along this reasoning that the British colonial rule identified ethnic communities as the relevant unit of political identification, and conferred powers on their chiefs. It was they, the chiefs, who collected taxes, mobilised labour, supervised the construction of roads, and dispensed justice in the courts. For the governed, the ethnic community was the state. This was dramatised during the de-colonisation period when the local educated elites organised inter-ethnic football tournaments the way nations meet in international sporting events. The side that emerged victorious in the tournaments proclaimed their group as having a *manifest destiny* to lead the rest of the country. Whereas modernisation theorists were pontificating that the middle class, with their education, would be the historic agents in the project of eliminating particularism and effecting change from tradition to modernity, the opposite proved to be true as the middle class became the real harbingers of ethnic loyalty in politics.¹⁴²

The other ground for the validity of the assumption was the existence of ethnic communities as units of concrete rights and privileges. Ethnic communities guaranteed rights to factors of production- such as land, and met the social welfare and material needs of members. They formed dense network of aid that provided for the emotional and security needs of members. They more or less pre-empted the state of its role, for which reason some have referred to them as the *primordial public* as opposed to the modern public of market society.¹⁴³ It is here that people directed their energies, resources and loyalty for collective self-realisation.

The above views about loyalty and citizenship in the *primordial public* would tally with theoretical explanation for the desirability of federalism. The explanation

¹⁴¹ See Peter P. Ekeh, 'Colonialism and Two Publics in Africa: A Theoretical Statement', *Comparative Studies in Society and History*, 17 (1), (1975). See also, Eghosa E. Osaghae and Rotimi T. Suberu, *A History of Identities, Violence, and stability in Nigeria*, CRISE Working Paper No. 6 (Centre for Research on Inequality, Human Security and Ethnicity, January, 2005), 1-27.

¹⁴² See Toyin Falola, 'Ethnicity and Nigerian Politics: The Past in the Present', in Bruce Berman, Dickson Eyoh and Will Kymlicka (eds.); *Ethnicity and Democracy in Africa* (Oxford and Athens: James Curry and Ohio University Press, 2004), 148-165, see also, Donald L. Horowitz, 'Structure and Strategy in Ethnic Conflict: A Few Steps Toward Synthesis', *Proceedings of the Annual World Bank Conference on Development Economics*, The International Bank for Reconstruction and development: The World Bank, 1999, 345-370.

¹⁴³ See Claude Ake, *The Feasibility of Democracy in Africa* (Dakar: Council for the Development of Social Research in Africa (CODESRIA), 2000), 180.

centres on identity and attachment and it presents community, defined by cultural characteristics like language and ethnicity, as a 'sense of collective identity'.¹⁴⁴

The community in which we live and play out our lives defines what and who we are. As a consequence, we have powerful sense of attachment and loyalty to it. At the political level, federalism becomes desirable not because it is administratively convenient, but because its structures of participation and authority are organised to reflect underlying forms of belonging.¹⁴⁵ Hence, it is commonly seen as 'a device designed to cope with the problem of how distinct communities can live a common life together without ceasing to be distinct communities.'¹⁴⁶ This explanation echoes the view on federalism mostly associated with William Livingstone. The view presents federalism as a device for coping with diversity and understands a country as having federal qualities if it consists of heterogeneous groups. This would suggest that claims for ethnic federalism had merit and should have been taken seriously.

What would a commitment to ethnic federalism have required? Implementing the Yoruba proposal was one way of meeting the commitment. But it was an unpersuasive proposal because it did not take the principle of respecting ethnicity very seriously by proposing only ten states in a country with over 250 ethnic groups and by proposing boundaries that clearly served Yoruba interests. The proposal by some minority communities for more states was another and perhaps a more persuasive and genuine way of meeting the commitment. This is what the Willink Commission ought to have considered. But this proposal, as the Commission rightly observed, was not free of difficulties because there were too many groups, their sizes varied too much, some were mixed up together in some territories, membership was unclear, and some preferred the existing three regional structure to ethnic federalism.¹⁴⁷

¹⁴⁴ Kenneth Norrie, Richard Simeon and Mark Krasnick, *Federalism and Economic Union in Canada* (Toronto: University of Toronto Press, 1986), 4. See also Alain G. Gagnon and Raffaele Iacovino, 'Federalism and the Politics of Diversity: The Canadian Experience', in Nicholas Brown and Linda Cardinal (eds.); *Managing Diversity (Practices of Citizenship)* (Ottawa: University of Ottawa Press, 2007), 95-114.

¹⁴⁵ See Joseph H. Carens, 'Dimensions of Citizenship and National Identity in Canada', *The Philosophy Forum*, 28 (1-2), (Fall-Winter 1996-97), 112-115. See also, Pita Agbese, 'Federalism and Minority Question in Nigeria', in Aaron T. Gana and Samuel Egwu (eds.); *Federalism in Africa* (Trenton: Africa World Press, 2003), 237-261.

¹⁴⁶ Kenneth Norrie, Richard Simeon and Mark Krasnick, *Federalism and Economic Union in Canada*, 25. See also, Oladipo L. Salami, 'Other Tongue Policy and Ethnic Nationalism in Nigeria', *Language Policy*, 3 (2004), 271-284.

¹⁴⁷ The initial claims of the minorities for recognition in separate region/state were briefly discussed in Section 3.2.2, and are followed by a detailed discussion in chapter four of this thesis.

Given the difficulties, taking claims about ethnic federalism seriously would probably have entailed ignoring minorities' claims. In this case the salience of group membership would have been ignored and the problem of political unity and stability would remain unaddressed. This is what actually happened. The 1953/54 Constitutional agreement compromised unity when it retained the three regions and shared power and assets among them.

Let us turn now to the claim for a unitary system put forward by leaders of the Eastern region. The claim was put forward in the interest of Igbos who had migrated to all parts of the country on account of the thin soil and high population density of their homeland. However, one should stand back from this ideological position and assess the claim for what it was worth. The claim assumed a form of political community in which citizenship is a matter of treating individuals as having equal rights under standard universal laws. Unlike the claim for ethnic federalism of the Yorubas that presupposed a background conception of citizenship that is differentiated, that of the Igbos required treating people as equals in the assignment of rights and in the distribution of social goods. In principle, this would permit everyone to participate equally in the political community and its system of opportunities.

From the perspective of the Yorubas therefore, ethnic federalism would be too divisive.¹⁴⁸ The creation of ethnic regions would encourage citizens to look inward and focus on their ethnic difference, thereby compromising attempts at achieving political unity. Such state structure would foster sensitivity to, and preoccupation with, the ethnic origins of citizens in the competition for public offices and allocation of social goods. In this context, differentiated citizenship would cease to be integrative and would become a device for cultivating distrust and conflict.¹⁴⁹ This therefore means that, instead of unifying people by a system of common rights and privileges, citizenship would become a force for disunity. Moreover, the creation of ethnic regions would encourage excessive differentiation. Leaders of new groups would emerge with perceptions of, and

¹⁴⁸ See Sophie Thibodeau, 'Federal Success in Nigeria (State-Building and Ethnic Conflict Management)', *Elements* (fall, 2007), 19-30. For similar argument, see also, John Porter, *The Measure of Canadian Society: Education, Equality, and Opportunity* (Toronto: Gage Publishing Limited, 1979), 128.

¹⁴⁹ See Rotimi T. Suberu, *Renovating the Architecture of Federalism in Nigeria: The option of a Non-Constitutional Renewal*, A Discussion paper (Pennsylvania: Solomon Asch Centre, University of Pennsylvania, 2005), 1-9. For similar argument, see also, Nathan Glazer, *Ethnic Dilemmas 1964-1982* (Cambridge: Harvard University Press, 1983), 227-228; and, Chandran Kukathas, 'Multiculturalism and the Idea of an Australian Identity', in Chandran Kukathas, (ed.); *Multicultural Citizens: The Philosophy and Politics of Identity* (St. Leonards: Centre for Independent Studies, 1993), 156.

claims to difference. As claims are met one after the other, chaos would replace order and the hope of attaining stability would be lost.¹⁵⁰

Part of the case for unitarianism was that, in principle, the system would maintain a common standard of rule for judging the actions of both rulers and ruled. Rules are authoritative precisely because of their universality, and they operate in the mind of citizens because they are settled objects of knowledge. They define roles and expectations that make for stable and secure interaction. Without standard rules, what is known as the rule of law would be severely threatened, as there would be no universally known principles for judging the decisions of office holders and the actions of the citizens.¹⁵¹ Rulers could act arbitrarily and get away with it. Citizens could suffer rights violations without having an impartial judge to appeal to. This is where a unitary system offers a lot of comfort. Within it, every individual is regarded as a rights bearer, even if abstractly, for which reason its system of rules is in principle dissociated from particularistic social interest and appears non-politicised. Therefore, freedom and equality, even if they are abstract, are secured.

What principled objections could be posed to such a unitary system? One is that the formal equality of the system masks the ways in which the arrangements would advantage some groups and disadvantage others. Under the unitary system, the educational advantages of the Igbos would have enabled them obtain key positions in the East and in the North. But given the salience of ethnic identity, they would have occupied these positions not as individuals but as representatives of their kinship and ethnic groups. This underlying socio-cultural reality meant that a unitary system based on individual rights would have functioned quite differently in Nigeria of the 1950s from the way it functioned in Europe and America in the same period. For the above reason, therefore, the objections from the Yorubas and others to the Igbo proposal had some foundation in justice.

It was T. H. Marshall, who analysed the tension in universal citizenship by showing the dis juncture between its claims to political equality and the actual inability of the industrial working class to exercise political rights. Before him, R. H. Tawney had in the early 1920s warned that British society would fall apart if the extension of

¹⁵⁰ See Nathan Glazer, *Ethnic Dilemmas 1964-1982*, 227. For an opposite view of this argument, see Stefan Wolff, 'Managing Ethnic Conflict: The merits and Perils of Territorial Accommodation', *Political Studies Review*, 9 (2011), 26-41.

¹⁵¹ See Melissa Williams, 'Justice Towards Groups: Political Not Juridical', *Political Theory*, 23 (1), (February, 1995), 82.

political equality was unaccompanied by the grant of social and economic rights to the economically disadvantaged.¹⁵² Marshall, writing after the 1920s, rested the integration of British society on the extension of citizenship to the social sphere, that is, the grant of social and welfare rights to the weak.¹⁵³

The British case would confirm the real fears of the Yoruba that common citizenship rights, by themselves, do not promise equal inclusion in the political community. Whereas, in the British case, it was the economically weak that were excluded despite their possession of common rights of citizenship, in the Nigeria case, it was ethnic groups that feared exclusion. Whereas, in Britain, the response to exclusion was the empowerment of the weak, in Nigeria, the response took the form of calls for states to accommodate ethnic difference. On the basis of the above therefore, despite its qualities, the unitary system was unjust. Moreover, it could not have fostered national unity.

Consider now the Northern claims for a loose federation of three regions- which latter changed to a demand for political break up. Horowitz has argued that the juxtaposition of groups in a common political environment creates anxiety about possible domination by those regarded as more advanced- in terms of being proportionately more educated and more represented in the professions and in the modern sector of the economy.¹⁵⁴ Horowitz's argument falls within the domain of psychology because fear, apprehension or anxiety has to do with the response of the human mind to perceived external stimulus. Reactions may be exaggerated if they are disproportionately out of tune with the perceived danger, or irrational if the perception is false. Some would regard the fear and anxiety of Northern leaders as an exaggerated and irrational reaction to a false perception. However, this is not enough to brush aside their case because the apprehension not only existed, but also provided the context for their inflexibility and what one could regard to be the extremity of their demands.

Understandably, the decision of the British to de-colonise raised the issue of who would exercise power and, among the Muslim leaders of the North; it caused anxiety about the future of their Islamic culture. The connection between power and the preservation of Muslim culture has to be grasped in order to make a fair judgement

¹⁵² See Derek Heater, *Citizenship: The Civic Ideal in World History, Politics and Education* (London: Longman, 1990), 100.

¹⁵³ See T.H Marshall, *Citizenship and Social Class and other Essays* (Cambridge: Cambridge University Press, 1950), 25-26.

¹⁵⁴ See Donald Horowitz, *Ethnic Groups in Conflict*, 148 and 179.

about Northern leaders' claims for a federation of three regions or a political break up. Recall that Muslim leaders of the North agreed to the political amalgamation of 1914 on condition that the region be shielded from Western influences and administered separately from the South. Cultural and religious survival were tied to the exercise of political power or, better still, to governance. This connection made Northern leaders perceive with trepidation a unified Nigeria in which Southerners who are not Muslims would occupy policy making positions in government. The need to secure cultural and religious identities, more than anything else, explains the tenacity of demands for recognition of the North as a region that had to be, at most, in loose political partnership with other regions.

On the basis of the above, therefore, the point about cultural identity providing the basis for normative claims was very relevant. For example, Will Kymlicka persuasively argued that cultural identity is a prerequisite for the moral worth of individuals and their ability to make moral claims which liberalism cherishes and attempts to secure for all citizens. Taylor took similar position when he argued that our identity is shaped by the recognition we receive from others. This engenders demands for equal recognition that requires respecting different cultural identities. One influential theorist whose ideas were not discussed in detail for lack of space is Iris Marion Young. According to her, liberal democracy is committed to equality in the political community, and attempts at achieving it will require affirming difference. She gives two reasons, but the important one for the purpose of the task at hand is that cultural groups excluded from the political process have distinctive needs which can only be met through differentiated policies.¹⁵⁵ These arguments about normative value of cultural difference compel us to give weight to the sort of claims that were made by Northern leaders. Giving weight to their claims would entail recognising the region as being constituted primarily in large part by a single cultural group.

Although the North was made up of several ethnic groups, a greater part of it was unified by Islamic culture. It is true that some Islamic groups in the region either maintained their independence from the Emirate rule.¹⁵⁶ But it is also true that such

¹⁵⁵ See Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), 175-183. See also, Mateo Gianni, 'Multiculturalism and Political Integration: The Need for a Differentiated Citizenship', in Hans-Rudolf Wicker, (ed.); *Rethinking Nationalism and Ethnicity: The Struggle for Meaning and Order in Europe* (Oxford and New York: Berg, 1997).

¹⁵⁶ For instance, the Kanem-Bornu Empire was opposed to the Emirate rule as they already had their own mega state under the leadership of Mai (The King). See Julius Ihonvbere and Timothy Shaw, *Illusions of Power: Nigeria in Transition* (Trenton, NJ: Africa World Press, 1998), 3.

groups- especially the Kanuri in the North-Eastern end of the region and the Hausa of Kano-Kaduna axis regards Islam as defining their value system and identity. Despite internal opposition to the Emirate rule, the values and symbols of Islam provided a common bond, thus creating a corporate identity. In this respect, one could speak of a greater part of the region as having an Islamic *Weltanschauung*.¹⁵⁷ It was no surprise that Northern leaders boasted of 'Islamic brotherhood' being 'stronger than blood'.¹⁵⁸ Neither was it a surprise that there was coherence and united front among the leaders when they appeared in the several Constitutional Conferences to make their demands. At no time was there any dissension or disagreement within their ranks. Ted Gurr may have been justified when he argued that group cohesion is a key factor that makes people subordinate their personal preferences to those of their group.¹⁵⁹

Given the above arguments, a grant of autonomy to the region would have been one way of responding to claims of Northern leaders. The problem is that this option would have entailed treating Non-Muslim ethnic minorities of the region as sharing the same aspiration with the numerically dominant Muslim groups. The former were as opposed to Southern political dominance of the region as the latter, and both were united in calls for the exclusion of Southerners from political and administrative positions in the region. But this was where their common aspiration ended. It had no depth. The bonds were too thin and fragile to serve as a basis for common political life. This is not to suggest that different groups cannot unite in a political unit if a sense of shared future exists.¹⁶⁰ The point is that, if the basis for unity is some kind of shared values, then what existed between the two sets of groups was not enough. Culturally they were very different. Most of the Non-Muslim minorities repelled political conquest and cultural assimilation during the 19th century and during the colonial era; they resisted the imposition of Islamic legal systems and cultural practices over their customary ways of life. Meeting claims for autonomy of the region would have threatened their political and cultural security. This would have opened the door to

¹⁵⁷ A point to note is that, the dissenting Muslim groups of Kano-Kaduna and the independent ones of Borno were more for the political reform of the Islamic *Weltanschauung* and not against its existence. See Simeon O. Ilesanmi, *Religious Pluralism and the Nigerian State* (Athens: Ohio University Centre for International Studies, 1997), 140-141.

¹⁵⁸ John O. Panden, *Ahmadu Bello Sardauna of Sokoto: Values and Leadership in Nigeria* (Portsmouth, N.H: Heinemann Educational Books, 1986), 285.

¹⁵⁹ See Ted Gurr and Barbara Harff, *Ethnic Conflict in World Politics* (Boulder: Westview Press, 1994), 84. See also, Peter M. Lewis, 'Nigeria: Elections in a Fragile Regime', *Journal of Democracy*, 14 (3), (2003), 131-44.

¹⁶⁰ See Rothchild, *Managing Ethnic Conflict in Africa*, (1997), 31-32.

separatist claims, as it latter emerged after independence and especially from the 1990s.¹⁶¹

Another alternative would have been to do nothing. Leave intact the three regions within a quasi-federal system in which they have no autonomy. This alternative leaned more towards unitarianism which Northern leaders were opposed to, and adopting it would have deepened conflict. In this case, the 8 point declaration would have culminated in Northern secession. Non-Muslim minorities in the region would have been taken along, perhaps against their will, and domination and new secession claims would have emerged in the new state.

What alternative was desirable? The preceding arguments show that each claim by the three regional elites had its own strengths and weaknesses. A desirable alternative should not be blind to them. The critical issue is what alternative arrangement was desirable and feasible, given the strengths and weaknesses of each claim?

One alternative arrangement would have been an arrangement that derived from Rawlsian type of agreement.¹⁶² In this scheme, representatives of free and equal citizens negotiate fair terms of social cooperation in an *original positioning* which none has bargaining advantage over others. The original position is created by eliminating contingencies of the social world e.g. historical circumstances, natural endowments, social position, ethnicity and moral doctrines of those represented. Thus, symmetrically situated behind a *veil of ignorance*, representatives of free citizens cannot forestall who would occupy the top or lower positions of society being formed, but they are rational.

To be more specific, in the Rawlsian model, the regional leaders had to leave behind them all particular social interests of their *people*, single out primary goods and negotiate impartial principles that would assign and guarantee them. The agreement would, therefore, be in the interest of everyone in general and not any person or group in particular. A blind agreement, if it were ever possible to make such, would have been contested by Northern leaders, and by leaders of the Western region. This is because the

¹⁶¹ The violent uprisings between the minorities and majority groups in Northern Nigeria especially beginning from the 1990s attests to the above assertion. For the immediate post-independence separatist agitations, see chapter four of this thesis. For agitations from the 1990s, see for example, Chris C. Ojukwu and C.A. Onifade, 'Social Capital, Indigeneity and Identity Politics: The Jos Crisis in Perspective', *African Journal of Political Science and International Relations*, 4 (5), (May, 2010), 173-180. See also Wale Adebawo, 'Terror, Territoriality and the struggle for Indigeneity and Citizenship in Northern Nigeria', *Citizenship Studies*, 13 (4), (2009), 349-363.

¹⁶² See John Rawls, *A Theory of Justice*, Chap. III; see also, John Rawls, *Political Liberalism*, Part One Lecture 1, Part Two Lecture IV, and; Part Three Lecture VIII.

veil of ignorance eliminates substantial differences among groups, thus establishing a universal standpoint that the Igbos desired. The list of primary goods derived from the universal condition guarantees the rights of abstract individuals which in effect, amount to universal citizenship rights that Northern leaders and leaders of the Western region were deadly opposed to. This in essence means that the blind contract delivers an arrangement in which members have universal rights, very much in consonance with Igbo demand for unitarianism, and very much against commitment of the Muslim North to regional autonomy or the commitment of the Yoruba to a federation of ethnic regions. As argued above, this was not fair in the Nigerian context and would have intensified ethno-political conflict.

A possible alternative would have been one that combined elements of all forms of arrangement demanded by the three regional leaders, something akin to Aristotle's mixed constitution. Confronted with competing claims for monarchical, democratic and aristocratic systems of government, and the prospect of each being perverse and unstable, Aristotle came up with a Composite Constitution as the most desirable. The idea involved mixing institutions in whole or in part from competing constitutions. According to him, the more the mixture the more equitable; and the more equitable the more durable.¹⁶³

Taking a middle course that balanced the interest of the three parties would have entailed extracting and blending parts of the institutional features of ethnic federalism, of a unitary system, and of a confederal system. Such a composite arrangement would have been inclusive of, and fair for the three parties, but un-practicable. Extracting and fusing institutional features of the three constitutional systems is not something that can easily be done. It could, perhaps be achieved, if the parties making claims were represented and assigned specific roles in government, rather like the composite Constitution of Cicero.¹⁶⁴ But this would still have required a framework that is either a unitary, federation of ethnic groups, or confederation of the three regions.

Apart from its practical difficulties, a mixed regime, assuming it was possible to have one, would have been in the exclusive interest of those whose claims it reflected.

¹⁶³ For more of the position of John Boye Ejobowah, see his 'Integrationist and Accommodationist Measures in Nigeria's Constitutional Engineering: Successes and Failures' in Sujit Choudhry' (ed.); *Constitutional Design in Divided Societies: Integration or Accommodation?* (Oxford: Oxford University Press, 2008). For the composite constitution of Cicero, see Aristotle, *The Politics of Aristotle*, Translated with an Introduction by Ernest Barker (Oxford: Clarendon Press, 1946), Book IV, Chap. 9-12.

¹⁶⁴ See Marcus Tullius Cicero, *On the Commonwealth*, Translated with an Introduction by George Sabine and Stanley Smith (New York: The Bobbs-Merrill Company, 1929), 151.

Ethnic minorities that had no place in the constitutional negotiation processes and whose voices were not heard on that account, stood to be excluded from such a deal. In short, a composite regime would have been a regime of the dominant groups exclusive of ethnic minorities.

A third alternative might have been the softening of claims in order to reach a mutually acceptable compromise. Rothchild has argued that the potential for conflict resolution is greater when group leaders make negotiable demands, or are willing to moderate their extreme claims.¹⁶⁵ True, for the leaders to reach a reasonable agreement, it was necessary that they soften their claims in order to bridge the gaps that separated them. Such trade-offs were a pragmatic way of reaching agreement on a mutually accommodative normative arrangement. Instead of advancing inflexible demands that would result in confrontation and intense conflict, the leaders dropped aspects of their demands that were mutually unacceptable. For example, the Northern leaders dropped their claim for confederation and instead agreed for a federal union. Eastern leaders also made a concession by dropping their unitary demand for a federation of the existing three regions. In return, leaders of the Western region backed-off from their demand for a regrouping of the country on ethnic lines to agree on retention of the three regions.

The behaviour of the regional leaders as discussed above is in following with Nordlinger's principles of mutual concession, compromise and concession, the two of the six strategies for reducing conflict.¹⁶⁶ The cost of not going by that principle is self-consuming conflict, and the reward for following is peace. The principle made for an arrangement that was neither unitary, confederal, nor ethnic federalism. The arrangement, therefore, had an element of neutrality and at the same time gave each of the three negotiating parties a self-governing right to its territory.

Pragmatic as it was, the federal arrangement was imperfect because it rested on the mutual advantages of the regional leaders and the majority ethnic groups they were representing. It did not accommodate the interests and claims of some minority ethnic groups as was made by their elites. Although the 1957/58 Commission argued this was not feasible, it would be necessary to examine the claims of minorities to determine if the agreement for a federation of three regions was the best possible.

¹⁶⁵ See Rothchild, *Managing Ethnic Conflict in Africa*, 31-33.

¹⁶⁶ See chapter two of this thesis for Nordlinger's six strategies for reducing conflict, and also Nordlinger, *Conflict Regulation in Divided Societies*, 21-29.

3.3.2 Minorities' Claims for Recognition in Separate States

Some have argued, and very strongly too, that separatist demands were a strategy by elites to gain access to power and resources. For example, in his book on class formation and state creation in Nigeria, Eme Ekekwe argued that there was no correlation between minority membership and demands for new states. He argued that the demands were made by elites who belonged to parties in opposition and had no patronage from the ruling government.¹⁶⁷ This set of politicians, according to him, withdrew their demands when allowed some access to power. To buttress his point, he cited the case of the Western region where a subgroup of the Yorubas most of whom were of the NCNC, and therefore in opposition to the ruling AG, demanded for the Central Yoruba and Ondo States. The purpose of the demand was purely to comprise the Yorubas' Western region. He also referred to the Midwest, where

The Oba of Benin in 1953 clearly demonstrated this case. Upon being offered the position of "Minister without Portfolio" in 1956 by the AG government, he accepted it ostensibly in the best interest of his people. Thereafter he "ceased" to be connected with the opposition and ... campaign for the Midwest State Movement.¹⁶⁸

He also gave a similar illustration with the demand for Middle Belt State from the North.¹⁶⁹ As relevant as the above illustrations are, in these arguments, Ekekwe has, however, overlooked the importance of mentioning that separatist demands dated back to the provincial and regional conferences of 1949 well before the advent of competitive party politics. He also failed to take note of the fact that intense pre-colonial hostilities between Yoruba subgroups were opened as the British set to de-colonise and some factions tried to counter the others by seeking external alliance. This thesis will not refute his argument in detail; however, the tenacity of the demands, despite defections by some of the leaders, is enough to warrant looking beyond the narrow self-interest of elites. Separatist demands may have been used by some elites to advance their self-interest agenda, but what is important is the normative value of the demands. The demands would not have been used as a mask if they had no normative importance.

Ted Robert Gurr has shown that autonomy demands are associated with identity groups desiring security and protection, and that the reluctance of public officials to accommodate them intensifies conflict and sometimes leads to open warfare.¹⁷⁰ Demands by elites and their groups, both majority and minority, were driven by the fear

¹⁶⁷ See Eme Ekekwe, *Class and State*, 129.

¹⁶⁸ Ekekwe extracted this citation from the Commission's Report. See his *Class and State*, 133.

¹⁶⁹ See *Ibid.*, 135.

¹⁷⁰ Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts*, chapter 10.

that they would suffer political subjection and would not feel at home when the British handed over power. Despite the conflicting nature of the demands, they were united by a common purpose, to achieve a fair and acceptable arrangement that would make for peaceful co-existence. Hobbes's thesis about tacit consent, formulated in a different context, could be modified and applied here. His thesis states that a group of persons tacitly consent to peace if, of their own free will, they decide to join others who are assembling to renounce lawlessness.¹⁷¹ In the context of ethnic relations, one could modify it by saying that groups whose leaders are making claims for a normative political arrangement are implicitly asking for peace. The reasoning here is that conflict is bound to erupt if outlets for the expression of group demands are denied, repressed, or closed.¹⁷²

Indeed, it was the exclusion of minorities from the Constitutional negotiation process that intensified their demands for autonomy. The several and periodic Constitutional Conferences were convened with the express purpose of negotiating a framework for political life. This required that diverse voices be heard and considered. This turned out not to be so, as majority group members dominated the Constitutional process and excluded minority views. The agreement for a political federation of three regions was, therefore, not reflective of the interest of minorities. It was more reflective of the interest of dominant groups. For example, for the Muslim Northerners, the agreement offered protection from the Christian and educationally advanced Southerners. For the Yoruba, it was a shield against the ambitious Igbo, and even for the latter, it guaranteed political right to their region, at the least.¹⁷³ It was not for anything that Richard Sklar referred to the compromise agreement that produced the arrangement as the 'principle of regional security'.¹⁷⁴ This argument merely shows that the compromise political arrangement was for the chief benefit of majority groups. The issue of normative weight of minority demands still has to be established.

Political inclusion was the chief objective of minority demands and, to this extent; one could say they were demanding equal political treatment. Equality in the

¹⁷¹ See Thomas Hobbes, *Leviathan*. C.B. Macpherson, (ed.); (Harmondsworth (Middlesex): Penguin Books, 1976), Part II chapter 18, 231.

¹⁷² For more of this argument, see John Boye Ejobowah, 'Liberal Multiculturalism and the Problem of Institutional Instability', in Bruce Berman, Dickson Eyo and Will Kymlicka (eds.); *Ethnicity and Democracy in Africa* (Oxford and Athens: James Curry and Ohio University Press, 2004), 301-316.

¹⁷³ The agreement made it possible for each region to close its elective and civil service positions to citizens whose ethnic origin was not traceable to it, thus violating individual rights.

¹⁷⁴ See Richard Sklar, 'Nigerian Government in Perspective' in Robert Melson and Howard Wolpe, (eds.); *Nigeria: Modernisation and the Politics of Communalism*, 46.

political community is one of the chief attributes of liberal democracy and one would expect that the process of transiting from colonial subjection to parliamentary democracy would offer hopes that the attribute will become a reality. However, the transition process proved early enough that classical liberal democracy could not reconcile itself with equality and freedom. Why?

The disappointment lay in the hidden assumption of liberal theory that people belonging to a homogenous culture constitute a political society. This was mentioned in the social contract theories of Locke and Rousseau in which atomised individuals sharing the same cultural life associate in a political society. It was more explicit in the utilitarian Mill.¹⁷⁵ In contemporary times, it is seen in the liberalism of Rawls and Dworkin which constructs principles of justice by overlooking difference. Universal liberal theory grew out of a cultural milieu specific to some European societies and did not reflect heterogeneity that prevailed elsewhere.

In Nigeria for instance, the underlying assumption of a free and responsive government emerging from open political competition were contradicted by ethnic voting and the emergence of governments responsive to the groups that brought them into office. Impartial rules that were supposed to ensure fairness in the distribution of societal goods and privileges turned out to work unintentionally to the advantage of some groups. In some cases it was openly partial and worked in self-contradictory manner. For example, the educated Igbo who moved to the North and other parts of the country as clerks argued for universal citizenship rights. Yet they retained very strong loyalty to their homeland and closed off positions in the public service by bringing in their kin groups to fill vacant spots. By the time groups in the North became conscious of what was going on, the Igbos had monopolised civil service positions in the region.¹⁷⁶ The partiality and contradictory working of liberal principles meant that they were not quite appropriate for the country. The heterogeneous ethnic make-up of the country required that liberal rules be adjusted to take account of cultural specifics on the ground.

The need to redefine liberal rules of justice to make them more responsive to cultural difference was recognised by elites of both majority and minority ethnic groups. In fact, the solution to the problem of liberal equality and difference was initiated by

¹⁷⁵ See John Locke, *Second Treatise of Government*; Jean Jacques Rousseau, *The Social Contract*, and John Stuart Mill, *Utilitarianism; On Liberty; Considerations on Representative Government*.

¹⁷⁶ See Peter Cutt Lloyd, *Class, Crisis and Coups* (London: MacGibbon and Kee, 1971), 173.

elites of the majority ethnic groups when they made arguments for a federation in which groups would be free from political and cultural domination. Their arguments proposed what Melissa Williams would refer to as the ‘political solution to the problem of difference’.¹⁷⁷ That is, they sought for the explicit recognition of groups by asking for a redefinition of the rules of justice not in an abstract philosophic plane, but in the very process of politics. It was their political arguments and solutions that set off the several Constitutional negotiations, beginning in 1949. They initiated it all and the minorities then followed. In principle, both sets of groups ought to have been treated equally in terms of political recognition. If the compromise of federal arrangement was good for the numerically strong because it promised them freedom from oppression, then the numerically weak needed it most. This was voiced by a representative to the 1950 General Conference when he observed that:

If a region as large as the North can have ... fears it is understandable that minor tribes in Nigeria must be anxious that adequate and unmistakable provisions are made to safeguard their survival, and assurance of place for them in the new Nigeria.¹⁷⁸

So far, this sub-section of the chapter has been able to present the minorities’ demands for equal political recognition. The problem that immediately arises is balancing the ‘ought to’ with realities on the ground. A desirable prescription might not be practicable, and on the other hand, what is realistic might not be desirable. But between these poles there could be a middle course. There were social circumstances on the ground that seemed to have made separation infeasible. Firstly, although the demands for separate states were identifiable with multiple minority groups contiguously located in each region, they did not originate from, and were not unanimously supported by all. There were some who felt safer with the *status quo* because they thought it was more tolerable to be dominated by some distant groups than to be subjected to an immediate neighbour who would occupy majority position in the new state.¹⁷⁹ For example, in the Western region, some groups did not want to be part of a Midwest State in which they would be numerically inferior and dominated by their next door neighbour. This was true of the Itsekiri whose aristocrats exercised power over their numerically superior Urhobo and Ijaw- before the declaration of colonial rule, but feared that in a Midwest

¹⁷⁷ Melissa Williams, ‘Justice Towards Groups: Political Not Jurisdictional’, 69.

¹⁷⁸ Government of Nigeria, *Proceedings of the 1950 General Conference*, 62.

¹⁷⁹ A contemporary form of the aversion to the subjection by an immediate neighbour is the preference by suspects of ethnic genocide (war crime suspects) to be tried by judges from foreign countries, and if convicted should be in jails that are out of their country. The idea here is that, they do rather endure punishment from a distant and unknown power than from an immediate rival.

State the use of majoritarian vote would reverse power. Their leaders reacted by claiming ethnic affiliation with the Yoruba and by opting to be in the Western region.

Similarly, in the Eastern region, the Rivers State demand ran into difficulties because the Ikwerre and the Ogba regarded the Ijaw as likely to be the majority group if the Western region Ijaw were included. Their leaders opposed the demand on this ground, but were ready to support it if they were granted majority status by an exclusion of the Western Ijaw from the state. Thus, in the proposed new states those who were to be in minority knew their fate in advance and were therefore not prepared to support or be included in a new state that would make them a minority group. In this context, the creation of each additional state, once established, contained potential new states, while new minorities would emerge with accusations of being dominated and oppressed.

The above problem was not simply one of drawing new boundaries, but it threatened social and political stability and reminded the dilemma of both the 'camel's nose theory' and the 'domino theory'. The camel's nose theory holds that if the nose is let inside, the whole beast will soon follow. Some Israelis use this to justify their rejection of autonomy demands by Gaza and West Bank Palestinians. The domino theory, on the other hand, has to do with threatening prospect that the grant of recognition poses for larger groups containing subgroups, and for the stability of the country.¹⁸⁰ This could be illustrated with some inland Yoruba subgroups, the Ekiti and Ibadans, who demanded recognition in two separate states on account of their rivalry with sister subgroups. Minority demands were already influencing some subgroups of the major groups engaged in rivalry and competition to claim difference and make claims for separation. At the international level it could be illustrated with the threatening prospect that the cascading defection of the Soviet Republics posed for other heterogeneous states. The lesson of those defections was used by Russia to deny Chechnya's claims to autonomy.

In addition, each of the three sets of regional elites perceived separation demands as threats to regional power and security and were out to resist it by all means including the use of force. For example, Northern leaders regarded the entire region as having been ruled by their 'great-great-grandfather's family through their Lieutenants or by the great Shehus of Bornu'. They wondered why 'a long slice of country running along both sides of the Rivers Niger and Benue, with an extension to cover the Plateau

¹⁸⁰ See Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts*, 300.

and Southern Zaria', would be slashed off.¹⁸¹ They invoked war to defend the region's territorial boundaries. Similarly, the NCNC leadership was strongly opposed to the division of the East, despite their argument for splitting the country into smaller regions to make for a stronger centre and a united country. While they declared that the region 'cannot stand dismemberment' after the 1954 separation of the UN Trust Territory of Southern Cameroon, the Igbo State Union, a cultural organisation of Igbos all over the country threatened war if Port-Harcourt or any other Igbo land was separated.¹⁸² The position of the AG was clear: it would not gratuitously maximise the interest of its opponents by agreeing to the dismemberment of the West. It agreed to states creation on condition that it is carried out simultaneously in all three regions.

With these positions, acceding to minorities' demands could precipitate conflict at two levels: one between a region's majority group and its break-away minorities, and the other between rival regional elites patronising the exit of the other's aggrieved minorities. In other words, doing what was right would have opened the gate to war and confusion.¹⁸³ And therefore, *the ought to* was contradicted by practical realities on the ground.

What option was desirable and feasible? The thesis would not provide a definite answer to this question at this stage, but it will try to spell out the dangers of prioritising the 'is' over the 'ought'. One of the dangers is the transfer of minority problems into independence, together with the strategic power games of the regional elites. Political independence was expected to usher in liberal democracy whose defining attributes are its concern for (the Kantian) moral equality of persons and opposition to injustice that manifests as domination of some by others. Now, rejecting the claims of minority groups opened a gulf between democracy and justice, and aggrieved minorities entered independence demanding that justice to be done.¹⁸⁴ Also, electoral politics which premises the formation of government on majority vote would prompt the dominant regional elites to link up with and patronise aggrieved minorities of rival regions. In this

¹⁸¹ Ahmadu Bello, *My Life* (Cambridge: Cambridge University Press, 1962), 215-216.

¹⁸² See Rothchild, *Safeguarding Nigeria's Minorities*, 39.

¹⁸³ The British used this argument to deny the demands. In the words of James Robertson, the then Colonial Governor: 'I believe strongly that with the independence near, it would cause a great deal of confusion and possible trouble to create additional states in 1958; I felt that this would be setting Nigeria of its new independent future in very uncertain and disturbed conditions. I told Sir Henry Willink that in my view any additional state should be recommended only in the most imperative circumstances'. Sir James Robertson, *Transition in Africa from Direct Rule to Independence: A Memoir* (London: C. Hurst and Company, 1974), 217.

¹⁸⁴ For a discussion of the convergence between democracy and Justice, see Ian Shapiro, *Democracy's Place* (Ithaca: Cornell University Press, 1996), chapter 4.

context there was no way political confrontation was going to be avoided. The British played the role of third party mediators by responding to moments of crises and convening conferences to broker deals among the dominant regional actors. But, with their departure, the field was going to be open for a free fight and fall.

Another danger, and this is related to what has just been said is that, down the road, minority demands would have to be addressed and a showdown between the dominant regional actors would be inevitable. The 1957/58 Conference agreed on, and inserted in the new Constitution, specific procedures for states creation after independence. But, without the mediator role of the British, the three dominant parties were not going to come to a fair agreement on how many states should be created from each region. For example, during the 1957 Conference, the NCNC insisted on the division of the Western region into four states; namely, the Lagos and Colony State, the Midwest State, Central Yoruba State, and Kolanut and Cassava States.¹⁸⁵ During the Willink Commission, the NCNC initiated demands for two of these, beside the Midwest which it supported. On its part, the AG, other than being the senior ally of the movements for the separation of minority groups in the Eastern and Northern regions, was also committed as ever to an adjustment of boundaries to bring the Yoruba of the North into the Western region. On the other hand, the NPC had always been consistent with its attitude of not breaching any violation of the North's territorial boundaries. To postpone political separation until after independence, was to postpone the inevitable, a violent confrontation between the regional powers. The best way of avoiding conflict would have been for the British colonial administrators to use their position to separate aggrieved minorities in different regions. After all, political power- according to Hume is instituted in societies to promote justice. Therefore the British should have used Hume's position to convince elites of the major groups to accept an arrangement that aimed at enthroning justice.

The practical difficulty that remains to be resolved was the refusal of some minorities to be included in the states that were demanded. The difficulty could be presented in this way: should just claims to separation be denied if they do not win the express consent of some groups, call them minorities within minorities whose territory are within the separatist unit?

¹⁸⁵ Awolowo, *Awo: The Autobiography of Chief Obafemi Awolowo*, 185.

Reg Whitaker has examined a similar problem in Canada where French speaking Quebec has made repeated attempts at asserting sovereignty. Within the province are scattered Aboriginal bands that refuse to accept Quebec's claim to self-determination as binding on them. In dealing with the problem of whether Quebec's claim can be imposed on the Aboriginal people without their consent, Whitaker argues that there should be levels of negotiation: one, between the rest of Canada and Quebec for the right of the latter to separate; and two, between French Quebecers and Aboriginals for mutual recognition of rights in the new unit that would come into being. Without negotiations for the recognition of rights, one party may resort to means that may prepare the way for mutual self-destruction.¹⁸⁶

Whitaker's argument is similar to the argument that was made earlier on, that Nigeria risked catastrophe if minorities asking for equal political recognition as majority groups were not separated in new states. The new thing that emerges from analysis of the Canadian case is that fractions of minority groups opposed to separation have moral claims that should be respected and that a clash of rights could be avoided by having negotiations. The fact that some minorities were opposed to other minorities was not an irresolvable problem. They were not as strongly opposed to separation as the dominant regional elites and those they were representing. Their opposition was more apparent than real, for they actively supported the demands when they were sure of commanding the most dominant and influential positions, but changed their mind when it was clear they would be disadvantaged.

Take the example of the demand for the Midwest State from the Western region. The sub-Igbo group such as the Ishekiri and Urhobo within it preferred a merger with the main Igbo of the Eastern region. But, they did not mind being in the Midwest, as they were sure of commanding a large share of influential political positions. This bred fear among the Edo who were to be the most numerically dominant.¹⁸⁷ Also, take the example of the Rivers State demand: The Ikwerre and Ahoada people—who spoke varieties of Igbo dialect unintelligible to the hinterland Igbo, actively supported demand for the state, but changed their position on account of proposals for the inclusion of the

¹⁸⁶ See Reg Whitaker, 'Quebec's Self-Determination and Aboriginal Self Government: Conflict and Reconciliation', in Joseph H. Carens, *Is Quebec Nationalism Just? Perspectives from Anglophone Canada* (Montreal and Kingston: McGill-Queens University Press, 1995), 206-218.

¹⁸⁷ For more discussion of inter-minority group politics, see *Minorities Commission*, 32. See also Ukiwo, Ukoha and Okonta, Ike, 'The Coastal-Hinterland Factor in the Transformation of Ethnic Identities in Nigeria's Niger Delta', at http://oxpo.politics.ox.ac.uk/projects/state_and_ethnic_definition/ukiwo-okonta_paper.pdf.

Western Ijaw with the Rivers Ijaw. Without the Western Ijaw they would have enjoyed numerical superiority, but with the inclusion they would have played second fiddle to the larger Ijaw group.¹⁸⁸ These examples show that, despite the mutual distrust and fear, minority groups were not fundamentally apart on the desire for states. The issue was which group-members would rule and who would be ruled in the new states. Resolving this problem required rounds of Constitutional Conferences on power sharing and institutional checks to domination.

When the majority ethnic elites disagreed over membership of the political community, several Constitutional Conferences were held to negotiate an agreement. It was in the course of negotiations that minorities' claims to equal membership arose. Logically, and to be fair, new sets of Conferences involving minorities ought to have been held. Minorities-focused Conferences would have produced compromises on power sharing and institutional checks to domination in the new states that were demanded. In sum, an alternative political arrangement in which minority groups would receive equal political treatment as majority groups was desirable and feasible. In fact, the British reluctantly suggested a plebiscite and further Constitutional negotiations to put such arrangement in place, but the majority ethnic elites opted to short change it for speedy independence.

3.4 Summary

This chapter aimed to discuss and evaluate competing claims for, and state building approaches and constitutional agreements regarding a desirable political arrangement for the country that were negotiated during the several Constitutional Conferences that preceded the formal grant of independence, and the minorities' claims for recognition in separate states.

After a detailed discussion of the various claims regarding the type of political arrangement and the claims of the minorities, the discussion shows conflicting claims for a political federation of ethnic groups. For instance, the Igbo group proposed a unitary system blind to ethnic difference and diversity, whereas, the Yoruba group proposed a loose political partnership of the three regions. Each of the types of political arrangement proposed by the three majority groups for the country had their own strengths and weaknesses. A desirable state building arrangement had to be one that

¹⁸⁸ *Minorities Commission*, 51.

took account of the strength and weaknesses of all claims. In this respect, a political framework produced by the Rawlsian type of agreement would have been inadequate because of its bias for the minorities. An option could have been an arrangement that combined institutional elements of all the three political systems that were demanded by the three majority groups, but this is not feasible in view of the multi-ethnic nature of the Nigerian society.

A more realistic alternative was a compromise arrangement that required claimants to soften their claims and make mutual adjustments and concessions. In this respect, the 1953/54 compromise agreement that nearly liquidated the centre and gave full autonomy to the three regions was a pragmatic one. But, it was grounded on the interest of the three majority groups and their elites who dominated both the regions and the national arena. Its pragmatism was contradicted by the unjust refusal to extend equal political recognition to some minorities who demanded separation in new states. Although there were practical difficulties regarding political separation, they were not beyond resolution. Evidence suggests that the British were prepared to convene further Constitutional Conferences to resolve any difficulty that would arise, if independence would be postponed. But having secured constitutional agreements that grounded political arrangements on the advantages of themselves and their groups, members of the majority group elite refused to compromise the immediate transfer of power by the British.¹⁸⁹

Based on the discussion in this chapter, it is clear that right from the pre-independence days to the present, one of the greatest challenges facing Nigeria has been how to reflect its plural composition within the framework of a united country. This was manifested in the competing claims by the various dominant groups in the country on the type of political system to be adopted during the de-colonisation period. The type of political system was particularly important because it would structure power relations and determine which ethno-regional group would be politically dominant.

Of all the opposing proposals/positions by the elites of the three majority groups on how best to accommodate multiple groups in the country, no doubt, each claim by the three regional elites had its own strengths and weaknesses. Thus, the critical issue is what alternative arrangement was desirable and feasible, given the strengths and weaknesses of each claim? Despite the conflicting nature of the demands, the political

¹⁸⁹ More of this argument is in chapter four of this thesis.

elites of the major group were united by a common purpose: to achieve a fair and acceptable arrangement that would make for peaceful co-existence.

Even though federalism triumphed over all the other types of political systems, and indeed validates the normative and empirical prescriptions that are the frameworks for discussing Nigeria's attempts at coping with ethnic diversity, the federal arrangement that was negotiated in the pre-independence was imperfect because it rested on the mutual advantages of the regional leaders and the majority ethnic groups they were representing. It did not accommodate the interests and claims of some minority ethnic groups. Because the three-group federal arrangement negotiated in the pre-independence serves as a connection point for discussion in the proceeding chapters of this thesis, the post-independence group based claims, government responses to them, and the recurrence of ethno-political conflicts and institutional instabilities.

The discussion above shows that, because the type of political system that was negotiated was dominated by the majority groups, it generated tensions in Nigeria's body politics not only among the big three, but also, as the fallout from the type of political system agreed upon became a platform for the minority groups to ask for recognition in separate states in the period immediately after the attainment of political independence. In conclusion, although there were practical difficulties regarding adopting a type of political system, the post-independence experience of group based claims, government responses to the claims, and the recurrence of ethno-political conflicts could have been resolved right from the pre-independence era through rounds of Constitutional Conferences that involved the representatives of both the majority and minority groups in the country.

In the next chapter, the thesis shall be examining the carry-over of some of the group claims in the pre-independence that were not attended to, and government responses that are aimed at addressing the problems of multicultural composition of the country in the post-independence era.

CHAPTER FOUR

THE QUOTA SYSTEM AND SEPARATION OF MINORITIES APPROACH

If merit and merit alone constitutes the yardstick for appointment to all jobs ... including board appointments and award of scholarships, one would reach a position in which most jobs would naturally go to the most enterprising of the Nigerian tribes.¹⁹⁰

4.1 Introduction

Independence in 1960 marked the beginning of two important state building strategies for coping with ethnic difference and reducing conflict. The two strategies were characterised by the adoption of a Quota System of appointment into strategic institutions like the military and the re-division of the country into twelve states. The re-division of the country into twelve states was carried out on the wake of the Nigeria-Biafra civil war, and this was the reason for taking into account smaller groups that were previously denied political recognition.¹⁹¹ The chapter examines the Quota System and the recognition of minorities in separate states, and a normative evaluation of these state building strategies.

4.2 The Quota System Approach

The Quota System had its origin in the Nigerianisation policy adopted in the 1950s as the country moved closer to political independence. By the policy, Nigeria's political achievement in terms of participation in the legislative and executive spheres of government was to be matched in the administrative sphere where expatriates dominated the civil service. The policy required the withdrawal of Europeans from both the federal and regional civil services and the appointment of Nigerians to fill the vacant positions.¹⁹² Since the two regions in the South had skilled personnel readily available, they easily filled available positions both in their regional and federal services. A large

¹⁹⁰ Citation comes from Obarogie Ohonbamu, *The Psychology of the Nigerian Revolution* (Ilfracombe, Devon: A.H Stockwell, 1968), 130.

¹⁹¹ Prior to the Nigerian-Biafra war, there were four regions. See Appendix B. Ukoha Ukiwo has argued that the Nigeria-Biafra war between 1967 and 1970 was strongly motivated by the discovery of oil in the then Eastern region, and the struggle for political power and ethnic dominance. See Ukoha Ukiwo, 'Violence, Identity Mobilisation and Re-imagining of Biafra', *Africa Development*, XXXIV (1), 9-30. Rotimi T. Suberu on the other hand argued that the struggle for political power and the need to placate the emerging powers of the Igbos was the reason for state creation in 1967 by the Gowon led Military government. See Rotimi T. Suberu, 'The Travails of Federalism in Nigeria', *Journal of Democracy*, 4 (4), 39-53, and Rotimi T. Suberu, 'The Struggle for New States in Nigeria, 1976-1990', *African Affairs*, 90 (1991), 499-522.

¹⁹² For more details on the Nigerianisation policy, see Samuel C. Ugoh and Wilfred Ukpere, 'Public Policy: Myths and Realities in the Nigerian Nationhood since Independence', *African Journal of Business Management*, 5 (23), (2011), 9800-9807.

number of people from the two regions, Eastern and Western, moved to the Northern region to take up positions in its regional service and in federal institutions. It was because of this labour influx from both the Eastern and Western regions that the Northern regional government developed the policy of closing its public service to people who did not belong to the region. It did so by basing appointment into its public service on *nativity* which was depended on the ethnicity of one of the parents, while citizens from the two Southern regions were hired on a temporary basis. At the Federal level, the Northern regional government succeeded in negotiating a lower entry qualification for Northern applicants seeking to fill positions in the civil service.¹⁹³

Restrictions regarding appointments into the regional service, and the lowering of Federal Civil Service entry qualifications for natives of some regions, were not provided for by the independence Constitution. In fact, Northern representatives to the independence Constitutional Conference tried, but failed, to secure an agreement for the use of quotas in filling the federal public service. It was the 1963 Republican Constitution, which while forbidding discrimination ‘against a particular community, tribe, place of origin, religion or political opinion’, permitted any region to implement policies that would protect the rights of its members to employment.¹⁹⁴ This meant that balanced and representative appointment into the bureaucracy was not formalised at the national level.

It was in the military institution that a balance was made among the three regions. From the mid-1950s to independence, when British disengagement was imminent and on course, merit was the criterion for recruiting Nigerians into the Army, and a greater number of applicants were from the Eastern region. Between 1955 and 1961, about two-thirds of the officer ranks that were recruited came from the East, while 80% of the other ranks came from the North, but two thirds of these were from the minority areas of the region. Fearing that one section of the country might use the Army

¹⁹³ For further details of the Northernisation policy, see Samuel C. Ugoh and Wilfred Ukpere, ‘Public Policy: Myths and Realities in the Nigerian Nationhood since Independence’, *African Journal of Business Management*, 5 (23), (2011), 9800-9807. For the Northern region position in appointment into the federal civil service, see Alex Gboyega, ‘The Public Service and the Federal Character’, in Peter P. Ekeh and Eghosa E. Osaghae, (eds.); *The Federal Character and Federalism in Nigeria* (Ibadan: Heinemann, 1989), 173-175. It may also be recalled that the North had earlier also during the series of pre-independence London conferences pushed through a demand that for the distribution of parliamentary seat on the basis of regional quota. See Alex Gboyega, ‘The Public Service and the Federal Character’, in Peter P. Ekeh and Eghosa E. Osaghae, (eds.); *The Federal Character and Federalism in Nigeria*, p. 173.

¹⁹⁴ Daniel C. Bach, ‘Indigeneity, Ethnicity, and Federalism’, in Larry Diamond; Anthony Kirk-Greene and Oyeleye Oyediran, *Transition Without End (Nigerian Politics and Civil Society Under Babangida)* (London: Lynne Rienner, 1997), 338.

to dominate other sections, the NPC in control of the federal government, introduced balanced recruitment into the officer ranks in 1962. It adopted a recruitment formula by which 50% of military cadets were to originate from the North and the other 50% shared between the East and West. The 50:25:25 formulas were taken as a reflection of the distribution of national population among the regions. The Quota System was defended in the Senate by the then Minister for Army Affairs:

We introduced the Quota System in the Army ... thus preventing the possible fear that the Army would sometime become unreliable. If any part of the country is not represented in the Army, we harbour some fear that a particular section will begin to feel it is being dominated. But now ... the country's safety is assured.¹⁹⁵

One consequence of the quota recruitment was that the North's share of officers commissioned in 1963/4 rose to 42% compared with 21% in 1960. By 1966, the upper crust of the military was still dominated by Easterners mainly Igbo but the use of quota in appointment and promotion blocked the acceleration of the middle ranking level officers to captains and major levels from the East and West.¹⁹⁶ It was this grievance that partly led to the January 1966 major's coup that violently terminated the already fragile NPC/NCNC coalition government of the First Republic.¹⁹⁷

Another consequence was the reproduction of societal cleavages and conflict in the military. The coherence and command structure of the military was weakened as ethno-regional identification and attachment displaced loyalty to superior officers. Non-commissioned officers openly flouted military norms by refusing to take orders from the superior officers who were not of their ethnic region. A case in point was a Northern sergeant who told a Brigadier of Western region origin, who was also the most senior officer in the Army in July 1966 'I do not take orders from you until my captain comes'.¹⁹⁸

Even with the above consequences of the Quota System, it was still in place until on the eve of the 1967 civil war, when the fear that *Regional Armies* will emerge within the military and the need to have a centralised and hierarchical, combat ready, *esprit de corps* Army that would defeat secession led to an abandonment of the Quota

¹⁹⁵ Citation comes from Billy Dudley, *Instability and Political Order: Politics and Crisis in Nigeria* (Ibadan: Ibadan University Press, 1973), 96.

¹⁹⁶ See Ibid., *Instability and Political Order: Politics and Crisis in Nigeria*, 92. See also, Adewale Ademoyega, *Why We Struck* (Ibadan: Evans Brothers, 1981), 111. It is important to mention here that, since the first military coup in 1966, Nigeria has been ruled by eight military dictators and four civilian leaders.

¹⁹⁷ The Major Nzeogwu Military *coup d'état* of 1966 was regarded as an Igbo Coup because most of the coup leaders were Igbo officers, and the victims were mostly non-Igbo especially Northerners.

¹⁹⁸ See Ibid., *Why We Struck*, 119.

System. It is important to note that the response to the fear came too late because, at this time, the Army was already divided along ethno-regional lines, and by 1966 there were infighting in the Army. For example, there were coups and counter-coups all of which resulted in the declaration of secession by the Eastern faction of the Nigerian Army led by Lieutenant Colonel Emeka Odumegwu Ojukwu. Because of the declaration of secession, recruitment into the Nigerian Army was instead reverted to be based on individual merit and fitness irrespective of region and ethnic of origin in order to have enough recruits to execute the Nigerian-Biafran war.

After the civil war in 1970, the Quota System was thought to have been abandoned forever as some high ranking military officers publicly declared that there were no plans to introduce ethnic balancing in the post-civil war political rehabilitation.¹⁹⁹ However, various segments of the Nigerian society made demands for the use of quota for admission into federal institutions including Universities and military schools. By 1975 the Quota System was back, this time not only in the military, but also in other civil institutions including the civil service. It was later formalised by a *Federal Character Constitution* that was designed in 1976 and which became operational during the civilian administration of Alhaji Aliyu Usman Shehu Shagari in 1979.²⁰⁰

4.3 The 1963 and 1967 Separation of the Minorities into States Approach

The 1960s separation of ethnic minorities into new states was not consciously done; rather it was the unexpected outcome of power struggles among the dominant parties. The setting was provided by the 1959 Federal elections where no party won an absolute majority of votes, although the NPC won the greatest number. To form a government, NPC leadership invited its two major rivals, the AG and the NCNC to join in a three-way coalition. The NPC leadership had the belief that Government and Opposition as inherited from the West was unsuitable for the country because of its multi-ethnic composition.²⁰¹ However, the NPC needed both parties in order to form a government with the power to legislate in Parliament. The NCNC leadership accepted the invitation,

¹⁹⁹ See J. Bayo Adekanye, 'The Quota Recruitment Policy: Its Sources and Impact on the Nigerian Military', in Peter P. Ekeh and Eghosa E. Osaghae, (eds.), *The Federal Character and Federalism in Nigeria*, 237.

²⁰⁰ The federal character principle was formally enshrined in the 1979 Constitution of the Federal Republic. See chapter five of this thesis for detailed discussion of the Federal Character Principle.

²⁰¹ For more discussion of this view, see chapter five of this thesis.

while the AG leadership turned it down and went to form the Opposition, very much to the consternation of a faction of its leaders who thought that joining the coalition would bring public service jobs and positions in government boards to the Yorubas. The refusal split the AG into two factions in 1962 setting off a crisis within the party.

As expected, the NPC/NCNC coalition soon ran into difficulties. As already discussed above, the introduction of the Quota System for recruitment into the Army worked against Easterners, especially Igbos. The NCNC also regarded the coalition as yielding more benefits to the NPC in terms of government jobs, patronage, and the location of infrastructural projects. For instance, by 1964, the NCNC had accumulated a list of grievances. An official document was released in that year which detailed Northern gains:

Take a look at what they (*i.e. the NPC*) have done with the little power we surrendered to them to preserve a unity which does not exist: Kainji dam project- about 150 million pounds of our money when completed- all in the North; Borno railway extension- about 75 million pounds of our money when completed- all in the North. Spending over 50 million pounds on the Northern Nigerian Army in the name of the Federal Republic; Military training and all ammunition factories and installations are based in the North, thereby using your money to train Northerners to fight Southerners. Building the dam site to link Sokoto cement works, - 7 million pounds when completed- all in the North. Total of all of these four projects is about 262 million pounds. Now they have refused to allow an iron and steel industry in the East and (have) paid experts to produce distorted report.²⁰²

Despite the above long list of grievances, the NCNC did not break off from the coalition. Instead it sought to wrestle power from the NPC, its senior ally, and to do so it had to shore-up its strength in the Federal Legislature. The AG crisis provided the NCNC the opportunity for calling on the Coalition Government to divide the Western region with the expectation that the new units that would emerge would fall under its control.

The NPC saw the crisis within the AG and consequent breakdown of law and order in the Western region as an opportunity to eliminate the AG which had been carrying out its opposition in the Federal Legislature in a confrontational and embarrassing manner. It also saw the occasion as an opportunity to prove to the NCNC what would be its lot if it was not pliable and submissive as a junior ally.²⁰³ It was in this context that the Coalition Government used constitutional means to carve the Midwest out of the Western region in 1963, which immediately fell under the political

²⁰² Citation comes from John P. Mackintosh, *Nigerian Government and Politics* (London: George Allen and Unwin, 1966), 557-558. The emphases in italics are not in the original manuscript, but mine.

²⁰³ See Bola Ige, *People, Politics and Politicians of Nigeria (1940-1979)* (Ibadan: Heinemann Educational Books, 1995), 196.

control of the NCNC, and this attempt thus increased the coalition party's bargaining power.²⁰⁴

In 1966 ethnic fighting within the military caused a coup and a counter coup in January and July, respectively. These events gave rise to an *ad hoc* Constitutional Conference held in September 1966 whose aim was to debate and recommend the most suitable Constitutional arrangements for the country. Debates shifted between claims to political confederation and arguments for the creation of new states from the existing regions. However, the killing of Igbos residing in the North, especially in Kano abruptly terminated the Conference. At the same time, the military government of the Eastern region under the leadership of Odumegwu Ojukwu convened a Consultative Assembly of Easterners to decide on the secession from the Federal Republic of Nigeria. To pre-empt the declaration of Biafra Republic, the federal military government divided the country into a total of twelve states of which about six were controlled by minorities. Its goal was to fragment minorities of the East into new states so that they would challenge Biafran secession, and to meet the pre-independence aspirations of Northern minorities as a way of countering Igbo charges of Northern dominance of the federation.²⁰⁵ Just as in the case of the Midwest, strategic consideration also prompted the creation of the twelve states that separated ethnic minority groups from the three major groups. Thus, both the 1963 and 1967 boundary adjustments were undertaken purportedly to politically separate the minorities. However, strategic needs of the Nigerian Military leadership intersected with the pre-independence demands of the minorities for recognition in separate states.

4.4 Evaluation

This section of the chapter evaluates the quota policy, the creation of the Midwest region in 1963, and the creation of states in 1967. The evaluation attempts to determine if the policy and the political exercise of creating the Midwest region from the Western region and the subsequent creation of 12 states were morally right. This section proceeds with the assumptions that political units and employment positions in national institutions are goods that are generally desirable, and that the goods are relatively

²⁰⁴ See inset Appendix B for the administrative borders of the Mid Western Region.

²⁰⁵ For more of this view see Rotimi T. Suberu, 'The Travails of Federalism in Nigeria', *Journal of Democracy*, 4 (4), (1993), 39-53. See also Ibid., 'The Struggle for New States in Nigeria, 1976-1990', *African Affairs*, 90 (1991), 499-522. See also, Ukoha Ukiwo, 'Violence, Identity Mobilisation and Re-imagining of Biafra', *Africa Development*, XXXIV (1), 9-30.

scarce. These two assumptions make social justice an issue. If there were no moral norms regarding things that are desirable and reprehensible, and if things were in absolute scarcity or in abundant supply, issues of social justice would not arise in human interactions. It is because this is not true that we have morality and laws to regulate our interactions and resolve conflicts that may arise. This section of the chapter, therefore, regards morality and laws as means to an end, the end being a well-ordered and stable society.

4.4.1 The Quota System

Generally, there are two conceptions of justice in the distribution of societal goods. One is meritocratic and it holds that people should be treated according to their ability. In meritocratic conception, achievement is the chief criterion for determining the sharing of societal goods. Those who have achieved most receive the most, while those who have achieved least receive the least. The emphasis here is formal equality and competition in the public domain. Unequals are regarded as formal equals and are subjected to seemingly impartial universal rules, very much like the rule of law. This conception of justice is blind to the historical background of members of society and is intolerant of preferential treatment or temporary reservation of goods for the weak. Such practices are regarded as a violation of state neutrality and deviating from fairness.

Similarly, by reserving positions for the weak, the state which is supposedly public and neutral, is considered to be taking side with or adopting the good of particular members of society as the public good. It is in this respect that the meritocratic conception of justice considers a Quota System or affirmative action as violating the equal treatment of citizens. Also, the reservation of positions for the weak is believed to work against the goals of organisations. Public institutions and offices are established to discharge particular social functions the effective realisation of which requires that only those with relevant qualifications be appointed. To hire people who do not have the required skills would undermine the social ends.²⁰⁶

Meritocracy might be a good principle for distributing goods, but it has some difficulties. First, it has been argued that hiring on the basis of skills is just if competence in producing specified outcomes could be measured objectively, or if technical skills translate directly into excellent performance, or if performance could be

²⁰⁶ See Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge: The Belknap Press of Howard University, 1996), 311.

judged individually. These conditions can hardly be met because: (a) most jobs are too complex to allow for a value-free measurement of individual performance; (b) production is by team work and therefore, it is not easy to identify the contribution of each worker; and (c) in the modern world where production process is automated, workers contribute little to actual production and, management level work entails the use of discretion.²⁰⁷

Secondly, the merit principle wrongly assumes that people have equal opportunities, thus judging them strictly by achievement. Implicitly, it upholds underlying social inequality and fails to account for the social circumstances that produce it. With respect to the case at hand, the principle is incapable of offering a satisfactory moral account of why people of the Northern region should be responsible for their Western educational backwardness. It was not the people that closed the region to Western civilisation, it was their leaders. It is not clear why they should be responsible for what they did not do. Accepting the merit principle would be no more than holding the people accountable for the actions of their leaders.²⁰⁸

The above argument could be illustrated with the authoritarianism in some African countries. The current predatory actions of some leaders in Africa may or may not be acceptable to the people - the ruled. It is likely that they object to it because there is no society whose moral norms uphold oppression and looting. The people will be bewildered if they are to be held accountable for the unjust acts of their leaders. Obviously countries of the advanced democracies do impose sanctions on political leaders of some states. At the same time take appropriate measures to address the difficulties such sanctions might have on the people because they recognise that the latter as a whole should not be punished for the deeds of their rulers.

It might be objected that leaders are legitimate representatives of the people and the latter are accountable for what is done on their behalf. For example, if state officials contract a foreign loan, the citizens have an obligation to pay with their tax money and if the very leaders that contracted the loan cease to be in office on account of death or expiration of tenure the citizens are obliged to honour the debt.

²⁰⁷ See Young, *Justice and the Politics of Difference*, 201-205. Also, Gutmann and Thompson, *Democracy and Disagreement*, 311-312.

²⁰⁸ For further discussion of the educational backwardness of Muslim North, see Peter Kazenga Tibenderana, 'The Emirs and the Spread of Western Education in Northern Nigeria, 1910-1946', *The Journal of African History*, 24, (4) (1983), 517-534. see also Anis Ansari, 'Educational Backwardness of Muslims', *Economic and Political Weekly*, 27 (42), (1992), 2289-2291

With respect to the case at hand, one would respond by noting that the context was quite different. The closure of the Northern region to Western influences was done in the context of resistance to foreign conquest and domination. In itself, political conquest was not a desirable thing because it brought both loss of freedom and lack of self-respect. The most denigrating and pernicious aspect of colonialism was the loss of self-worth, which arose from the replacement of indigenous culture with foreign culture. Within the Nigerian territorial boundary, resistance to both the political and cultural aspects of colonialism was universal. The difference was that the Muslim North was more effective at mounting cultural resistance than people of the South. There was resistance by both Muslims and non-Muslims, but one was more successful than the other was. Educational backwardness of the North should be understood as the result of its successful resistance to the cultural aspects of colonialism, while progress of the South the result of its less resistance. Therefore, one cannot be praised for putting up a weak resistance to the assault on self-respect, and the other blamed for mounting a successful one. Indeed, it is the latter that deserved respect. Seen from the Northern perspective, the educationally and economically backward North had every moral justification to demand preferential treatment if it suffered on account of its successful resistance. Explanations like these remain elusive to merit based conceptions of distributive justice.

The second conception of distributive justice is welfare. Drawing from stoicism and natural law theory, it holds that people are equal by nature, and as natural equals each has the same right to basic needs satisfaction. It is therefore, the responsibility of society to provide everyone with equal opportunity for the realisation of that right. This would entail the provision of compensatory treatment for those that are historically disadvantaged.²⁰⁹ With respect to the case at hand, the welfarist conception of justice would regard the quota put in place by the NPC government as not a violation of equality but as a way of off-setting historically rooted inequalities. Using ethnic balancing to temper merit would be seen as necessary for accommodating the historically disadvantaged people of the North and a requirement for long term substantive equality. The assumption here is that the state's subscription to formal equality in constitutional texts would not really produce substantive equality of

²⁰⁹ For further discussion of stoicism and natural law theory, see Ernest Barker, 'Tradition of Civility', quoted by Gerard Watson, 'The Natural Law and Stoicism' in A.A Long, (ed.); *Problems in Stoicism* (London: Athlone, 1971), 216.

opportunity unless concrete measures are adopted to advance weaker members of society. In fact, some theorists of democratic equality argue that state institutions have social responsibilities in the environment in which they operate and that some of responsibilities include the representation of diverse social interest in order to avoid false uniformity and to ensure that services get to diverse populace.²¹⁰

There are two problems with the welfare notion of justice. First, social justice does not arise among people who are perfectly equal as in a pre-social state, but among those who interact and influence one another in a civil state.²¹¹ Equality of opportunity derived from the idea of human equality is only practical in a non-human society- e.g. Rousseau's savage state where none is subject to the influence of the other. In so far as people interact and influence one another, inequality is bound to arise. It is precisely for this reason that we have justice. Still, a well-devised system of justice ought to reduce inequality and, in fact, the former is unfair if it fails in reducing the latter.²¹² Second, it suggests equal treatment of people irrespective of their historical circumstances, and by extension, has the danger of rewarding those who are responsible for their misfortune. On the other hand, as already discussed, the people of the Northern region were not responsible for their educational backwardness so this criticism would not really stand.

What emerges from the above discussion is that, equality is the substantive goal of social justice and that it could not have been met by the sole use of either the merit or welfare principles as the standard for recruitment into national institutions such as the military. By itself, the merit principle was unjust because it did not promote the good of all sections of the country, although the interest of those sections that benefited by it should not be discounted. Therefore, a system of justice that takes account of the interest of all sections ought to balance merit with welfare. Balancing both would depend on the goals of the community, the choices the people have made as to type of country they want to live in. This is explained as follows.

²¹⁰ See Amy Gutmann and Dennis Thompson, *Democracy and Disagreement*, chap. 4 and 9.

²¹¹ See David Hume, 'Treatise of Human Nature', in Henry D. Aiken, *Moral and Political Philosophy* (New York: Haffner Press, 1948), Bk III part II section II; Ibid., 'Enquiry Concerning the Principle of Morals', part II section III and, Peter Bodurin, 'Federal Character and Social Justice', in Peter P. Ekeh and Eghosa E. Osaghae, (eds.); *The Federal Character and Federalism in Nigeria*, 317.

²¹² The relationship between inequality and justice was the subject of Rousseau's *Discourse on the Origin of Inequality*. He tied justice to the emergence of inequality, just as Hume did when he presented human interaction and relative scarcity of goods as he origin of justice. See David Hume, *Moral and Political Philosophy*, 60-64; see also, Jean Jacque Rousseau, 'The Origin of Inequality', in Jean Jacque Rousseau (ed.); *The Social Contract and Discourses* (London: Everyman's Library, 1968), and Ibid., 'The Social Contract', in Jean Jacque Rousseau, 'The Origin of Inequality', in Jean Jacque Rousseau (ed.); *The Social Contract and Discourses*.

The existence of morality or moral discourse within any given society presupposes some desired ends. If not, what is right and what is wrong would hardly be an issue.²¹³ A society that agrees on justice as one of its goals, and one should think that every society would agree on this, would also agree that it is desirable to promote the general good instead of only the good of some. It would agree that it is desirable to adopt measures that improve the general quality of life rather than those that increase and generalise poverty. The Nigerian people could not have been against these ends, for the independence Constitution of 1960, and indeed all the subsequent Constitutions to the present time, enshrined social justice as one of the fundamental objectives and directive principles of state policy. If these ends were desirable- and agreed upon tacitly or explicitly, and if justice required that people be treated equally, then there was enough moral ground to use principles other than merit for including Northerners in national institutions. Ethnic balancing was required to promote their interest just as merit promoted the interest of people in the two Southern regions. Therefore, the use of the Quota System was not wrong. Although it worked to the disadvantage of the more qualified, its use was justified by an overriding moral consideration.

Some might argue that the Nigerian Constitutions enshrined equal rights and opportunities before the law, and that the administration of justice should entail appealing to the laws of the land not to morality. A policy like the Quota System is illegal and unjust if it is not in accordance with clearly written down laws. To deal with this objection, one might have to take note of the fact that laws are not independent of morality. They are derived from the latter and they seek to realise some moral principles. For example, the legal equality of citizens as enshrined in liberal constitutions has its foundation in Christian morality. It is a moral value specified, but this is not to mean that laws and morality always coincide. What is legal might not be morally right, just as the morally right might be illegal. An impartial judge who follows the judicial process and dispenses justice according to the law can be said to have acted within the bounds of legality. He/She is legally right if he/she nullifies a quota-based appointment on ground that it violates prescribed laws. However, the laws could be unjust if they violate or deviate considerably from moral principles.

In the similar reasoning, the judge who follows the law to its letters might be reluctant to nullify the appointment that is done on quota because the law is unjust. He

²¹³ See Peter Bodurin, 'Federal Character and Social Justice', 319-320.

might heed the voice of morality by either setting the legal precedent of upholding the appointment or resigning from office on account of injustice of the existing law. In other words, moral considerations can override legal claims, as in the case of Socrates's *madman and the borrower of his weapons*, or Hegel's *economically distressed debtor* whose right to life had priority over his creditor's legal claims. A morally acceptable greater good of society could justify revision of the existing laws to make them less morally repugnant. Injustice rules if legality is not brought in tune with morality.

4.4.2 The 1963 and 1967 Separation of Minorities

The previous section argued in defence of the Quota System. This section will proceed to evaluate the creation of the Midwest region in 1963 and of the 12 states in 1967.

Political events between 1960 and 1963 indicate that the creation of the Midwest region was the result of power struggle between the NPC and its NCNC junior ally. Each of these parties in a fragile coalition wanted exclusive control of federal power and to achieve that objective, each tried to increase its strength in the Federal Legislature by annexing part of the Western region. It was in this circumstance that the opposition, AG-controlled Western region became a victim in 1963. The strategic need of both the NPC and NCNC to fragment the West intersected with the long standing claims by minorities of the region for separation in a Midwest State. Now, a puzzle arises: if claims to separation by minorities of the West had normative weight as argued in the previous chapter, were they met by the 1963 exercise that was driven by considerations for power? Before answering this it would be necessary to raise another related puzzle.

Debate in the 1966 *ad hoc* Conference shifted between the issues of confederation and creation of new states from the existing regions. As it was, the Conference was inconclusive with no agreement. The federal military government, led by a Northern minority, tried to pre-empt the declaration of Biafra republic in 1967 by first, separating minorities of the East into new states so that they would resist Biafran secession, and second, by meeting the pre-independence aspirations of some Northern minorities for political separation as a way of countering Igbo charges of Northern dominance of the federation. As in the case of the Midwest, the need to defeat Biafran secession through state creation converged with the decade old claims of the minorities for separation. But, if claims by minorities to separate regions in 1963 were morally justified, were they met by the 1967 military strategy? In his memoir Udo Udoma stated

that: ‘to those who for years had crusaded ... their dreams had come true by the grace of Lieutenant Colonel Yakubu Gowon. There were rejoicings’²¹⁴ If the above expression is true, was the state creation exercise in 1967 not praiseworthy?

The two puzzles are the same, for they address the morality of the creation of the Midwest region in 1963 and creation of states in 1967. To address these two dilemmas, it would be necessary to recall John Stuart Mill’s distinction between *intention* and *motive*. According to him, intention is ‘what (*an*) agent wills to do’, while motive is ‘the feeling which makes him will so to do’.²¹⁵ The former is what the agent aims to achieve in a particular act, while the latter is the mental and emotional qualities that produce the act. Thus, the morality of an action depends on the agent’s aim, that is, what she wants to do. The mental quality from which the act emanates makes no difference to, and has nothing to do with its moral justification. Ethically, an act is not judged to be blameable or praiseworthy because it is done by a humble person, a rude person, an honest person, or a dubious person. These considerations only count in estimation of the person’s moral worth. No one is judged in a court of law by the qualities of his character. What counts is the person’s intention. It is common for us to think that motive matters, but Mill’s distinction shows that we should be speaking of intention and that it would be a misunderstanding the concept of motive if we use it in our judgements.

Application of the above distinction would lead one to understand the 1963 and 1967 internal boundary adjustment exercises strictly in terms of their aims. One would regard the exercises as having been driven by strategic consideration for power and military success, not by considerations for local self-determination and equal recognition on which claims of minorities were rooted. The distinction would prompt the judgement that minority claims provided rationalisations for the exercises and helped to mask the real agenda. Following this line of thought, the 1967 creation of two minority states out of the Eastern region would be regarded as an attempt to place the territorial areas covered by the two states under the control of their indigenous inhabitants who would then position themselves against Biafran secession.

Irrespective of its outcome, the exercise would be regarded as a crime because it was used as pretence to meet normative claims, while actually sending the claimants to war. And this is a crime even if the end is to save the state. Mills makes moral

²¹⁴ Udo Udoma, *History and the Law of the Constitution of Nigeria* (Lagos: Malthouse Press, 1994), 257.

²¹⁵ John Stuart Mill, *Utilitarianism; On Liberty; Considerations on Representative Government*, H.B Acton, (ed.); (London: Everyman’s Library, 1972), 19. The emphases in italics are mine.

judgement of a related but different issue while discussing the difference between intention and motive. According to him, anyone who saves another fellow from drowning does a morally right act, whatever the motive might be. But anyone that betrays a friend who trusts him is guilty of a crime, even if the aim is to save another friend in danger.²¹⁶

The above Mill's inspired moral interpretation is helpful, but it is narrow because it does not account for the overall outcome of the state creation exercises. Pre-independence claims of minorities were ostensibly used to mask some hidden agenda but the moral importance of the rationalisations remains unexplained. Mill's account of what constitutes a moral act does not provide an adequate tool for understanding the issue under discussion. Instead, a better alternative is provided by Hegel's account. Hegel discussed what make people morally responsible for their actions when he differentiated between *intention* and *purpose*. With Hegel, intention is knowledge of anticipated consequences of an action, as for example, applying a match to papers in order to burn them. Purpose is the relation between an action and its overall outcome both intended and unintended, as when the application of matches not only burns the papers but also sets the house in flames. The relation between the physical act of applying a match and the house going up in flames makes one morally responsible for arson. However, lunatics have defective mental capacity as such they are not morally responsible for their actions. Similarly, children have uninformed and weak mental capacity for which reason they are not morally accountable for what they do.²¹⁷

In relation to the case at hand, the act of fragmenting the country into twelve states produced a sequence of events. First, minority states came under the rule of their indigenous inhabitants. Then, to be masters of their new units, it became imperative for indigenous of minority states in the East to expel Igbos and seize their real estate. Recall Rousseau's argument that the easiest way to subject a people is to occupy their land.²¹⁸ In this context, Igbos had taken up resident in minority regions of the East, especially in Rivers province where they owned significant landed property in the city of Port-Harcourt and had emerged as rulers. To control their new unit, the indigenous peoples

²¹⁶ See John Stuart Mill, *Utilitarianism; On Liberty; Considerations on Representative Government*, 19.

²¹⁷ For more of this argument, see T.M Knox Jr., *Hegel's Philosophy of Right* (Oxford: Oxford University Press, 1952), 115-120.

²¹⁸ See Jean Jacques Rousseau, 'The Social Contract', in Jean Jacques Rousseau (ed.); *The Social Contract and Discourses* (London: Everyman's Library, 1968).

of Rivers state opted to expel the Igbos and confiscate their property.²¹⁹ In turn, there was a deadly battle in Rivers state. Secession was defeated, a peace agreement was signed, and the unity of the country was preserved. Here, there was a relationship between the act of separating minorities and the sequence of events that followed. The act produced internal self-determination for minorities thereby meeting their pre-independence demands for equal political recognition, and it saved the country from disintegration. Separation was desired not for the evil intention of sending minorities to war but for the larger purpose of freeing them and saving the country from disaster. In other words, stability of the country was found in a normative arrangement in which, states were created to adequately recognise groups.

The moral weight of the 1963 and 1967 exercises could be appreciated if it is considered that the dominant parties of the pre-independence and post-independence era were opposed to any arrangement that would dismember their regions. They were determined not to let their ethnic minorities go and only force could bring about that desired arrangement in which the latter would be well accommodated. For the Midwest region to be created in 1963 the Western region had to be placed under a state of emergency and some key AG leaders were imprisoned on charges of treasonable felony for plotting to overthrow the federal government. In other words, those who had opposed it all along and were in the position of power to continue with the opposition had to be forcefully silenced. This was done in the context of power struggle between the NPC and the NCNC. Similarly, force had to be used in the dismembering of the Eastern region. It was done under contingencies of secession and war, the very contingencies that also made for the dismemberment of the North in order to free and win the support of its ethnic minorities. Conditions on the ground in the country required the use of force if the three regions were to be divided, and the 1963 power tussle between the NPC and the NCNC along with the 1967 secession attempt by the Biafra provided the opportunities. Therefore, based on the above discourses, regardless of the intentions behind them, the two internal boundary adjustment exercises in the country were morally justified.²²⁰

²¹⁹ See Port Harcourt in Appendix A showing Nigeria's major cities and towns.

²²⁰ See Peter Kazenga Tibenderana, 'The Emirs and the Spread of Western Education in Northern Nigeria, 1910-1946', 517-534. see also Anis Ansari, 'Educational Backwardness of Muslims', 2289-2291

4.5 Summary

The aim of this chapter was to discuss and evaluate the quota policy for appointment into, and promotion within, the Nigerian military, and the 1963 and 1967 separation of ethnic minorities in new political units. The Quota System greatly disadvantaged people in the Western and Eastern regions, more especially the latter, as it reduced the positions they would have filled under the merit system slowed their upward ascendancy into the top hierarchy. Although grievances about the Quota System contributed to the first military coup by young Igbo officers in 1966, critical evaluation of the policy showed that the historically rooted educational backwardness of the Muslim North required the use of a distributive principle other than merit for a just allocation of positions. Educational backwardness was the result of resistance to the cultural aspect of colonialism, and the people ought not to be excluded from national institutions - through the merit principle for resisting the most denigrating aspect of colonialism. It might not be unreasonable to suggest that to insist on merit is to insist on punishing people in the predominantly Muslim North for securing their culture against Western values and to reward people in the South for their failure to do it. This historical cause of educational backwardness of the North would justify the adoption of quota policy.

The justification is more strengthened by the Constitutional subscription of the Nigerian-state to justice and equality. The adoption of these prescriptions as the fundamental objectives of state presupposed a desire to promote the common good. It presupposed a desire for the general well-being, not the well-being of some. Actualising the general well-being required a set of distributive principles that take account of the circumstances and interest of each section of the country. Merit principle reflected the circumstances and interest of the Southern regions, while reservation of spots through quota addressed the circumstances and interest of the North. A combination of both principles was reasonably fair.

Regarding the 1963 and 1967 political separations, they were done in a context of power struggle and imminent secession by the Eastern region. The circumstance of the time could prompt one to argue that the separation exercises were purely strategic, and that they were not actually meant to address minority claims for internal self-determination. This argument is narrow and unsatisfactory because, it does not take into account the normative and political importance of the arrangements that were to be produced by the separation of minorities. It is true that strategic considerations were

behind the exercises, but it is also correct to infer that, there was clear knowledge that the exercises would meet the pre-independence claims of minorities and make for an arrangement that adequately accommodated difference. There were some ulterior motives, but the overall larger purpose of the two internal boundary adjustment exercises were an arrangement that was fair to both the majority and the affected minority groups in the country.

On the basis of the above, the conclusion one can make for the purpose of policy recommendation as far as the quota approach to state building in Nigeria is concerned, is that the essence of the Quota System was to ensure the representation of diverse social interest in order to avoid false uniformity, and to ensure that services benefit all the entire population. This thus means that, the quota approach is in agreement with the normative and empirical prescriptions. Therefore, the use of the Quota System was not wrong. Although it worked to the disadvantage of the more qualified, its use was justified by an overriding moral consideration. After all, one may argue that the educational backwardness of the North that justified the introduction of the quota may not be the fault of the ordinary people of the North. But the question remains, for how long would the North continue to hide under the Quota System to fill positions in the public service? And, what educational strategies have the Muslim the North put in place to bridge the gap with the Southern states? Lack of definite answers to the above questions has generated recurrence of ethno-political tensions between the North and the South. It is practically very difficult to change the attitude of the Muslim North about the quota approach which they consider as a right to the sharing of the national cake. But the ethno-political tensions arising from the quota approach can be bridged over time if the Muslim North takes concrete measures that include, among others, embarking on Nomadic education, and socio-cultural orientation. The socio-cultural orientation should be aimed- as Roman Loimeier argues - at 'demystifying the negative impact of Western education on Islamic beliefs'.²²¹

Similarly, claims to separation in 1963 by minorities of the West genuinely had normative weight. This is because there was a longstanding claim by minorities of the region for separation to a Midwest region right from the pre-independence era. But, as argued in this chapter, the creation of the Midwest region was the result of power struggle between the NPC and its NCNC. The means, the carving of the Midwest region

²²¹ For more discussion on Islamic reform in Northern Nigeria, See Roman Loimeier, *Islamic Reform and Political change in Northern Nigeria* (Evanston (Illinois) Northwestern University, 1996)

out to the Western region had the purpose to fragment the West, and thus increase the bargaining power of the coalition. In just the same manner as in the Midwest, in 1967, strategic consideration for power also prompted the creation of the twelve states that separated ethnic minority groups from the three major groups. The implication of both the 1963 and 1967 boundary adjustment exercises is that they were driven strictly by strategic consideration for power and military success, not by considerations for local self-determination and equal recognition on which the minorities, right from the pre-independence era, based their claims. Thus, despite the claim that the 1963 and 1967 exercises were to save Nigeria from disintegration, the exercise could be inferred to have been used as pretence to meet normative claims.

In the above context therefore, the conclusion one make out of the discussion on the separation of the minorities approach is that, apart from the fact that they failed to meet its normative claims, the exercises generated an inevitable slippery slope. For instance, since recognition of groups in separate states during the 1963 and 1967 exercises by the Nigerian Military leadership, Nigeria's internal boundaries has been adjusted and re-adjusted over and over again, and many more demands are being made. Worse still, the circumstances and speed with which states are being created are generating recurrence of ethno-political conflicts and institutional instabilities in the Nigerian federation. Even though separation of minorities to some large extent meets normative claims, there is the need to apply break, and therefore, the Nigerian government should begin to think about putting in place Constitutional provision that limits creation of states only at an interval of twenty five years.

In spite of the adoption of a Quota System of appointment and the re-division of the country into twelve states to take account of smaller groups that were in the 1960s denied political recognition, due to fresh group claims, search for strategies that would accommodate diversity and ensuring political and social stability was embarked upon in the 1970s. The following chapter shall be examining these fresh group claims that reared their heads in the 1970s.

CHAPTER FIVE

THE FEDERAL CHARACTER (PRINCIPLE) APPROACH

The creation of Midwest state, Sir, will only set the ball rolling for the creation of all other states in the federation of Nigeria ... the creation of states is the only basis on which the unity of this country is going to continue and it is upon the creation of states that the breaking of the monopoly of all other regions by one region which constitutes an unbalanced structure in the federation will be achieved.²²²

5.1 Introduction

The inadequacies of the 1960s Nigerian state building approaches and the resultant three year civil war prompted the search for a new strategy that would accommodate diversity in order to deal with the ethnic and cultural fragmentation of the country to ensure political and social stability. The new strategy, born from the inclusion of policy makers from different ethnic backgrounds, adopted different policies. One of the proposed approaches was the restructuring of the federation into nineteen states to reflect ethnicity, and the divisions of the states into local government areas to further reflect sub-ethnic differences.²²³ Another element was the adoption of a policy that required membership in federal institutions to reflect the constituent states, and in turn membership in institutions at the state level was required to reflect the constituent local governments.²²⁴ This chapter offers a contextual analysis and a critical evaluation of the constitutional strategy with the aim of determining its desirability.

5.2 The Background

Nigeria emerged from a three year civil war with a new approach to governance.²²⁵ The country's military rulers tried to promote inter group equity by resorting to the use of what Rothchild has called the 'informal proportionality principle' for appointments into

²²² A statement by Joseph S. Tarka, leader of the United Middle Belt Congress (UMBC). It may be recalled that J.S Tarka was the most prominent Middle Belt politician that spearheaded the recognition of the minorities of the Middle Belt. Citation comes from Federal Republic of Nigeria, *Parliamentary Debates, House of Representatives* 1961-62, Vol. I. (Lagos: Government Printer, 1962), column 784.

²²³ With regards to the federal character principle that aims to reflect the structure of the country on the basis of ethnicity, one can observe sharp contrast between Nigeria and South Africa on the role of *ethnicity* in the determination of rights of the citizens. For the explanation of the South African experience, see Adrian Guelke, 'Ethnic Rights and Majority Rule: The Case of South Africa', *International Political Science Review*, 13 (4), (1992), 415-432.

²²⁴ For more discussion of the 'inclusiveness of groups' element of the federal character principle, see Benjamin Inyang, 'Managing Workforce Diversity and Inclusiveness in the Public Service: Going Beyond the Nigeria Federal Character Principle', *South African Journal of Public Relations*, 31 (2), (2007), 85-101.

²²⁵ For the circumstances leading to the war, see Ukoha Ukiwo, 'Violence, Identity Mobilisation and Re-imagining of Biafra', *Africa Development*, XXXIV (1), 9-30; Rotimi T. Suberu, 'The Travails of Federalism in Nigeria', *Journal of Democracy*, 4 (4), 39-53, and Rotimi T. Suberu, 'The Struggle for New States in Nigeria, 1976-1990', *African Affairs*, 90 (1991), 499-522.

high offices of state and the civil service and for the allocation of resources.²²⁶ A reconstruction programme designed to rebuild infrastructures destroyed during the war came into force. It allocated projects ranging from highways and airports to housing and to University campuses to various geo-ethnic sections of the country. The adoption of the *ad hoc* proportionality principle coincided with the emergence of petroleum exports as a major source of national revenue. To apply the principle, the rich natural resource was first brought under the control of the central government through various decrees, and its revenues claimed for allocation through the Distributive Pool Account (DPA) established in 1959.

It is important to remember that under the 1953 Louis Chick revenue allocation agreement, each region received full share of contribution to the Federation Account. Implicitly, the above means, the Derivation Principle was applied 100%. However, it was criticised on the ground that it was divisive. It was in response to this criticism that the independence Constitutional Conference of 1958 set up a Commission to look into it. This resulted in the introduction of the DPA in 1959 which tempered derivation by allocating revenue among the regions on the basis of equality and population. The growth in the importance of mining royalties during the late 1960s prompted the federal military government under General Yakubu Gowon to reduce to 45% the proportion of revenues going back to the mineral producing states. This reduction increased the amount going back to the DPA, 50% of which was shared among states on the basis of equality and the other 50% on the basis of population. 80% of the incomes of the then 12 states were from the DPA.²²⁷ The use of DPA proportionality in the allocation of revenue reduced to 20% the share of mineral rent and royalties going back to states from which they were derived, and the implication was ‘the near elimination of the derivation formula gave a considerable boost to the resources of the Federal Pool to the benefit of non-oil-producing states’.²²⁸

The central government’s pooling of resources for redistribution to states and its post war reconstruction projects triggered competition for patronage. States became clients of the central government while groups and individuals also competed for

²²⁶ See Rothchild, *Managing Ethnic Conflict*, 51 and 66.

²²⁷ Refer to chapters seven and eight for detailed discussion of the revenue allocation and oil ownership and control respectively.

²²⁸ Akin F. Olaloku, ‘Nigeria Federal Finances: Issues and Choices’ in Bolaji A. Akinyemi; Patrick Cole and Walter Ofonagoro, (eds.); *Readings on Federalism* (Lagos: NIIA, 1979), 119. See also chapter seven of this thesis for discussion of the trends and development in Nigeria’s revenue allocation system.

patronage of both levels of government. According to Richard Joseph, government as the key decider of who gets what is being distributed and how, subjected it to real pressures for the conversion of what was being dispensed into ‘means of individual and group appropriation’.²²⁹ The pressures included memoranda ‘demanding separate states to bring government nearer to the people’.²³⁰ As a consequence, an avalanche of demands for new states hit the federal government from all parts of the country, the intensity of which was reported to have reached a crisis point by 1973.²³¹ The new demands emerged mostly from states of the majority groups (East Central and Western states), not minority states as the 1957 Minorities’ Commission had earlier anticipated.²³²

5.3 The 1975 Panel on States Creation

It was in response to the above mentioned demands that a Panel was set up in August 1975 to examine the issue of creating new states. It is important to mention here that the circumstances which led to the setting up of the 1975 Panel dated back to 1967 when the 12 states were created by military fiat. For instance, the war-time military government of General Yakubu Gowon carried out the state creation without consulting those who were affected. The boundaries were therefore taken to be temporary pending the appointment of a Boundary Delimitation Commission (BDC) that would look into the re-adjustment or confirmation. Delays in setting up the Commission invited petitions from various parts of the country. It was the intensity of the demands that forced the military government to set up a Panel in 1975.²³³ Requests for internal self-determination that were made before the Panel were all based on the need to:

- (a) Make government more democratic by bringing it nearer to the people.

²²⁹ Richard Joseph, *Democracy and Prebendal Politics in Nigeria* (Cambridge: Cambridge University Press, 1987), 73. For further discussion of prebendalism and political god fatherism, see also William Reno, *Warlord Politics and African States* (Boulder (Co): Lynne Rienner Publishers Inc. 1999).

²³⁰ Eme Ekeke, *Class and State*, 137. Joseph also argues that the pressure for the creation of states was fuelled by unrelenting struggle for access to state offices with the aim of procuring material benefits for oneself and for one’s communal group. See his *Democracy and Prebendal Politics in Nigeria*, 84. See also Rotimi T. Suberu, *Federalism and Ethnic Conflict in Nigeria* (Washington DC: United States Institute of Peace Press), 90.

²³¹ See Federal Republic of Nigeria, *Federal Government Views on the Report of the Panel on Creation of States* (Lagos: Federal Ministry of Information, 1976), 8. See also, See Rotimi T. Suberu, ‘The Travails of Federalism in Nigeria’, 39-53, and Rotimi T. Suberu, ‘The Struggle for New States in Nigeria, 1976-1990’, 499-522.

²³² See Appendix D showing the majority, marginal and minority groups.

²³³ See Federal Republic of Nigeria, *Federal Government Views on the Report of the Panel on Creation of States*, 8-9.

- (b) Quicken the pace of development by bringing state capitals nearer.
- (c) Assuage fears of new minorities.
- (d) Guarantee a balanced federation.²³⁴

In its report, the Panel observed that the demands were economic, more of a ‘booty sharing exercise’.²³⁵ This played against the idea of the creation of new states because it would neither accelerate economic development nor solve the problem of new minorities. Instead, it would lead to state proliferation to the point that each town or village would be a state.²³⁶ Yet, the commission went on to recommend the creation of eight new states, seven of which were accepted by government and distributed among various groups in the country. Apparently, the only state that the government rejected was the one recommended for some of the minorities in the oil producing areas in the Niger Delta.

During its public sittings, the Panel had observed ‘the strength of ethnic loyalty, mutual suspicion and even hatred among the diverse peoples which make up Nigeria’, and was convinced that ‘political stability cannot be guaranteed’ if states were not created.²³⁷ It held the view that more states would foster ‘greater participatory democracy’ and ‘produce ... a balanced and stable federation.’²³⁸ It was on this basis that the Panel turned round to make positive recommendations. Both the Panel and government verbally rejected ethnic difference as a criterion in the drawing of boundaries, but still took account of it in practise. The redrawing of boundaries to take account of difference permitted several minority groups in the North to be clearly separated in a number of states from the majority Hausa/Fulani. In turn, the country was divided into 301 local government units of uniform population range. Their boundaries closely followed the colonial local administrative units that enclosed subgroups of larger groups and smaller groups. At the end each of the 19 states consisted in a local government whose boundaries were drawn to accommodate diversity at the lower level. Membership of both the states and local governments were determined by parental descent.

²³⁴ Ibid., *Federal Government Views on the Report of the Panel on Creation of States*, 10. For further discussion on reorganisation of states in Nigeria, see Elaigwu, *The Politics of Federalism in Nigeria*, 159-160.

²³⁵ Ibid., *Federal Government Views on the Report of the Panel on Creation of States*, 10.

²³⁶ Federal Republic of Nigeria, *Federal Government Views on the Report of the Panel on Creation of States*, 9.

²³⁷ Ibid., *Federal Government Views on the Report of the Panel on Creation of States*, 9-10.

²³⁸ Ibid., *Federal Government Views on the Report of the Panel on Creation of States*, 9-10.

It is important to mention here that ten of the nineteen states were in the North, while the remaining nine states were in the South. Of the ten States in the North, six were predominantly made up of minority groups, while the remaining four states were made up of the dominant group- Hausa/Fulani. On the other hand, of the nine states that were created in the South, the Igbo had two, the Yoruba had four including Lagos, while the minority groups were grouped into three. An extensive forest at the centre of the country was mapped out as the new Federal Capital Territory (FCT) and Lagos soon ceased to be the operational capital of Nigeria.²³⁹

5.4 Federal Character Policy

The creation of states and of local governments turned out to be one of two elements in a Constitutional design for avoiding political dominance by a few ethnic elites. The other element was the drafting of a Constitution that would require the origins of members of governmental bodies to reflect the 19 states which were assumed to reflect ethnicity. The then Head of State, late Brigadier General Murtala Mohammed enjoined a Constitution Drafting Committee (CDC) of 49 members inaugurated in September 1975 to ‘eliminate ‘over centralisation of power in a few hands’. Instead, it was advised to devise a Constitution that would both decentralise power and require the choice of members of higher offices of state to reflect the *federal character* of the country.²⁴⁰

A point to take note of regarding the manner in which this Committee was set up is that, unlike the Constitutional debates of the 1950s where delegates submitted issues they want to discuss prior to the commencement of the Conference, and after a long argument, the terms of reference were agreed upon beforehand. In the post-civil war era the position was different. The military were in office and the country’s finance was centralised. This supremacy allowed Brigadier General Murtala Ramat Mohammed’s regime to avoid the pre-independence procedures. Hence, the observation that the Committee ‘was not to carry out negotiations, nor even to discover what would be acceptable to entrenched interests: its task was more technical’.²⁴¹

²³⁹ For the location of the Federal Capital Territory (FCT), Abuja, see Appendices A and B.

²⁴⁰ See Federal Republic of Nigeria, *Report of the Constitution Drafting Committee Containing the Draft Constitution*, Vol. I. (Lagos: Federal Ministry of Information, 1976), xiii. See also Rotimi T. Suberu, *Federalism and Ethnic Conflict in Nigeria*, 112.

²⁴¹ Keith Panter-Brick, ‘The Constitution Drafting Committee’, in Keith Panter-Brick, (ed.); *Soldiers and Oil* (London: Frank Cass, 1978), 292.

The CDC took its task seriously. It recognised that the country included multiple ethnic and linguistic groups which, for the sake of convenience, were referred to as communities. With this recognition, the CDC tried to make a provision that would make for proportional representation of ethno-regional groups in the composition of government, but was divided on it.²⁴² A faction disagreed altogether, arguing that ethnic identity is irrelevant in the determination of a person's human qualities and should not be used a basis for appointments. Another faction insisted that an equitable treatment of groups had already been met by the creation of states, and it was unnecessary to make constitutional provision for the participation of all communities in government. A third faction argued that ethnic dominance had occurred at various levels in the past and, to effectively guard against it, political inclusion should be deepened beyond the federal level to the state and local government levels as well as to government agencies.²⁴³

Despite the differences, the CDC formalised the proportionality principle that had been in use since the end of the war. Adopted as the federal character principle, it stated that:

The composition of the federal government or any of its agencies and the conduct of its affairs shall be carried out in such manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty. Accordingly, the predominance in the government or in its agencies of persons from a few states, or from a few ethnic groups or other sectional groups shall be avoided. The composition of a government other than the federal government or any of the agencies of such government and the conduct of their affairs shall be carried out in such manner as to recognise the nature and character of the peoples within their area of authority and the need to promote a sense of belonging and loyalty among all such people.²⁴⁴

State membership was defined in biological terms. For example, according to the CDC, to 'Belong to ... when used with reference to a person in a state refers to person who either of whose parents or any of whose grandparents was a member of a community indigenous to that state'.²⁴⁵ With this clarification, federal character was applied to the most sovereign office that was to be a single Chief Executive known as President. He/She was expected to derive his/her authority directly from the people, for which purpose the entire country was to be regarded as one single constituency. However, they

²⁴² *Report of the Constitution Drafting Committee Containing the Draft Constitution*, Vol. I., vii-viii.

²⁴³ See *Ibid.*, *Report of the Constitution Drafting Committee Containing the Draft Constitution*, Vol. II., 54.

²⁴⁴ Citation comes from *Report of the Constitution Drafting Committee Containing the Draft Constitution*, Vol. I., and ix-x. See also Section 14 (3) of the 1999 Constitution.

²⁴⁵ *Report of the Constitution Drafting Committee Containing the Draft Constitution*, Vol. I., Section 321, sub-section 1.

tried to avoid the creation of an all-powerful leviathan by recommending the office of a Vice-President not as a counterpoise, but as a co-pilot to the President.²⁴⁶

For electoral purposes, the President and the Vice-President were required to secure widespread geographic support by obtaining the highest number of votes which must not be less than 25% (one-quarter) of the votes cast at the election in at least two-thirds of all the states in the federation and the Federal Capital Territory, Abuja.²⁴⁷ The idea of dividing the country into geo-political zones for purposes of rotating the offices of the President and Vice-President was raised, debated and abandoned.²⁴⁸

Federal character was also applied to political parties. It was required that party membership be open to every citizen irrespective of ethnicity, and the headquarters be situated in the federal capital. In addition, it was required that two-thirds of members of the executive committee of the political parties should be drawn from at least two-thirds of the states that make up the federation.²⁴⁹ The federal character principle was also applied to federal institutions, then to the states and local governments. Thus, political inclusion was attempted at all levels of government. The constitutional device was topped with a provision making it difficult to further multiply the number of units. The innovations in the federal character approach was immediately put into work in 1979 when the five registered political parties, namely the National Party of Nigeria (NPN), Unity Party of Nigeria (UPN), Peoples Redemption Party (PRP), Nigerian Peoples Party (NPP) and Great Nigerian Peoples Party (GNPP) contested for various offices in the Second Republic general election in 1979.²⁵⁰

The five political parties mentioned above reflected Nigeria-wide membership in their executive bodies, but their leaders were still the same First Republic party leaders. Just as the First Republic, the parties drew a bulk of their supporters from ethnic origins of the party leaders. In a keenly contested election, the NPN nevertheless won the Presidential election by obtaining 25% of votes in twelve states and a fraction in the

²⁴⁶ *Report of the Constitution Drafting Committee Containing the Draft Constitution*, Vol. II., 67-68.

²⁴⁷ *Report of the Constitution Drafting Committee Containing the Draft Constitution*, Vol. I., xxix-xxx and 44. See also Chapter VI, Part I, Section 130-140 of the 1999 (Amended) Constitution of the Federal Republic of Nigeria.

²⁴⁸ The issue regarding the rotation of the office of the President came up again during the political Bureau Committee of 1986. See chapter six of this thesis for the revised federal character approach.

²⁴⁹ See Federal Republic of Nigeria, *Constitution of the Federal Republic of Nigeria* (Lagos: Government Printer, 1979), Section 203.

²⁵⁰ Many analysts claim that the NPN is a reconstruction of the NPC of the 1960s given that its base was in the North. They regard the UPN as AG reborn with its base among the Yoruba and led by Obafemi Awolowo. The NPP is seen as a reproduction of the NCNC, the party of the Igbo, which was again led by Nnamdi Azikiwe; while the PRP is regarded as the reincarnation of the radical Hausa party, NEPU and again led by Aminu Kano.

thirteenth state. The controversy over the interpretation of the requirements for electing the President and the subsequent Supreme Court ruling that upheld the decision of the Federal Electoral Commission (FEDECO) thus set the stage for antagonistic alliances. For instance, the making and unmaking of alliances with the aim of unseating the NPN from the Federal power, or eliminating the other parties as actors in the same manner as in the First Republic, revealed some of the defects in the federal character approach enshrined in the 1979 Constitution.

5.5 Evaluation

What emerged from the discussion above is the definite commitment by the post-civil war Nigeria to the adoption of a constitutional strategy for coping with difference and conflict. The creation of seven new states and the adoption of a federal character principle were two interrelated elements that defined the strategies. The following section of the chapter attempts a critical evaluation of the federal character approach.

5.5.1 Demands for more States

The 1975 government Panel viewed the demands for more states as purely economic which, if met, would lead to state proliferation and the destruction of the principle of federation. Thus the Panel considered the creation of additional state highly undesirable. However, during its visit to different parts of the country, the panel realised the strength of ethnic loyalty and came to the conclusion that meeting the demands would spread power and guarantee political stability. It considered this political factor as having greater weight than the economic factor. The critical issue here is the conflict between economic and political considerations and the one that should take precedence.

Neo-Marxist-inspired views would regard the demands as class demands that do not merit attention. The class aspect might be true, but it is also necessary to go beyond narrow selfish motives to consider the intersection of interest between elites and the groups to which they belonged. Like all human beings, elites have their personal interest to satisfy, but as members of groups that have common consciousness and purpose, they may promote the salient interests of the membership. They claim legitimacy of group leadership not through election, but by advancing common interests in the state arena. They can authoritatively advance meaningful claims by first holding consultations and negotiating common positions within the group. They can move back and forth between

the state arena and the group, continually negotiating salient interests within the latter and continually making demands at the former. Hence, in the public, elites can enjoy considerable support of their ethnic members and are able to mobilise them for action when the need arises.

The above assertion, therefore, means that, the demand for states was not necessarily done only to satisfy the ambitions of few individuals in search for power. Rather, there was unity of purpose between elites and their group, which the Panel identified to be a share of national wealth. The unity of interest could be discerned in the following findings of empirical research conducted in the mid-1970s:

After 1967 all the new state capitals began to enjoy the paraphernalia associated with government headquarters. Hospitals were expanded, water supply, urban roads and drainage were improved, and various governmental institutions were established. They became centres of intense economic and political activities. Other infra structural facilities such as trunk roads, neglected by former regional governments were reconstructed. More scholarships were awarded for higher education, many rural areas obtained electricity and local entrepreneurs were helped to industrialise. The notion of bringing government closer to the people, which had wide currency in official circles, was seen to have a positive value for the lives of the people. If ... oil revenue had not proved so buoyant it would have been a different story. But the federal government was the greatest provider especially through the Distributive Pool Account ... It is this factor which no doubt explains the acquiescence of Kano State in the status quo and the large number of proposed states from East Central and Western States.²⁵¹

The implication of this observation is that the federal military government's assertion of claims to most of the revenue from oil immediately put premium on further devolution, especially in those parts of the country where the demand for services of one kind or another was most intense. A greater share of the federally distributed revenues could be obtained simply by multiplying the number of units of government, each of which could then claim its share of the national cake. For example, intense demands on the Kogi State government to provide services could be achieved by simply splitting the state into more number of local government units thereby increasing the share of the federally distributed revenue coming to the state.²⁵²

The relevant issue that has to be addressed is whether ethnic based demands driven by desire for public resources have merit. In dealing with competing claims to justice, the argument of Aristotle is relevant. For instance, he argues that a political society is not a business venture that exists solely for the economic benefit of its

²⁵¹ Citation comes from Ali D. Yahaya, 'The Creation of States', in Keith Panter-Brick, (ed.); *Soldiers and Oil*, 216.

²⁵² For more of this discussion, see Keith Panter-Brick, 'Introduction', in Keith Panter-Brick, (ed.); *Soldiers and Oil*, 5. The use of Kogi state as an example is not in the original manuscript, but mine.

members. Drawing from Aristotle's judgement regarding competing claims to justice, therefore, one could argue that competition for national wealth should not translate into claims for internal self-determination.²⁵³ Wealth is temporary, not something that lasts forever. Although a country that witnesses a good turn in its economic fortunes might be able to sustain it. If self-determination is granted on account of it, and while it lasts, political disaster would likely set in as endless demands would have to be met with endless internal partitioning of territories until there is nothing to partition. But it is also probable that economic decline would set in at some point in time. In which case the partitioned units would either, collapse or be merged. In conclusion, wealth is too transient to justify claims to internal self-government.

An alternative but competing option would be to regard the demands as driven by the need for justice. This option requires an understanding of the state structure that emerged from the 1967 state exercise as unbalanced and working to the disadvantage of groups who did not have their proportionate share of states. In this case the demands have to be regarded as political claims made to redress injustice. For example, the 1967 creation exercise grouped Igbos in one state, while the Yorubas and the Hausa/Fulani had three each. By being in only one state, Igbos and their elites were not treated equally as the Yorubas, but were almost equal to them in terms of population. The Panel's observation that there were *mutual ethnic suspicion*, and that demands were *made in bitterness* should not be taken at face value because underneath, were perceived injustice in the state structure which served to disadvantage some in the distributional sphere. Therefore, while political claims were not justified by competition for economic goods, the need for equity was also very compelling.

What did justice require given the two competing options? One possible response would have been to uphold the economic argument. Instead of endorsing wealth based claims that could result in endless fragmentation of units that would also not be self-sustaining, power bearers might as well have ensured stability by retaining the 12 state structures already in place. This might have been a desirable option but it would have been unrealistic given the conditions on the ground. Facts about some groups like Igbos being grouped in one state and of others like the Yoruba being in three would have rendered such decision highly biased and politically imprudent. More especially, attempts at building legitimate governance and winning the confidence of

²⁵³ See Aristotle, *The Politics of Aristotle*, translated with an introduction by Ernest Barker (Oxford: Clarendon Press, 1952), Bk iii, chapter ix, 1280b.

groups through the use of proportionality principle would have been undermined. Equity would have been vitiated, for government would have been perceived as dispensing social goods unequally among groups and their elites. In this case, those vanquished during the civil war would have considered themselves targets of political domination.

The other option was to uphold the justice-based argument and risk the proliferation of unviable states. This option would have dispensed justice by accommodating groups proportionately in accordance with their demography or geographic distribution. The state would have freed itself from charges of domination by elites from a few groups, and a framework for mutual trust and conciliatory politics would have been established. On the basis of the above arguments, despite the potential risk, the decision of the Panel on state creation to meet group's demands for state of their own was justified.

5.5.2 Federal Character Policy

This sub-section of the chapter analyses the desirability or otherwise of federal character as a strategy for ensuring equity in the composition of government. Recall that the constitution makers were split between two broad strategies: one considered state creation to have adequately accommodated difference and that ethnic membership was irrelevant in appointment and recruitment; the other emphasised the use of ethnic identity for appointments at all levels of government in order to prevent domination by elites from a few ethnic groups. Was the CDC right to have adopted the latter? This question is answered by weighing the merits of both strategies, beginning with the former that is generally referred to as the winner- takes- all system.

The winner-takes-all system required treating citizens as bearers of equal legal rights and as having equal opportunity to compete at the political market place. With this strategy, universal criteria like competition and qualification forms the basis for recruiting public officials both high and low. Reward is tied to performance and the decision making process is free of ascriptive considerations. All these make for the exercise of fundamental rights and liberties without identity constraints. Thus, justice is grounded on open competition in the political market. Desirable as it is, this strategy has its difficulties. It presupposes that free electoral competition would yield a majority party endowed with authority to govern the entire country. While elections may, and do

result in majoritarian rule, the government that emerges responds to the numerical majority who often turn out to be of one or a few ethnic segments that make up the country. Therefore, free political competition without brakes produces a government that does not consider the political community as made up of parts, each of which has to be given weight in decision making. Calhoun regarded this form of government as absolute, for it considers the interest of one segment of the community- the majority.²⁵⁴

Was the alternative strategy adopted by the CDC better? The federal character strategy could be best assessed by looking at its presuppositions. First, it assumed that state creation had levelled both majority and minority groups by dividing them up into a number of small separate units. Those that dominated politics and controlled power by virtue of number were assumed to have been reduced to the same level as those that were numerically weak. With this assumption, it was believed that group equity could be achieved in the composition of government if elites were drawn from each of the units.

Secondly, the electoral requirements of federal character assumed that victory at the polls would no longer be pre-ordained by demography. Conditions for the registration of political parties and for the successful election of their candidates for the highest offices of state required reaching out to other geo-ethnic segments. It would therefore, not be possible for any one or three large groups to grab power by uniting behind their favoured candidates. Instead, parties and their candidates were expected to reach out, co-operate with other ethnic segments, and work out a deal up-front on equitable distribution of offices and resources.

Thirdly, federal character assumed that electoral requirements would induce the selfish calculation of elites to make for social co-operation. Selfish calculation was expected to drive a set of ethnic elites to reach out and accommodate elites of other ethnic regions. They would have to reach out and accommodate not because they wanted to, but because their personal interests would demand that they do so. In the course of time, group interests would intertwine in a complex manner to produce enduring accommodative institutions. Based on the above mentioned presumptions, minority rights and Constitutional safeguards were incidentally rendered unnecessary. And impressed by the presumptions, Horowitz thought that the Nigerian design, that is,

²⁵⁴ See John Calhoun, *A Disquisition on Government* (New York: The Liberal Arts Press, 1953), 29.

the federal character approach to state building, was a model for other deeply divided African societies in search of democracy.²⁵⁵

It is evident from the above that federal character had many virtues. It was derived from the ethnic make-up of the country and informed by the bitter experiences regarding exclusive control of state power. It accepted group equity as a major rule in the political system and it also aimed at ensuring that. More especially, the assumed levelling of groups through their separation into several small states created the condition for their elites to be fairly recruited by electoral means into office. Federal character could therefore be regarded as democratic, just and making for stability. It was not for anything that Horowitz equated it to the Rawlsian social contract made by representatives in the *original position*. According to him:

The Nigerians had been through severe conflict and civil war, and they did not want a repetition. Since no one could be sure which group might be on the receiving end in any future round of ethnic conflict and civil strife, the Nigerians made, not a bargain but a real constitution, not a contract among groups that knew what their interests would be but a social contract among groups that were not sure what their interest might be the next time around. They made a blind, Rawlsian contract. That is, one based on original position reasoning, not present position reasoning.²⁵⁶

In a similar reasoning, it has been observed that federal character made for alliance that ‘crosses ethnicity, region and religion as impressively as any political coalition in modern history’.²⁵⁷

Despite the above virtues, Federal character had some problems. First, by targeting the selfish interest of politicians, it could only succeed in inducing and emphasising the most efficient means of acquiring power, in so far as the conditions were not violated. Selfish calculation would dictate that the most efficient means for reaching out be adopted. Therefore, elites from a particular geo-ethnic segment of the country could form a party and appear to reach out by recruiting clients in other geo-ethnic areas, very much like the colonial system of establishing legitimacy through the appointment of local Chiefs into some visible roles of government.²⁵⁸

In an empirical research on Nigerian politics, Richard Joseph has found that parties usually adopted a clientèle’s strategy for mobilising political support of different

²⁵⁵ See Horowitz, *A Democratic South Africa*, 136.

²⁵⁶ Citation comes from Horowitz, *A Democratic South Africa*, 150.

²⁵⁷ Larry Diamond, ‘Cleavage, Conflict, and Anxiety in the Second Nigerian Republic’, *Journal of Modern African Studies*, 20 (4), (1982), 655.

²⁵⁸ For a discussion of this, see Claude Ake, *Theoretical Notes on the National Question in Nigeria*, A Research Monograph (Port Harcourt: Centre for Advanced Social Science (CASS), University of Port-Harcourt, Undated), 8-9.

ethnic sections of the population.²⁵⁹ According to him, individuals did not belong to parties in a random fashion rather they were linked in a clientèle network. Party bosses, usually the real founders, linked individuals who belong to other ethnic groups and were acknowledged influential figures of their particular communities. In turn, the latter acted as patrons by setting up subordinate brokers among notable persons who, on their part, mobilised and delivered political support of their communities. So equal participation in political parties was somewhat unequal, and the regime that emerged from the electoral process remained under the effective control of powerful elites from a few ethnic segments of the country. The NPC in the First Republic, 1960-1966, the NPN in the Second Republic, 1979-1983, and PDP in the Third and Fourth Republic, 1999 to the present, used the clientèle's- patron-client strategy to successfully create political outposts across the country.

A second important difficulty with federal character is the ethnic criterion in the determination of the political rights of citizens. The requirement that government at the federal, state and local levels be composed in a manner that reflected the ethnic make-up of each of the three political units required sensitivity to parental origins of individuals whenever appointments were being made. At the federal level this required potential appointees to declare their ethnic origin. Although this did not matter much, it carried an enormous consequence at the state level. Here ethnic origins of those seeking elective and non-elective offices had to be ascertained. Those who were born in or had lived all their lives in a state not of their parental origin had to be denied the right to be appointed or elected into public office of those very states in which they were resident. Such affected persons could not exercise political and social rights unless they returned to their places of origin. What applied at the state level equally applies at the local government level.²⁶⁰ The operation of federal character, therefore, involved violating fundamental human rights. In fact, some analysts of Nigerian politics have regarded it

²⁵⁹ Clientélism is a 'patron-client relationship ... in which an individual of higher status (*patron*) ... uses his influence or resources to provide protection or benefit or both, for a person of lower status (*client*) who, for his part, reciprocates by offering general support and assistance, including personal services to the patron'. Joseph, *Democracy and Prebendal Politics*, 57. For more discussion see also, William Reno, *Warlord Politics and African States* (Boulder (Co): Lynne Rienner Publishers Inc.).

²⁶⁰ For a detailed discussion of the citizenship right as enshrined in the federal character principle, see chapter six of this thesis- the revised version of the federal character principle.

as an attack upon standard.²⁶¹ Do these difficulties rule out federal character? Would the winner-takes-all system of politics be a better option?

The multi-ethnic composition of Nigeria and the violent experiences the country had with procedural democracy made federal character a more desirable option. It may have violated the rights of some individuals, but it had the greater advantage of doing justice among groups and avoiding self-destructive conflict. More importantly, it did not renounce democracy rather it sought to temper the elements that permitted some ethnic elites to exercise power to the exclusion of others. However, its electoral inducement did not produce the anticipated inclusive political parties. The problem of unequal inclusion and regimes being effectively controlled by a few ethnic elites was damaging inter-ethnic relations in Nigeria. For instance, the Nigerian Governments in all of the Republics have been firmly controlled by the Hausa/Fulani elites who also occupied strategic cabinet posts such as Defence, Internal and External Affairs, Mines and Power including Petroleum Resources, Education, and Agriculture etc. The lack of inclusive government had to be addressed if federal character were to ensure equity. The proceeding section will attempt to show in a preliminary way that solutions were possible.

5.6 Desirable and Feasible Alternative Strategies

The previous section of the chapter argued that federal character was timid. Its main assumption was that political parties would gain cross-ethnic support if their executive members were drawn from diverse ethnic regions, and that victory at the polls will produce an inclusive government. These assumptions turned out to be faulty because the 1979, 1999, 2005 and 2010 elections confined parties that emerged to their various ethnic regions, excepting of the National Party of Nigeria (NPN), and Peoples Democratic Party (PDP) whose effective use of clientèle's strategy gave it some support outside its base. The narrow confines of parties demonstrated both the influence and resilience of group solidarity in political competition and the difficulty of reaching across to obtain trans-ethnic support. Thus, party focused inducements could not

²⁶¹ For the criticisms of federal character principle, see Rotimi T. Suberu, *Federalism and Ethnic Conflict in Nigeria*, 116-120, International Crisis Group, *Nigeria: Ending the unrest in the Niger Delta* (New York: ICG, 2006), 12. Peter P. Ekeh and Eghosa E. Osaghae, 'The Structure and Meaning of Federal Character in the Nigerian Political System', in Peter P. Ekeh and Eghosa E. Osaghae, (eds.); *Federal Character and Federalism in Nigeria* (Ibadan: Heinemann Books, 1989), 37, and Stephen Jackson, 'Sons of the Soil? The Language and Politics of Autochthony in Eastern Democratic Republic of Congo', *African Studies Review*, 49 (2) (2006), 95-123.

produce the expected results in government. The above analyses should prompt one to accept the reality that, no matter the inducement to reach-out, political parties in deeply divided societies such as Nigeria would remain ethnic in essence, and therefore, an effective strategy for equal political inclusion has to go beyond individuals and groups and directed at government itself.

Perhaps, one alternative to the problems of federal character would have been the abandonment of the strategy and the adoption of what Charles Taylor has referred to as procedural liberal democracy. Citing Ronald Dworkin and Immanuel Kant, Taylor shows that liberal proceduralism is committed to treating people with equal respect and dignity. This requires that the substantive good of groups or their views about life should not be the goal of public legislation by the state. Given the diversity of modern societies, the substantive good might not be everyone's good and it is likely to be that of the majority. In which case, the life goals of some people would be officially raised over those of others. To avoid this discriminatory treatment, the state remains neutral on the good life and merely restricts itself to treating individuals as bearers of equal legal rights. Thus the political arena is viewed as a market place where individuals have equal opportunity to compete. Competition is governed by universal and impartial rules inscribed formally in constitutional texts. Thus, in procedural democracy the business of politics is conducted with reference to formal constitutional rules that do not accommodate publicly espoused notions of the good life.²⁶²

The above model of democracy was practised in Nigeria during the 1950s and 1960s, but it proved to be incompatible with the multi-ethnic composition of the country. Theoretically, the model promises a free and responsive government emerging from open political competition, but in practise it was contradicted by ethnic voting and the emergence of governments responsive to the groups that brought them into office. Its failures accounted for the pre-independence debates about the sharing of seats in the central legislature and about the dominance of the federation by the then Northern region. It also accounted for minority fears of domination and demands for separation. The political convulsion of the mid and late 1960s taught Nigerians to seek an alternative to proceduralism for which federal character emerged in the 1970s as the most desirable. Although federal character has proved to be inadequate, it would be regressive and counter-productive to abandon it to resume the past.

²⁶² See Charles Taylor, *Multiculturalism: Examining the Politics of Recognition*, 56-58.

Another alternative would have been a proportional representation of parties in cabinet as South Africa implemented later in 1990s. In the South African case, proportional representation in Cabinet was a formula for sharing power between the African majority and the White minority, and at another level between the African National Congress and several other parties both racial and non-racial.²⁶³ Agreeing on this strategy for Nigeria would have been a bold response to some of the inadequacies of federal character.

The strategy could be defended on grounds of the importance attached to the executive arm of government and the passion with which elites and their groups fight for its control. During the 1950s and 1960s, it was worthwhile to fight intensely for the latter because, under the then parliamentary system, legislative majority was the condition for controlling the Executive. With the abandonment of the Westminster model for the American Presidential system, groups and their elites aim directly at the Executive considered the real centre of power. The Legislature, which ought to be the repository of the *vox populi*, is seen to be nominal in power and less importance is attached to its offices. This could be seen in the fact that elections into its seats pass with minimal conflict and are sometimes unnoticed. Although the Executive ought to be the repository of administration, it has come to be regarded as the seat of power, a sort of governing council, not just in Nigeria but in most of African states.²⁶⁴ In a similar mode of thought, K.C. Wheare observed that:

If a general survey is made of the position and working of Legislature in the present century, it is apparent that, with a few important and striking exceptions, Legislatures have declined in certain important respects, and particularly in powers in relation to the Executive arm of government. A feature of the development of political institutions in the period has been the growth of Executive power.²⁶⁵

What the above observation means implicitly is that, to some extent, Western democracies have witnessed an increase in the importance and power of their executive branch of government and a concurrent decline in that of the legislature. What has to be taken note of is that, if that arm of government where power is believed to be

²⁶³ See Brutus De Villiers, (ed.); *Birth of a New Constitution* (Kenwyn: Juta and Co, 1994).

²⁶⁴ For more discussion of this argument, see Claude Ake, *The Feasibility of Democracy in Africa*, A Research Monograph (Port Harcourt: Centre for Advanced Social Science (CASS), University of Port-Harcourt, 1995).

²⁶⁵ Citation comes from K.C. Wheare, *Legislatures* (London: Oxford University Press, 1963), 221. For more of this view, see Ivor Jennings, *Cabinet Government* (Cambridge: Cambridge University Press, 1959); Eghosa E. Osaghae, 'The Federal Cabinet, 1951-184', in Peter P. Ekeh and Eghosa E. Osaghae (eds.); *Federal Character and Federalism in Nigeria*, and also, Richard Fenno Jr., *The President's Cabinet: An Analysis in the Period from Wilson to Eisenhower* (Cambridge: Harvard University Press, 1959).

concentrated is to be truly democratised, that is, if members of various ethnic segments are to participate equally in that arm of government, an inclusive strategy has to zero on it. This may entail opening the cabinet to competing parties which are assumed to reflect the interest of various ethnic segments. Although such a strategy entails bringing members of different political parties into the Cabinet, this should not mean doing away with the idea of “government and opposition”.

Government and Opposition are a necessary part of liberal democracy, which require the winning party to form the cabinet while the losing ones’ stay outside the corridors of power to act as checks for four years at the end of which roles change. They are an inheritance from Western political thought and practise, but have been carried out in a violent and politically damaging ways in deeply divided countries such as Nigeria. To illustrate, at the beginning of the Second Republic in 1979, the triumphant National Party of Nigeria (NPN), dominant among the Hausa/Fulani, formed a coalition with one of its vanquished rivals, the Nigeria People’s Party (NPP) - essentially an Igbo party. The other defeated parties, namely the Unity Party of Nigeria (UPN) Yoruba based, the Great Nigeria People Party (GNPP), an ascendant Kanuri party and the People’s Redemption Party (PRP) supported by the Hausa underclass formed an opposition alliance with the aim of blocking the passage of bills in the Legislature and making the government unworkable.²⁶⁶ The pact signed between the NPN and NPP soon broke down on account of other issues and the latter joined the opposition to form the Progressive Parties’ Alliance (PPA) whose express purpose was to unseat the NPN government from power. The political conflict that triggered from all this was one of the reasons that brought the government of the Second Republic to an abrupt end.

A similar event occurred during the First Republic when key Action Group (AG) leadership turned down the Northern People’s Congress (NPC) invitation to the three major political parties to join in the formation of government. The NPC eventually

²⁶⁶ There is a long history of traditional and modern political rivalry between the Hausa/Fulani and the Kanuri of Borno and Yobe state (former Kanem-Bornu Empire). For instance, in the 19th century, when Sokoto wanted to conquer Borno, there was a stand-off, and Borno’s resistance has become part of historical legacy of elite politics in the North. For instance, in the First Republic, Sokoto and Borno shared the two most important positions in the Northern region- the Premier- Sir Ahmadu Bello, the Sardauna of Sokoto, and the Governor- Alhaji Kashim Ibrahim. In the Second Republic, the alliance between Sokoto and Borno was strained when Waziri Ibrahim, (Borno) vied against Shagari (Sokoto). Recently, there seems to be a renewed collaboration between Borno and the Caliphate as the late President Umaru Musa Yar’Adua appointed Babagana Kingibe (Borno) as the Secretary to the Government of the Federation. Furthermore, in the military circle, there was power play between Mohammadu Buhari and Ibrahim Babangida on the one hand considered as of the Caliphate stock and the late Sani Abacha, who though has Kano as his official home state, is Kanuri by descent.

formed a fragile Coalition Government with the National Council of Nigerian Citizens (NCNC). The refusal of the AG to join the Coalition Government tore the party into two factions because some of its leaders felt that being in the opposition was of no benefit to Yorubas. The coalition broke down anyway, and the NCNC joined a faction of the AG in opposition.²⁶⁷ This brought the Southern parties into full collision with the Northern parties resulting in all-out political war. All these were in spite of repeated warnings by the late Abubakar Tafawa Balewa, the then Prime Minister and also leader of the NPC, that ‘we are not ripe for a system in which there is a full-fledged opposition’.²⁶⁸ Political tragedies in Nigeria have largely been scripted by the conventional understanding that power has to be in the exclusive control of the winning party. The understanding has to be revised if governments are to be truly inclusive. Arthur Lewis made the argument in an extreme form when he said, ‘Government and Opposition is ... in fact unsuitable to West African conditions’.²⁶⁹

An inclusive cabinet could be engineered in a variety of ways: one is the use of coalition technique prescribed in the consociational strategy of Lijphart and in the six conflict reduction techniques of Nordlinger discussed in chapter two of this thesis.²⁷⁰ The problem with this consociational technique is that ethnic groups are often divided within into rival subgroups and they rarely unite under one set of leaders or one political party. This limits the feasibility of coalition, and when it is attempted it does not last. For example, during the First Republic Prime Minister Abubakar Tafawa Balewa’s insistence that there be a coalition of three major parties was futile. Similarly, it has already been mentioned above how disagreement within the AG and how a faction spearheaded by Samuel Akintola tried to and actually sold out to the NPC. The coalition that was eventually formed between NPC/NCNC proved too fragile to last. The same happened during the Second Republic as already mentioned above.

Another alternative is to use electoral requirements to induce parties into the executive cabinet. Since the electoral inducement to reach out and obtain plurality of

²⁶⁷ The Yoruba political elites in the AG were split between two political icons- Chief Obafemi Awolowo, the Premier of the Western region and Chief Samuel Akintola, the Governor of Western Region. The Awoists (Awolowo faction) described themselves as *progressives* and the Akintola faction of the AG were seen as the *conservatives* by the Awolowo supporters.

²⁶⁸ Cited from Nkem Obiora, ‘Tribal Partisan Politics in Nigeria’s Young Democracy’, *West Africa*, 14 January, 1966, 8.

²⁶⁹ Lewis, *Politics in West Africa*, 75.

²⁷⁰ See Arend Lijphart, *Democracy in Plural Societies: A Comparative Explanation*, 25-44., and also Eric Nordlinger, *Conflict Regulation in Divided Societies*, 21-29.

votes is in place, a possible way of ensuring inclusive government is to adopt a model that requires parties that obtain a minimum of votes to participate in the constitution of the executive cabinet. During the Second Republic, political parties tried to reach across other geo-ethnic areas in order to be victorious at the polls, but were unable to go beyond their home base. It was only the NPN that was marginally successful, for which reason it had the cabinet to itself while the other parties were punished by being excluded from the corridors of power. The electoral inducements of federal character could be refined by doing away with its punitive aspects. Instead of wholesale appropriation of power by marginally successful party, the cabinet might as well be opened to every party that obtains a threshold of votes. The fear of not being able to reach across to secure wide cross-ethnic support, that fear which makes parties to adopt efficiency means instead of legitimate means for mobilising electoral support, has to be allayed by putting in place a reward system for parties that have some minimum electoral vote.

One difficulty with the inducement strategy is that the different parties that would compose the cabinet might have policy issues and goals (manifestos) in conflict which will make it difficult for government to move on smoothly. Technically, there will be opposition within the cabinet as its members take conflicting party positions on policy issues. This might not be a major problem if account is taken of John Calhoun's compromise principle that Nordlinger also presented as one of his six conflict regulation practices. The compromise principle calls for mutual adjustment of positions on conflicting issues in order to arrive at common ground.²⁷¹

The problem with compromise is that they hardly endure. They are no more than pacts in which preferences are traded. Unequal preferences might be traded with the hope that its returns would be great. But the return might turn out to be less than expected, or the other party might be perceived as gaining more from the compromise. For example, during the Second Republic, the NPP walked out on its NPN coalition partner when its share of contracts and other forms of patronage were not coming as expected. Also, the First Republic NPC/NCNC Coalition Government disintegrated because the NCNC felt its partner was benefiting more from it. Historically, compromises have proved to be unreliable technique for engineering an inclusive government.

²⁷¹ John Calhoun, *A Disquisition*, 29; see also Eric Nordlinger, *Conflict Regulation in Divided Societies*, 27-28.

Another difficulty with the electoral inducement strategy is that, it ends up producing a coalition cabinet not different from the consociational coalition of Lijphart or the coalition prescribed by Nordlinger. The latter presented mutual veto or what Calhoun called the *concurrent majority principle* as necessary for the successful operation of such Coalition Government. The presupposition is that, the party with the greatest numerical strength in cabinet could impose itself on others and if this is to be avoided then the mutual agreement of all the parties has to be a condition for the adoption of policy decisions.²⁷² As earlier argued in chapter two of this thesis, Lijphart's and Nordlinger's coalition strategy grants too much autonomy to elites and does not consider the structural constraints imposed by the dynamics within their groups. Intra-ethnic rivalry and factional leadership constrains the ability of party elites to act on behalf of groups.

Do these difficulties undermine the argument for inclusive government? No, they do not. It should be recognised that an electoral induced inclusive government has more depth than the Coalition Government prescribed by Lijphart and Nordlinger. In Nordlinger's case, a party may not adequately or legitimately represent an ethno-regional group if it is fractured into rival groups and its leaders equally divided. But in Lijphart's case, parties representing factional groups could find themselves in government if they meet the minimum vote requirement. With electoral inducement, each of the split-up parts of a group may be induced to support and vote in a party representing their interest, and as a consequence, be legitimately represented in government if the minimum vote requirement is met. This is not so with Lijphart and Nordlinger's coalition that presents party leaders as representing *coherent groups* and who may deliberately and spontaneously resort to political co-operation without inducement.²⁷³

In addition, a cabinet inclusive of various parties does not necessarily translate into one with conflicting policy goals that are irresolvable. The determination with which the federal character constitution was designed demonstrates the willingness of elites to adopt unifying policy options rather than contentious and damaging options. In fact, since the 1970s when the federal character policy was adopted, conflict between ethno-regional elites and their parties have been on issues rather than on policy, very

²⁷² John Calhoun, *A Disquisition*, 28-30; see also Eric Nordlinger, *Conflict Regulation in Divided Societies*, 24-26.

²⁷³ As Horowitz argued, ethnic conflict is pursued more intensely and frequently than policies to abate it. See *Ibid.*, *Ethnic Groups in Conflict*, 577.

much unlike the early 1960s when conflict had to do with disagreement over policy issues such as affirmative quota appointment. There has been that tendency to discuss and settle contentious and conflicting issues in the political arena. The problem is more of equal sharing of executive power and not one of policy differences.

5.7 Summary

The objectives of this chapter were to attempt a description and evaluation of the early 1970s demand for more states and to determine the desirability of federal character policy as a strategy for ensuring equity in the composition of government. The findings are as follows:

- a) Demands for more states were driven by elite and group competition for public wealth, and by the need for equal political accommodation of groups. Wealth was found to be a weak basis for political claims and that if internal self-determination were granted on account of it, there would be endless demand for, and creation of new units. On the other hand, demands for equal accommodation were found to have emanated from unequal distribution of states during the 1967 states creation exercise, and could be properly regarded as claims to redress injustice. Denying the claims on account of their economism had the advantage of avoiding the emergence of new and endless claims. But groups that felt cheated during the 1967 exercise would have been treated unfairly. The other option was to meet the claims on ground of equity and risk proliferation of new units. This approach was better because groups would have been accommodated equally, the state would have emerged as a neutral body, and a framework for mutual trust would have been laid. On this ground, the chapter is endorsing the decision of the 1975 government Panel to create new additional states on the condition that to avoid slippery slope and the attendant institutional instabilities, there should be a Constitutional provision that limits creation of states only at an interval of twenty five years.
- b) Federal character policy was a reflection of the multi-ethnic make-up of the country, and was informed by real historical experiences regarding the monopoly of power by elites of a few ethnic regions. It was aimed at ensuring balanced representation in public institutions through the combination of free competition and geo-ethnic appointments. One of the key assumptions behind

the policy was that its electoral requirements would induce ethno-regional elites to reach across ethnic lines and build inclusive political parties which would in turn, be induced by the same electoral requirements to reach across groups in order to win their support. The expectation was that the government that would finally emerge will be highly inclusive. This turned out not be very correct. The electoral requirements of federal character succeeded in inducing the most efficient means of acquiring power. Political parties remained under the firm control of a few ethnic elites who recruited clients from other geo-ethnic areas in order to give their parties a veneer of legitimacy. Governments that emerged equally remained under their firm control and were less inclusive.

In conclusion, the weakness of federal character may prompt one to think of the winner-takes-all system, which characterised the politics of the 1960s, and the immediate pre-independence era as an alternative. But the violent and tragic experiences the country had with the winner-takes-all system does not make it a better alternative. Thus, the adoption of the federal character was at the time a better option. However, since the limitation of the federal character principle has shifted ethno-political tensions to equal sharing of executive power, it is hereby suggested that the problem of unequal inclusion of groups in government could either be addressed by thinking of a governing cabinet inclusive of all relevant competing parties, similar to the type proposed by Arthur Lewis, or full implementation of power shift, for instance, rotating Presidency among the five geo-political zones in the country.

CHAPTER SIX

THE REVISED FEDERAL CHARACTER (PRINCIPLE) APPROACH

Political recruitment and subsequent political support which are based on tribal, religious and linguistic sentiment contributed largely to our past misfortune. They must not be allowed to spring up again. These negative political attitudes like hatred, falsehood, intolerance and acrimony also contributed to our national tragedy in the past: they must not be continued. These negative attitudes must not be allowed to enter into the practice of the new political system.²⁷⁴

6.1 Introduction

In the previous chapter the thesis discussed how, in an attempt to achieve the triple national goals - recognition and accommodation of ethnic diversity, achieving national unity and political stability - the Nigerian government adopted the federal character approach to state building. This approach was in response to the need to recognise and accommodate diversity, as well as preventing domination of the minority by the majority groups. The previous chapter also saw how the implementation of the federal character approach to state building generated ethno-political conflict and institutional instabilities. The mid-1980s marked the beginning of another phase in Nigeria's state building approach to its diversity. The new phase entailed the revision of some of the elements in the federal character principles of the 1970s to make it more inclusive. This involved the division of the country into greater number of states to adequately reflect ethnicity, and the convening of a Constitutional Conference to resolve group based claims and counter claims to alternative political structure, power sharing, revenue allocation, and ownership and control of oil resources.²⁷⁵ This chapter discusses and subsequently makes a critical evaluation of the main elements of the revised version of the federal character principle with the purpose of ascertaining the desirability or otherwise of its outcomes.

²⁷⁴ The speech by Lt. General Olusegun Obasanjo on 21 September, 1978, on the occasion of signing into law the 1979 Presidential Constitution of Nigeria. The subject of this speech became more or less the mandate of the Political Bureau that was set up by Ibrahim Babangida in 1986 to conduct a national debate on the political future of Nigeria. Citation adopted from James O. Ojiako, '13 Years of Military Rule, 1966-1979', the *Daily Times*, 1978, 200. Also cited by Richard Joseph, *Democracy and Prebendal Politics in Nigeria: The Rise and fall of the Second Republic* (Ibadan: Spectrum) 1991, 93.

²⁷⁵ Because of the strategic importance of revenue allocation and oil resource ownership and control in Nigeria's political economy, both are discussed in separate ensuing chapters of this thesis.

6.2 The Political Bureau and Federal Character

The previous chapter examined two interrelated elements of the federal character strategy for accommodating ethnic difference in politics. These elements were the separation of groups into several states, and the policy requirements that political parties and governmental appointments reflect the country's multi-ethnic structure. The chapter defended the creation of states on grounds of equity and the need to build group trust and confidence in governance, but cautioned that it had the potential risk of triggering new demands for and endless creation of new states. It was also argued that the policy requirements were well intentioned, but not sufficient to make for ethnic inclusion in government. It was some of these issues that the Political Bureau tried to address when it was instituted in 1986 to identify the causes of past political failures and make recommendations for a new Constitution that would guide the country's Third Republic.²⁷⁶

The first element of federal character was an issue for the Political Bureau because it triggered new and overwhelming demands by elites claiming to represent new groups. The 1976 state creation exercise conveyed to people the message that state creation had material windfall. It also became clear that the creation of states came along with the duplication of Executive, Legislative and Judicial offices. It also came with the duplication of the civil service, the development of a capital city, contracts for construction projects, and guaranteed representation in federal institutions because of the federal character policy requirement. Above all of these, the demand for states was triggered by the federal government's full appropriation and take-over of petroleum resources and the proportional allocation of revenue among the states. It was these material benefits to the states that activated an overwhelming 53 new state creation demands between 1979 and 1982, and 17 formal requests from the Political Bureau in 1986.

Despite some expressed views by sections of the public that most of the existing states were not viable and should be either abolished, merged, or left as they were without further fragmentation, the Political Bureau found it necessary to recommend the creation of a few more states. The number was placed at two at the minimum, but not

²⁷⁶ The Political Bureau headed by Samuel J. Cookey was set up in January 1986 by General Ibrahim Babangida to conduct a national debate on the political future of Nigeria. Among its mandate was to 'establish a viable and enduring people oriented political system devoid of perennial disruptions'. See Federal Republic of Nigeria, *Report of the Political Bureau* (Lagos: Federal Government Printer, 1987), 3.

more than six at the maximum. The Bureau felt that it was necessary to separate some groups that were in conflict in the North, and do justice to a minority group in the South-East whom government refused to group separately during the 1976 state creation exercise, and this is despite earlier recommendation by the 1975 government Panel. The Bureau tried to respond to the problem of slippery slope by suggesting that a Constitutional provision be made to prohibit more creation of states for at least twenty five years starting from the date its own proposed states would come into being. There was, however, a Minority report that emerged from the Bureau that disagreed from the above position- the Minority report instead opted for the retention of the 19 state system on the grounds that the existing Federal structure was decentralised enough to cope with the challenges of federalism.²⁷⁷

It is important to remember that in 1957, the Minorities Commission had judged that the multiplication of internal political units to recognise smaller groups would be the beginning of an endless process. However, the post-civil war Nigerian Governments regarded continued multiplication as necessary for justice. Later, in 1986, Political Bureau's suggested that a 25-year moratorium be placed on further political fragmentation was not enforced. Its proposal for 2 states at the minimum was implemented and then followed by the creation of another nine in 1991 and a further six in 1996.²⁷⁸ Some have argued that the state creation in 1991 was a strategy by the then General Ibrahim Babangida regime to win group support for his planned prolonged stay in office. The regime, however, explained its decision to further recognise groups in new states as having been based on three interconnected principles, namely: the 'principle of social justice, the principle of development, and the principle of balanced federation'.²⁷⁹

Furthermore, the Constitutional Conference convened in 1994/5 by the regime of General Sani Abacha to work out a framework for good governance received 35 requests for creation of additional states and 1002 requests for the creation of new local government units- the local governments had already increased from 301 in 1978 to 593

²⁷⁷ See Federal Republic of Nigeria, *Report of the Political Bureau* (Lagos: Government Printer, 1987), 178-179.

²⁷⁸ See Figure 1 for the major state building/constitutional events, and ethno-political/religious violence.

²⁷⁹ Ibrahim Babangida, 'Agitation for New States is Healthy', cited from Simeon O. Ilesanmi, *Religious Pluralism and the Nigerian State* (Ohio: University Centre for International Studies, 1997), 142.

at the time of the Conference.²⁸⁰ Currently, in 2012, there are 774 local government units in the country. Some delegates thought that such demands were ‘motivated by the selfish ambition of those who aspire to rule them and should be ignored’. But the Conference endorsed the calls, saying that it thought additional units were necessary to ‘redress inequity’, ‘to guarantee justice and fair play’, to ‘give minorities a voice in local and national affairs’, and to ‘reduce the marginalisation of disadvantaged areas or communities in national politics.’²⁸¹

To this purpose, a Commission was subsequently set up to examine these demands, and the Commission eventually recommended an additional set of states. At first, the Abacha regime asserted that most of the existing states and local government units were not capable of performing the functions of government, that they were completely dependent on the centre and that their proliferation had destroyed the principle of federalism. The regime made a decision to merge them into a few large regions. But this plan was quickly abandoned when it was realised that such a strategy would unite the Yorubas who felt humiliated by the 12 June, 1993 Presidential election result annulment and encourage them to secede. Instead of a merger, the Abacha regime created 6 additional states to further separate groups and ensure the continued existence of the country.²⁸² So, group separation has indeed become an endless process, but the need to achieve justice and ensure the continued existence of the country cannot be divorced from its internal logic.

The second element of federal character, being the policy requirement that origins of members of national institutions reflect the constituent states and the latter should also do the same by reflecting their local government units in political appointments, was also revisited. Section 277 of the 1979 Constitution had given legal effect to the 1976 CDC recommendation that the criterion for membership of sub-political units be parental descent. With the operation of the indigeneity policy, Nigerians resident in another state not of their biological and ethnic descent were denied indigenous status and considered to be non-members. So were their children even if they were born and had lived all their lives there. To claim indigenous status they had to

²⁸⁰ For more discussion of the Constitutional Conference, see Nahzeem Oluwafemi Mimiko, ‘Between Yugoslavia and Czechoslovakia: The Abacha Coup, the National Conference, and the Prospects for Peace and Democracy in Nigeria’, *Social Justice*, 22 (3), (1995), 129-142.

²⁸¹ See Federal Republic of Nigeria, *Report of the Constitutional Conference Containing the Resolutions and Recommendations*, Vol. II. (Abuja: National Assembly, 1995), 55.

²⁸² See Dele Omotunde, ‘Abacha’s Greek News’, *Tell Magazine*, 31 July, 1996, 8-14.

go back to their states of biological descent, and more so, the federal character clause on citizenship made no provisions for change and or/review over time. Discriminatory practises emerged as state governments excluded non-indigenes from political appointments. Even educational programmes, housing schemes, access to health and market stalls were not immune as those whose parental descent were not traceable to groups within the state were excluded.²⁸³

Given the above policy gap, in most cases, positions in some federal agencies became exclusive preserves of those who were indigenous to the state where the agencies were located. This was particularly true of Federal Universities where appointments into Vice Chancellorship, Registrarship, Deanship, and Departmental Chair positions became very sensitive to the indigeneity policy. To attest the ethnic origin of candidates being recruited into positions, or being considered for University admissions or scholarships, it became a policy that identification letters be produced from either a recognised chief in the village or a chairperson of the local government of ones' ethnic origin.

The 1986 Political Bureau, composed mostly of academics that have had first-hand experience of rights violation in their Universities, critically examined the problem. In a section of its report entitled 'Citizenship and Nationality', the Bureau observed, 'the employment of Nigerians in certain states of the federation under alien conditions; and denial of employment opportunities to Nigerians on the basis of non-indigeneity', 'alien' or 'outsider'.²⁸⁴ It tried to do away with what it considered to be the impediments of indigeneity to the development of Nigerian citizenship by recommending full residency rights for all citizens who have lived in a state for ten years at the least.²⁸⁵ The Babangida regime took note of the recommendation and promised a national policy on it, but nothing was done and the Constitution that emerged in 1989 had little to say about it. The citizenship and indigeneity provision in the 1989 Constitution was replicated without change and/or review in the 1999 Constitution as amended in 2011.

²⁸³ See Daniel C. Bach, 'Indigeneity, Ethnicity, and Federalism', in Larry Diamond; Anthony Kirk-Greene and Oyeleye Oyediran, *Transition Without End (Nigerian Politics and Civil Society Under Babangida)* (London: Lynne Rienner, 1997), 340.

²⁸⁴ Federal Republic of Nigeria, *Report of the Political Bureau*, 196.

²⁸⁵ *Ibid.*, *Report of the Political Bureau*, 197-198.

6.3 The 1994/5 Constitutional Conference and Power Sharing Claims

Chapter five noted that the electoral inducement of federal character was not enough to produce a truly inclusive regime, and that achieving the latter would require proportional representation of political parties meant to reflect group interests in the executive branch of government. The 1986 Political Bureau did not really address the problem of balanced representation in government, despite its formal endorsement of federal character. The General Muhammadu Buhari regime that terminated the Second Republic had deviated from the policy requirement by making key appointments and allocating resources in favour of Northerners, despite the federal character policy in place.²⁸⁶ The successor regime of Babangida tried to balance sectional and regional interests in political appointments, but the commitment soon fizzled and Southern and Middle Belt elites lost out at the centre. It is important to mention here that the palace coup that brought the regime of Ibrahim Babangida to power in 1985 was believed to have been motivated by the need to address grievances about power imbalance. It was the biased distribution of power in favour of the North, together with Babangida's personal determination to be in office for as long as he wished, that generated competing claims regarding the political structure of the country, power sharing, and ownership of revenue yielding resources- the discontent caused a failed military coup in 1990 by some Southern and Middle Belt military officers who gave a radio address about monopoly of power by people of the North and announced the excision of five Northern states from the country.²⁸⁷ The claims were fuelled by the annulment of the 1993 Presidential election results that would have transferred power to the South Western part of the country and were further amplified when a Constitutional Conference was convened to diminish tension in the country.²⁸⁸

²⁸⁶ See Jibrin Ibrahim, 'Religion and Political Turbulence in Nigeria', *Journal of Modern African Studies*, 29 (1), (1991), 135.

²⁸⁷ See Jibrin Ibrahim, 'Religion and Political Turbulence in Nigeria', 135. The Middle Belt identity originally championed by UMBC under the late J.S Tarka in the 1950s was revived on 22 April, 1990 when a group of mostly Christian Middle Belt officers led by Major Gideon Orkar announced it had taken over the government. See Major Gideon Orka's speech at <http://www.dawodu.com/orka.htm>. In the recent time, the Middle Belt elites under the umbrella of Middle Belt Forum (MBF) have tried to forge alliance with the Niger Delta elite. This was demonstrated by the Middle Belt/South-South summit of 22 April, 2005. See Deji Omokodion, 'Middle Belt Forum and the Niger Delta Elites' Alliance: A Historical Reflection', *Thisday News* 22 April, 2005.

²⁸⁸ For further discussion of power-sharing and political accommodation in divided societies, see Adrian Guelke, *Politics in Deeply Divided Society* (Cambridge: Polity Press), chap. seven, 113-132. See also, Siri Aas Rustad, *Power-sharing and Conflict in Nigeria (Power-sharing Agreements, Negotiations and Peace Processes)*, 1-39.

At the Conference there were claims by the ‘Councils of Obas- Chiefs of Lagos, Ogun, Oyo, Osun and Ondo states’ and Yoruba states for a loose federation and the adoption of a rotational Presidency.²⁸⁹ There were also claims by interest groups and elites in Igbo states of the East for regrouping the country into six geo-political zones within a federal framework and rotating the Presidency among the regions. They also demanded the adoption of a revenue allocation formula that emphasised derivation.²⁹⁰ There were contradictory claims by ‘Emirs and Chiefs of the Northern states of Nigeria and The Middle Belt Council for a retention of the existing state structure’ and a reduction in the ‘incessant demand for more states through a revenue allocation formula that de-emphasised equality of states’.²⁹¹

There were radical claims by various interest groups and elites representing different oil producing ethnic minorities of the Niger Delta for political autonomy ‘outside the present Nigerian state and nation’, for the right to control and use their natural resources and to protect their ecology from further degradation. The Ogoni ethnic group specifically demanded that ‘each ethnic group that can exist on its own should constitute a political unit within a loose federation. While those without economic resources to support the paraphernalia of statehood should negotiate to live with their neighbours’.²⁹² Grievances that informed these radical claims were the distribution of greater number of states among majority groups thus permitting them to have greater representation in national institutions, and the federal government’s appropriation and distribution of oil wealth on proportionality principle that allowed

²⁸⁹ See Federal Republic of Nigeria, *The Memorandum to the National Constitutional Conference Commission by the Council of Obas of Lagos, Ogun, Oyo, Osun and Ondo States*, 7 February, 1994, 7. See also, Federal Republic of Nigeria, *The Position Paper of the Yoruba People to the National Constitutional Conference Commission by the Committee of Afenifere*, 5 February, 1994, 5-7.

²⁹⁰ See Federal Republic of Nigeria, *A memorandum on behalf of the Igbo Speaking Peoples of Nigeria to the National Constitutional Conference Commission*, 8 February, 1994, 77. An important note is that the Memorandum was not signed by five of the eleven representatives whose names were listed on it. Those that refused to sign include those who were claiming to be representing Imo State, the Igbos of Rivers and Delta States.

²⁹¹ See Federal Republic of Nigeria, *Memorandum to the National Constitutional Conference Commission by the Emirs and Chiefs of the Northern States of Nigeria*, 5 March, 1994, 4-5, and also, Federal Republic of Nigeria, *The Middle Belt position submitted to the Constitutional Conference Commission by the Middle Belt Council, (Final Communiqué issued after the Representative Consultative meeting, Held in Gboko)*, 3 March, 1994, 12-13., and also, Federal Republic of Nigeria, *A Memorandum submitted to the National Constitutional Conference Commission by Movement for the Survival of Ogoni People (MOSOP)*, 30 January, 1994, 2.

²⁹² Federal Republic of Nigeria, *A Memorandum to the National Constitutional Conference Commission by Movement for the Survival of the Izon Ethnic Nationality in the Niger Delta (MOISEND)*, 4 February, 1994, 28-29, and also, Federal Republic of Nigeria, *A Memorandum submitted to the National Constitutional Conference Commission by Movement for the Survival of Ogoni People (MOSOP)*, 30 January, 1994, 2.

majority groups- spread in several states to have a greater share. For instance, Ken Saro-Wiwa, - the executed minority rights activist observed:

The Constitution gives so many states to the Yoruba people, so many to the Hausa/Fulani people, so many states to the Igbo people ... population is that the only determining factor in place? People are only using the fact of their numerical superiority to undo those who are inferior in terms of numbers.²⁹³

In another related statement - though not to the Constitutional Conference - the Urhobo communities in the Niger Delta expressed their anger with these words:

The three big brothers, the Hausa/Fulani oligarchy, the Yoruba, and the Igbo, sought the use of the minorities and the resources of the minorities to enhance their way of life and to force them to serve willy nilly ... The area considers itself as alienated territory and worse still, the people are evidently regarded as second-class citizens whose talents and natural wealth must go to serve the well-being of the three brothers.²⁹⁴

After a critical analysis, the response of the Constitutional Conference to the above claims was to revise the federal character strategy designed between 1975 and 1978, but simultaneously retain its structural features. First, it recommended that the country continue with federal arrangement, after considering alternatives like confederation to be 'unsuitable for Nigeria,' and a political break up as undesirable and without popular support. For example, the Conference during the submission of its report observed that:

At the time the Constitutional Conference was inaugurated, the tension in the country was so high that many people thought the Conference would not last. There were some who believed that blows would be exchanged inside the Conference hall. To the pessimists, the end for Niger was insight. Contrary to these fears, however, the Conference began so well and throughout the general debates, no member called for the disintegration of Nigeria. When Committee No. 1 began its sittings, it commenced on a position where it was not necessary to consider the disintegration of Nigeria. It proceeded with a position of One United Nigeria and then progressed with its deliberations ... As has been noted above, there was not a single call for the disintegration of the country; most complaints were centred on the manner the country was governed. There were cries of neglect by certain areas and of inequality in sharing power and resources. More than anything else, it was this unfairness, inequity and injustice in the governance of Nigeria that worried a number of people who nonetheless did not opt for a break-up of the country.²⁹⁵

After painstaking deliberation, federalism was considered by the Conference to be suitable because: 'it would fit a heterogeneous society and sustain unity ... provide

²⁹³ Citation comes from Ken Saro-Wiwa, '1989 Constitution is Against Minority Rights', *Constitutional Rights Journal*, October-November, 1993, 15.

²⁹⁴ Citation comes from Federal Republic of Nigeria, *The Nigerian Petroleum Industry and Urhobo Oil Mineral Producing Communities; A Paper presented by the Urhobo Oil Mineral Producing Communities on the Occasion of the Ministerial Committee visit at The Petroleum Training Institute, Efurun*, 28 January, 1994, 3.

²⁹⁵ Citation comes from the *Report of the 1995 Constitutional Conference*, Vol. II., 59.

opportunity for the people to participate in ... governance, ... minimise fears of domination, and inspire development'.²⁹⁶

Second, the Federal Executive Cabinet was made more inclusive with provisions which required political parties with no less than 10% of seats in the National Assembly to be represented in proportion to their number of seats, very much in the manner prescribed by Arthur Lewis.²⁹⁷ The arrangement was made more inclusive by having the office of the Chief Executive rotated between the North and South every five years. To ensure the accomplishment of this arrangement, the report provided the following definitions:

The North as the states, including the Federal capital Territory, Abuja, carved out from the former Northern region of Nigeria as at 1 October, 1960, and the South on the other hand was also defined as the states carved out from the former Eastern and Western regions of Nigeria including the territory of Lagos as at 1st October, 1960.²⁹⁸

However, the likelihood of ethnic minorities of both regions not having a fair chance at the office, and the possibility of violent competition between Igbos and Yorubas in the South, prompted the Abacha regime to make a modification because some feared that under a North-South rotation, minorities would have no chance of producing a President and, in the South, warfare politics would arise from competition between the Igbo and Yoruba. As a consequence, instead of two regions- the North and South, power was to rotate for every 5 years among each of six geo-political zones- the North-East, the North-West, East-Central, South-West, North-Central, and South-South- into which the country was divided.²⁹⁹ The power sharing mechanism was also to apply to each of the constituent states and local government units.

The 1975 Constitution Drafting Committee (CDC) rejected proposals by its sub-committee on the Executive and Legislature for a rotation of the office of the President among the zones. However, the Constitutional Conference of 1995 not only adopted what was rejected in 1975, but went ahead to borrow something similar to Joe Slovo's proposal on system of power sharing, the one-time leader of the South African

²⁹⁶ *Report of the 1995 Constitutional Conference*, Vol. II., 60-61.

²⁹⁷ See Lewis, *Politics in West Africa*, 74-84.

²⁹⁸ Citation comes from Federal Republic of Nigeria, *Report of the Constitutional Conference Containing the Draft Constitution*, Vol. I. (Abuja: National assembly, 1995), Section 229, sub-section 4.

²⁹⁹ For more discussion on the power-shift/rotational Presidency debate, see Cyril U. Orji, *Ethnic and Religious Conflict in Africa: An Analysis of Bias, Decline and Conversion Based on the Works of Bernard Lonergan* (Marquette University Press, 2008), Anthony Akinola, *Rotational Presidency* (Ibadan: Spectrum Books, 1996), 14, Wale Are Olaitan, 'Rotational Presidency and State Building in Nigeria', in Kunle Amuwo, Rotimi T. Suberu, Adigun Agbaje and George Herault (eds.); *Federalism and Structuring in Nigeria* (Ibadan: Spectrum Books, 1999), 137-146.

Communist Party. The Slovo system of power sharing arrangement requires proportional representation in both regional and central legislatures. It also entitles a party that holds at least 5% of seats in the National Assembly to have cabinet portfolios in proportion to the number of seats it has in the Assembly. Negotiated between 1991 and 1993, the formula made for power sharing between the African majority and the White minority, and at another level between the African National Congress (ANC) and several other parties both racial and non-racial. It was this formula that the Constitutional Conference copied and combined with rotational Presidency.³⁰⁰

Unlike claims for power sharing that were fully addressed, claims to rich natural resources were not given adequate attention. The Conference stopped short of addressing them by making provisions that required the President, on the advice of the National Revenue Mobilisation Allocation and Fiscal Commission, to make proposals to the National Assembly for revenue allocation. The Assembly was expected to use the principles of population, equality of states, and derivation in determining an allocation system, but with the condition that at least 13% derivation be constantly reflected.³⁰¹

6.4 Evaluation

From the above discussions, three relevant issues have emerged, namely: (1) the tension between the political necessity to separate groups in different states and the slippery slope it engenders; (2) the federal character policy requirement and its impediments to national citizenship; and (3) claims and agreements regarding political structure of the country, and power sharing. The next section of the chapter will evaluate of these issues and consider if alternative policy choices were desirable and feasible.

6.4.1 Recognition in Separate Units and the Problem of Slippery Slope

It is evident from the detailed analyses given above that attempt at accommodating groups in different sub-units has given rise to endless demands for, and multiplication of such units. The historical analyses shows that continuous multiplication is being done with some concern for equity and unity of the country, but should it go on forever? Should internal multiplication of units be carried out endlessly in the name of justice or should the brakes be applied at some point?

³⁰⁰ See Brutus De Villiers, (ed.); *Birth of a New Constitution*.

³⁰¹ *Report of the 1995 Constitutional Conference Containing the Draft Constitution*, Vol. I., Section 163 sub-sections 1 and 2; *Report of the 1995 Constitutional Conference*, Vol. II, 142.

Nigeria is highly heterogeneous, and Constitutional instruments have deliberately been used since the 1970s to reflect it in political arrangements. Its degree of heterogeneity can be best appreciated when it is considered that most groups have subgroups differentiated by dialect and customs. Subgroup rivalry and conflict tends to be as intense as, and some times more violent than those between groups. They are, however, overshadowed and subordinated to the latter because of the narrow geographic scale and political level at which they occur. For example, conflict between Yoruba subgroups is as violent as conflict between Igbos and Hausa/Fulanis, just as rivalry between Igbo subgroups is as intense as conflict between Yoruba and Igbos. Separate a group, and before one knows the difference and conflict within it become more pronounced and visible.³⁰²

The multiplicity of subgroups within a group does not help. For example, the Ijaw who do not rank among the three major groups in the country consist of over 40 subgroups some of whom have little in common, except their similarity in language. To use federal territorial units to accommodate ethnic difference is to be confronted by groups who are differentiated into multiple parts within. While the need to accommodate diversity requires that territorial units be created for those that are different, as successive Nigerian regimes have done since the late 1960s, prudence will also dictate that not all subgroups of larger groups or every small group can be separately accommodated. The line has to be drawn at some point.

Perhaps, one way of dealing with the problem is to adopt a policy that prohibits further fragmentation of units. This might be considered a reactive and vexatious policy and new regimes might set it aside, as was the case during the Second Republic of Nigeria. Recall that the 1975/76 Constitution Drafting Committee reacted to pressure for additional states by drafting Constitutional provisions, which required that certain procedures are followed. The Committee technically prohibited further multiplication of units by making the procedures difficult and complex, yet the civilian regime that assumed power in 1979 tried to undermine the Committee's goal by slowly navigating its way through. Similarly, the 1986 Political Bureau prescribed a 25-year moratorium

³⁰² For instance, for the public discussion on the divisions among Igbo elite, see Peter Claver-Opara, 'Who Heads the Ohaneze?', at <http://www.thisdayonline.com/archive/2003/11/22/200331122com02.html>, for further analysis of divisions among the Igbos, see Anayochukwu Agbo, 'Ndigbo's Divided House', at http://www.tellng.com/news/articles/070208-3/news/nation_dividedhouse.html.

after which new states can be created. But it was the same Babangida regime to which the Political Bureau owed its existence that set aside the prescribed 25-year moratorium. This thus means that, a prohibiting policy may not endure because different regimes will regard it as not reflecting the social circumstances that confront them.

A second option is to listen to separation claims and evaluate them to determine those that do not merit attention. This is what successive government commissions in Nigeria have been doing since the mid-1970s. The advantage of this option is that it steers the state away from an authoritarian policy approach to ethnic demands by providing institutional mechanism for the expression and peaceful resolution of grievances. The Nigerian approach in the above context unlike other African States such as Sudan, Ethiopia, Ghana, Chad, and Sierra-Leone, who in the sixties and seventies developed avoidance policy for dealing with ethnic claims, gives a feeling of security to groups and confers legitimacy on the system. However, this does not resolve the problem at stake because the readiness of regimes to listen and evaluate claims for their merit stimulates fresh demands by new groups. It was precisely the willingness of successive Nigerian regimes to receive and consider new claims that produced an endless state creation exercise.

A third alternative is to emphasise the viability requirement. While it is fair to listen to claims and resolve them in light of the requirements of justice, it is also fair that an economic viability requirement be not sacrificed. If the various government Commissions had given weight to the requirement, it is likely that the demand for states would not have continued endlessly. To pay little or no attention to the economic viability requirement is to be blind to the need for self-sustenance and financial autonomy of the units. For example, the 1976 government Panel recognised that 'all the existing states except possibly Lagos were heavily dependent on the federal government'.³⁰³ The marginal attention paid by successive Nigerian regimes, since the 1970s to the notion of economic self-sustenance in their treatment of group claims, may have been responsible for the dramatic increases in the number of units. In fact, the government Panel that examined claims in 1976 did emphasise that economic viability was not relevant because:

Each state was not, and should not be required to function as self-contained or self-sufficient unit. In other words, the country as a whole constitutes a single economic system

³⁰³ See Daniel C. Bach, 'Indigeneity, Ethnicity, and Federalism', in Larry Diamond; Anthony Kirk-Greene and Oyeleye Oyediran, *Transition Without End (Nigerian Politics and Civil Society Under Babangida)*, 335.

and so long as this system is viable, the viability of the component units can be assured through the normal process of exchanges and distributive actions of the federal government.³⁰⁴

Subsequent government Commissions have adopted the same attitude, an exception being the 1994/95 Constitutional Conference which gave critical weight to economic viability but still went on to undercut it by recommending the creation of eleven states, all of which were to be dependent on the central revenue for survival.

The economic viability option seems reasonable, but it would be fruitless because in the Niger Delta every village that has rich oil resources under its soil could easily meet the requirement. In which case every village in that part of the country would make claim to statehood and meeting such claim would not only trivialise state creation, but also be unjust to millions of people living in the rest part of the country without oil or sustaining mineral resources.

On the other hand, the normative argument for political recognition of groups collapses if the economic requirement is not one that can be easily met. If much emphasis had been placed on self-sustenance in the past, it is likely that the thirty six state structures would not have emerged as it did in 1996 and the adoption of federal character would have been severely compromised. Emphasising the economic viability would seriously question the multi-state structure that has been used to separate groups and has served as the basis for nurturing difference in politics.

Perhaps a better alternative is to adopt a policy that would allow the existing state structure to stabilise. In the first twenty years after independence, political sub-units were created on the average of every 7 years and in the last twenty five years, the average has been 5 years. After each round of division, the units were barely operated before being subjected to another round of division. One good thing that emerged from the rapid and successive fragmentation is that groups have been significantly separated and accommodated within the 36 states and 774 local governments units that have emerged, at least when considered against the fact of three regions that existed in the 1950s. The multiplication has gone a long way in accomplishing the objective for which it was conceived and what is required is a consolidation not a trivialisation of the accomplishment. Consolidation could be achieved if the units are given time to operate. A policy that requires the existing units to remain intact for some decades would lead to

³⁰⁴ Citation comes from Federal Republic of Nigeria, *Federal Military Government Views on the Report of the Panel on Creation of States*, 13.

an adjustment process whereby ethnic elites and their followers get accustomed to operating within the framework of the states in which they are grouped. Over time they will adjust to accommodate themselves and build up networks of political, social and economic exchanges. To this extent, they get used to living in the units and develop a sense of attachment to the unit in which they are grouped. Thus, the continuing demand for creation of state syndrome will fizzle away and the state system will stabilise.

For example, the Midwest region that was created in 1963 was not fragmented until in the 1990s. While its internal boundary remains, its nomenclature was changed to Midwestern state in 1967 by General Yakubu Gowon (Rtd) and to Bendel state by the late General Murtala Mohammed in 1976. It was the only state that remained intact for about 30 years even though demands for a new state out of it began in the early 1970s. The argument here is that, while it lasted, its inhabitants got used living together. A dense network of exchanges and interactions were forged, and when the state finally fell to fragmentation in the 1990s there was public lamentation.³⁰⁵ Headlines in the local press read, 'Good Old Bendel,' 'The Demise of Sweet Old Bendel'. It is this type of adjustment, continued interaction, and emotional connection that can make for stability in the state system.

6.4.2 Federal Character and the Problem of National Citizenship

As discussed in the first section of this chapter, the problem of citizenship rights derive from the commitment to ensure even access to political and economic resources through the creation of political units around groups and the federal character policy requirement regarding appointment at each of the three levels of government. The federal character policy called for differentiated group rights even though there were Constitutional commitments to liberal individual rights. The conflict between the policy and individual right is best appreciated when it is considered that the progressive reduction in the territorial span of political sub-units through the creation of additional new units also increases the number of citizens living outside their units of biological origin. Thus, a greater number of citizens are subjected to second class treatment. This is beside the problem of naturalised citizens and their offspring who do not trace parental descent to

³⁰⁵ The old Midwest region which was renamed Midwestern state in 1967 was renamed Bendel state in 1976. For the first time it experienced internal boundary adjustment in 1996, when the government of late General Sani Abacha divided it into the current Edo and Delta states. See Appendix B showing map of the Nigerian administrative borders.

any community of any sub-unit within the country and, as a consequence, are not in a position to enjoy same rights as other citizens.³⁰⁶

Perhaps one way of dealing with the problem is to abandon the indigeneity requirement for appointment and recruitment and to adopt competition and achievement as the basis for treating citizens equally. This will mean the abandonment of federal character and a reversion to the winner-takes-all political competition that was practised and proved to be fatal in the 1960s. This option is not helpful. It is retrogressive because it means going back to the past. Its inequity and associated violent conflict led to its abandonment in the early 1970s, so it won't be of much use bringing it back. In fact, to bring it back is to court disaster.

Another alternative is to regard what is the best option and accept the indigeneity clause as unavoidable inconveniences. After all, the indigeneity requirement does not deny citizens of their rights. It only requires that certain rights be enjoyed by citizens through their states of biological origin. It is a requirement that applies generally, and its inconveniences could be regarded as an unavoidable cost of equitable access to public institutions. We could accept the inconveniences with regrets, but they affect the real life chances of some individuals and accepting them with regrets is not the best way of dealing with the problem.

Another alternative, perhaps a better one, is to reform federal character by substituting residency for indigeneity. Instead of basing appointment and recruitment on membership of a particular ethnic community within sub-unit, residence in a relevant political unit and or/community should serve as the criterion. This is what the 1986 Political Bureau opted for when it recommended that citizens should have full residency rights in any state in which they have lived for 10 years. Some might argue that group members living outside their state of parental origin could find themselves in the most important positions within their resident state and, as a consequence, undercut the very objective of federal character. For example, some members of the 1978 Constituent Assembly argued that, at the national level, the President might end up appointing

³⁰⁶ For the problems with the federal character principle as it relates to indigeneity, refer to Rotimi T. Suberu, *Federalism and Ethnic Conflict in Nigeria*, 116-120, International Crisis Group, *Nigeria: Ending the unrest in the Niger Delta*, 12, Abdul Raufu Mustapha, *Institutionalising Ethnic Representation: How Effective is the Federal Character Commission in Nigeria?*, CRISE Working paper No. 43 (Centre for the Research on Inequality, Human Security and Ethnicity, June, 2007), 10-11, and Stephen Jackson, 'Sons of the Soil? The Language and Politics of Autochthony in Eastern Democratic Republic of Congo', *African Studies Review*, 49 (2) (2006), 95-123.

people who belonged to a few ethnic groups if indigeneity was diluted.³⁰⁷ In fact, the Political Bureau's recommendation was not implemented because of the fear that non-indigenes that have residency rights might displace members of the indigenous community from key public positions. The fear is taken too far because the likelihood of non-indigenes occupying the most important positions is thin. Even if it were true, such presence in public offices would not be in the extreme. At any rate, the fear could be addressed by placing some percentage limits on non-indigenous appointments.

6.4.3 The 1995 Constitutional Agreements on Political Structure and Rotational Presidency

This sub-section begins by acknowledging the dubious origin of the Constitutional Conference. Dubious in the sense that, it was a ploy by the late General Abacha to divert attention of Nigerians from the illegitimacy of his regime and also to get Nigerians occupied with the General Ibrahim Babangida (Rtd) cloned endless transition program.³⁰⁸ Despite its questionable origin and legitimacy, the Conference provided an outlet for aggrieved cultural groups, interest groups, elite groups, and traditional chiefs to express their concerns about ethno-regional power imbalance. It also provided an institutional framework for addressing competing claims to alternative political structure and power sharing arrangements.

The Conference may have been strategic given that it was used to serve a hidden political agenda, nonetheless, the important normative claims were made and Constitutional arrangements that were negotiated equally had normative importance. It would be worthwhile to discuss the claims for their normative relevance, and to evaluate the negotiated arrangements to determine if they were the possible best, and if not, what feasible alternatives could have been, given the claims and conditions on the ground.

What would justify claims for the abandonment of federalism in Nigeria for alternatives like confederation or political break up? What conditions would justify the parting of ways by the various ethnic regions in Nigeria? One may argue that the strong hold on power by one ethnic section of the country and its treatment as a birth right

³⁰⁷ See Federal Republic of Nigeria, *Constituent Assembly Report*, Vol. II. (Lagos: Federal Government Printer, 1978), 357, column 2.

³⁰⁸ For further discussion of the Babangida transition to civil rule, see Larry Diamond; Anthony Kirk-Greene and Oyeleye Oyediran, (eds); *Transition Without End (Nigerian Politics and Civil Society Under Babangida)* (London: Lynne Rienner, 1997), Wole Soyinka, *The Open Sore of a Continent* (Oxford: Oxford University Press, 1996), and William Reno, 'Crisis and (No) Reform in Nigeria's Politics', *African Studies Review*, 42 (1), (1999), 105-124.

could justify claims for dissolution of the polity. To hold-on-to power permanently like a feudal inheritance is to deny citizenship status to others. Citizenship, in its unqualified sense means legal membership of a state. The most important criterion for determining citizenship is legal possession of political right, or what Aristotle referred to as the right to rule.³⁰⁹ People without formal right to rule are subjects not citizens, perhaps best exemplified by people in colonial territories who have no right to participate in government. It amounts to internal colonialism if one cultural section of the country monopolises power and refuses to allow it shift to other sections even when won in democratic elections. The historical grasp on power by the Emirate North, and the annulment of the 12 June, 1993 Presidential election results, which would have shifted power to the South Western part of the country, amounted to a denial of citizenship.³¹⁰ Long term political subjection is enough to justify confederation and political break up calls.

In a similar vein, insecurity of life may provide reasonable ground. The classical social contract theorists all identified generated insecurity as the condition that makes people to form a commonwealth. They also identified the point at which people, in their right senses, would meaningfully quit the commonwealth. This is when security of life can no longer be guaranteed, as when the commonwealth comes under the subjection of a foreign power, or the regime becomes tyrannical and people can no longer tolerate it. The chief reason for constituting political society is defeated if the vulnerability of citizens to arbitrary power cannot be reduced, and more so if agents of the state are the very ones unleashing terror on the people. Military campaigns against defenceless citizens, unlawful detention, kidnapping, torture, whether carried out by agents of the state or not, are manifestations of absence of security of life and they would establish valid claims to a new political order that is free of fear. The periodic deployment of heavily armed military units against some oil producing ethnic minorities making compensatory claims and the subsequent carnage in Ogoni land and the rest part of the

³⁰⁹ See Aristotle, *The Politics of Aristotle*, translated with an introduction by Ernest Barker, Bk iii, chapter i, 1275b.

³¹⁰ For instance, Moshood Abiola was known to have won the 12 June, 1993 Presidential election. He and his supporters mostly from the Southern part of the country believed that General Ibrahim Babangida prevented him from becoming President of the Federal Republic because 'he was not from his own part of the country'. Cited from Bola Akinterinwa, 'The 1993 Election Imbroglia', in Larry Diamond, Anthony Kirk-Greene and Oyeleye Oyediran, (eds.); *Transition without End (Nigerian Politics and Civil Society Under Babangida)*, 276. Moshood Abiola's victory claim was later confirmed by Colonel Abubakar Umar, an inner member of General Babangida regime. See Abdulkareem Yunusa, 'Vagabond in Power'; *Tell Magazine*, 10 August, 1998.

Niger Delta region before the introduction of the questionable Niger Delta Amnesty programme in 2009 by the late President Umaru Musa Yar'Adua definitely provided a valid ground for self-determination claims by the people of the Niger Delta.³¹¹

The Constitutional Conference summed up the two above mentioned issues in the country when it stated that public fears about possible political break up rested on 'unfairness, inequity and injustice in the governing of Nigeria'.³¹² Given the reasonableness of the claims, would it have been best to have a structural arrangement different from what the Conference decided on? Confederation and/or a structure in which groups enjoyed complete autonomy were the alternatives that were demanded. These alternatives were undesirable and unpractical for a number of reasons.

Firstly, they entailed the weakening of the centre and the conferment of sovereign status on ethno-regional units. This would have amounted to a political break up which the Ijaw actually demanded, and most Nigerians were not prepared for the incoherence and chaos that would trigger. The memories of the Nigeria-Biafra civil war were not yet lost and most people did not want a repeat of the experience. In fact, it is generally believed that Nigeria's existence after the annulment of the 12 June, 1993 Presidential election results was saved by the memories of the Biafran war.³¹³

Secondly, the interdependence of various parts of the country made confederation or political break up unpractical. Over the years, networks of social and economic interactions had developed between different geo-ethnic regions to make the country a complete system with interdependent parts. The functioning and progress of one part is tied to exchanges and interactions between all the parts and a break up will spell disaster. For example, the landlocked Northern part of the country is as dependent on the coastal ports for sea haulage as it is dependent on oil revenue derived from the Niger Delta and off-shore. Thus, dependence on the coastal seaports had led to disputes

³¹¹ For further discussion of the Ogoni carnage and the suppressed issues of natural resources, see, 'The Ogoni Uprising: Oil Politics, Minority Agitations and the Future of the State', *African Affairs*, 94, (1995), 325-344. See also, Ukoha Ukiwo, 'From Pirates to Militants: A Historical Perspectives on Anti-State and Anti-Oil Company Mobilisation among the Ijaw of Warri, Western Niger Delta', *African Affairs*, 106 (425), (2007), 587-610.

³¹² *Report of the 1995 Constitutional Conference*, Vol. II., 59.

³¹³ The horrors of crude warfare and atrocious famine experienced by the Igbos are a house hold story in Nigeria. Many Nigerians of the contemporary time never want to ever witness the same war experience of the 1960s. Thus, over the years, group (s) that fail to gain considerable advantage in the Nigerian political equation rather press for a modification of the prevailing political arrangement(s) than attempting to exit from the Nigerian federation. See C.E Archie, *The Bye-Gone: Horrors of a Crude War: The Biafran Experience* (Lagos: C.E Archie Publishers, 1999). See also Olumide Akanade and Akachi Odoemene, 'Challenge of Democracy and the (De) memorialisation of the June 12 1993 Election in Nigeria', *International Journal of African Renaissance Studies*, 7 (1), (2012), 73-93.

over the status of Lagos during the pre-independence period and the Northern threats of running over the South if the seaports were to be closed. Also, the South has become increasingly dependent on the North and the Middle Belt for agricultural food and industrial raw material requirements. There are also people from various ethnic regions that reside and conduct their business in places other than theirs and, as a consequence, their economic survival is tied to the continued existence of the country. By implication therefore, the 1930s remark by Governor Donald Cameron that, for geographic and economic reasons, no part of the country would 'likely be a separate, self-contained political and economic unit in the future is as valid today as it was when he made it.'³¹⁴

Thirdly, it would have been most difficult to draw determinate internal boundaries to arrive at acceptable political units for a confederal arrangement or for political break up. The Northern part of the country housed and continues to house multiple mutually non-agreeable groups of different religious persuasion. Religious and communal conflict has been endemic and there is also the perceived political oppression of some minorities by the Northern political power elites.³¹⁵ The frequencies of such conflict and the related loss in human lives have always featured in global statistics on violent communal and ethnic conflict.³¹⁶ Mutual suspicion would, therefore, have made it difficult to find groups willing to live together in the same polity.

The problem of drawing determinate boundaries would have been as difficult in the South where Igbos and Yorubas are internally differentiated and hardly act as unitary actors. For example, Abiola's claim to the Presidency was betrayed by some of his own Yoruba kinsmen who volunteered to head the puppet Interim National Government set up by the General Ibrahim Babangida regime to douse the tensions that arose from the annulment of the 12 June, 1993 Presidential election results. Yorubas have always been fragmented, disunited, and mutually locked in conflict. Put them in one polity and they will fall apart in no time. With the Igbo, they are fractured into

³¹⁴ For more of this view, see Donald Cameron, 'Memorandum: The Principles of Native Administration and their Application' in Anthony Kirk-Greene, (ed.); *Principles of Native Administration in Nigeria: Selected Documents* (London: Oxford University Press, 1965).

³¹⁵ Some of the most recent violence is the Hausa/Fulani (settlers) and the Berom (indigene) conflict in Jos Plateau State, and the Boko Haram saga that is threatening the legitimacy of President Goodluck Ebele Jonathan as President of the Federal Republic. For further discussion of the indigene/settler crisis in Jos, see Chris C. Ojukwu and C.A. Onifade, 'Social Capital, Indigeneity and Identity Politics: The Jos Crisis in Perspective', *African Journal of Political Science and International Relations*, 45 (5), (2010), 173-180. For the Boko Haram revisionist uprisings, see Abimbola Adesoji, 'The Boko Haram Uprising and Islamic Revivalism in Nigeria', *African Spectrum*, 45 (2), (2010), 95-108. See also Figure 1 of this thesis showing major state building/constitutional events and ethno-political /religious violence.

³¹⁶ See Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts*, Table A 17, 361, and Rothchild, *Managing Ethnic Conflict in Africa*, 10.

competing Anambra and Imo Igbos. For example, one can easily make reference to the memorandum submitted on their behalf, but was unsigned by some representatives who were claimed to be representing both Imo and Igbos of Rivers and Delta States.

Minorities on the other hand were not free of the problem of disunity either. For example, on the eve of the Constitutional Conference of 1994, the Southern Minorities Group, an interest group embracing elites of several minority groups in the South, held a series of meetings to take a common position on political arrangement in which those they claimed to be representing would be grouped into one large territorial unit. A splinter body developed to express fears that 'if minorities are granted independence, as is being canvassed by Akobo and the late Ken Saro Wiwa, former President of the Movement for the Survival of the Ogoni People (MOSOP), the rate of ethnic domination may be worse'.³¹⁷ These are examples of the difficulties of drawing internal boundaries if the country was to be broken into confederal units. Walzer may have been justified when he stated that, arguments for the right of cultural groups to self-determination do not provide a single best answer to all situations.³¹⁸

On the whole, there were, and there have been reasonable grounds for making claims to confederation and political break-up of the country, but these arrangements were not better alternatives to federal system. Infact, all the other structural arrangements to the federal system were recipes for disaster. It was Anthony Birch who argued that temporary grievances, no matter how strongly felt, should not be used as plausible grounds for breaking up a state 'unless they have "history" and the state does not provide mechanisms for peaceful adjustment of policies'.³¹⁹ Nigeria meets the first requirement because grievances regarding monopoly of power and domination by a few groups date back to the 1950s. One cannot say so about the second requirement because, since the 1970s, the country has adopted Constitutional strategies for avoiding political domination by a few powerful groups except that they have not been quite effective. Indeed, Nigeria's problem is not the federal arrangement, but power imbalance among the ethno-cultural regions of the country. In this respect, the

³¹⁷ Ray Ekpu, 'What Do We Know?' *Newswatch Magazine*, 28 February, 1994, 10-11. In addition, there are feelings among many people that endless state creation is an opportunity for minority to dominate minority.

³¹⁸ For this argument see Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*.

³¹⁹ Anthony Birch, *Nationalism and National Integration* (London: Unwin Hyman, 1989), 63-64. The emphasis in double quotation marks is author's own, and not that of the researcher.

Constitutional Conference agreement for proportional representation in the Executive Cabinet and for circulation of the office of the President might be a better solution.

Was the negotiated strategy for power sharing a desirable means of ensuring equity among various groups? The question is answered by noting, for the second time, two main requirements of the power sharing strategy: proportional representation in the executive cabinet and rotation of the office of the President among six geo-political zones every five years. The first requirement has already been argued in chapter five where it was mentioned that federal character was timid and should be deepened in the Executive Arm of government to make the latter inclusive of parties representing various geo-ethnic segments. For this reason, the arguments will not be repeated here; instead this section will evaluate the strategy that required that the most sovereign office of state be rotated.

The strategy of rotating the office of the President has received some criticisms. Some have argued that it has the danger of denying most citizens of their right to contest for the highest offices of state.³²⁰ In liberal democracy official recruitment into public offices is open to all citizens and it is done under free and equal conditions. In this case it is not so. For every five years offices of the President, Vice-President and State Governors have to be portioned to members of particular geo-ethnic zones, thus violating freedom and right of citizens to compete for them. It is this undemocratic nature of the requirement for power sharing that made the 1975 Constitutional Drafting Committee (CDC) to drop rotational Presidency from its federal character formulation.

A decade before it was negotiated by the 1994/5 Conference, the strategy had been discussed by the Nigerian public during the great debate organised by the Political Bureau in 1986. A section of the public felt that the strategy would elevate ethnic loyalty over national loyalty and create a fertile environment for buccaneer politics. That is, it would risk the subordination of national loyalty to ethnic loyalty and prompt political incumbents to preoccupy themselves with the annexation of public wealth for themselves and their ethnic communities. Incumbents and their geo-ethnic units would fear that power would not rotate to them again until after several decades, a fear that would make them to use power for the exclusive interests of their members while it lasts. In fact, the Political Bureau of 1986 rejected arguments for the entrenchment of

³²⁰ See Anthony Akinola, *Rotational Presidency*.

rotational Presidency in the 1989 Constitution on ground that it ‘amounts to an acceptance of our inability to grow beyond ethnic or state loyalty’.³²¹

What alternatives were available to the constitutional negotiators if these shortcomings were to be taken seriously? A possible alternative was to go the way of the 1975 CDC and 1986 Political Bureau by requiring that the offices in question be filled using Anglo-American liberal universalist criteria in which case, the problem of monopoly of the Presidency by one ethnic section of the country would have remained unsolved.

Another alternative was to simply do nothing and let power coagulate in one section of the country the way it has been. This option had the prospect of fuelling political and social unrest. If anything, the wave of violence and political uncertainty that arose from the late General Sani Abacha’s determination to transform himself into a civilian ruler was an indication of the conflict that would ensue if power were allowed to freeze in one section of the country. A similar example was in 2007, when after completing two terms in office, Chief Olusegun Obasanjo declared and pressed his intention to contest election for a third term in office.

In the absence of better alternatives, the negotiated requirement that power be circulated emerges as the best possible means of doing away with remnants of old patterns of political domination. It has the advantage of taking cognisance of the diverse ethnic composition of the country and the need for equity among them. In fact, the need for this form of power sharing mechanism had long been recognised and ethnic elites had been working it out informally over the years. For example, the 1975 CDC rejected rotational Presidency but, at the commencement of the Second Republic, the National Party of Nigeria (NPN) - the party identified with Hausa/Fulani elite during the Second Republic, informally divided the country into a number of zones for purposes of circulating its Presidential, Vice-Presidential and Chairmanship candidates.

Although, there was an element of deception in the rotation policy of the NPN, the prospects of other group elite becoming President, Vice-President or Party

³²¹ Federal Republic of Nigeria, *Government Views and Comments on the Findings of the Political Bureau* (Lagos: MAMSER, 1987), 23. For more discussion of the Rotational Presidency argument see, Chudi Uwazurike, ‘The Search for Stability in Post-Civil War Nigeria: On the Prospects of the Rotational Presidency Idea’, *Dialectical Anthropology*, 22 (1997), 265-302, Cyril U. Orji, *Ethnic and Religious Conflict in Africa: An Analysis of Bias, Decline and Conversion Based on the Works of Bernard Lonergan* (Marquette University Press, 2008), Anthony Akinola, *Rotational Presidency* (Ibadan: Spectrum Books, 1996), 14, and also Wale Are Olaitan, ‘Rotational Presidency and State Building in Nigeria’, in Kunle Amuwo, Rotimi T. Suberu, Adigun Agbaje and George Herault (eds.); *Federalism and Structuring in Nigeria* (Ibadan: Spectrum Books, 1999), 137-146.

Chairman gave the party a large national following and ensured its electoral victory during the 1979 election. For instance, Alhaji Shehu Aliyu Shagari, a Fulani and the NPN Presidential candidate won the 1979 election on the basis of the rotation policy. However, in 1981, when Moshood Abiola, a Yoruba attempted to compete for the NPN Presidential ticket in order to stand for the 1983 elections, the party retracted its policy on the rotation of its Presidential candidates. The same Moshood Abiola contested the 12 June 1993 Presidential election, but the regime of General Ibrahim Babangida annulled it.³²²

Similarly, although the Political Bureau of 1986 rejected the arguments for the entrenchment of rotation in the 1989 Constitution, each of the two parties that were instituted during the endless transition under General Babangida tried to reflect the reality of Nigerian cultural pluralism. They tried to do so by informally dividing the country into geo-ethnic zones and agreeing to rotate their Presidential and Vice-Presidential candidates, candidates for Senate and Deputy Senate Presidents, and Party Chairmanship candidates among them.

Although government proscribed the zoning of offices by the two parties, they were nevertheless, compelled by their diverse ethnic composition to draw up informal agreements for the rotation of important elective offices.³²³ The 1994/95 Constitutional Conference agreement to rotate offices was therefore a formalisation of what had been tacitly accepted as a desirable and equitable mode of sharing power. With it, the question of who controls power or owns the state will not arise. Neither would it be necessary to look at the ethnic origins of political incumbents in order to draw inference about who controls power, for there is the guarantee that power would one day rotate among the rest of the ethnic regions.³²⁴

Earlier observation that the rotation of the highest offices of state violates the freedom of citizens to contest for them is certainly valid, but for the Nigerian experiences, it is here argued that rotation of the offices of the state is necessary for

³²² The principle of zoning/rotation has generated a lot of controversy in Nigerian body politics. For further discussion of the zoning/rotation and 12 June, 1993 annulled Presidential election, see Emeka Nwokedi, 'Nigeria's Democratic Transition: Explaining the Annulled 1993 Presidential Election', *The Commonwealth Journal of International affairs*, 83 (330), (1994), 189-204.

³²³ See Rotimi T. Suberu, 'The Travails of Federalism in Nigeria', in Larry Diamond and Marc Plattner, (ed.); *Nationalism, Ethnic Conflict, and democracy* (Baltimore: John Hopkins University Press, 1994), 64-65; see also, Anthony Akinola, *Rotational Presidency*, 11-12.

³²⁴ The principle of rotating/zoning came close to being constitutionalised in 2005, but the entire constitutional review process was discarded by the National Assembly after it became clear that Chief Olusegun Obasanjo wanted to use it to elongate his tenure in office for the third term.

equity and fairness. To begin with, the division of the country into six geo-ethnic regions for purposes of rotating power reduce both majority and minority groups to equals. Minorities are grouped into three ethnic regions, two in the North one in the South and, as a consequence, stand to produce the leadership three times in 30 years. Similarly, the three major groups are in three geo-ethnic regions, one in the North two in the South, and have the same chance as minorities.

Rotation therefore, makes for equal opportunity to exercise right to rule. The five year restriction of leadership to members of a particular ethnic region does not abolish rights of members of other regions. It only places them on hold until the offices in question rotate to their region. What applies to one equally applies to the other. The temporary suspension of right applies universally but is alternated. It is a regulation that is necessary for fairness and order. It creates condition for equality rather than negating it. It eliminates political subjection and permits everyone to have equal expectation about right to governance.

The other observation that power rotation enthrones ethnic loyalty and buccaneer politics might be valid in the short term, not in the long run. One of the advantages of the rotation arrangement is its prospect of liberating sections of the country whose elites would not have had the chance of being in the highest office of state under conventional democratic practice. Leadership choice, instead of being confined to a few geo-ethnic zones, is broadened but alternated. This extension of right to political leadership gives a sense of belonging to those that otherwise would be excluded and facilitates their identification with the state. Over time people will develop mutual trust and confidence in the system, and as this works itself into the social fabric, ethical principles will take roots. As Arthur Lewis rightly argued, mutual security created by the absence of adversarial politics allows democratic norms to habituate.³²⁵

6.5 Summary

Nigeria's revised approaches for coping with ethnic difference were informed by the inadequacies of the federal character strategy adopted in the mid-1970s, and consequent group based claims for a more equitable arrangement. What emerged was not really abandonment, but a revision of the federal character policy. One aspect of the revision was the successive creation of more states and local government units to further

³²⁵ Lewis, *Politics in West Africa*, 75 and 83.

accommodate groups. This was necessary for group equity but the problem was that the multiplication of units turned into an endless exercise that risked trivialising what it was meant to accomplish. There might be no specific limit on the desirable number of units for accommodating groups, but the current structure of 36 states and 774 local government units should be given some time to function. There is really no point in creating additional units if they would not be allowed to stabilise or if those for whom they are meant would not learn to accommodate themselves in them. It is in this respect that the thesis is arguing for a policy that requires that existing units be allowed to function for some decades with the hope that elites and groups will get used to living within what is currently in place and overtime the demand syndrome would fade.

Another aspect of the revision was the failed attempt at doing away with the indigeneity requirement for political appointment and recruitment. The requirement amounted to discriminating against citizens resident in states not of their biological descent and, in this respect violated their right to equal treatment as citizens. But there were no better alternatives to the requirement. Reverting to unrestrained Universalist criteria for appointment and recruitment would have meant going back to the winner-takes-all system of political competition that resulted in civil war. Substituting residency for indigeneity requirement was not a better alternative either, for it would have made room for some groups to be dominated in their own states. The indigeneity requirement may have violated equal citizenship rights, but there was no better alternative for ensuring group equity in appointment and recruitment. But also perhaps, the indigeneity clause in the federal character principle could be allowed to stay with amendment to include residency right. This means, the fear that non-indigenes could displace members of the indigenous communities from key positions could be addressed by placing percentage limit on the appointment of non-indigenes resident in states not of their biological descent.

Federal character revision also involved constitutional agreements on competing claims to alternative political structure, power sharing arrangements, and revenue generating natural resource ownership. Claims to confederation and political break-up as alternative forms of structural arrangement were defensible on ground of denial of right to exercise political leadership to members of some geo-ethnic sections of the country- a case in point was when Moshood Abiola legitimately won in a free and fair election, but the election was annulled by the military junta from another section of the

country.³²⁶ They were also defensible on ground of military campaigns against some ethnic minorities of the South-South demanding equitable share of wealth derived from their land. However, confederation or political break up posed frightful political and social costs. They were not alternatives that offered hope for peace and stability. If they were not desirable options, then the problem of monopoly and unjust use of power by one geo-ethnic section of the country has to be addressed within the framework of federal arrangement. This is where the agreement to divide the country into six geo-ethnic regions for purposes of rotating state executive power has some merit. Although it has the danger of constraining the freedom of citizens to compete for the office in question, it nevertheless makes for groups equity in recruitment into the highest office in the land.

Overall, the conclusion one can make on the key issues contained in the revised federal character approach to state building in Nigeria are as follows: On the endless multiplication of the internal political units into states and local government areas in order to recognise smaller groups, the government should respond to the problem of the slippery slope by making a Constitutional provision that place moratorium for the creation of states to twenty five years at the least.

On the indigeneity clause, the clause could be amended to incorporate some elements of residency rights. This in essence means, constitutionalising provision for certain percentage right that allows non-indigenes to take appointment in states not of their biological descent. Regarding the political structure of the country, in line with what was discussed in section 6.3.4 of this thesis, all other political structures- unitary and confederation are not better alternatives to the present federal arrangement. Federalism itself is not the problem, but the inherent tensions such as electoral corruption and the continuing domination of the political scene by the military are the paramount issues that the government need to address.

³²⁶ The Yoruba blamed the Igbo and Northern elites for frustrating the ambitions of their sons, when attempts by two Yoruba elites-Chief Obafemi Awolowo and Chief Moshood K.O. Abiola at winning Presidential elections during the First, Second, and Third Republics. It is, however, been argued that Ibrahim Babangida appeased the Yoruba elite when he (Babangida) appointed Chief Ernest Shonekan, a respected Yoruba businessman as the head of the Interim National Government while departing on 27 August, 1993. The concession by the Nigerian political elites also allowed only Yoruba candidates in the 1999 Presidential election. Obasanjo contested under the platform of the PDP, while Olu Falae vied under the Alliance for Democracy (AD). See Olayiwola Abegurin, 'Chief MKO Abiola's Presidential Ambitions and Yoruba Democratic Rights', in Toyin Falola and Ann Genova, (eds.); *Yoruba Identity and Power Politics* (Rochester, NY: University of Rochester Press, 2006).

Finally, the present arrangement that allows political power to be confined to and or dominated by a section of the country could be remedied by embracing the proportional representation in the executive cabinet and rotation of the office of the President among six geo-political zones every five years. This would allow equal opportunity to all the geo-political zones in the country to exercise the right to rule.

CHAPTER SEVEN THE REVENUE ALLOCATION APPROACH

We believe that fiscal arrangements in this country should reflect the new spirit of unity to which the nation is dedicated ... it is in the spirit of this new found unity that we have viewed all sources of revenue of this country as common funds of the country to be used for executing the kinds of programmes which can maintain this unity.³²⁷

7.1 Introduction

Governments need money to operate, and the viability of political units is very much determined by the wealth that they generate and control. Like political representation in the legislature, the sharing of national revenue has been a fiercely contested issue among the various groups in Nigeria. In an attempt to achieve its triple national goals, and at the same time ensure even development and fairness among the competing groups in the country, one among the series of state building strategies that successive governments in Nigeria have adopted is the Revenue Allocation approach.

The major problem of revenue allocation in Nigeria is how to evolve an acceptable formula inclusive of both sharing rates and sharing principles.³²⁸ In the process of attempting to evolve formula, the revenue approach has generated controversies, dissatisfaction and suspicion among ethnic groups because successive government have been accused of distributing wealth according to jurisdictional population and equality of states, rather than by factors associated with economic development. This chapter examines the background, trend and development of Nigeria's Revenue Allocation System (RAS), and how it has generated controversies, dissatisfaction and suspicion among Nigeria's ethnic groups. It will also examine the relevant and potential issues in the RAS, and it finally evaluates the various revenue allocation formulas, and upon which it considers a desirable framework for revenue allocation. In order to contextualise the RAS and its consequences it is necessary to introduce some facts and figures of Nigeria's economy.

³²⁷ Citation comes from Federal Republic of Nigeria, *Report of the Interim Revenue Allocation Review Committee* (Lagos: Federal Ministry of Information, 1969), 27. This Report came preparatory to the enactment of the 1969 Petroleum Act which transferred ownership and control of oil to the federal government of Nigeria.

³²⁸ For detailed discussion of the revenue sharing rates and principles and its associated ethno-political issues, see Chiichii Ashwe, *Fiscal Federalism in Nigeria*, Research Monograph No. 46 (Canberra: Centre for Research on Federal Financial Relations, The Australian National University, 1986), 82-100.

7.2 Background to the Nigerian Revenue Allocation System

The contemporary controversy over revenue allocation dates back to the origin of Nigeria. In 1906, when Southern Nigeria and Lagos became one administrative entity, the financial resources of the south increased rapidly, leaving Northern Nigeria behind in its economic development. For this reason, in 1914 the colonial government, in order to reduce its subsidy to the North Nigeria, decided to unify the two regions and to use the surpluses from the South to finance the North.

The Northern region with its meagre resources that was mainly derived from direct taxation found it difficult to balance its budget. It therefore had to heavily rely on grants from the Imperial government to function. For instance, from 1901 to 1914, Northern Nigeria was dependent on outside assistance in order to balance its budgets. Each year it received a large grant from the Imperial government. It also received contributions from Southern Nigeria, but these were contributions in lieu of customs revenue, not grants or gifts of any kind. This apportionment of customs revenue was the only link between the annual budgets of the South and of the North.³²⁹ Amalgamation therefore became a ploy by the colonial government to reduce the dependence of Northern Nigeria on British taxpayers. Along these lines, it has been argued that:

The decision ... to create a unified Nigeria on 1 January 1914 did not result from the pressure of local political groups; it derived from considerations of administrative convenience as interpreted by a colonial power. Lugard considered it unnecessary to carve up a territory undivided by natural boundaries, more so since one portion (*the South*) was wealthy enough to commit resources to even "unimportant programmes" while the other portion (*the North*), could not balance its budget necessitating the British taxpayer being called upon to bear the larger share of even the cost of its administration. This partly explains the amalgamation, an act which provoked bitter controversy at the time, arousing the resentment of educated elites and of some British administrators. It, nevertheless, saddled the country with an issue- the relationship between North and South- that has dominated its politics to this day.³³⁰

With the amalgamation of Northern and Southern Nigeria, the colonial authorities established a Legislative Council with responsibilities only for the colony of Lagos, while the legislative powers for the Protectorate of Northern and Southern Nigeria were vested in the Governor General of Nigeria. In 1923, an enlarged and partly elected Legislative Council was established for the Lagos Colony and the Southern provinces of the Protectorate. The Council, however, did not have powers over the Northern parts of

³²⁹ See Government of Nigeria, *Hicks-Phillipson Report* (Lagos: Government Printer, 1951), 68.

³³⁰ Osarhieme B. Osadolor, 'The Development of the Federal Idea and the Federal Framework', in Kunle Amuwo; Adigun Agbaje; Rotimi T. Suberu & George Herault, (eds.); *Federalism and Political Restructuring in Nigeria* (Ibadan, Spectrum Books Limited, 1998), 35. See R.C. Nwokedi, *Revenue Allocation and Resource Control in Nigerian Federation* (Enugu: Snaap Press Ltd, 2001), 20. See also, Federal Republic of Nigeria, *Report of the Political Bureau* (Lagos: Government Printer, 1987), 169.

the Protectorate as the legislative powers for that part of the protectorate were vested in the Governor General. This was how Nigeria essentially became a unitary state. How the administrative unification of Nigeria took place and the implications of this arrangement can be deduced reading the Hicks-Phillipson Report:

It may be taken for granted that this position was not the result of any desire to exclude the north; it was rather a reflection of the fact that the North showed no desire at the time to join with the South in the working of institutions uncongenial to their mode of thought and general outlook. ... Had the Northern provinces joined earlier in the framing of national legislation and in particular in the consideration and passing of the annual budgets, it is probable that more of the available public revenues would have flowed North-wards than was in fact the case. The leaders, official and unofficial, of the North were, however, during the inter-war period ... content to stand in comparative isolation and to concentrate their main energies on building up their strong system of Native Administration supported by the Native Administration share of the relatively high Northern rate of Direct Tax.³³¹

It was later, after World War II that the colonial authorities decided to move the country from a unitary state towards a federal state. The Richards Constitution of 1946 despite its criticisms thus marked the beginning of this shift. Essentially, it recognised the three regions that already existed in Nigeria since 1939: North, East and West. Each of these regions had a Legislative Council, for instance, House of Assembly dominated by British officials.³³² The roles of these Councils were purely advisory. The 1946 Constitution also established for the first time, an all Nigeria Legislative Council which was inclusive of representatives from the Northern provinces. Like its regional counterparts, its role was purely advisory and it had no powers over budget.³³³ The interesting aspects of the 1946 Constitutional provision for Nigeria have been first, the country formally became a federal state and remained one despite a series military intervention in politics, and second that any successive independent Nigerian government had to deal with the administration of inter-governmental fiscal relations in a multicultural and highly fragmented society.

In this context, fiscal matters became from time a very contentious and controversial issue between the North and South geo-political zones of the country. Perhaps, the following section will throw more light on this assertion.

³³¹ Citation comes from *Hicks-Phillipson Report*, 12. The emphases in italics are mine.

³³² The Northern region had an additional House of Chiefs.

³³³ See Augustus Adebayo, *Embattled Federalism: History of Revenue Allocation in Nigeria, 1946-1990* (New York: Lang Publishers, 1993), 22.

7.3 Trends and Development in the Revenue Allocation System

The formal adoption of the federal system of government as provided in the 1946 Constitution raised the controversial question of how revenue was to be shared between the federal government, regional governments and the Native Authorities. This led the colonial authorities to appoint Sir Sydney Phillipson, the then Financial Secretary of the Nigerian Colony to investigate the problems of the distribution of financial and administrative powers between the various tiers of government.³³⁴ In his report, Phillipson was of the opinion that the devolution of powers from the centre to the regions was desirable. Essentially, he argued that:

The natural and ... desirable development of the new constitution will be towards progressive devolution, and the time may well come when the regions will exercise, within their areas, powers akin to those normally exercised by colonial governments, the general government retaining direct authority in practice only over services not transferred to the regions.³³⁵

Based on the agreed formula for sharing the revenue of the country, the Phillipson report argued that the apportionment of revenues to the various arms of government should be correlated with the apportionment of duties to the various arms of government. It, therefore, recommended the gradual evolution to a revenue sharing system mainly based on the derivation principle. The report envisaged a situation where each regional government would be credited with the full amount of the tax collected under the Direct Taxation Ordinance of 1940, as amended. All regions would also receive grants from the other non-direct tax revenues and from other public funds of the country in strict proportion to the contribution that the region makes to those other revenues.

With regards to the derivation principle that was introduced by the Phillipson report, the Dina Committee report later observed that, the preference of Phillipson for the derivation principle was based on his belief that there was need to inculcate in each region, a sense of responsibility so that they will all learn to cut their coat according to their cloth.³³⁶ Thence, the Phillipson report then went on to prescribe the horizontal table for the distribution of the said revenues amongst the various regions as follows: Northern region: 46%, Western region: 30%, Eastern region: 24%.

³³⁴ See Adedotun Phillips, 'Nigeria's Federal Financial Experience', *The Journal of Modern African Studies*, 9 (3), (1971), 393.

³³⁵ Citation comes from Adebayo, *Embattled Federalism: History of Revenue Allocation in Nigeria, 1946-1990*, 35.

³³⁶ See Federal Republic of Nigeria, *Dina Committee Report* (Lagos: Government Printer, 1969), 7.

It is important to mention here that, the unreliability of the data from which the above figures were arrived at became a rallying point for critics of the Phillipson report and indeed all subsequent revenue allocation reports. It has for instance been observed that:

Each Commission has been plagued with statistical problems. From Phillipson (1946) to Aboyade (1977), problems of measurement have seemed insuperable and have wrought havoc to each successive effort at devising a workable formula for allocation. In some cases, for example, Phillipson, they led to the abandonment of particular principles; in other, for example, Aboyade, they led to the abandonment of the recommendations. Data on regional consumption of imports became the centre of controversy in the 1950's while data on population took on an additional explosive political significance in the 1960's. Only the data on rents and royalties and export duties were politically neutral: but the allocation of revenue even from these sources created political controversy.³³⁷

From the above, the Phillipson report can therefore rightly be described as the first revenue allocation committee to prescribe the derivation principle as the basis for revenue sharing among the various tiers of government in Nigeria. Incidentally, the derivation principle overtime turned out to be a factor that greatly impacts the debate on revenue allocation in the country.

In 1947, a year after the adoption of the Phillipson report, Sir John Macpherson replaced Arthur Richards as Governor of Nigeria. He soon initiated constitutional reforms which culminated in the Macpherson Constitution of 1951. This process in turn culminated in the need to review the revenue sharing formula of the colony. This is because

Dissatisfaction with the Phillipson Scheme and the changes envisaged by the Macpherson Constitution of 1951 which introduced a quasi-federal system of government led to the appointment of Professor John Hicks and Sir Sydney Phillipson to develop a new system of revenue sharing for Nigeria.³³⁸

Thus, dissatisfaction with the Phillipson revenue allocation formula which emphasised derivation necessitated the appointment of a review Committee consisting of Dr. John Hicks, Mr. D A Skelton and Sir Sydney Phillipson. The terms of reference of the Committee includes among others:

- (a) An expert and independent enquiry should be undertaken in consultation with all concerned.
- (b) To submit proposals to the Governor-in-Council for division of revenue over a period of five years between the three regions and the central Nigerian services,

³³⁷ Citation comes from, Federal Republic of Nigeria, *Okigbo Committee Report*, Vol. I. (Lagos: Government Printer, 1978), 15-16.

³³⁸ See Chiichii Ashwe, *Fiscal Federalism in Nigeria*, 28.

in order to achieve in that time a progressively more equitable division of revenue as between the three separate regions and the centre.

- (c) If investigation by the Expert Commission proves that one region has been unfairly treated during the last few years, the region should be allowed a block grant to make up for part of what it has lost.³³⁹

After a concerted deliberation, the Hicks-Phillipson report criticised the extensive reliance on the derivation principle adopted by the Phillipson report. According to the Hicks-Phillipson report:

The application of the single principle of derivation to the division of the entire non-declared revenues represented an over-emphasis of the principle of regional self-dependence and tended to obscure the equally valid and perhaps more important principle of the needs of the people viewed as citizens of a united Nigeria. ... the unlimited application of the principle of derivation would be more appropriate in a loose confederation of almost independent states than in a federal constitution of the kind which Nigeria is about to achieve. It is not only, however, the principle of national unity, of the whole being greater than the part in more than a physical sense and of the well-being of one part being dependent to a real extent on the well-being of other parts, that was obscured; the actual fact of mutual dependence tended to be forgotten. To measure what one region owes to the efforts of its people, past and present, and what it owes to the efforts, past and present, of the peoples of other regions, is an impossible task, but it is clear that the second debt exists, a fact which derivation as the sole principle of revenue division in some measures hides.³⁴⁰

Despite the above observation and criticisms of the Phillipson Committee report, the Hicks-Phillipson Committee report did not altogether reject the derivation principle. Rather, the Hicks-Phillipson Committee report retained the derivation principle for the allocation of such taxes as could be allocated with simplicity and certainty to the regions. An example was taxes on tobacco where for instance, the Hicks-Phillipson Committee report recommended that 50% of the revenue from it was to be allocated to the regions on the basis of derivation. Non regional revenues on the other hand which constituted the majority of the Nigerian budget were to be shared based on the principle of 'need and national interest'.³⁴¹ Based on its second terms of reference, the Hicks-Phillipson Committee report also recommended the payment of a one off grant of two million Pounds to the Northern region. This was to make up for what it considered to be its relative deprivation in the past years.³⁴²

³³⁹ See *Hicks-Phillipson Report*, 5.

³⁴⁰ Citation comes from *Hicks-Phillipson Report*, 22.

³⁴¹ It should be noted that, because of the unreliable population records at the time, the Report used the number of male adult taxpayers in the regions as a basis for the above allocations. See *Hicks-Phillipson Report*, 55. See also Chiichii Ashwe, *Fiscal Federalism in Nigeria*, 29.

³⁴² *Hicks-Phillipson Report*, 84.

Essentially, the Hicks-Phillipson report materially altered the derivation focus of the 1948 Phillipson report. However, this new arrangement that was recommended by the Hicks-Phillipson Committee was received with mixed feelings. The Western region for instance, which was rich thanks to the cocoa boom, clamoured for a reversion to the old revenue allocation regime that was mainly based on derivation, but the Eastern region took an opposite stand.³⁴³ By 1953, two years after the Hicks-Phillipson report, the need arose again to review the revenue allocation system of the country. This was as a consequence of the Constitutional developments of the time. Events at the time sensitised the British Colonial government of the need to change the Constitutional arrangement from that of ‘democratic centralism’ to ‘federalism’. For instance, it has been observed that

After only two years of operating under the system of revenue sharing recommended by the Hicks-Phillipson Commission, it was realised that “democratic centralism” or “quasi federalism” must give way to federalism in the country’s constitutional arrangements if the various parts of Nigeria were to remain together. The breakdown of the Hicks-Phillipson revenue allocation arrangements was due mainly to the limited federal structure of the Macpherson Constitution rather than to the failure of the scheme itself. The size and diversity of Nigeria coupled with the intense regional loyalty and rivalry of the people rendered the 1951 Constitution unworkable.³⁴⁴

The change in the constitutional arrangement culminated in the replacement of the Macpherson Constitution with the Littleton Constitution- named after Sir Oliver Littleton, who was then the British Colonial Secretary responsible for the colonies. The revised Constitution provided the regions greater autonomy to make laws for themselves on residual matters not specifically included in the exclusive legislative list. The regions were also granted the powers to legislate again for themselves on matters contained in the concurrent legislative lists which it shared with the federal government. It was however made explicit that in the event of conflict, the Federal Legislature was to be considered superior.³⁴⁵

³⁴³ Phillips Adedotun, ‘Nigeria’s Federal Financial Experience’, *Journal of Modern African Studies*, 9 (3), (1971), 395.

³⁴⁴ Citation comes from Chiichii Ashwe, *Fiscal Federalism in Nigeria*, 30.

³⁴⁵ See R.C. Nwokedi, *Revenue Allocation and Resource Control in Nigerian Federation*, 22. In the 1999 (Amended) Constitution of the Federal Republic of Nigeria, functions of the three tiers of government are categorised into three legislative lists: The Exclusive list of functions which only the federal government can legislate on; the Concurrent list of functions which both the federal and state governments can legislate on; and the Residual list in which all the functions not listed in the Exclusive and Legislative lists are reserved for the local governments. However, the Constitution stipulates that in the event of conflict between the federal and the two other tiers of government in the discharge of concurrent and/or residual lists, the federal function would supersede. See Federal Republic of Nigeria, *Constitution of the Federal Republic of Nigeria (Amended)* (Abuja: National Assembly Press, 2011), Second Schedules,

The move towards federalism had become imperative with the developments in 1953. That was when Anthony Enahoro, a Southerner, moved a motion on the floor of the House of Representatives calling for the independence of Nigeria by 1956. The Northern members of the House opposed the motion. For instance, Sir Ahmadu Bello, the Sarkin Daura of Sokoto explained the position of the North in the floor of the House as follows:

The North does not intend to accept the invitation to commit suicide ... as representatives of the people, we from the North feel that in all major issues such as this one, we are duty bound to consult those we represent ... if the Honourable members from the West and the East speak to this motion un-amended, for their people I must say here and now, Sir, that we from the North have been given no such mandate by our people ... we were late in assimilating western education yet within a short time we will catch up with the other regions, and share their lot ... we want to be realistic and consolidate our gains. It is our resolute intention to build our development on sound and lasting foundations so that they would be lasting.³⁴⁶

At the time the above changes were being proposed to the Macpherson Constitution, it was realised that the changes would also impact on revenue allocation in the Nigerian Colony. There was, therefore, the additional need of reviewing the financial relationships between the regions and the federal government and amongst themselves. This led to the appointment of Sir Louis Chick Commission of Inquiry. The Commission's terms of reference, which stressed the importance of derivation as the basis for revenue sharing, reflected the colonial Government's thinking of moving towards federalism at the time. The Commission was specifically mandated to

Enquire how the revenues available, or to be made available, to the regions and to the centre can best be collected and distributed, having regard on the one hand to the need to provide to the regions and to the centre an adequate measure of fiscal autonomy within their own sphere government and, on the other hand, to the importance of ensuring that the total revenues available to Nigeria are allocated in such a way that the principle of derivation is followed to the fullest degree compatible with meeting the reasonable needs of the centre and each of the regions.³⁴⁷

From the above terms of reference, it is clear that the colonial authorities chose not to give the Chick Commission much room for manoeuvre. Given the cultural differences especially between the North and the other regions, it believed that there was need for the establishment of true federalism that would give each region room to develop at its

Parts 1 and II. See also Figure 3 showing the distribution of jurisdictional powers between the federal, states and local governments as enshrined in the 1999 (Amended) Constitution.

³⁴⁶ Partly because of such views and differences, the Eastern and Western regions achieved self-rule in 1956 while the Northern regions got its own in 1959. Citation comes from Isaac O. Albert, 'Federalism, Inter-ethnic Conflicts and the Northernisation Policy of the 1950s and 1960s', in Kunle Amuwo; Adigun Agbaje; Rotimi T. Suberu and George Herault, (eds.); *Federalism and Political Restructuring in Nigeria*, 54.

³⁴⁷ Government of Nigeria, *Chick Report* (Lagos: Government Printer, 1953), 1.

own pace. Granting the regions greater fiscal autonomy was therefore necessary if the above goals were to be achieved.

In compliance to the terms of reference of the Commission, it was therefore not surprising that the Chick Commission recommended that less emphasis need to be placed on *need* and *national interest* as determinants of revenue allocation in the colony. The report also showed strong preference for fiscal autonomy and materially increased the weight allocated to derivation as a basis for revenue sharing. For the sake of detail, the Chick Commission report recommended as follows:

- (a) The federal government should keep 50% of the general import duty while 50% should go to the regions on derivation basis.
- (b) The federal government should keep 50% of the import and excise duty on tobacco, the rest going to the regions based on derivation.
- (c) 100% of the import duty on motor vehicle and spirit should go to the regions.
- (d) 100% of the mining rent and royalty should go to the regions.
- (e) Both levels should share the export duty on hides and skins on a 50-50% basis.

In addition to above recommendations, the Chick Commission report also enjoined the federal government to maintain a discretionary power to make grants to regions in need in serious difficulties.³⁴⁸ However, the Chick Commission revenue allocation formula was fundamentally altered in 1958 when a new Revenue Allocation Commission was set up. This also coincided with the discovery of oil in the then Eastern region of the country.

The discovery of oil in some parts of Eastern Nigeria and the potential it had for growth altered the thinking about the place of minerals in the revenue allocation formula. As already mentioned, up till then, royalties from minerals fully belonged to the region of origin. In 1958, however, the discovery of oil in Nigeria coincided with the need to review the existing revenue allocation schemes, which were fallout of the 1957/58 Constitutional Conference and the imminence of political independence. The Colonial government subsequently appointed Sir Jeremy Raisman and Professor Ronald Tress to review the federal fiscal structure. Among others, the Committee was mandated to ‘examine the present division of powers to levy taxation in the federation of Nigeria and the present system of allocation of the revenue thereby derived in the light of:

- (i) Experience of the system to date.

³⁴⁸ For details see *Chick Report*, 25-27; See also, Eme O. Awa, *Issues in Federalism* (Benin: Ethiope Publishing, 1976), 70.

- (ii) (ii) the allocation of functions between the governments in the federation
- (iii) (iii) the desirability of ensuring that the maximum possible proportion of the income of the regional governments should be within the exclusive power of those governments to levy and collect, taking into account, considerations of national and inter-regional policy.
- (iv) (v) insofar as the independent revenues that can be secured for the various governments are insufficient to provide not only for their immediate needs but also for a reasonable degree of expansion, and bearing in mind the federal government's own further needs, the desirability of allocating further federal revenue in accordance with such arrangements as will best serve the overall interests of the federation as a whole.³⁴⁹

After a concerted deliberation, the Jeremy Raisman Committee among others recommended that the regions should have authority over produce sales tax and sales tax on motor vehicle fuel. It also recommended the establishment of a Distributable Pools Account (DPA) for the purposes of sharing federally collectible revenues.

Perhaps the most significant proposal of the Jeremy Raisman Commission was the recommendation that the then practice of returning mining rents and royalties to the regions should be discontinued. Such revenues were now to be shared through the DPA with the region of origins getting 50% for the federal government, 20% and 30% for the remaining regions. Although oil was a new discovery in the colony, and the revenue from it at the time (1958/59) was estimated to be only £65,000, it had great prospects.

According to the Jeremy Raisman report:

The allocation of the proceeds of mining royalties has presented us with a most perplexing problem. Although the revenues from columbite royalties rose rapidly at the time of the American stockpiling in 1953-55, royalties on tin, columbite and coal, normally yield a fairly constant annual sum. If these were the only minerals concerned, there might be no difficulty in our recommending the continuation of the present system ... the problem is oil. Test production of oil has already started in the Eastern region and exploration is being undertaken in both the North and the West. While the yield from oil royalties is at present comparatively small ... we cannot ignore the possibility that the figure may rise very markedly within the next few years ... there is therefore a double obstacle in our recommending the simple continuation of the existing method of allocating mineral royalties. First, it would involve us, in our revenue assessment for the next few years, in crediting the Eastern region with a source of income which is at once too uncertain to build upon, and too sizeable to ignore. Secondly, it would rob our recommendations of any confident claim to stability for the future since oil development might take place in any one of the regions on a scale, which would quite upset the balance of national development, which is part of our task to promote ... our considered conclusion therefore is that the time

³⁴⁹ See Government of Nigeria, *Raisman Report* (Lagos: Government Printer, 1958), 1.

for change is now, while there is still uncertainty as to which of the regions may be the lucky beneficiary or which may benefit the most.³⁵⁰

On this basis, the Raisman report significantly reduced the use of derivation as a principle for sharing the DPA. In its place, it introduced four variables: continuity, minimum responsibility, population and balanced development of the federation.³⁵¹

As mentioned above, oil was not the first natural resource to be exploited in the country. Prior to its discovery, tin and bauxite were being exploited in the Northern region solely for the benefit of the North.³⁵² The Western region could not be bothered because it was the wealthiest of the three regions, thanks to the cocoa boom. But according to Chief Obafemi Awolowo, a one-time Premier of the Western region: 'It is dishonest to the extreme for a relatively poorer state to expect to have a share from the revenue derived from a relatively richer state'.³⁵³ The Eastern region had very little natural or agricultural resources. Although it was unhappy with the concept of derivation, it was forced to develop other sources of income in its bid to survive. In 1956, for instance, the then Finance Minister of the Eastern region, Dr. S.E Imoke, proposed a Finance Bill to the regional House of Assembly. One of the propositions of the bill was to replace the old income tax with a regional income tax based on the Pay as You Earn (PAYE) system. Essentially, the old tax system at the time was a direct tax based on a flat rate, and collected by the local authorities. On the direct tax, the regional government then charged only a small capitation levy.

Despite its revenue from tin and bauxite, the Northern region also was still concerned with the generation of additional revenues to help it meet its minimum needs. In 1954, for instance, the regional Executive Council at the recommendation of the Financial Secretary approved a series of measures in order to help boost the finances of the Northern region: it increased the toll of trade in cattle moving both by foot and rail, introduced a tax on kola nut, increased the rates for the licensing of cars and lorries, imposed a bicycle licensing, doubled licensing fees for arms, and the re-introduced the produce sales tax.³⁵⁴

From the above, it is clear that at the time when the derivation principle ruled the distribution of revenue in Nigeria, the less endowed regions tended to be more

³⁵⁰ For further details, see *Raisman Report*, 24.

³⁵¹ See *Raisman Report*, 31-32.

³⁵² R.C. Nwokedi, *Revenue Allocation and Resource Control in Nigerian Federation*, 56.

³⁵³ Citation comes from O. Obinna, *Public Finance* (Obosi: Pacific College Press, 1985), 113.

³⁵⁴ Augustus Adebayo, *Embattled Federalism: History of Revenue Allocation in Nigeria, 1946-1990*, 86-87.

innovative in their bid to improve their finances. Essentially, each of these regions tried to take advantage of its own endowments and peculiar circumstances in their quest to generate additional revenues. However, all these changed with the discovery of oil in the Eastern region. The de-emphasis of derivation as a basis for sharing revenue and the adoption of factors like even development led the Raisman Commission to recommend the unification of some aspects of the Nigerian tax system.³⁵⁵ The implication of this was that, the flexibility of regions with respect to adapting to their unique circumstances for generating revenues was greatly reduced. This marked a fundamental shift of focus from revenue generation to revenue allocation. As will be seen later, most regions subsequently used various overt and covert ways in their attempt to increase the revenues derived from the DPA.

In 1964, in accordance with Section 164 of the new Republican Constitution of 1963, the federal government appointed Mr. K.J. Binns as Fiscal Commissioner with the mandate to review the appropriateness of: the existing formula for the allocation of the proceeds of mining rents and royalties; the proportion of the proceeds of duties payable in respect of import into Nigeria of any commodity other than motor vehicle, spirit, diesel oil, tobacco, wine, portable spirits or beer payable to the DPA; and the existing formula for the distribution of funds in the DPA.³⁵⁶ The Binns Commission overall did not recommend any fundamental changes in the existing revenue sharing formula of the country. One of the main recommendations of the report was that, when excise duty is imposed on locally produced motor vehicle, spirit and diesel oil, the federation shall pay to the regions, proceeds of the duty based on the consumption in the each individual region.³⁵⁷

The Binns Commission report formed the basis of the revenue allocation practice in Nigeria until the military Coup of January 1966 brought General Aguiyi Ironsi to power. Perhaps because of the command structure of the military, the new government quickly moved to consolidate its hold on the entire country. In May 1966, via Decree Number 34, the new ruler abolished the federal structure of government and the regions thereby converting Nigeria into a unitary state. This, however, proved to be a costly mistake for General Aguiyi Ironsi as his government was not only overthrown, but he was in the process killed in July, 1966. The new Leader, Lieutenant Colonel

³⁵⁵ See *Raisman Report*, 21-22.

³⁵⁶ Federal Republic of Nigeria, *Binns Commission Report* (Lagos: Government Printer, 1964), 5.

³⁵⁷ For further details see *Binns Commission Report*, 35-37.

(later General) Yakubu Gowon immediately restored the regions back and abolished the unitary system.³⁵⁸

Political tensions arising from the coup and counter coup in 1966 encouraged Lieutenant Colonel Odumegwu Ojukwu, the Governor of the Eastern region, which was custodian to majority of Nigerian oil wells to threaten secession.³⁵⁹ Partly because of the revenue implications of such secession for the entire federation, the federal government was unwilling to allow it. As tension escalated, the federal government moved to reduce the powers of the regions by creating twelve states out of the existing four regions.³⁶⁰ Of these 12 newly created states, the Eastern region was strategically divided into three states. Essentially, the government skilfully carved out two states- Rivers State and South Eastern State from the main oil producing areas, which incidentally belonged to the minority tribes in the former Eastern region. The third state, dominated by the Igbos, instantly became an impoverished and landlocked state. It was therefore not surprising that it was on the same day that Gowon created the 12 states that Lieutenant Colonel Odumegwu Ojukwu proclaimed the entire Eastern region as an independent Republic of Biafra.³⁶¹ The declaration of Biafra as a republic culminated in the 30 month Nigeria-Biafra civil war between 1967 and 1970.

With the creation of 12 new states in the embattled Nigerian federation, a revision of the revenue sharing arrangement became imminent. The federal government subsequently promulgated the Constitution (Financial Provisions) Decree Number 15 of 1967. Essentially, this Decree divided the revenue share of the Northern region from the DPA equally amongst the six states created from it. Similarly, the revenue of the Eastern and the Western regions were shared among their emerging states on the basis

³⁵⁸ William Ehwarieme, 'The Military, Oil and Development: The Political Economy of Fiscal Federalism in Nigeria', in *Fiscal Federalism and Nigeria's Economic Development, Proceedings of the Nigerian Economic Society*, Ibadan, 1999, 57.

³⁵⁹ After the Nigeria-Biafra civil war, Odumegwu Ojukwu fled to Republic Du Cote D'ivoire and was granted asylum. He was pardoned by the government of Alhaji Aliyu Shehu Shagari, and returned to Nigeria in 1982. He Joined partisan politics and became a member of the NPN in the second Republic. In the Fourth Republic, he formed All Progressives Grand Alliance (APGA). A party that is very dominant among the Igbos of Eastern Nigeria. Odumegwu Ojukwu died in a London Hospital in February, 2012, and was buried at Nnewi on 2 March, 2012.

³⁶⁰ Before the first state creation in Nigeria, Midwestern region was carved out of the Western region in 1963. See Appendix B for the map showing Nigerian administrative borders.

³⁶¹ Chibuike U. Uche, 'Money Matters in a War Economy: The Biafran Experience', *Nationalism and Ethnic Politics*, 8 (1), (2002), 33.

of their population.³⁶² The above arrangement thus marked the origin of the introduction of the population principle into the revenue sharing formula of Nigeria.³⁶³

Criticisms of the modified Binns revenue allocation formula led to the appointment of another Revenue Allocation Committee headed by Chief I.O. Dina in 1968. In the course of their deliberation, the Dina Committee identified some of the criticisms levelled against the Decree 15 of 1967 to include among others the following: (i) that it contained arbitrary provisions being the result of hurried decisions taken in the exigency of creating additional states under conditions of a national emergency; (ii) that it dealt only with the Distributable Pool Account and therefore failed: (a) to take cognisance of the additional administrative costs involved in the creation of states, (b) to realise that the *status quo* can no longer be assumed in deciding the revenue allocation arrangement, (c) to take account of the basic elements which formed the basis of the original allocation of revenue between the constituent units of the federation.

Essentially, the Dina Committee was asked to examine and suggest changes to the existing system of revenue allocation in the country. Its mandate extended to all forms of revenue going to each level of government besides and including the DPA. The Committee was also mandated to suggesting new sources of revenue for both for the federal and state governments.³⁶⁴ The Dina Committee which based its recommendations on the need to maintain national unity also expanded the role and revenue base of the federal government to the detriment of the state governments. According to the Dina report:

The existence of a multiplicity of taxing and spending authorities with regard to the same revenue source or expenditure function not only generates major administrative problems, but also reduces the effectiveness of any fiscal coordination effort ... the logic of planning renders invalid the dichotomy between public finance and development finance, and demands that revenue allocation be seen as an integral part of the later. Once it is accepted that the overwhelming social urge is for accelerated economic development as a major prerequisite for expansion of welfare services, then the point must be sustained that financial relations become only meaningful in the context of integrated development planning.³⁶⁵

³⁶² See Federal Republic of Nigeria, Section 1 of Decree number 15 of 1967. See also, Osa Osemwota, 'Four Decades of Revenue Allocation in Nigeria', *The Quarterly Journal of Administration*, 1 (2), (1984), 12.

³⁶³ For more discussion of the population principle, see Chiichii Ashwe, *Fiscal Federalism in Nigeria*, 33. See also, M.O Nyong, 'Fiscal Federalism, Revenue Allocation Formula and Economic Development in Nigeria', *Nigerian Financial Review*, 7 (3), (1998), 35-36.

³⁶⁴ *Ibid.*, *Dina Committee Report*, 1.

³⁶⁵ *Dina Committee Report*, 29. The Report further stated: 'We believe that the fiscal arrangements in this country should reflect the new spirit of unity to which the nation is dedicated. No more evidence of this is necessary than the present war to preserve this unity at the cost of human lives, material resources and the radical change in this country's structure. It is in the spirit of this new-found unity that we have viewed all the sources of revenue of this country as the common funds of the country to be used for executing the kind of programmes which can maintain this unity' See *Ibid.*, *Dina Committee Report*, 27.

It was on this basis that the above background that the Dina Committee recommended, among others, that the DPA should be renamed States Joint Account (SJA) and the creation of the Special Grants Account (SGA). The Planning and Fiscal Commission with the responsibility of administering the funds and direct them to the regions was established. And Allocation of funds from this account should be based on the following principles: tax effort, balanced development and national interest.

The Dina Committee report for the first time also introduced the on-shore/off-shore dichotomy in the sharing of oil revenue in Nigeria. All revenues gained from off-shore operations should be shared along the following percentages: Federal government, 60%, SJA, 30%, and SGA, 10%. Royalties from on-shore operations was to be assigned on the following basis: Federal government, 15% State of Derivation, 10%, States Joint Account, 70%, and SGA, 5%. Revenue from Excise Duty was to be allocated on the following basis: Federal government, 60% , SJA, 30%, and SGA, 10%, while that from Import Duty was to be shared on the following basis: Federal government, 50% and SJA, 50%. Finally, revenue from Export Duty was to be shared as follows: Federal government, 15%, State of Derivation, 10%, SJA, 70%, and SGA, 5%.³⁶⁶

In line with the increase of its revenues, the federal government was also inundated with additional responsibilities. It had to be responsible for the financing of higher education, prisons, public safety and scientific and industrial research. The Dina Committee, like the Raisman Commission also recommended the introduction of uniform tax legislation for the entire country.³⁶⁷

While the report favoured the federal government, it was vehemently opposed by most of the states. In fact, the report was in April 1969 rejected by the meeting of Commissioners of finance of the federation. This was possible because of the peculiar circumstances of the time. It has for instance been argued that:

In 1969 the Commissioners of finance at the federation were mostly seasoned politicians led at the federal level by Chief Obafemi Awolowo, who chaired the meeting at which the report was rejected in April 1969. In the early years of Gowon rule, the regime needed the politicians more than the politicians needed the regime. This was true of the period of civil war when it was most difficult to release army officers to hold political offices. In other words, in 1969, unlike in the years after the civil war when civil Commissioners were relegated to the corridors of power by super permanent secretaries, the politicians played a critical role in government decision making. It should be added here that some of these civil Commissioners expected a return to civil rule soon after the civil war and because of the opportunity of staying in the limelight during the period they expected to be in a stronger

³⁶⁶ See *Ibid.*, *Dina Committee Report*, 103-107.

³⁶⁷ See *Dina Committee Report*, 103-107.

position to determine the nature and pattern of revenue allocation through a Commission chosen by them.³⁶⁸

Despite the rejection, the federal government later implemented most of the recommendations of the Dina Committee report. This was done with the promulgation of Decree Number 9 of 1971. Essentially, this decree transferred rents and royalties of off-shore petroleum mines from the states to the federal government. The oil producing states were most unhappy about this development. According to one of them:

This state government is unable to appreciate the rationale behind this distinction drawn between oil mined from its mainland and the oil extracted from the adjoining continental shelf which is an integral part of the total economic resources which the people of this state have tapped from ancient times to sustain themselves.³⁶⁹

The argument of the state in question is that, before the arrival of oil industry which imposed some restrictions on fishery in the Niger delta area, the continental shelf of the state offered ideal fishing grounds for the local inhabitants. However, to the consternation of many, the Decree 9 was passed and this annulled section 141 (b) of the 1963 Constitution which provided that the continental shelf of deemed to be part of that region. The implication of Decree 9 of 1971 thus means that a region can be a littoral state, but could no longer derive any benefit from the oil extracted from the continental shelf. The above development in essence was tantamount to adopting the recommendations of the Dina report which was rejected in 1969 through the back door. For instance, according to the official biography of the then Head of State, General Yakubu Gowon,

The Dina Committee report was rejected by the states essentially because of its political assumptions ... Gowon did not raise dust over the issue, but quietly implemented most aspects of this report through the back door.³⁷⁰

In 1975, the government promulgated the Constitution (Financial Provisions) Decree Number 6. This Financial Provisions decreed that all revenues shared by the states, with the exception of the 20% of on-shore mining rents and royalties belonging to the states of origin, based on the derivation principle, should pass through the DPA. In other words, 80% of mining rents and royalties, 35% of import duties, 100% of duties on motor vehicle, spirits, tobacco and hides and skin and 50% of excise duties, all now had to pass through the DPA. The Decree further stipulated that the DPA be divided among

³⁶⁸ Oyeleye Oyediran and Olatunji Olagunju, 'The Military and Politics of Revenue Allocation', 200.

³⁶⁹ Citation comes from *Pius Okigbo Commission Report*, Vol. III., 117-118.

³⁷⁰ See Jonas I. Elaigwu, *Gowon* (Ibadan: West Book Publishers Ltd, 1986), 177.

the states on the following basis: 50% based on equality of states and the remaining 50% based on population.³⁷¹

Shortly after the promulgation of Decree 6 of 1975, General Yakubu Gowon was overthrown and replaced by Brigadier- later General Murtala Mohammed. The new Military government via Decree Number 12 of 1976 increased the number of states in the country from 12 to 19.³⁷² Although the revenue sharing scheme was not immediately affected, this development further weakened the powers of the states relative to the federal government. Some of the states became increasingly dependent on grants from the federal government for such basic needs as administration.³⁷³

The military regime of late General Murtala Mohammed also made explicit its intention to hand over power to civilians. The regime subsequently appointed a Constitution Drafting Committee (CDC) to prepare a draft constitution that would aid the transition. A Technical Committee on Revenue Allocation was also appointed under the chairmanship of Professor Abovade. Its propositions were to be submitted to the CDC and if adopted made part of the new Constitution. In summary, the Abovade Committee recommended that all federally collectible revenues without distinction should be paid into the Federation Account. It also for the first time took into account, local governments in the vertical distribution of the Federation Account. The Committee for instance recommended that, the proceeds of the Federation Account should be shared between the federal, state and local governments in the following proportions: 60%, 30% and 10% respectively. From its own share, the federal government was required to set aside 3% for the benefit of mineral producing areas and areas in need of rehabilitation from emergencies and disasters.³⁷⁴ On the horizontal allocation of revenue amongst the states, the Abovade Committee revoked the existing principles of revenue sharing arguing that

Population has been characterised by illogicality, inconsistency and inequity; derivation had done much to poison intergovernmental relations and hamper a sense of national unity; need had little if any operational relevance; even development was analytically ambiguous ... (*and was*) not technically feasible to measure in any meaningful way; equality of status of states was a consolation price to states not favoured by the population and derivation principles; geographical peculiarities defied any concise definition ... (*and*

³⁷¹ See Federal Republic of Nigeria, *Financial Provisions Decree No. 6* (Lagos: Government Printer, 1975), Sections 1-6.

³⁷² See Figure 1 showing the chronology of Major State Building/Constitutional Events and Ethno-Political/Religious Violence.

³⁷³ Chiichii Ashwe, *Fiscal Federalism in Nigeria*, 34.

³⁷⁴ See *Pius Okigbo Committee Report*, Vol. I., 21.

had) little or no merit; national interest was capable of many interpretations (*and*) circumstances.³⁷⁵

On the basis of the above arguments, the Aboyade committee then recommended the adoption of the following five new principles. These were: Equality of Access to Development Opportunities, National Minimum Standards for National Integration, Absorptive Capacity, Independent Revenue and Tax Effort and Fiscal Efficiency.³⁷⁶ The Aboyade report was however extensively criticised. The economic background of its prescriptions was especially attacked. For instance, Sylvester Ugoh, a member of the Constituent Assembly questioned the wisdom behind the Committee report's reliance on the data based on the 1975-1980 National Development Plan. According to him, some sections of the report were based on the

Implicit assumption that the 1975-80 Plan would be fully or largely implemented. As such, the projects which are represented by these allocations would be realised. In such a situation, what the measure would show would be the socio-economic gaps that will arise from the full implementation of the Plan. But the fact is that our National Plans, and especially that of 1975-80, are usually expressions of pious hopes and wide expectations. In fact, the 1975-80 Plan has proved to be mostly a national dream. And if that is the situation, how can we use such dream- like allocations, which are unrealistic and unrealisable to measure socio-economic gaps in our development.³⁷⁷

Similarly, another member of the Constituent Assembly, Dr. Pius Okigbo, also heavily criticised the vertical distribution of revenue amongst the various tiers of government arguing that the Aboyade report unduly favoured the federal government. In a statement, Okigbo said:

I think that the shares of the joint account going to the federation can be reduced to much less than 60%, without emasculating the federal government. I would have been quite happy with a share of 45% for the federation and 55% for the states combined with 10% being reserved for the local government out of the 55%.³⁷⁸

Based on this kind of criticisms, the Constituent Assembly rejected the Aboyade report. In 1979, the newly elected government of Alhaji Aliyu Usman Shehu Shagari appointed a new Committee headed by Dr. Pius Okigbo to review the 'formula for revenue

³⁷⁵ Citation comes from O. C. Adesina, 'Revenue Allocation Commissions and the Contradictions of Nigeria's Federalism', in Kunle Amuwo; Adigun Agbaje; Rotimi T. Suberu & George Herault, (eds.); *Federalism and Political Restructuring in Nigeria*, 234. The emphases in italics are mine

³⁷⁶ For a critique of the five principles of revenue distribution recommended by the Aboyade Committee, see A.Y. Aliyu, 'The New Revenue Allocation Formula: A Critique', *Nigerian Journal of Public Affairs*, Vol. VII. (1977). See also, Isa Edime, 'Aboyade Committee Reports New Principles: Nigerians React', *Daily Times*, 24 June, 1978, 20.

³⁷⁷ See Isa Edime, 'Aboyade's Revenue Allocation Faulted', *Daily Times Newspaper*, 23 June, 1978.

³⁷⁸ Citation comes from Audu Zakari, 'Aboyade unduly favoured the Federal Government- Says Okigbo', *New Nigerian Newspaper*, 6 June, 1978, 9.

allocation having regard to such factors as the national interest, derivation, population, even development, equitable distribution and the equality of states.³⁷⁹

On the sharing of revenue among the various tiers of government- vertical allocation, the Okigbo Committee recommended the following formula: Federal government (53%) state governments (30%), local governments (10%). 7% was to be set aside as special funds for the following purposes: development of the Federal Capital Territory, 2.5%; special problems of mineral producing areas, 2%; ecological problems, 1%; and Revenue equalisation Fund, 1.5%.³⁸⁰ For the horizontal allocation of revenue among the states, the Okigbo Committee report adopted four criteria. These were: minimum responsibilities of government (40%), population (40%), Social development factor/primary school enrolment (15%) and internal revenue effort (5%).³⁸¹

The government white paper adopted the Okigbo recommendations only with slight modifications. For instance, on the vertical distribution of revenue amongst the various tiers of government, the federal government modified the Okigbo recommendations as follows: Federal government, 55%; state government, 30%; local government, 8%; and Special funds, 7%.³⁸² As a consequence, this culminated in the promulgation of the Revenue Allocation Act Number 1 of 1981.

In summary, the 1981 Revenue Allocation Act provided that the Federation Account shall be shared amongst the various tiers of government as follows: Federal government, 58.5%; state governments, 31.5%; local governments, 10%. 26.5% of the state allocation shall be allocated to all states, while the remaining 5% shall be allocated on the basis of derivation. Two- fifths of the 5% of this derivation fund shall be paid out to the states in direct proportion to the value of minerals extracted from their areas while the remaining three- fifths shall be paid into a special fund to be administered by the federal government for the development of the mineral producing areas. The 26.5% outstanding to the credit of all states shall be distributed amongst them using the following criteria: equality of states (50%), population (40%) and land area (10%). Finally, the 58.5% allocated to the federal government shall be subdivided as follows:

³⁷⁹ See *Okigbo Report*, Vol. I., 5.

³⁸⁰ See *Okigbo Report*, Vol. I., 86.

³⁸¹ *Ibid.*, *Okigbo Report*, Vol. I., 101.

³⁸² See Federal Republic of Nigeria, *Government Views on Okigbo Report*, 13.

responsibilities and duties of the federal government (55%), development of the Federal Capital Territory (2.5%) and ecological problems (1%).³⁸³

The Financial Provision Act of 1981 was however widely criticised mainly on the grounds that it allocated too much revenue to the federal government to the detriment of the states and local governments. The result was that the federal government could afford to waste valuable resources in the financing of unprofitable white elephant projects, while the states and local governments were starved of funds. According to the Editorial of the Daily Sketch:

To expect an allocation which gives the federal government 55% and the 19 states only 30% to achieve the contrary will be like living in a world of fantasy. There is sufficient evidence to prove that the ugly phenomenon of growth without development arises from the spending of too much money on a few growth industries to the neglect of people-development oriented projects. ... Yet do we have to build giant industries and make our people sub-human? Tens of millions of our people are wallowing in abject poverty. States and local governments whose pre-eminent job is to see to their welfare are helpless. They are starved of funds while the federal government soaked in Billions of Naira, fritter away much needed money on fruitless and worthless grandiose projects. How human is it to give Abuja 2.5% while even the most populous state cannot get 2%? The average is less than 1.6% for millions of people.³⁸⁴

The Financial Provision Act of 1981 was however technically declared *null and void* by the Supreme Court of Nigeria. It was subsequently replaced with the Allocation of Revenue (Federation Account) Act Number 1 of 1982.

Essentially, the Federation Act No.1 of 1982 increased the share of the states in the vertical revenue allocation from 31.5 to 35%. The FCT was, however, now classified as a state. Furthermore, the funding for the 1% ecological funds was also transferred from the federal government to the states. Finally, the fund for the development of mineral producing areas was reduced from 3% to 1.5%.³⁸⁵ The net effect of this was that the federal government's share of the Federation Account remained unaltered. On the horizontal sharing of revenue amongst the states, the Financial Allocation Act adopted the following criteria: minimum responsibility of government, 40%; population, 40%; social development factor, 15%; and internal revenue effort, 5%.³⁸⁶

³⁸³ See Federal Republic of Nigeria, *Allocation of Revenue (Federation Accounts) Act No. 1* (Lagos: Government Printer, 1981), Sections 1-4.

³⁸⁴ Citation comes from 'Pay Rise for the Federal Government', in the Editorial of the *Daily Sketch Newspaper*, 11 November, 1980, 2. For a similar criticism, see also M. Rimi, *Address to the House of Representative on Revenue Allocation*, Friday, November, 1980, 2.

³⁸⁵ See Federal Republic of Nigeria, *Allocation of Revenue (Federation Accounts) Act No. 1*, Sections 1-3.

³⁸⁶ Federal Republic of Nigeria, *Allocation of Revenue (Federation Accounts) Act No. 1*, Section 2.

Shortly after the promulgation of the Federation Allocation Act, the military in December 1983, overthrew the government of Alhaji Aliyu Shehu Usman Shagari and Major General Muhammadu Buhari became the new Head of State.³⁸⁷ The military government of Major General Muhammadu Buhari subsequently promulgated the Allocation of Revenue (Federation Account) Amendment Decree No. 36 of 1984. The Federation Account Amendment Decree No. 36 of 1984 in the main only altered the existing formula for revenue allocation marginally. It reserved 55% of the Federation Account exclusively for the federal government and maintained the local governments' share at 10%. The 1% and 1.5% for the development of mineral producing areas were also retained. The share of the state governments' in the Federation Account was 32.5%. Out of this, 2% was to be paid directly to the mineral producing states in direct proportion to the value of minerals extracted from such states. Finally, the Federation Account Amendment Decree No. 36 of 1984 retained the Shagari regime (Federation Allocation Act) basis for the horizontal sharing of revenue amongst the states.³⁸⁸

In 1989, the military government then headed by General Ibrahim Babangida, appointed a permanent revenue allocation committee which officially is known as the National Revenue Mobilisation and Fiscal Commission (NRMAFC). The Committee prescribed the following formula for the horizontal allocation of revenue amongst the states: equality of states, 40%; population, 30%; internal revenue effort, 20%; and, social development factor, 10%.³⁸⁹ The Committee (NRMAFC) had also the power to determine the vertical allocation formula on the National Assembly. The second part of the Committee's recommendations was later adopted and inculcated in the 1989 Constitution.³⁹⁰

Although some partial democracy took place at the time, it did not last as full military government was restored in 1994 under the leadership of General Sani Abacha. The new government of General Sani Abacha immediately set up a National Constitutional Conference (NCC). As expected, the issue of revenue allocation was one of the contentious issues. It has for instance been asserted that:

In 1994, the mineral producing states at the so called Constitutional Conference, convened by the federal military government requested that the allocation of revenues derived from

³⁸⁷ The new military government alleged widespread corruption in the Shagari civilian administration as the main reason for the coup.

³⁸⁸ Federal Republic of Nigeria, *Allocation of Revenue (Federation Account) Amendment Decree* (Lagos: Government Printer, 1984), Sections 1-6.

³⁸⁹ See Michael O. Nyong, 'Fiscal Federalism, Revenue Allocation Formula and Economic Development in Nigeria', 42.

³⁹⁰ See Federal Republic of Nigeria, *Constitution of the Federal Republic of Nigeria*, Section 160 (3).

their areas be restored to what it was in 1957, namely, 65% thereof. Despite numerous discussions at several committee meetings and at plenary sessions, no agreement was reached. Eventually, it transpired that the powers that be had agreed to allocate 13% of the revenues derived from mineral producing areas to the affected state governments. But this was not to be until the proposed new constitution was promulgated in May 1999.³⁹¹

At this point in time, the concern of the mineral producing states leading to tabling their grievances at the Constitutional Conference was predicated on the provision of the 1999 Constitution which explicitly stated that:

The President, upon the receipt of advice from the National Revenue Mobilisation Allocation and Fiscal Commission, shall table before the National Assembly proposals for Revenue Allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account, allocation principles especially those of Population, Equality of states, Internal Revenue Generation, Land Mass, Terrain as well as Population Density: provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than 13% of the revenue accruing to the Federation Account directly from any natural resources, so however, that the figure of the allocation from derivation shall be deemed to include any amount that must be set aside for funding any special authority or agency for the development of the state or states of derivation.³⁹²

Despite the above cited constitutional provision, the elected civilian government of Chief Olusegun Obasanjo refused to implement the provision. Instead, the federal government appointed a Committee to review the 1999 Constitution. On the issue of revenue allocation, the Review Committee recommended that the derivation formula be increased substantially beyond the 13% minimum recommended in the 1999 Constitution.³⁹³ The federal government this time again refused to accept the recommendation. Rather, the federal government asked the Supreme Court to declare that the derivation principle does not apply to off-shore oil. The Supreme Court in a landmark judgement in April, 2002 agreed with the position of the federal government.³⁹⁴

The uproar, especially from some of the affected oil producing states, and the imminence of the April, 2003 general elections, however, made the federal government to cede some grounds to the states on the issue. To this end, in an exclusive report, *This Day News* revealed the details of the new agreement between President Olusegun

³⁹¹ Ola Vincent, 'Fiscal Federalism: The Nigerian Experience', *Proceedings of the Fourth Public Lecture of the Nigerian Economic Society*, Abuja, 11 December, 2001, 18.

³⁹² See Federal Republic of Nigeria, *Constitution of the Federal Republic of Nigeria* (Lagos: Federal Government Press, 1999), Section 163 (2). This same provision is now in Section 162 (2) of the 1999 (Amended) Constitution.

³⁹³ See Report of the Presidential Committee for the Review of the 1999 Constitution (PCRC), Vol. I., February, 2001, 2

³⁹⁴ See Figure 4 for the highlights of the Supreme Court Ruling on the On-shore/Off-shore revenue distribution (Suit No. SC 28/2001).

Obasanjo and the Governors of the littoral states over the controversial on-shore/off-shore dichotomy. The report indicates that the federal government may have agreed to grant the states a concession of 200 meter water depth Isobaths into the high sea. Also, part of the agreement reveals that the 200 meters will operate from coast to coast while the major oil companies like Shell, Elf, Mobil and Agip among others will be allowed to concentrate on what is termed Ultra Deep Exploration. A Presidency source has told *Thisday News* that the affected littoral states could only derive revenue from the 'coast up to 200 meter depth Isobaths into the high sea, while the demarcation into ultra-deep exploration will be left for the federal government for the purposes of calculating the federal revenue'.³⁹⁵

The legitimacy of the concessions granted through administrative fiat by the then President Olusegun Obasanjo, however, remains in doubt. This is especially so given the fact that the Supreme Court has already interpreted the constitutional provisions on the matter. It could therefore be argued that only a constitutional amendment can produce a change to the existing position.

What can be inferred from the above analysis is that, even though Nigeria is over 50 years in statehood, the country's fiscal federalism has been far from satisfactory, and as such has generated large scale by ethno-political tensions. The revenue allocation debate and perhaps associated tensions would likely continue unless a consensus system is enthroned.

Overall, what readily comes to mind based on the preceding discussions of the trends and development of revenue allocation system in the country is that there was lack of group based representatives meeting to negotiate and make mutual concessions in order to reach a common ground. Rather, the trend in both the pre and post-independence era, for instance, was and has been the government in power that appointed commissions/committees to produce a system for revenue allocation. Recall that successive governments of the country have freed its burden by creating regions and states for a near liquidation of the centre and for grant of autonomy to the regions. The liquidation of the power of the centre did not happen in the case of generation and sharing of revenue. Given the above, the objective of what follows is first, a discussion of the relevant and potential issues around the revenue system in the generation and recurrence of ethno-political conflict and institutional instabilities in the country.

³⁹⁵ See exclusive report by Kabiru Usman, 'On-Shore/Off-Shore Oil War: Obasanjo Concede Rights at Last?' *Thisday News*, 17 February, 2003.

Secondly, to contextualise the Nigerian revenue allocation systems vis-à-vis the normative arguments and finally, to suggest frameworks that ought to guide revenue allocation given population, derivation and need based claims.

7.4 Relevant and Potential Issues in the Revenue Allocation System

As one can infer from the discussions in this chapter, the political leadership of Nigeria and thus its fiscal federalism was dominated by military dictatorship. For a period well over 35 years of nationhood, the leadership of the armed forces and consequently of the government of the country were firmly in the hands of the Northern officers. In this context, the control and allocation of resources as well as the employment and deployment of officials in top echelon of public offices were in the hands of the various regimes. To this end, many groups perceive that the sharing of the resources of the country has been heavily and unduly skewed in favour of the central authorities, and consequently of the close circles of the leaders. Akande observed:

The military dictatorships effectively replaced the country's federal system with highly centralised administrations that concentrated all powers in the hands of the north-military.³⁹⁶

The implication of the above observation is that the distortions and manoeuvres especially in the resource allocation between 1966 and 1999 are havocs perpetrated by the North against the South.³⁹⁷ Many years of these abuses are making the ethnic groups of the South to attribute the failures and misdeeds of the various regimes to Northerners in general. This perception has exacerbated sectional and ethnic distrust in the country.

In assessing the tragedies of revenue allocation system and its concomitant yet to be resolved problems, it is important to acknowledge that crude oil production has been the most important economic activity in the Nigerian economy since the early 1970s. Its impact is not limited to its contributing almost 90% of Nigeria's total foreign exchange earnings, but also to the fact that the national budgets are predicated on the expected annual production and price of crude oil. Thus, crude oil is the primary engine

³⁹⁶ For details, see Jadesola Akande, 'Fundamental Objectives and Directive Principles of State Policy within the Framework of a Liberal Economy', *Proceedings of the National Conference on Issues in the 1999 Constitution*, Abuja, 26-28 October, 1999, 13.

³⁹⁷ The concept of North and South in Nigeria is a very sensitive issue in national politics, because the Southern head-start in education raises fear among the Northern elites that the South would dominate them in the state bureaucracy and other agencies. On the other hand, the geographical and demographic preponderance of the North over the South (Yoruba and Igbo elites) leads to fear of losing out in majoritarian electoral contest with the North. See Ukoha Ukiwo, 'Education, Horizontal Inequalities and Ethnic Relations in Nigeria', *International Journal of Education Development*, 27, (2007), 266-281. See also Figure 2 showing the structure of Nigerian federation before 1963.

for national economic growth and development.³⁹⁸ It is therefore quite reasonable to expect that the areas producing the nation's crude oil would be very highly developed as compensation for what is taken away as well as for the devastation on the land endangered by the exploration/exploitation processes. There should have been development of physical and social infrastructures, human capital creation, and economic empowerment of the general citizenry in those areas.

This means that the Niger Delta areas where a large percentage of Nigeria oil is derived suffer near total neglect by both the federal government that claims ownership of the oil (on-shore and off-shore), and the multinational companies that actually exploit the oil reserves. The Niger Delta areas of Nigeria is a picture of wanton environmental degradation of all types, land (despoliation of farmlands), water (destruction of fishing areas and sources of drinking water), and air (release of many pollutants causing diseases in humans, animals and plants). The people in the Niger Delta who once were able to cater for their needs are confronted with poverty as a result of loss of their means of livelihood.

The intervention of the federal government through the Niger Delta Development Commission (NDDC) seems to be a welcome development.³⁹⁹ However, the missing factor seems to be the proper treatment of the derivation principle in a way that would enable the state and local governments of the oil-producing areas to handle their developmental problems according to their own felt needs and priorities. The politically motivated and discriminatory use of the derivation principle over the years for instance, from the earlier 50% to 1% and now 13% might be considered a negation of freedom, equality and justice and worse still, national unity and stability. The rejection of the correct application of the derivative principle for the people of Niger Delta can also be considered unjust and unfair when one considers that Igbeti Marble

³⁹⁸ Although the development of oil and reliance of Nigeria government on it as revenue source was a welcome development, the increasing oil production in the Niger Delta in turn marked the intensification of ethno-political conflicts between the communities, oil companies and government. See chapter eight of this thesis for a detailed discussion of oil ownership and control in Nigeria.

³⁹⁹ It is important to mention here that, before the establishment of the NDDC in 2000, the federal government developmental intervention in the Niger Delta was through the Oil and Mineral Producing and Development Commission (OMPADEC). The main functions of OMPADEC were (a) to rehabilitate and develop the oil producing areas, (b) to tackle ecological problems that result from oil exploitation, (c) to embark on development projects, (d) to execute other works and perform such other functions which in the opinion of the commission are necessary for the development of the area. The functions of OMPADEC and NDDC are the same, with the exception that, unlike OMPADEC, the members of Governing Board of the NDDC are mostly people from the Niger Delta, and it had attracted more financial supports from the federal government. See Federal Republic of Nigeria, *NDDC Act* (Abuja: National Assembly Press, 2000), Section 14 (2).

attract 55% derivation and the Value Added Tax (VAT) still attracts 20% derivation.⁴⁰⁰ To make matters worse, the derivation principle was slashed from 3% to 1% by the Federation Act No.1 of 1982. The near abolition of the derivation principle acted to the detriment of the oil producing states because a higher share of the revenue generated in their local areas was allocated to states of non-oil producing.⁴⁰¹

The net effect of the above trend indicates that the revenue allocation system in Nigeria has increased the potential for ethno-political conflicts between the oil producing states and the central government. In this context, the rise of the Movement for the Survival of Ogoni People (MOSOP) and other civil society groups in the Niger Delta is not therefore coincidental.⁴⁰² One of the reasons for the increase of ethnic militia activities and ethnic conflicts, especially among the minority ethnic groups in the South-South geo-political region of Nigeria is partly due to the dissatisfaction with the negative practice of fiscal federalism. The implications of all of the above mean that groups of insurgents constantly threaten oil company's infrastructures and personnel and pose a serious risk to the country's monolithic economy.⁴⁰³

Closely related to the above is the emphasis on population as a principle of revenue allocation, the criticism which is also on the increase. There is a growing criticism of this principle because of the claims that population figures were manipulated in favour of some states.⁴⁰⁴ In addition, the progressive decline of weights on derivation principle for revenue sharing has also been criticised. The argument in support of the derivation principle is often made for retention of the tax revenue generated by the area of origin. Whereas, the derivation principle is being applied to personal income and Property taxes as the states and local governments from which

⁴⁰⁰ Igbeti marble works is in the majority group- Yoruba area (Oyo state) in South West Nigeria.

⁴⁰¹ For the flaws in Nigeria's resource allocation, see Donald C. Williams, 'Accommodation in the Midst of Crisis? Assessing Governance in Nigeria', in Goran Hyden and Michael Bratton, (eds.); *Government and Politics in Africa* (Boulder (Co): Lynne Rienner, 1992), 106-117.

⁴⁰² For more discussion of MOSOP and disturbances in the Niger Delta Region of Nigeria, see Jdrzej G. Frynas, 'Political Stability and Business: Focus on Shell in Nigeria', *Third World Quarterly*, 19 (3), (1998), 457-478. See also the full text of the *Ogoni Bill of Rights* at <http://www.NigeriaScholars.AfricanQueen.com>

⁴⁰³ See Eghosa E. Osaghae, 'The Ogoni Uprising: Oil Politics, Minority Agitations and the Future of the State', *African Affairs*, 94, (1995), 325-344. See also, Ukoha Ukiwo, 'From Pirates to Militants: A Historical Perspectives on Anti-State and Anti-Oil Company Mobilisation among the Ijaw of Warri, Western Niger Delta', *African Affairs*, 106 (425), (2007), 587-610.

⁴⁰⁴ Obtaining an accurate population figure is an uphill task in Nigeria. This is more so that population figure has become an index for revenue allocation. Post-independence censuses conducted in Nigeria were in 1962/1963, 1973, 1991 and 2006. But they were all rejected on ground of manipulation and falsification of figures. See Femi Mimiko, 'Census in Nigeria: The Politics and the Imperative of Depoliticisation', *African and Asian Studies*, 5 (1), (2006), 1-22.

these taxes are collected are allowed under the law to retain them, the application of the derivation principle to the natural mineral deposits has been difficult to accept wholly with the claim that it would cause national development imbalance. The argument of the would-be favoured states has always been that, once the use of landmass is not causing development imbalance, the use of derivation should not be a concern. It is obvious that the use of landmass and terrain undermines the interest of the states with small landmass. But the concern of the non-oil producing states is that the derivation criteria makes no sense, and it is politically motivated and should be excluded from the revenue allocation system. According to them, this is more so that it is not normally considered in revenue allocation arrangements in other parts of the world.

The main point is that, discriminatory use of the principles of derivation, population, and equality are considered by groups as serious issues as far as the revenue allocation in Nigeria is concerned. For instance, when national politics was dominated by the powerful three regional governments in the 1950s and early 1960s, each of the regions wanted to derive maximum benefits from the natural resources located in the geographic area it controlled, the regions pushed for a great emphasis on the derivation principle. However, from the 1970s onwards, the reality of the centralising military leadership that controlled the increasing oil revenues, plus the re-organisation of the federation into a thirty six-state structure made the principles of equality among states and population attractive.

In addition, even the indirect assistance or support that the central government gives to the lower tiers, in the form of support for infrastructural development is often politicised. The operations of the disbanded Petroleum Trust Fund (PTF) can be cited here because it was allegedly established then to assist in developing a particular part of the country. For example, the analyses of the PTF project implementation during its existence in the six geo-political Zones are as follows: North-West 43.3%, North-Central 17.4%, North-East 15.0%, South-West 10.6%, South-South 8.15%, and South-East 5.6%.⁴⁰⁵ The argument of the critics of the PTF is that, the unequal allocation of the projects undertaken by PTF is due to the fact that the Chairman of the fund, General Muhamadu Buhari (Rtd) is from Daura in the North-West geo-political region. Despite his knowledge of the geo-political zones of the country as a former military head of

⁴⁰⁵ For details of the percentage spread of the projects executed by the defunct Petroleum Trust Fund (PTF), see Agba Chukwuemeka, 'Is PTF for the Development of Only the Arewa North?' *Punch Newspaper*, 28 January, 2001, 16.

state, he has angered the Southerners because; he intentionally used his privileged position to distribute wealth obtained from the Niger Delta in the South-South geopolitical zone in favour of the North.

Another major issue in the distribution of revenue in Nigeria since 1989 is what is classified as first charges.⁴⁰⁶ Examples of such first charges include Joint Venture Companies Cash calls, External debt, subsidy on domestic crude, transfer to Petroleum Trust and Development Fund (PTDF), 13% National Resources Derivation Fund, NNPC Priority Project Fund, and National Judicial Council. These first charges have been described from different sources as dictatorial practice illustrating clearly that the central government is not interested in Nigeria operating federalism and its corollary fiscal federalism. The belief in many quarters is that the country's political, social and economic developments have been the worse for it since the central government abolished the fair shares principle.

In conclusion, the centralised fiscal power also makes its mark in the political sphere. The stability of the political entity called Nigeria is being threatened because the centre is too powerful politically and economically. This can be seen in desperate bid of the major ethnic groups to ensure that their kinsmen are elected President, more so that, the direction of the flow of national wealth is often dictated by the sway of political power. In addition, due to constant security issues and pressures from different groups, the focus of the central government has also been diverted to quelling riots rather than addressing developmental issues.

7.5 Evaluation and Framework for Revenue Allocation

Which are the normative frameworks that ought to guide revenue sharing in Nigeria's multi-ethnic society? The issue of revenue allocation first requires a determination of the body that has jurisdiction over the territorially based society from which revenue is generated. In the modern world, the state is generally assumed to be the body that has legitimate jurisdiction. By state here, it is referred to mean the *commonwealth*, the *res publica*. Kohn appropriately defines it as 'the people legally united as an independent

⁴⁰⁶ First charges is simply interpreted to mean amount deducted beforehand from the portion of the Federation Account for projects classified and described as national projects before the balances is paid into the federation account for sharing.

entity'.⁴⁰⁷The union brings forth a national political community, having universal jurisdiction within its territorial boundaries, but creates an agent endowed with authority to exercise jurisdictional powers on its behalf. As an agent, government is accountable to the national community and the revenue it generates to carry out its business belongs to the people united.

However, the essence of federalism is local sovereignty within a national community. Succinctly put, jurisdictional right is shared between the national and the other levels of government. Thus, the federal and regional levels of government have their respective jurisdictional spheres. Each generates revenue in its own sphere to carry its administrative responsibilities. However, very often revenues are centrally collected by the central government and shared among the regions. For this reason, the inability of some regions to generate revenue affects regional economy and equal tax rates for identical professions across regions.⁴⁰⁸

In real economic terms, revenues would be shared on the basis of generation. If governance is reduced to pure business, then the generation and sharing of revenue would be considered in strict economic terms so that each unit of government will receive from the central fund a proportional equivalent of what it contributes. The allocation system will therefore, be based on the derivation principle. In this scenario, the centre will be playing the role of a contractor that collects and returns revenue, but keeping a part as payment for the services it has rendered. The various units will be acting like business outfits, and relations among them will be rooted in purely contractual terms. All this will presuppose the non-existence of a national community.

It should be noted that in a political federation, the sharing of jurisdictional authority does not dissolve the national community. On the contrary, the sharing helps to give a sense of belonging to people who are associated in one entity. The entity defines people that are united, have mutual interest, common political bond, and common political fate. Although the constituent federal units have local autonomy, they collectively constitute a national community in which the good of all matters. The fact of the existence of a national community requires attending to the general good. This is assumed in the leading role the central government plays in revenue collection. For

⁴⁰⁷ Cited from Femi Otubanjo, 'The Citizen and the State: The Balance of Obligation', *African Philosophical Inquiry*, 2 (1-2), (1988), 83. For more discussion of *state*, refer to chapter one, Section 1.4 of this thesis.

⁴⁰⁸ For more of all of the above mentioned reasons, see Kenneth Norrie, Richard Simeon and Mark Krasnick, *Federalism and Economic Union in Canada*, Chap. 9.

example, the reasons given earlier on for central collection of revenue, implicitly present the national community as one in which there is concern for the general welfare. They show that the constituent units are not like sovereign states in the international system that acts on the basis of self-interest. Rather, they constitute a larger community in which there is an obligation to the common good. Perhaps, it is for this reason that states such as Canada have developed economic programmes for operating the country as a sharing community.

What the preceding argument suggests is that national revenue ought not to be distributed *strictly* on the basis of what each region has contributed. This is for example because, the Igbos and the minorities in the East, now in the South-South geo-political zone were seriously constrained by the derivation system that was put in place because, agricultural exports were mostly from the North and West. At the time, this did not generate conflict because, the centre was practically liquidated, and there was no basis for complaining about neglect or uneven allocation of funds. It nevertheless showed indifference and lack of unity. This indifference to the well-being of other could trigger exit. For instance, it has been argued that it was the fortune in the East following the discovery and emergence of crude oil that prompted the Igbos to take the region out of the country.⁴⁰⁹ In other words, since the people in the region- East-Central and South-South zones were left alone to take care of themselves during the period of economic adversity, they might as well exit now that their fortune has changed for good. The above discussions by implication means that, while it is fair to recognise those that contribute the most, the common good requires that market economics be transcended. A balanced and desirable formula will be one that combines several principles - derivation, need, population etc. In this respect, the allocation formula produced by the Hicks Commission of 1951 still appears to be the best for the country.

7.6 Summary

This chapter has discussed and evaluated the trend and development of Nigeria's RAS. The analysis provided a background to the revenue allocation system in the country. It then examined the trends and developments, as well as the relevant and potential issues in the revenue allocation system and suggested normative frameworks for revenue

⁴⁰⁹ See Ukoha Ukiwo, 'Violence, Identity Mobilisation and Re-imaging of Biafra', *Africa Development*, XXXIV (1), (2009), 9-30; Rotimi T. Suberu, 'The Travails of Federalism in Nigeria', *Journal of Democracy*, 4 (4), (1993), 39-53, and Rotimi T. Suberu, 'The Struggle for New States in Nigeria, 1976-1990', *African Affairs*, 90 (1991), 499-522.

allocation in the country. The analysis pointed out that the major problem of revenue allocation system in Nigeria is how to evolve an acceptable formula, comprising the sharing rates and sharing principles that would achieve equity and fairness. To this end, revenue allocation system has generated controversies, dissatisfaction and suspicion against the North, especially among the Southern major ethnic groups and the minorities of the oil producing states. The Southern groups are alleging that revenue allocation has been driven largely by political considerations. The discontent with the revenue allocation system has become so intense that some of the Southern groups are asking for fundamental re-structuring of Nigeria because, the revenue allocation system is unfair and unjust as it favours one section of the country to the detriment of the other parts. By implication, revenue allocation system does not promote the achievement of Nigeria's national goals.

The chapter specifically examined the trends and development in the revenue allocation system in the country and discussed the mandates, recommendations and allegations of ethno-political issues contained in the reports of the various Committees and Commissions between 1946 and 2010. In particular, it analysed the suggestions of some of the Committees and Commissions included Phillipson (1946), Hicks-Phillipson (1951), Chick (1953), Raisman (1958), Binns (1964), Dina (1968), Aboyade (1977), and Okigbo (1980). From the analysis can be deduced that the military did not abide strictly by the tradition of setting up Committees and/or Commissions to determine revenue allocation, and that this was an additional cause of division. For instance, between 1966 and 1979, the military changed or amended the revenue allocation system four times without a prior Commission on revenue allocation. In addition, having rejected the Dina report in 1968, the military did not set up another Commission (Aboyade's) until 1977 when the Generals began preparations for handing over power to civilians in 1979. It was not until 1988 that the federal government established a permanent agency known as the National Revenue Mobilisation, Allocation, and Fiscal Commission (NRMAFC) to advise government continuously on matters of fiscal federalism.

This chapter also argued that the changes in the revenue allocation system have been in response to major constitutional and political changes, with development considerations being given scant attention. Similarly, sixteen sharing principles have so far been recommended by the various Commissions to date. Of all the sixteen

principles, only three - derivation, population, and equality have featured prominently in the sharing schemes. In fact, the principles of population and equality - have dominated the revenue allocation system since 1970 and much more so since 1975. Thus, for over three decades, the revenue allocation system has relied principally on two rather simplistic sharing principles.

The chapter critically analysed the relevant and potential issues in the RAS in Nigeria, and pointed out that ethno-politics has been the overriding determinant. Some major consequence of this heavy reliance on ethno-political criteria for revenue allocation is the continued ethnic militancy in the Niger Delta, agitation for constitutional re-structuring and power sharing, and demand for the creation of more states. Similarly, since 1981 when local governments were covered by RAS, there has also been a perceptible linkage of the demand for more local governments to the expected benefits from RAS.

The analysis observed that, in spite of the basic changes in revenue allocation under various Nigeria governments, RAS remain politically skewed as it is alleged in favour of sections of the country. For instance, regarding the major sharing principles, it was skewed in favour of the derivation principle until 1970, and has remained skewed since the early 1970 in terms of population and oil-based revenues. Clearly, the fundamental flaw of RAS is that it is politically skewed against the oil producing states. And there is no prospect that the situation could change soon. This development has led to the anti-government campaigns in the oil producing Niger Delta. In this context, the chapter argued that, the inequality in the RAS in the Nigerian federation has precipitated a high level of distrust among the ethnic groups. This means that the RAS has further worsened the already fragile unity among Nigerian federation due to the associated ethno-political conflicts and controversies it is generating.

The chapter finally considered frameworks for revenue and suggests that, while it is fair to recognise those that contribute the most, the common good requires a revenue formula that combines several principles. In view of the above, it might be reasonable to argue that, while it is important not to down play the roles of the revenue allocation approach in the generation and recurrence of ethno-political conflicts and institutional stability in the country, it is equally important to mention two factors that have further aided the already precarious situation: the ascendancy of Military rule which created the ample opportunity for the Military to rule for about thirty five years,

and the period immediately after the civil war that coincided with the era of petroleum boom created a deepening crisis of corruption.⁴¹⁰

Given long military rule and the amount of petro-dollars in the national treasury, it is not surprising that the Military ruled until 1999, and that it is still present in Nigerian politics. Most of the changes in revenue allocation system that are still generating ethno-political tension and instabilities came into force during the Military era, between 1966 and 1999, and sadly, a combination of military power and abundance of petro-dollars is the source of the current escalation of corruption.⁴¹¹

In conclusion, even though the Military are currently not visibly in power and the country has been under civilian administration since 1999, it is the retired generals that are still ruling the country from behind the scene. Thus, in addition to putting in place a balanced and desirable framework for revenue formula that combines principles such as derivation, need and population, there is the need to also put in place Constitutional and institutional safeguards against military incursions in both government and politics. And this could be achieved through initiating and enforcing reforms in the politics and government of Nigeria. On the basis of the above submissions, the following chapter shall be examining the dynamics of group claims when oil became the mainstay of the Nigerian economy - claims and counter-claims regarding oil ownership and control, and the claims has intensified the ethno-political conflict and institutional instability in Nigeria's multi-ethnic society.

⁴¹⁰ For more discussion of the Military and oil factor on the political development of Nigeria, see chapter eight of this thesis. See also Bill Freund, 'Oil Boom and Crisis in Contemporary Nigeria', *Review of African Political Economy*, 13 (1978), 91-100; William Ehwarieme, 'The Military, Oil and Development: The Political Economy of Fiscal Federalism in Nigeria', in *Fiscal Federalism and Nigeria's Economic Development, Proceedings of the Nigerian Economic Society*, Ibadan, 1999.

⁴¹¹ For more discussion of the incidence of corruption and unlawful *enrichment* in Nigeria, see Femi Adegbulu, 'Nigeria's (Unholy) Wedlock with Corruption: Can Death Put them Asunder?', *The Journal of Social Research*, 3 (12) (2012), 9-26. Segun O. Osoba, 'Corruption in Nigeria: Historical Perspectives', *Review of African Political Economy*, 23 (69), (1996), 371-386. William N. Brownsberger, 'Development and Governmental Corruption – Materialism and Political Fragmentation in Nigeria', *The Journal of Modern African Studies*, 21 (2), (1983), 215-233. See also Robert L. Tignor, 'Political Corruption in Nigeria Before Independence', *Journal of Modern African studies*, 31 (2), (1993), 175-202.

CHAPTER EIGHT STATE OWNERSHIP AND CONTROL (NATIONALISATION) OF OIL APPROACH

An effective oil policy is one which ... above all ensures political stability.⁴¹²

In a country like Nigeria with its diverse peoples and their corresponding diverse political, cultural and economic endowments, true federalism must reflect a genuine attempt to regulate relationship among the groups, as well as a reflection of these identifiable divergences within a framework of national unity ... we in Nigeria must evolve our own ... and take our own decisions and develop our own institutions anchored on our historical experiences.⁴¹³

8.1 Introduction

This chapter examines how the presence of oil resources affected the process of state building, and how it has intensified the ethno-political conflict and institutional instability in the country.⁴¹⁴ Whereas in the ethno-political datelines of Nigeria, especially up to the 1970s, conflicts have predominantly been between the major ethnic groups whose elites dominate national politics, starting from the 1970s when oil resource became the mainstay of the Nigerian economy, the dynamics of ethno-political competition in the country added up to include claims and counter-claims regarding oil ownership and control between the minority groups of the Niger Delta and other oil producing communities in Edo, Abia, and Ondo States and the Federal Government of Nigeria.⁴¹⁵

⁴¹² Comment by Abdul Atta in March 1971, on the 1969 Petroleum Act that vested ownership and control of petroleum resources to the federal government, and on the proposal by the regime of Yakubu Gowon to nationalise the oil industry via a Decree and, also establishing the Nigerian National Oil Company (NNOC). Citation adopted from Terisa Turner, 'Commercial Capitalism and the 1975 Coup', in Keith Panter-Brick, (ed.); *Soldiers and Oil (The Political Transformation of Nigeria)* (London: Frank Cass and Company Ltd, 1978), 168.

⁴¹³ The position of the Constitutional Conference on the demands of the Niger Delta Group for the abolition of Federal Government sole oil ownership and control rights. See Federal Republic of Nigeria, *Report of the Constitutional Conference Containing the Resolutions and Recommendations*, Vol. II. (Abuja, National Assembly Press, 1995), 3.

⁴¹⁴ The author owes the use of the phrase *ownership and control* to John Boye Ejobowah, 'Who Owns the Oil? The Politics of Ethnicity in the Niger Delta of Nigeria', *Africa Today*, 47 (1), (2000), 29-47.

⁴¹⁵ The Niger Delta is defined geographically as 'a triangle with its apex between Ndoni and Aboh, descending eastwards to the Qua Iboe River at Eket and westwards to the Benin River with its bases along the Atlantic coast between the Bights of Benin and Biafra'. See International IDEA, *Democracy in Nigeria: Continuing Dialogue(s) for Nation-Building* (Stockholm: International Institute for Democracy and Electoral Assistance, 2000), 239. See 'Niger Delta' at Wikipedia-
http://en.wikipedia.org/wiki/Niger_Delta. In 2000, the Obasanjo administration expanded the definition of the Niger Delta to include all the nine oil producing states. This led to a distinction between *core* and *peripheral* Niger Delta. However, in geo-political terms, the Niger Delta is restricted to the six states of the South-South zone. This study adopts the political definition of the Niger Delta. See Appendices A and E for the map of the area referred to as Niger Delta states. For more discussions of Oil control rights, see

In view of the oil resource dispute, the country witnessed a surge and escalation of violence in the ethnic minority Niger Delta region of Nigeria to the extent that, the claims and counter-claims over the ownership and control of oil assumed the dimension of an incipient insurgency. It is appropriate to note that, claims to natural resources ownership and control have been made by cultural groups, interest groups, and social activists all acting or claiming to act on behalf of ethnic communities, instead of their respective state governments to engage the federal government that is at the centre of the dispute.

The concern of many Nigerians especially since the second half of the 1990s is that the country has been witnessing renewed uprising by ethnic communities of the Niger Delta against the federal government and oil-producing companies.⁴¹⁶ Unlike the Ken Saro Wiwa-led uprisings that were limited to the Ogoni who inhabit a small part of the region, the on-going crises involve several communities spread across the Niger Delta. As in the case of the Ogonis, the uprisings have been violent and deadly, and its geographic spread portends danger to the unity, stability and development of Nigeria. Indeed, some have observed that the Boko Haram attacks and the Niger Delta Question are the greatest challenges facing the country in the twenty-first century.⁴¹⁷ The Niger Delta Question has to do with conflict arising from the federal government's absolute ownership and control of oil on the one hand, and oil communities' ownership claims to the resources on the other.⁴¹⁸ As a result of the on-going conflict, the oil producing communities and the Niger Delta areas in particular has been transformed into one of the several hot spots of the world. It is obvious that since oil represent the main income of Nigerian economy; its exploitation affects its unity, stability and development. This

Ejobowah, 'Who Owns the Oil? The Politics of Ethnicity in the Niger Delta of Nigeria', *Africa Today*, 47 (1), 29-47. See also Appendix E for the map of Nigeria numerically showing the Niger Delta region.

⁴¹⁶ For a comprehensive review of the uprisings in the Niger Delta of Nigeria, see Cyril Obi, 'Nigeria's Niger Delta: Understanding the Complex Drivers of Violent Oil-Related Conflict', *African Development* XXXIV (2), (2009), 103-128; see also, Eghosa E. Osaghae, 'The Ogoni Uprising: Oil Politics, Minority Agitations and the Future of Nigerian State', *African Affairs*, 94, (1995), 325-344.

⁴¹⁷ The Ogonis are a small ethnic group in the Niger Delta. They have waged series of campaign for a fair share in oil revenues with the Federal Government of Nigeria. The leader of MOSOP, Ken Saro-Wiwa and eight others were hanged to death for activism by the Abacha military government. See Steven Cayford, 'Ogoni Uprising: Oil, Human Rights, and a Democratic Alternative in Nigeria', *Africa Today*, 43 (2), (1996), 183-197. See also, Claude E. Welch, Jr. 'The Ogoni and Self-Determination: Increasing Violence in Nigeria', *The Journal of Modern African Studies*, 33 (4), (1995), 635-650. The Boko Haram is an Islamic revivalist movement whose philosophy and objective is to impose its religious beliefs on Nigeria's secular society. See Ali S. Yusufu Bagaji; Moses Shaibu Etila; Elijah E. Ogbadu; and Jafa'aru Garba Sule, 'Boko Haram and Recurring Bomb Attacks in Nigeria: Attempt to Impose Ideology Through Terrorism?' *Cross-Cultural Communication*, 8 (1), (2012), 33-41.

⁴¹⁸ For the Niger Delta Question and Oil control rights, see J.I. Dibua, 'Citizenship and Resource Control in Nigeria: The Case of Minority Communities in the Niger Delta', *Africa Spectrum*, 40 (1), (2005), 5-28.

chapter aims to advance the understanding of ethno-political conflicts and social, economic and political instability in the oil producing Niger Delta by analysing the country's adopted state building approaches with respect to oil ownership and control. The chapter begins by providing a general background information about the emergence of the oil industry in the country and strong emphasis will be placed on the different forms state building approaches in the oil industry have taken over the years, and their implications to generate ethno-political conflict and government responses.

This chapter will also discuss the tensions between the federal government and the cultural communities in the Niger Delta. Finally, in order to make a normative judgement on whether the state building arrangements of the federal government on the one side, and the claims of the minority communities of the Niger Delta on the other side is defensible and/or fair, the chapter will evaluate the claims made by both sides.

8.2 The Oil Industry: From Foreign Concessions to State Ownership

Since oil emerged as the mainstay of Nigeria's economy, the oil industry has gone through three phases: the oil concession, state participation, and the deregulation phases. The earliest phase of the country's oil industry had its roots in the first decade of the 20th century with pioneering oil exploration work by the German Bitumen Company. Oil exploration at this time was based on the Colonial Minerals Oil Ordinance No. 17 of 1914, which was amended in 1925, 1950 and 1958 to make provision for the participation of oil companies from other countries. The Mineral Ordinance was ostensibly passed to 'regulate the right to search for, win and work mineral oils'.⁴¹⁹ The Ordinance granted the monopoly of oil concessions in the country to British or British-Allied Capital; this meant that only British oil companies were allowed to obtain oil licences in Nigeria. Under this Ordinance, Shell D'Arcy- later Shell-BP was granted an oil concession covering the entire Nigeria's mainland in 1938. Shell eventually discovered oil in 1956 at Oloibiri village in present-day Bayelsa State in the Niger Delta, formally marking the inception of the oil era in the country.

⁴¹⁹ See *Nigeria Mineral Oil Ordinance (Colonial Mineral Ordinance No. 17) of 1914*, Section 6 (1) (a). See also, Cyril Obi, *Youth and the Generational Dimensions to the Struggles for Resource Control in the Niger Delta* (Dakar: Council for the Development of Social Research in Africa (CODESRIA), 2006), 1-48 and Cyril Obi, 'Oil and Development in Africa: Some Lessons from the Oil Factor in Nigeria for the Sudan', in Luke Patey, (ed.); *Oil Development in Africa: Lessons for Sudan after Comprehensive Peace agreement*, Report No. 8 (Copenhagen: Danish Institute for International Studies (DIIS), 2007), 9-34.

Encouraged by its success, Shell D'Arcy converted its Oil Prospecting Lease of the Delta into an Oil Mining Lease. In 1963, the company constructed a Trans-Niger Pipeline that zigzagged the Delta, connecting oilfields in Kokori, Ughelli, Olomoro, Uzere and other communities in the Midwest with those in Agbada, Umuechem, and the Port-Harcourt area and to the Bonny Terminal. The discovery of oil resources in the Niger Delta by Shell thus set the stage for the entry of other Multinational Oil Companies (MOCs) who took over the oil acreages that were given up by Shell in 1958. This early era of the oil industry in Nigeria was characterised by foreign control and non-participation of the federal government who simply collected rents and taxes from these oil companies.

However, from 1958, due to amendment in the 1914 Ordinance, the colonial government extended concessionaire rights to a number of other companies that include Tenneco, Gulf, Agip, Sagfrap, and Phillip. At a later stage, the government of the country divided the off-shore continental shelf into twelve blocks, and granted leases to Mobil and Texas Overseas.⁴²⁰ In 1959, the government enacted the Petroleum Profit Tax Ordinance which required the MOCs to pay 50% of their oil profits to the federal government to off-set royalties, rents, and taxes. Similarly, in 1967, the Organisation of Petroleum Exporting Countries (OPEC) introduced terms that required the MOCs to treat royalties as expenses, so that in addition to the 50% profit tax, the Multinational Oil Companies were required to pay royalties to the host government of operation. The implication of the payment of rent and royalties to the host government by the MOCs presupposes federal government ownership of the oil in the Niger Delta.

The second phase of state building in the Nigerian oil industry started during the Nigeria-Biafra civil war between 1967 and 1970.⁴²¹ This period witnessed when oil ownership and control was disputed for the first time. This phase was also marked by a gradual, but increasing state participation in the oil industry and the country moved from the collection of oil rents to direct intervention in the running of the oil industry. Of the four political regions that existed in the mid-1960s, the Eastern and Midwest regions were the only oil producers. The leaders of the secessionist Eastern region,

⁴²⁰ See Scot R. Pearson, *Petroleum and the Nigerian Economy* (Stanford: Stanford University Press, 1970), 15-18; See also, Ludwig H. Schatzl, *Petroleum in Nigeria* (Oxford: Oxford University Press, 1969), 51-52.

⁴²¹ In May, 1967, the Military Governor of the Eastern region Lt. Colonel Odumegwu Ojukwu declared the independence of Biafra. In July, 1967, a full-scale war was declared between Biafra's side and Nigeria's federal regime based in Lagos. Biafra surrendered in January, 1970.

whose attempts at this time was bolstered by the political support of France, ordered the Multinational Oil Companies within its territory to pay rents, royalties and taxes to the newly declared Government of the Republic of Biafra.⁴²² But the Federal Government of Nigeria countered the move when it insisted that royalties be paid to it, and subsequently imposed a naval blockade on Bonny and Port Harcourt-the two main external outlets for oil. The fierce war that ensued ended with the liberation of the oil producing areas from the Biafran control.⁴²³ In November 1969, a month before the Biafran leaders formally signed terms of surrender in Lagos, the federal government of Nigeria promulgated the Petroleum Act of 1969. This Act nullified all concessions held by the MOCs and granted the Nigerian government the power to issue fresh oil exploration licenses and production leases. Specifically, the Petroleum Act of 1969 vested in the Federal Government of Nigeria the ownership and control of:

- a) All petroleum in, under or upon any lands in the country.
- b) All petroleum under the territorial waters of Nigeria.
- c) All land forming part of the continental shelf of the country.⁴²⁴

In an attempt to further consolidate its hold on the oil resource in the country, in 1971, the federal government set up the Nigerian National Oil Corporation (NNOC) to prospect, produce and market oil, and also began to acquire an equity stake in the oil companies.⁴²⁵ Until the 1970s, only foreign oil companies and their business partners carried out oil exploration. But after 1971, the Nigerian State Corporation-NNOC, its subsidiaries and sub-contractors also become involved in oil exploration on the ground in village communities. Thus from 33.33% in the 1970s, Nigeria's equity stakes rose progressively in all the companies to 55-60% in the 2000s. Thus the federal government had become the owner, producer, and marketer of oil. The comprehensive list of the MOC operating in Nigeria detailing shareholders, operators and share of national production can be seen in table 1 below.

⁴²² See Sarah Ahmad Khan, *Nigeria: The Political Economy of Oil* (Oxford: Oxford University Press, 1994), 10-11.

⁴²³ Some have argued that the secessionist Biafra war between 1967 and 1970 was strongly motivated by the fight over the distribution of oil rents, in addition to the struggle for political power and ethnic dominance. For more details of this argument, see Annegret Mahler, *Nigeria: A Prime Example of the Resource Curse? Revisiting the Oil-Violence Link in the Niger Delta*, Working Paper No. 120 (Hamburg (Germany): German Institute of Global and Area Studies (GIGA), 2010), 1-38. See also Ukoha Ukiwo, 'Violence, Identity Mobilisation and Re-imaging of Biafra', *Africa Development*, XXXIV (1), (2009), 9-30; Rotimi T. Suberu, 'The Travails of Federalism in Nigeria', *Journal of Democracy*, 4 (4), (1993), 39-53, and Rotimi T. Suberu, 'The Struggle for New States in Nigeria, 1976-1990', *African Affairs*, 90 (1991), 499-522.

⁴²⁴ See Kayode Somerekun, *Perspectives on the Nigerian Oil Industry* (Lagos: Amkra Books, 1995), 16.

⁴²⁵ The corporation was later to be known as the Nigerian National Petroleum Corporation (NNPC).

Table 1: The Major Multinational Oil Companies in the Niger Delta

No	Oil Company	Shareholders	Operators	Share of National Production
1	Shell Petroleum Development Company (SPDC)	NNPC – 55% Shell – 30% Elf – 10% Agip – 5%	Shell	42.2%
2	Mobil Producing Nigeria	NNPC – 50% Mobil – 42%	Mobil	21.2%
3	Chevron Nigeria	NNPC – 60% Chevron – 40%	Chevron	20.4%
4	Nigeria Agip Oil	NNPC – 60% Agip – 40%	Agip	7.5%
5	Elf Petroleum Nigeria	NNPC – 60% Elf – 40%	Elf	6.1%
6	Texaco Overseas (Nigeria) Petroleum	NNPC – 60% Texaco – 20% Chevron – 20%	Texaco	2.6%
Total				100%

Sources: Festus Iyayi, 'Niger Delta Crisis: Development and Socio-Cultural Implications', *Proceedings of the PENGASSAN Forum*, Ijebu-Ode, 2008, 3; and Joseph Moerkamp, 'Niger Delta: A Disrupted Ecology? The Role of Shell and other Oil Companies', *Proceedings of the Greenpeace Conference*, London, 1996, 15.

As can be seen in the above table, each of these Multinational Oil Companies is in joint partnership with the state-owned National Petroleum Corporation (NNPC) that commands 55-60% of shareholding.

At the end of the civil war in 1970, the revenue from oil became significant, by which time 12 states had emerged in place of the four regions.⁴²⁶ From a modest 5% of total national revenue in 1965, the share of oil revenue to the national economy astronomically rose to 26.6% in 1970, 43.6% in 1971, and 80% by 1990s.⁴²⁷ During this period, oil was derived principally from Rivers, Midwest, and Cross Rivers States. In order to further consolidate itself on ownership and control of oil, the federal government promulgated the Decree 9 of 1971. This decree extended federal government ownership and control to include off-shore rents. In 1975, the military government of the late Brigadier General Murtala Ramat Mohammed passed the Constitution Decree No. 6 thereby increasing to 80% the share of oil revenue going to the DPA and reducing to 20% the share that went to states of derivation.

⁴²⁶ For detailed discussion and evaluation of the circumstances leading to the creation of 12 states in 1967, see chapter four of this thesis.

⁴²⁷ Augustine Ikein and Comfort Briggs-Anigboh, *Oil and Fiscal Federalism in Nigeria* (Aldershot: Ashgate Publishers, 1998), 140; see also, Scot R. Pearson, *Petroleum and the Nigerian Economy*, 112.

In addition to the above attempts, the military government of General Olusegun Obasanjo nationalised the British Petroleum (BP) in 1979. The nationalisation of BP was, however, conducted out of foreign policy consideration and not for economic reasons since the Nigerian government aimed at influencing British policies on Rhodesia, which later became Zimbabwe. Similarly, BP was supplying oil to South African apartheid government which the Obasanjo government strongly opposed. The 1979 Constitution revised the Petroleum Act of 1969 by declaring federal government's ownership of all mineral resources both on-shore and off-shore, and the derivation share of oil revenue slashed to 5% by the Second Republic government of Alhaji Shehu Usman Aliyu Shagari. By the end of the Ibrahim Babangida regime in 1993, the derivation principle had practically been eliminated as it fell to 3%.⁴²⁸

The third phase of Nigeria's oil industry started in the 1980s. This phase was marked by deregulation of state investments in the oil industry. Beginning from the early 1980s, Nigeria started to experience sudden downturn in the global oil prices which had disastrous consequences for the country. Faced with dwindling oil revenue, religious and political crises, the oil-dependent Nigerian economy went into a deep recession as oil revenues shrank and by 1982 the country had entered into discussions with the International Monetary Fund (IMF).⁴²⁹ Many organisations, without access to foreign exchange to import raw materials and other commercial and industrial inputs had to stop trading, and workers were retrenched as Nigeria's oil dependent economy went into recession. In 1986, General Ibrahim Babangida, the then Military Head of State termed President announced the adoption of a Structural Adjustment Programme (SAP) approved by the IMF and the World Bank as well as the country's creditors such as Paris Club.⁴³⁰ It was within the rubric of SAP that a deregulation programme aimed at rolling back state participation in the economy started from the critical oil sector in Nigeria.

⁴²⁸ On the other hand, the number of states increased from 19 to 30 and to 36 in 1996, very much in validation of the 1957 Minority Commission Report that ethnic groups in Nigeria are many and their political recognition will be a bottomless process. Refer to Appendix B showing the administrative borders.

⁴²⁹ The NPN government of Alhaji Shehu Shagari formed a fragile coalition with the NPP as it was unable to win 2/3 majority in the National Assembly. It was at this time Nigeria witnessed the first Maitatsine attacks. See Figure 1, especially the ethno-political and religious events between 1980 and 1983.

⁴³⁰ The Nigeria's economic performance at this time was so bad that the real minimum wages fell by 90% between 1981 and 1990. See Deborah Potts, *Whatever Happened to Africa's Rapid Urbanisation?* Counterpoint Paper Series (London: African Research Institute, February, 2012), 10-11.

Within this SAP framework, the government embarked on a systematic de-investment in the oil industry, where the emphasis was on cutting of any state participation, and opening up the oil sector to foreign and local private investments. The government sold-off its equity participation in some of the downstream oil marketing companies and commercialised the NNPC. In terms of the critical upstream oil production sector, the government promoted more investments by the oil multinationals through a package of incentives and placing new oil wells in the deep off-shore and on-shore on offer.⁴³¹ These were directed at increasing oil production and exports, with a view to producing revenues for external debt management and economic recovery programmes.

Some Nigerian companies also got licenses to explore for, and produce oil, but most of them, due to the huge costs or capital requirements involved, remained marginal players. For instance, of the 38 indigenous oil companies as at 1996, 20 were entirely inactive. Only 9 companies were active in the sense that they were engaged in sustained efforts at exploration and production.⁴³² This means that the big-time oil multinationals were in no way threatened as they still consolidated their hold over the industry in this de-investment phase by concentrating on the upstream sector, but also dominating the downstream marketing sector-where some Nigerian independent marketers became increasingly visible and accounted for 30% of the domestic market.⁴³³ During this phase, the effort made to commercialise Nigeria's four- State-Owned refineries could not succeed, partly for political reasons, and for the poor turn-around maintenance condition they were in. The conditions of the state-owned refineries worsened under the successive military regimes until the country was returned to democratic rule in 1999.

The coming to power of the civilian government under retired General Olusegun Obasanjo - who had been Nigeria's military Head of State from 1976-1979 - provided a boost for the partial privatisation of the country's oil industry. From 1999, in what appeared to be a process of closing the gap between domestic and global prices of refined petroleum products, after about eight price increases, all existing price subsidies on the petroleum products were completely removed. The removal of the subsidy thus represented a form of sales tax on refined petroleum products leading to a substantial rise in domestic fuel prices with its attendant multiplier effects - a rise in the price of

⁴³¹ The upstream sector of the oil industry refers to the processes relating to the exploration and production of petroleum (oil) and natural gas

⁴³² See Austin Avuru, *Upstream Divestment: The Real Issues* (Lagos: Malthouse Press, 1997), 93.

⁴³³ Independent marketers are indigenous and privately owned Nigerian oil marketing companies.

local goods and services. However, between 1999 and 2003, the federal government spent about US\$250 million to repair and maintenance of oil depots, pipelines, and other oil infrastructures related to the oil industry. Thus, government's fiscal incentives to oil companies and plans for partial privatisation of oil industry at the same time underline a continuing contradiction in Nigeria's reforms in the oil industry.

The federal government between 2000-2002 completely stopped to invest in the industry, and National Oil and Chemical Marketing Plc (NOACHEM, now CONOIL and African Petroleum Plc (AP) as well as Unipetrol Plc, now Oando, were privatised.⁴³⁴ The federal government also privatised the NNPC's marketing arm, the Pipelines and Products Marketing Company (PPMC), while investors were invited to bid for the establishment of private refineries in the country. The expectation for all of these was based on the assumption that new investments would expand private domestic participation in the downstream sector, while making up for the shortfall in domestic products' supplies as a result of the near-collapse of the country's four refineries with a combined installed capacity of about 450,000 barrel per day (bpd). About eighteen companies were given approval in 2002 to build refineries in Nigeria.⁴³⁵

In January 2006, the Chief Executive Officer of the NNPC, announced that government and five oil companies: Shell, Chevron Texaco, Exxon Mobil, Total and Agip (ENI), had concluded plans to build refineries with a combined installed capacity of 1 million bpd in the country. Another aspect of the deregulation policy was related to the consolidation of the Nigeria Liquefied National Gas (NLNG) Project (NNPC - 49%, Shell - 25.6%, Elf - 15%, and Agip (ENI) - 10.4%) and the West Africa Gas Pipeline Company (WAGPCO) (Chevron Texaco - 38%, NNPC - 25%, Shell - 17%, GNPC & VRA - 17%, SoBeGaz - 2%, SoToGaz - 2%) expected to provide immense profits to the NNPC and its partners.

The government also provided incentives designed to attract more investments into the upstream sector of the oil industry with the aim of doubling daily oil production from the 2.5 million barrel per day to 5 million barrel per day by the end of the decade. In response, Shell, Chevron, Texaco and Exxon Mobil announced plans to increase their

⁴³⁴ Meanwhile, the then Vice-President-elect, Abubakar Atiku said in May, 1999 that the privatisation of the NNPC assets in the oil company joint ventures was inevitable. See Dickson Osuji, 'NNPC for Sale', *Guardian Newspaper*, 10 May, 1999, 6.

⁴³⁵ The downstream sector of the oil industry refers to the processes related to the refining, storage, distribution and sale of refined products such as fuel, petrol chemicals and gas. See Alexander's Gas and Oil Connections: *Company News: Africa*, 7 (12), 13 June, 2006, at www.gasandoil.com

oil investments in Nigeria. Shell which accounted for half of the country's oil production, had since the 1990s expanded the activities of its other wholly foreign owned subsidiaries in Nigeria that include, Shell Nigeria Exploration and Production Company (SNEPCO), Shell Nigeria Gas (SNG), and Shell Nigeria Oil Products (SNOP-Marketing). All of the above subsidiaries of Shell took full advantage of the deregulation in the oil industry.⁴³⁶

Apart from the existing Multinational Oil Companies, other oil investors from all parts of the world arrived on the Nigerian oil scene as the government sought to increase its oil reserves, earn more revenues, and diversify its dependence on Western oil companies. The new entrants into the upstream sector included China National Off-shore Oil Company (CNOOC), China Oil and Petrochemical Corporation (CHINOPEC), China National Petroleum Corporation (CNPC), Korean National Oil Corporation (KNOC), Statoil of Norway, and Petrobras of Brazil.⁴³⁷

The above deregulation/partial privatisation arrangements in the oil industry are indicative of two broad developments. First, the increased opening up of the upstream to national oil companies from Asia and South America and some foreign independent oil companies.⁴³⁸ Second, the state's promotion of Nigerian participation in the oil industry by insisting that, there must be local content in all joint oil venture contracts. The policy also provided that 10% of each Oil Exploration License (OEL) granted to investors should go to Nigerian oil companies. With this strategy, rather than a complete surrender to foreign oil companies, the government sought to redistribute the benefits from oil investments by reserving a certain percentage of participation in oil investments and contracts for Nigerian oil companies. This is an indication that the country was seeking to ensure some meaningful participation of Nigerian citizens in the operations of the strategic oil sector.

Overall, without downplaying the enormous revenues that flow to the coffers of the federal government as a result of its absolute ownership and control of oil, the three phases of state building arrangements in the oil industry: concessions, state ownership and deregulation was not as smooth as it appeared. Reforms in the oil industry discussed in the above phases have exposed the country to formidable challenges, including a

⁴³⁶ See Andy Rowell, James Marriot and Lorne Stockman, *The Next Gulf: London, Washington and Oil Conflict in Nigeria* (London: Constable & Robinson, 2005), 102-103.

⁴³⁷ For the list of the major Multi National Oil Companies in Nigeria, see Table 1.

⁴³⁸ Independent Oil Companies are privately owned with their operations restricted to oil exploration and production alone.

recurring ethno-political conflict and political instability. Because of the high interests at stake, the ethnic minorities of the Niger Delta have destabilised the oil industry and threatened the national economy.

On the basis of the above discussions on the oil industry in the Nigeria's political economy, it is clear; the different kinds of state building arrangements with regards to oil ownership and control generated different kind of effects, issues and problems. The first of such issues is the persisting dependence of the Nigerian state on oil, which appears to restrict the range of choices available to policy makers of the country. In the face of this constraint, the Nigerian state neglected the oil producing communities in the Niger Delta and caused the rise of even stronger claims over the control and ownership of oil. The following section of the chapter examines the essence of the oil resource dispute between the federal government and the communities in the Niger Delta.

8.3 The Essence of the Oil Resource Conflict

The struggle of the minority groups in the Niger Delta to claim ownership and control of the oil resource is rooted in the perceived inequities of the centralised distribution of oil revenues since the end of the Nigerian civil war. At the heart of the struggle of the minority groups was the abandonment of the derivation principle of revenue allocation which presupposed that revenues derived from natural resources should be allocated in proportion to what is contributed to the national account by the various political units of the federation.⁴³⁹ Implicit in their argument is that, throughout the 1950s and up to the late 1960s, the application of the derivation principle of revenue allocation ensured that the three regions- Northern, Western and Eastern regions whose revenue resources were largely based on cash crop economies be allocated 50% of their contributions to the Federation Account. This means that the derivation principle of revenue allocation placed the revenues derived from agricultural and mineral resources largely in the control of the regions.⁴⁴⁰

⁴³⁹ For more discussion of the principles and trends of revenue allocation in the federal republic of Nigeria, see chapter seven of this thesis.

⁴⁴⁰ In spite of oil being the main source from which Nigeria's mono economy had depended in the past four decades, there had been a decline in the derivation principle of revenue allocation and over centralisation of allocation process against the oil producing states. See Chibuikue.U Uche and Ogbonnaya C. Uche, *Oil and the Politics of Revenue allocation in Nigeria*, Working Paper No. 54 (Leiden: African Studies Centre, The Netherlands, 2004), 1-42.

However, when it was the turn of the minority groups in the Niger Delta to benefit from the discovery of huge quantities of crude oil and gas, the revenue sharing formula established in the early sixties was arbitrarily changed by the dominant ethnic groups. The minority groups of the Niger Delta particularly used the revenue allocation formula in table 2 below to argue that it has been tilted against their region.

Table 2: Federal – State Percentage Share in Petroleum Proceeds (1960- 2011)

Year	Share of Producing State (%)	Share of Federal Government %	Distribution Pool %
1960-1967	50	20	30
1967-1969	50	50	-
1971	45	55	-
1975	45% minus off-shore proceeds	55 plus off-shore proceeds	-
1979	20% minus off-shore proceeds	80 plus off-shore proceeds	-
1981	-	100	-
1992	1.5% minus off-shore proceeds	98.5 plus off-shore proceeds	-
1999	3% minus off-shore proceeds	97 plus off-shore proceeds	-
1999-2011	13% minus off-shore proceeds	87 plus off-shore proceeds	-

Source: Adapted from United Nations Development Programme (UNDP), *Niger Delta Human Development Report* (Abuja (Nigeria): United Nations Development Programme, 2006), 37.

On the basis of the figures in the table above, the Niger Delta communities argue that, up to the 1960s, the oil producing states received 50% of the revenues derived from their local areas. However, they soon started to experience a downward trend in the revenue allocation from the early 1970s to the extent that, by 1981, the oil producing states received no share whatsoever.

A critical analysis of the above table without any doubt shows that from the 1970s, the federal control of oil led to the progressive reduction of derivation as a revenue allocation principle and its replacement by the Distributive Pool Account (DPA) or Federation Account that emphasised population size and equality of states as principles of revenue allocation. The introduction of DPA with emphasis on population and equality of states shifted the control of resources from the regions, now called states to the federal government. This by implication means that the federal government retains the control of most resources which was previously controlled by the three regions that were under the firm control of the majority group - Hausa/Fulani- North, Yoruba- West and the Igbo- East. As a result, the derivation principle was reduced from 50% in 1970, to 5%, 1.5%, and then 3% by the mid-1980s.⁴⁴¹ The minority groups of

⁴⁴¹ For further details of the decline of revenue allocation to the oil producing states leading to restiveness in the Niger Delta, see John Boye Ejobowah, 'Who Owns the Oil? The Politics of Ethnicity in the Niger Delta of Nigeria', 29-47.

the Niger Delta saw the abandonment of derivation principle of revenue allocation that favoured the majority ethnic groups and federal government as unfair and unjust, and a further evidence of their exploitation and marginalisation in a highly centralised Nigerian federation.

From 1967, even though the minority groups of the oil producing Niger Delta gained some measure of local autonomy and self-determination as a result of the creation of Rivers state, and the national unity project that gave some Niger Delta elite access to lucrative state and federal appointment and patronages, they still felt marginalised. They also argue for instance that, inspite of their support for the Federal side during the war, the groups in the Niger Delta remained marginalised from the control of the oil produced in their region. The progressive abandonment of the derivation principle implied that their states could not claim or control the oil produced within their territories. Following their renewed protests, the derivation principle in federal allocations to states was arbitrarily increased to 13% during the 1994/5 Constitutional Conference, but implementation commenced only after Nigeria's return to democratic rule in 1999. However, since 1999, there have been increasing protests from the groups in the Niger Delta that the upward review has not gone far enough in compensating them for their rights and needs in the region.

In addition to the withdrawal of the derivation principle of revenue allocation, the grievance of the Niger Delta groups is connected to the widespread impoverishment, militarisation and increased oil-related environmental degradation. The groups therefore believed that a distant federal government dominated by elite from the majority ethnic groups and foreign oil multinationals had no regard for their rights and welfare.⁴⁴²

From the foregoing therefore, their claim and struggle for ownership and control of oil resources is directed at a return to the principles of true federalism which demands for a re-negotiation of the structure of the Nigerian federation in ways that transfers power over the oil to the oil-producing states of the Niger Delta. A derivation-based redress in Nigeria's fiscal federalism is at stake, which also implies a fair distribution of the oil revenues between the various groups in the country. In the opinion of the Niger Delta groups therefore, the underlying dynamic to the changes in revenue allocation from the 1970s onwards and wide spread environmental degradation resides in the play

⁴⁴² See United Nations Development Programme (UNDP), *Niger Delta Human Development Reports* (Abuja (Nigeria): United Nations Development Programme, 2006); Cyril Obi, *Youth and the Generational Dimensions to the Struggles for Resource Control in the Niger Delta*, 1-48.

of politics between the majority and the minority nationality groups in Nigeria. It is in accordance with the opinion of the Niger Delta groups, it was also observed:

Even a superficial political analysis of the situation will reveal that the fate of the mineral resources of the Niger Delta minorities, particularly the trend from derivation to federal government absolutism, is itself a function of majority control of the federal government apparatus. In 1960, there were no petroleum resources of any significance. The main income earning exports were cocoa (*Yoruba, West*) groundnuts, cotton, and hides and skin (*Hausa/Fulani, North*) and palm oil (*Igbo, East*). Therefore, it was convenient for these majority groups usually in control of the federal government to emphasise derivation, hence its strong showing in the 1960/63 Nigerian Constitutions.⁴⁴³

The above citation provides the fundamentals of the oil conflict in the country's Niger Delta region. As for the minority groups, the oil conflict in the Niger Delta arises from lack of fairness and justice in the appropriation of the huge oil revenues from the area. To them, therefore, activism is a struggle against underdevelopment.

It is important to stress, in order to get fair hearing of their claims and arguments, the Niger Delta groups have taken a series of legal actions. For instance, the delegates from South-South geo-political zone the Niger Delta states, presented a joint petition for resource control demanding that the derivation principle of revenue allocation be raised from 13% to 25% and then 50% within five years at the 1994 Constitutional Conference, and at the 2005 Nigerian Political Reform Conference (NPRC). On both occasions, their demands were rejected by the federal government. The outright rejection of their demands prompted most of them to boycott the closing sessions of both Conferences.

The Niger Delta groups have also taken the struggle for oil resource control to the Supreme Court of Nigeria. But the groups were unsuccessful in their contest at the Supreme Court of Nigeria for access to oil revenues accruing from the off-shore oil fields based in the Atlantic Ocean.⁴⁴⁴ From this analysis it is evident that part of the failure of Nigeria's project for national unity has been strongly compromised by the

⁴⁴³ For the relevance of the derivation principle of revenue allocation to understanding the conflict in the Niger Delta, see Itsejuwa E. Sagay, *The Extraction Industry in the Niger Delta and the Environment*, An Annual Lecture of the ANPEZ (Port Harcourt: Centre for Environment and Development, University of Port Harcourt, 15 November, 2001). The emphases in italics are mine.

⁴⁴⁴ See Figure 4 for the highlights of the Supreme Court ruling on the On-shore/Off-shore revenue distribution. In addition to the above measures, the Niger Delta communities have used other civic and constitutional steps. These measures include: petitions to political authorities, sponsoring of motions in both Houses of the National Assemblies, media publicity, co-optation of elites from the non-oil producing states sympathetic to their cause, through platforms such as the Southern Solidarity Forum, alliance with the Middle Belt Forum resulting in the Middle Belt/South-South summit of 22 April, 2005. See, Ben Naanen, 'The Niger Delta and the National Question', in Eghosa E. Osaghae and Ebere Onwudiwe, (eds.); *The Management of the National Question in Nigeria* (Ibadan: PEFS, 2001), 221. See also, Uzodinma Nwala, *Nigeria: Path to Unity and Stability* (Nsukka: Niger Books and Publishing Company, 1997), 141.

refusal by the federal government to deal with the demands of Niger Delta groups asking for a revision of the allocation formula to 25% by the central government. This refusal caused the escalation of military activity in the region with serious consequences for the whole national economy.

The older generation activists still think that the best approach to achieve a fair (re)distribution of oil revenues is through negotiation and dialogue. For the younger and more militant groups, though, the control of natural resources has become synonymous of ethno-national liberation from a new kind of colonisation imposed by multinational oil companies and supported by the federal government. For them the time for dialogue has exhausted and the best approach is through armed struggle.⁴⁴⁵

Since January 2006, violence and insurgent activities of the militia groups' whose utmost intention is resource control has escalated. In particular, the Movement for the Emancipation of the Niger Delta (MEND) has attracted local and international condemnation because of kidnapping of expatriate oil workers, blowing up oil installations and attacking security personnel in the Niger Delta. The actions of the militia groups are partly the result of the government's militarisation of the region and illegal oil bunkering. These violent activist organisations provided alienated, unemployed and marginalised youth, some of them University and high school graduates, with the opportunity to challenge the federal hegemony over oil resource. It also allowed the militia groups the opportunity to tap into a groundswell of anger against the state and the oil multinationals thereby drawing attention to their cause, and benefiting as individuals from their capacity to unleash violence capable of disrupting a critical transnational energy resource flow.

In addition to the activities of MEND, and following the internationally well-known Ogoni resistance campaign in the early 1990's led by the Movement for the Survival of Ogoni People (MOSOP), the largest of the Niger Delta oil minority groups—the Ijaw mounted a fresh struggle for the ownership and control of oil resource.⁴⁴⁶ In December, 1998 Ijaw youths from six states of the Niger Delta that were organised by

⁴⁴⁵ For more discussion of the escalation of violent attacks on oil installations and abduction of foreign oil worker in December, 2005 by a shadowy and largely unknown militant groups which include, among others, the Niger Delta People's Volunteer Force (NDPVF), and the Movement for the Emancipation of the Niger Delta (MEND), see Michael Watts, 'Petro-Insurgency or Criminal Syndicate: Conflict and Violence in the Niger Delta', *Review of African Political Economy*, 114, (2007), 637-660.

⁴⁴⁶ See Cyril Obi, *Environmental Movements in Sub-Saharan Africa: A Political Ecology of Power and Conflict*, Civil Society and Social Movements, Paper No. 15(Geneva (Switzerland): United Nations Research Institute for Social Development (UNRISD), 2005), 6-11. See also the full text of the *Ogoni Bill of Rights* at <http://www.NigeriaScholars.AfricanQueen.com> [accessed 13 March 2012].

the Ijaw Youth Council (IYC) met in Kaiama, the birthplace of Ijaw martyr Isaac Adaka Boro. At the meeting on 11 December 1998, the IYC announced the Kaiama Declaration which among others stated that

all land and natural resources, including mineral resources within the Ijaw territory belong to the Ijaw communities and are the basis for our survival ... refuse to recognise all undemocratic decrees that robbed the Ijaw of the right of ownership and control of our lives and resources, which were enacted without our participation and consent ... we demand for self-government and resource control by the Ijaw people ... all Multinational Oil Companies have to quit the Niger Delta by 30 December, 1998 ... until issues related to the ownership and control of Ijawland and oil were resolved.⁴⁴⁷

In response to the Kaiama declaration, a state of emergency was declared by the federal government in the Niger Delta, and flooded the region with armed troops. Ijaw protesters were arrested, and shot at by anti-riot police during demonstrations in support of the Kaiama Declaration.⁴⁴⁸ The Ijaw local resistance was repressed but, as in the case of the Ogoni, it survived and regenerated itself particularly after the return to democratic rule in 1999. Similarly, across the Niger Delta, other passive radical groups organised around the demands for the control of local autonomy, and self-determination for the control of oil surfaced and became active. These included the Movement for the Payment of Reparations to Ogbia-Ogbia Charter of Demands, Egi people- Aklaka Declaration, Oron National Forum- Oron Bill of Rights, Ikwerre Charter of Demands, among others.⁴⁴⁹

To address this situation the federal government, apart from the upward increment in the revenue allocation to 13%, has also responded to the developmental needs of the Niger Delta groups. For instance, in 2000, it established the Niger Delta Development Commission (NDDC) and the Council on the Socio-economic Development of the Coastal States of the Niger Delta (COSEDECS) in 2006. The government of the late President Umaru Musa Yar'Adua also established the Niger Delta Amnesty in April 2009. However, despite the establishment of all of the above mentioned agencies, the Niger Delta groups see the federal government responses as

⁴⁴⁷ Citation of the *Kaiama declaration* comes from www.unitedijawstates.com/kaiama.htm [accessed 12 December 2010].

⁴⁴⁸ For more discussion of the federal government's response to the Kaiama declaration and mass protest, see Charles Ukeje, 'Oil Communities and Political Violence: The Case of Ethnic Ijaws in Nigeria's Delta Region Group of 3', *Terrorism and Political Violence*, 13 (4), (2001), 29.

⁴⁴⁹ Civil Societies has been an active mobilisation and agitational forces in the resource conflict in the Niger Delta. For gender segment of the mobilisation and agitations, see Niger Women for Justice at www.ndwj.kabissa.org/ [accessed 3 January 2011]. See also Augustine Ikelegbe, 'Engendering Civil Society: Oil, Women Groups and Resource Conflicts in the Niger Delta Region of Nigeria', *Journal of Modern African Studies*, 43 (2), (2005), 241-270.

unsatisfactory. As the Militia groups renewed their vandalism of oil infrastructures, the federal government responded by applying maximum force against communities/groups that are perceived as threats to the state-oil business alliance. For instance, in 1999, the Nigerian Army under Operation Hakuri II completely destroyed the Odi town in Bayelsa state in the Niger Delta in a military operation aimed at protecting oil installations.

Five days after the invasion and destruction of Odi, the then Nigerian Defence Minister, General Theophanous Danjuma, who authorised the invasion of Odi Operation Hakuri II, justified the military intervention and the entire Niger Delta Hakuri campaign in a speech delivered at the Ministerial Conference of the Economic Community of West African States (ECOWAS) saying that the Operation Hakuri II was carried out with the purpose of protecting lives and property, in particular oil platforms, flow-stations, operating rig terminals and pipelines, refineries and power installations in the Niger Delta.⁴⁵⁰

Since the operation Hakuri II, other communities that have attempted to challenge federal authority have been similarly treated in the midst of the continued militarisation of the Niger Delta. For example, the military raid on Odioma in February 2005 following a dispute with a neighbouring community Nembe-Bissambiri, over payments from Shell. The troops ransacked Odioma and seventeen people were reportedly killed. In a similar incident in 2006, troops went to Gbaramantu, another oil community, and about fifteen people reportedly lost their lives. Other communities have also come under fire as a result of the attempts of the military to flush out oil resource activists and militants. Unfortunately, the use of force to put down agitation in the troubled oil region and the use of armed groups by some local elite has contributed to the proliferation of youth militias, who are forcefully demanding resource control amid the escalating tensions and frustrations in the Niger Delta.⁴⁵¹

It is important to note at this point that, as a result of the limitations of the military approach, the government of the late President Umaru Musa Yar'Adua

⁴⁵⁰ Hakuri in Hausa language means 'be patient, or take it easy'. For details of the federal government responses to the Odi uprising crisis, see Molta Saidu, 'Operation Hakuri: Odi Under Siege', *Guardian Newspaper*, 26 November, 1999. See also Cyril Obi, *The Oil Paradox: Reflections on the Violent Dynamics of Petro-politics and (Mis) Governance in Nigeria's Niger Delta*, Occasional Paper No. 73 (Pretoria, African Institute of South Africa, 2004), 21.

⁴⁵¹ See Judith Burdin Asuni, *Understanding the Armed Group of the Niger Delta*, A Working Paper (New York (NY.): Council on Foreign Relations, September, 2009), 1-31; Judith Burdin Asuni, *Blood Oil in the Niger*, Special Report No. 229 (Washington DC: United States Institute of Peace August, 2009), 1-20.

introduced the *Niger Delta Amnesty* in 2009. With the shift of power from Chief Olusegun Obasanjo to Yar'Adua, the federal government realised that the use of military power to control the activities of the Niger Delta militants did not offer any solution and decided to offer them an amnesty as a first step towards a negotiated peace.⁴⁵² Despite the Amnesty, the Niger Delta communities and Nigeria in general are yet to experience peace and security. For instance, apart from series of mass protests in Abuja- Nigeria's capital, the Niger Delta activists claimed responsibility for the massive explosions on 1 October 2010 in Abuja that resulted in the loss of lives of innocent citizens. Similarly, in December 2011, the Niger Delta Youths for several hours occupied the Murtala Mohammed Bridge at Jamata, Kogi State. Although no life was lost on this occasion, this action affected the free flow of traffic at that critical time when many people were returning home for the Christmas and New Year holidays.

Until now this chapter discussed the essence of the oil resource conflict. Based on the analysis, the claims of the Niger Delta groups for ownership and control of the oil resource in their domain as opposed to the Federal Government of Nigeria can be narrowed to two but related issues: the lack of compensation for sovereign take-over of the oil resource, and the lack of fairness and equity in the revenue allocation system. This part is important because it explains the claims of both the Niger Delta communities and the Nigerian government regarding who should own and control natural resources. The essence of the following evaluation is to make normative judgement of the claims and to assess whether even though the oil policies generates ethno-political conflicts and institutional instabilities, the state involvements in the oil industry were defensible and/or fair.

8.4 Evaluation: Ownership and Control Oil Resources

It is understandable why the minority activists and interest groups in the oil producing region of Nigeria take over the role of confronting the federal government. This is because, in a proper federal set up, the appropriation and centralisation of revenue by the federal government would not have gone unchallenged by the states from which the revenue are generated. But since about thirty five years of the country's state building

⁴⁵² Although the issue around countering militia activities vary from country to country, a political step to countering the acts in Nigeria was the adoption of the Niger Delta Amnesty. For further discussions on effective steps against it in other countries and or/by the international community, see Adrian Guelke, *The Age of Terrorism and the International Political System* (London: I.B Tauris Publishers, 1998), chap. ten, 162-181.

and politics was mostly under military dictatorship, the country's federal outlook has been transformed into a *de facto* unitary system. During Nigeria's successive military rule, state building and political governance were synonymous with military operations.⁴⁵³ The characteristics of the army- hierarchical structure, one way flow of order, obedience and abhorrence to initiative and autonomy, all of which enabled it to function like a fighting machine pervaded state building processes and governance in Nigeria. Thus, the state governments lost all semblance of autonomy as their Military Governors were appointed by, and receive orders from, superior officers at the centre in Abuja.

In those circumstances, the question of the state governments challenging the centre over rights to revenue generated in their domain generally, and ownership and control of oil could not be asked. The situation has not changed even in the fourth republic under the civilian administration, 1999-2012. This is because, due to the clientèle network and dominant influence of the ruling party, the Peoples' Democratic Party (PDP), which not only impose gubernatorial candidates on the state, but has made all state governments accountable to the central government. The country therefore appears to be practising a one party state. More importantly, the state governments are weak, and therefore cannot challenge the centre since they depend on the centre for funds in order to survive.

Given the gaps in the powers of the states, both under the military regimes and civilian administrations, cultural and interest groups have sought to fill the void by making claims and demands over oil ownership and control on behalf of their respective communities.⁴⁵⁴ Even though it might be argued that some of these groups are motivated by greed, some of them like the case of MOSOP in Ogoniland enjoy the

⁴⁵³ The government was incorporated into a structure of military hierarchy to the extent that, the highest executive and legislative powers in the country was constituted by military officers occupying key military and state positions. The highest legislative and executive governing body witnessed different names depending on the principles and philosophy of the military leader. For instance, the war-time Yakubu Gowon (1966-1975) presided over the Supreme Military Council (SMC); Ibrahim Babangida (1985-1993) renamed the SMC to Armed Forces Ruling Council (AFRC). Thereafter, Sani Abacha (1993-1998) named it Provisional Ruling Council (PRC). The centralised military legislative bodies in their various names legislated for the entire country without observing the exclusive and concurrent powers of government typical of most federal system of government.

⁴⁵⁴ For the purpose of emphasis, the reasons for the ascendancy of the federal government over the states include the 1966 military intervention, the war-time state of emergency, transformations in the post 1970 party system, and the declining powers of the states following proliferation of additional states, some who have to depend on the central revenue allocation for survival. For further details, see Julius O. Ihonvbere, 'Are Things Falling Apart? The Military and the Crisis of Democratisation in Nigeria', *The Journal of Modern African Studies*, 34 (2), (1996), 193-225.

support of their communities and are, therefore, legitimate representatives of their people.

The question is, should the ethnic communities own and control the oil resources? As indicated above, cultural and interest groups have been at the forefront of the claims and demands. In their argument, they have invoked the derivation method of revenue sharing to support claims/demand of oil revenue generated from their land. They argue that in pre-civil war years when agricultural exports were the mainstay of the Nigerian economy, federal allocation to the then three and later four regions was on the basis of their relative contribution to the central account. The derivation arrangement, they argue, benefited the three majority ethnic groups who were the major producers of export crops at the time. The emergence of oil as the mainstay of the Nigerian economy from the early 1970s, therefore, requires an application of the same method, of revenue allocation on the basis of the derivation principle. Instead, the federal government decided to abandon the derivation principle of revenue sharing because oil is not produced from areas inhabited by majority groups.

Simply put, the argument of the right of oil producing ethnic communities to revenue generated from their land is grounded on a tradition of federal revenue allocation principle. Before analysing whether the claims/demands of the groups about oil ownership and control on the one hand and that of the federal government on the other hand is defensible, desirable and/or fair, it is important to stress that claims/demands about oil ownership and control to date are fundamentally by, or made on behalf of ethnic communities, and not by their respective political units or state governments.

The argument of the minority groups in the oil producing states of the Niger Delta may not be as logical as it appears. It is logically coherent to say that the derivation principle of revenue allocation should be consistently adhered to, and should not be abandoned when it is the turn of the weak- minority to benefit from it. However, inconsistency emerges when oil producing ethnic communities/groups is substituted as political units or state government, and the derivation principle applied to them. In the 1950s and 1960s when agricultural exports was the mainstay of the Nigerian economy, the derivation principle which the ethnic minorities of the oil producing region use as the basis of their argument was adopted to allocate revenues among the then three, and

later four political regions- Northern, Western, Eastern and Midwestern regions, but not to major ethnic groups in those regions.

It is also important to add that, if in each of the four regions in the 1960s, the political leaders used the revenue they received on the basis of the derivation principle for the benefit of the majority group; this may not make the arguments of the Niger Delta groups any better. It is injustice, and not acceptable when leaders use regional revenues exclusively for the benefit of a sectional group of their region. Leaders ought to be fair and just. That the regional leaders were unjust should not be taken as a yardstick by the Niger Delta groups. To do so would amount to perpetuation of the same injustice that the ethnic minorities of the Niger Delta fight against.

The ethnic minorities in the oil producing areas have also used land ownership as a premise for their claims/demands. It is argued that the land from which oil is derived is the ancestral home of the oil producing ethnic communities; as such they have right to whatever comes from it. The basis for this claim bears semblance to Hume's accession principle. The principle asserts that individuals have right to objects that are intimately connected to their property.⁴⁵⁵ For example, the mango tree on my land and the off-spring of my cattle are mine because they are derivatives of what I possess. Hume's principle was with regard to individuals, but the ethnic minorities/groups in Nigeria's Niger Delta uses it as the basis for group claims/demands. Probably, the shift from individuals to groups could be justified by the system of land ownership -family, village, clan - obtainable in the Niger Delta and in most parts of Sub-Saharan Africa.

However, when critically analysed, ambiguities arises if rights to ownership and control of natural resources are assigned to ethnic groups usually composed of several communities each having its own territory. For example, an oil location might be in the territory of one and not in the territory of the other, yet both communities are of the same ethnic group and share common local boundaries. Thus, the problem of ownership rights rears its head at a lower level. For instance, a section of the Niger Delta community once challenged the source of authority of the late Ken Saro Wiwa (an Ogoni activist) to speak on behalf of the whole Ogoni people when his own village has no oilfield.

⁴⁵⁵ See David Hume, 'Treatise of Human Nature', in David Hume, (ed.); *Moral and Political Philosophy*, 76.

The absurdity is more palpable in the case of the lower Niger Delta where some ethnic communities live either by the coastline and on tiny pieces of land surrounded by sea, and most oil fields in Nigeria are located not on land but on sea- off-shore and deep shore. It gets really absurd if coastal and island communities are assigned ownership of what is in the sea. And if it is assigned, this is just assuming the absurd, arguments would arise over territorial sea boundaries thus reproducing ownership problem anew. However, this is a problem of feasibility, and one still has to establish if it is desirable to invest ownership and control rights on groups, and this means making reference to the theoretical foundation of the thesis.

Liberal theorists such as Kymlicka and Taylor argue that minorities suffering injustice should be granted right to ‘internal self-government’ which does not exclude the right to determine the use of resources in their land.⁴⁵⁶ Theoretically, this would entail giving autonomy to every minority group, which is a practical impossibility in Nigeria’s highly heterogeneous society. There is no doubt, ethnic minorities of the Niger Delta may have suffered political neglect and injustice, but granting them the right to oil resources ownership and control would set a precedent for every other ethnic community in the country to exercise similar right with regard to what is in its land. In which case, states of the federation would cease to be relevant units of political authority and chaos would set in.

On the basis of the above arguments, granting ownership and control of oil resources to the various ethnic groups in the country would not only generate, but promote chaos in inter/intra ethnic relations and institutional instability. Hence, it is just not desirable as it contradicts the country’s national goals, especially unity and stability.

What about the federal government, including the states? Do the above arguments make the federal government the rightful owner of natural resources? The position of the thesis is that oil resources are national wealth. Conventionally, it is the Constitution of a country that assigns right to natural resources, and this assignment has two presuppositions. First, the Constitution assumes that natural resources are not the product of any citizen’s labour, or have not been developed by anyone, or both. For example, when section 40 of the 1979 Constitution formally revised and replaced the Petroleum Act of 1969 and assigned complete ownership- nationalisation of mineral resources to the federal government, the presupposition may have been that they were

⁴⁵⁶ For more discussion of the normative arguments of Charles Taylor and Will Kymlicka, refer to chapter two of this thesis.

not the creation of any Nigerian citizen's labour.⁴⁵⁷ A community assembling to decide who should control resources presupposes that it has ownership of what it is assigning.⁴⁵⁸ Thus, it is the Constitution that reflects the way the Nigerian society is structured and governed, therefore, the society should not be the basis for moral right.

The second assumption is that the Nigerian Constitution assumes federal government jurisdictional right of its national territory and its pre-eminence within. Indeed, international law recognises the jurisdictional right of states to their territory and to resources within. However, the basis for this right is contentious. In the social contract doctrines of Locke and Rousseau, the act by which individuals unite in a political society also submits their possessions to the community brought into being by the union. The submission is not alienation rather it is the basis for legitimate exercise of ownership right.⁴⁵⁹ As the guarantor of right, the Nigerian state regulates everyone and no one is exempt from its jurisdiction. It is in this sense that it has jurisdiction of the territory it presides over. Also, as a guarantor of right, the state ought not to invade what it guarantees. Doing so would amount to tyranny. As a body that has legitimate monopoly of force, it guarantees right not only by ensuring compliance to its laws but by warding-off external invasion. So, the state has jurisdiction of its territory relative to other states.

However, the act of constituting a society gives birth to a territorial unit known as country, large enough for all its members to live in and enjoy in common. Jurisdictional right belongs to the sovereign who also establishes rules by which the territory can be enjoyed in common, or by which land acquisition can be made by members.⁴⁶⁰ The right of members to their acquisitions is subordinate to the right of the sovereign of the entire country.⁴⁶¹ For this reason, property right of members could be subordinated when it is expedient to do so. For example, if some private buildings will stand in the middle of a proposed motorway, it may be expedient to subordinate private right to the interest of the community. In which case those who suffer loss of right

⁴⁵⁷ For the details of the Petroleum Act of 1969, see chapter eight, Section 8.2 of this thesis.

⁴⁵⁸ For further discussion of the assumptions behind the assigning of rights by the constitution, see Richard Simeon and Ian Robinson, *State, Society, and the Development of the Canadian Federalism* (Toronto: University of Toronto Press, 1990), 236-239.

⁴⁵⁹ See John Locke, *Second Treatise of Government*, C.B Macpherson, (ed.); (Hackett Publishing Company, 1980), chap. Vii, paragraphs 120 and 121. See also, Jean Jacque Rousseau, 'The Social Contract', in Jean Jacque Rousseau, (ed.); *The Social Contract and Discourses*, translated by G.D.H Cole (London: Everyman's Library, 1968), Bk 1, chap. IX.

⁴⁶⁰ See Hume, 'Treatise of Human Nature', part II section iii.

⁴⁶¹ See Rousseau, 'The Social Contract', Bk 1, chap. IX, second to the last paragraph.

receives compensation to the value of what they lose. This is what is called the Right of Eminent Domain in countries like Canada and the United Kingdom.⁴⁶²

In fact, the right of the sovereign to its national territory partly explains why Multinational Companies carrying out economic transactions first seek its permission. Thus, a MOC coming to explore oil first negotiates with the agent of the people, the federal government, for permission and also pays taxes to it. However, communities immediately connected to resource endowed land should not be ignored. They suffer in a double sense, when their right is subordinated to that of the sovereign. Firstly, they forego the economic and cultural uses of their land. Secondly, they suffer effects of environmental degradation during the exploration, production and distribution of oil resources. The forego of the economic and cultural uses of their land entitles them to monetary compensation from the government, while the effects of environmental degradation during the exploration, production and distribution of oil resources requires the government to pay special attention with a view to restoring the environment and providing alternatives to what may have been destroyed.

For example, it is obligatory that communities sitting on oil be provided with alternative source of domestic water and protein if the rivers and lakes of their fragile ecosystem are destroyed. However, this obligation should not be expanded to include improvement projects that do not derive from the subordination of right or destruction of the environment. Provision of infrastructures like motorways, telephones or universities is a social responsibility of the state regardless of what is produced from a particular community. It is a duty the state owes its citizens, not one that springs from the fact of resource generation. It becomes an issue if the government fails both in its social responsibility and its particular obligation that arises from subordinating right and from environmental destruction. Most of the protests in the Niger Delta arise from the failure of the governments- state and federal- to provide the area with social infrastructures, which is not directly related to oil production.

Is the ownership right that of the federal or state government? Conventionally, in a political federation, the sub-units have the same right to revenue generated from resources within their territories. A federal constitution often vests constituent states with powers to control natural resources within their units. This conventional understanding is sometimes not respected when such resources, usually located in a few

⁴⁶² See John Boye Ejobowah, 'Who Owns the Oil? The Politics of Ethnicity in the Niger Delta of Nigeria', 41.

states, are of great significance to the national economy, as the Canadian experience regarding oil during the 1970s. By implication therefore, the question of who ought to control natural resources is not peculiar to Nigeria. For example, the Canadian Constitution assigned to the provinces the right to control the development and direct taxation of natural resources. When the price of oil quadrupled in 1973, and doubled in 1979, the provinces raked in high incomes to the detriment of the industrial progress of the consuming provinces that had to pay for the high local price of gas. The Canadian federal government moved in to promote Canadian ownership of oil which resulted in a dispute not different from the Nigeria's experience. The principal issue in the Canadian dispute was who owned the oil. While the oil producing provinces argued that they were entitled to the full benefits from their resources, the consuming provinces and the federal government on the other hand argued that the oil belonged to the Canadian people. Canadians had not been able to arrive at normative principles to regulate the competing claims when the price of oil crashed in 1983, and the conflict lost its relevance.⁴⁶³

The Canadian's deviation from conventional understanding of economic entitlements, also evidenced by the Nigerian experience, are not simply matters of power flexing by the centre. As this chapter has argued, the sovereign body has normative right to resources within its territory. However, in a federal system, jurisdictional rights to the territory are shared between the central and state governments, for example, in the concurrent legislative list.⁴⁶⁴ The right to share power derives from one of the major conditions that give rise to federalism. In the case of Nigeria, as with other countries, ethnic diversity was the major condition that made for the adoption of federalism.⁴⁶⁵ This condition does not require monopoly control of natural resources by one level of government; instead, the sharing of jurisdictional rights also entails the sharing of rights to resources. Neither of the two levels ought to exercise absolute right that would eliminate that of the other. In fact, Nigeria is *de facto* unitary precisely because the federal government's exercise of absolute powers has abolished the rights of the states.

⁴⁶³ For more discussion of the oil ownership debate in Canada, see Simeon and Robinson, *State, Society, and the Development of the Canadian Federalism*, 236-240.

⁴⁶⁴ See Figure 3 for the highlights of the legislative jurisdictional powers as contained in the 1999 Constitution as amended in 2011.

⁴⁶⁵ See L. Adele Jinadu, 'A Note on the Theory of Federalism', in Bolaji A. Akinyemi, Patrick Cole and Walter Ofonagoro, (eds.); *Readings on Federalism*, xiv and 13-25.

In 1994, the military regime of the late General Sani Abacha constituted the Constitutional Conference. The sub-committee on Revenue Allocation received a joint petition from the Niger Delta groups. When considering the petition, the sub-committee acknowledged the concerns of the Niger Delta groups and recognised that, due to availability of natural resource in their domain, they have lost the economic and cultural uses of their land, as well as suffering from the effects of environmental degradation during the exploration, production and distribution of oil. In an attempt to provide monetary compensation and at the same time providing special attention to the oil producing Niger Delta, the Conference recommended 13% of revenue derived from natural resources. The question is, did the 1994/95 Constitutional Conference make a fair decision when it agreed on 13% as the minimum figure for derivation share of revenue accruing to the Federation Account from natural resources? In some respects, the agreement on broad revenue allocation framework that combined derivation principle with those of population, equality of states etc. was recognition that states have some right to economic resources. It was fair as the Conference recognised that the states have some right to revenues generated from natural resources in their domains, it is, however, not defensible how the Constitutional Conference arrived at 13% derivation base limit.

The sub-committee on Revenue Allocation that worked out the allocation criteria that was agreed upon by the Conference did not explain if the 13% figure was generated on the basis of some principles or if it was arbitrary. Critically analysed, the baseline of 13% is actually lower than it appears. For example, the 1999 Draft Constitution states that:

The figure of the allocation for derivation shall be deemed to include any amount that may be set aside for funding any special authority or agency- *Niger Delta Development Commission (NDDC)* for the development of the state or states of derivation.⁴⁶⁶

This provision as contained in the 1999 Draft Constitution which was amended in 2011 draws a whole range of entitlements of the Niger Delta region into the 13% baseline figure. For example, monetary compensation to oil producing communities for subordinating their immediate right to that of the sovereign- Nigerian government is included. General social responsibilities to people of the Niger Delta are also built into it. This is further explained as follows.

⁴⁶⁶ Citation comes from *Report of the 1995 Constitutional Conference Containing the Draft Constitution*, Vol. I., Section 163, sub-section 2. Emphases in italics are not in the original manuscript, but mine.

It may be recalled that, both the Minorities Commission of 1957/58 and the 1975 government Panel on creation of states reported the Niger Delta as having suffered government neglect mainly because of the high cost of providing infrastructures in the swampy terrain. Both made far reaching recommendations for special development by the federal government in order to raise the area to the same level of infrastructural development as other parts of the country. The recommendations, and indeed government's responsibility to pay special development attention to the Niger Delta was not derived from, and in fact does not in any way relate to oil production. It is a social responsibility owed to citizens of the Niger Delta. But the 1995 Conference factored its social responsibilities into the 13% baseline figure.

A critical evaluation of the report of the 1995 Conference to compensate the Niger Delta reveals that all the range of entitlements that ought to go to the communities and the derivation share for the states falls drastically from the 13% baseline, while at the same time, there was an increase in the share for population and equality of states. By implication therefore, the Conference affirmed the right of the federal government to oil within the national territory and at the same time recommended a *weak concession* to the conventional practise of federalism by which constituent states share in wealth derived from their units. The 13% baseline recommended by the 1994/5 Conference, and which was eventually adopted by the federal government was not fair enough, although it marked an improvement on the previous state building arrangements- the 1969 Petroleum Act, and the 1979 Constitution in which the federal government had absolute ownership and control of oil resources. Finally, given the unabated tension in the Niger Delta, despite revisions in the state building arrangements in the oil industry, it becomes easy to refer to state building and constitutional politics as important factor in the generation and recurrence of ethno-political conflicts and instability in the country.

8.5 Summary

This chapter examined Nigeria's state building arrangements with regard to the oil industry. In particular the chapter examined the three, but interrelated aspects of the oil conflict dynamics. The first relates to and the discussion of the emergence of a series of state building arrangements leading to state ownership of oil resources. The second aspect covered the essence of the oil resource conflict and attempts to bring into focus

the grievances and claims of the oil bearing communities. In conclusion, the chapter evaluated the claims and counter claims about oil resource ownership and control between the Federal Government of Nigeria on the one hand, and the ethnic groups in the Niger Delta on the other hand. The aim was to provide a normative judgement on whether the oil bearing communities have ownership and control right, and whether the state building arrangements with regards to oil ownership and control by the federal government was fair.

The analysis shows that the stakes in ownership and control of the oil is high on both parties to the conflict. The chapter particularly dwells on how the legitimacy of the Nigerian government was bitterly contested by the Niger Delta communities, who feel that they have been side-lined or cheated as a result of politics of state building in the oil sector of the Nigerian economy. The Niger Delta communities used abandonment of the derivation principle of revenue allocation and lack of physical infrastructure as the basis of their claims/demands for local autonomy and self-determination.

From this evaluation, this study can infer that first; the government did not act according to justice by abandoning the derivation principle of revenue allocation. Second, the government also made a mistake by factoring arbitrarily at 13% the baseline figure for compensation to the oil producing states. Third, the politics around oil and the lack of basic infrastructures in the oil producing states are indication of government failure in discharging its developmental responsibilities, and this has thus generated intense ethno-political conflict and instability that is threatening the legitimacy of the government of the country. Finally, in an ideal federal political system, agitation for who is to own and control resources is not ideally the essence of ethnic groups, but that of the federal and state governments. Thus, allowing the ethnic groups in the Niger Delta to partake in the ownership and control of the oil resources instead of the political units- states would set precedents for others to follow, and this in so many ways would amount to chaos and institutional instability in Nigeria's multi-ethnic society.

When the above lessons are contextualised within the political environment in which they occurred, for instance, under successive corrupt Military regimes, it becomes reasonable to observe that, as at 1966 when the Military ascended to power, many observers saw the Nigerian armed forces primarily as a fighting force, largely uninterested in the paraphernalia of political office and accoutrements of power. However, this changed with the arrival of oil wealth. This thus means that the origins of

Nigeria's post-independence ethno-political tensions can be traced back to the central role played by the military in the control and management of this new found wealth, and the tendency toward personal accumulation of oil wealth to the extent that all subsequent Military regimes and civilian administration have been pervaded by corruption. For instance, many of the Military officers who ruled the country are highly linked to leading businesses, especially through its implementation of the Nigerian Enterprises Decrees of 1972 and 1977. This means that the personal accumulation of oil wealth the retired Army officers corruptly acquired has given them some financial leverage, and hence the leading politicians, because they are able to easily fund political parties.

As discussed in the body of this chapter, the state ownership and control of oil approach play roles in the ethno-political and stability problems in the country. However, given the environment and circumstances in which the resources of the country were managed by the Military, it becomes necessary to mention the relevance of the paramount roles of the political Military and corruption in the generation and recurrence of ethno-political tensions and instability. In order to mitigate this trend, it becomes necessary to think of the way forward. And what readily comes handy is a suggestion that, political incursion of the Military and combating corruption could be achieved through Constitutional and institutional safeguards able to monitor and hold to account those in charge of the state and the treasury.⁴⁶⁷

⁴⁶⁷ For details of the specific expedient safeguards against Military incursion in politics and combating corruption, see chapter nine of this thesis.

CHAPTER NINE CONCLUSION

9.1 Summary

The discussions of state building and constitutional politics in Nigeria's multi-ethnic society reveal that successive governments, in different historical moments, initiated and established several state building institutions with the aim to assist in the realisation of the country's triple national goals: recognise and accommodate diversity, achieve national unity and political stability. The key state building strategies discussed in this thesis were:

- (1) The political system and recognition of minorities approaches in the pre-independence era - wherein the differences among the three major groups were given political expression; while those between the majority and minority groups were suppressed.
- (2) The Quota System and separation of minorities approaches- a federal system in which the sub-units were restructured and an affirmative action programme was instituted to favour wider political expression of differences among both the majority and minority groups.
- (3) The federal character (principle) approach - more state status for groups within a federal system, wherein central government institutions and material resources were distributed evenly across the states, and while the state governments in turn also distributed their offices and resources across the local governments.
- (4) The revised federal character principle approach- more state status for more groups in a federal system in which the executive cabinet was rotated from ethnic region to another.
- (5) Revenue Allocation (System) approach - wherein, the central government affirmed right to distribute resources evenly among states, but with some attention to source of derivation.
- (6) State ownership and control of oil approach – with the aim to achieve national unity and even development in the country.

Some of these state building strategies were morally defensible in the very circumstances in which they were negotiated, but were either not deep enough to make for adequate political inclusion or were not combined with different counter strategies to minimise problems of group proliferation and institutional instability. This is true of

virtually all the state building strategies discussed in this thesis. There were some that were morally defensible even though they generated tension among groups or were driven by strategic considerations for power. This was the case with virtually all the state building strategies that involved the affirmative action programme - Quota System and the political separation of minorities in the 1960s. Others were pragmatic at the very time they were negotiated and in the circumstances of the period, but not morally defensible. This is true of the state building strategy, for instance, the type of political system negotiated in the 1950s.

The concrete case by case analysis of these state building strategies showed that recognition and accommodation of diversity in Nigeria have offered greater promise for stability than their suppression in favour of the three major ethnic groups- Hausa/Fulani, Yoruba and Igbo. Indeed, it would not be an over-statement to say that the little unity that exists in the country today is the result of the affirmation of identity strategies that have been adopted in its history. However, the case by case analysis also showed that Nigeria's state building strategies that recognise expression of difference has *generated* some recurrence of ethno-political and institutional problems that were anticipated at the outset of their being initiated and that no concrete counter measures have been taken in order to guarantee the political stability of the country. The difficulties include, among others, institutional instability arising from endless demand for state creation by groups, leading to endless proliferation of Nigeria into states, local governments and geo-political zones. Ethnicity became the basis for citizenship rights, and the ethno-political conflict arising from the ownership and control of natural resources. In the proceeding paragraphs, the thesis explores the difficulties and tensions that have arisen in the process of state building in the country to evaluate the prescriptions proposed by the normative theorists.

The main theme in the three normative philosophy theories adopted for this thesis is that, in a multicultural society, equality and justice, unity and stability prevail if government institutions reflect diverse cultures. This main theme was argued in a variety of ways. For example, Walzer locates equality and justice for groups in the distributional meaning of social goods and argues that, in a democratic order, difference should be tolerated.⁴⁶⁸ Charles Taylor argues that our identity is shaped by the recognition we receive from others, and that the demand for equal recognition requires a

⁴⁶⁸ See Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*; his work on *Interpretation and Social Criticism*, and also his work on *Thick and Thin*.

model of liberal society in which culturally diverse groups are treated as equal partners.⁴⁶⁹ On his part, Kymlicka argues that in liberal democracies minority groups require special rights to enable their members exercise autonomy and freedom taken for granted by majority group members of the country.⁴⁷⁰ In all of the above mentioned arguments, at the heart of the analysis is the group. That is to say, all the theorists recognised and presented the relevance of the interest of diverse groups in state building and constitutional processes of the country.

However, the Nigerian experience shows that the design of state building around ethnic groups triggers proliferation of groups and political apparatuses that renders the Nigerian state unstable. The problems arising from proliferation of groups and state apparatuses was recognised way back in 1958 when the Minorities Commission used it to justify its refusal to meet demands by some minority groups for recognition in separate political units. But subsequently, recognition had to be granted by the successive military governments by creating states and local governments to avert imminent disintegration of the country. Between the 1960s and 2012, redrawing of internal political boundaries around groups has activated the emergence of new groups with new political demands. For instance, the number of states increased from 12 in 1967 to 36 in 2012. The introduction of the federal character strategies further stimulated the proliferation of groups with new demands etc.

On the basis of the above, a slippery slope was inevitable because the use of the ethnic principle led to the duplication of state institutions, created access to power and wealth for few privileged elites, and gave symbolic value to ethnic groups in need of esteem and honour. These have fuelled endless demands for recognition, stimulated countless multiplication of local governments from 301 in 1984 to 774 in 2012, and rendered national institutions unstable and costly as they are duplicated all over the country.

Theorists like Kymlicka and Taylor anticipated this sort of ethno-political and institutional problems in their arguments and did provide ways of dealing with them by placing a limit on the groups that would qualify for recognition. Both Kymlicka and Taylor proposed a requirement that state building strategies and constitutional designs should give recognition to groups who are tied to a homeland and can support a culture.

⁴⁶⁹ See Taylor, 'Shared and Divergent Values'; and also in his work on *Multiculturalism: Examining the Politics of Recognition*.

⁴⁷⁰ See Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*; and also his work on *Liberalism, Community, and Culture*.

In the North America and many other western countries, this requirement limits recognition to a small number of non-immigrant groups. But when this requirement is applied to Nigeria, there is bound to be a problem. This is because both the three majority and numerous minority ethnic groups are all non-immigrants. The minority ethnic groups are countless in number, while the majority ethnic groups are made up of subgroups.

The above analogy and others that would follow are not suggestion that the theoretical arguments of Kymlicka and others have no theoretical relevance to Nigeria. The country's responses through series of state building strategies and constitutional designs are indications that arrangements in which recognition and accommodation are not given to ethnic groups are not a better alternative. The country has on many occasions publicly debated and revised its state building strategies for recognising and accommodating pluralism, national unity and political stability over and over again. For instance, the series of reviews in the revenue allocation systems, review of the federal character principle to include rotation in Presidency and Gubernatorial positions, creations of states and oil ownership and control policies to include or exclude on-shore or off-shore, etc. But on each occasion the key elements of federal character survived because they were found to be the best way for ensuring equity and justice. The only unanswered lingering problem is when and how proliferation of sub-units would end since it is a criterion for political representation and revenue allocation.⁴⁷¹

A second important issue the application of the normative prescription to the Nigerian experience raises is the question of citizenship rights. One common thread that runs through the arguments of the theorists is that a liberal commitment to equality and justice requires constitutional order in which citizenship is differentiated. For example, the democratic equality theorists such as Iris Marion Young argues that the common standard which pervades the original position from which the Rawlsian model of justice is derived is actually the standard of the strong who share a common way of life. In the original position, Young argues, the weak minority groups share different ways of life and cannot make their voices heard. As a remedy, she proposed a *democratic public* that provides mechanisms for the effective representation and recognition of distinct

⁴⁷¹ The thesis offered some suggestions in chapter six.

voices.⁴⁷² Joseph H. Carens takes similar position when he argues for a genuinely shared citizenship in Canada. According to him, the best way of doing justice to Aboriginals of Canada who do not have a sense of common political bond with non-Aboriginal Canadians is to ‘recognise the inevitable injustice of a deliberative process that effectively excludes or overrides Aboriginal cultural perspectives on what justice requires’.⁴⁷³ Carens therefore proposes dialogue as a means of arriving at arrangements that combine mutual compromises and mutual understanding about justice. Also, Taylor argues for a model of liberal society in which the collective rights and goals of disadvantaged and threatened cultural communities are recognised.⁴⁷⁴

In line with the above arguments, recognising the interest of the weak (diverse minority groups) in state building process and constitutional instruments has been a major issue that defined Nigerian politics since the 1950s. For example, the bitter Nigeria-Biafra civil war that was fought over between 1967 and 1970 finally led to the statutory adoption of ethnicity as a principle for ensuring equitable access to power and resources. Since the 1970s, ethnicity has been used as a state building principle to create states, make cabinet appointments, constitute political parties and make selections into the Army, the Universities, the civil service and government parastatals. It has also been used as the basis for political representation to ensure that the positions are rotated among groups at the three tiers of government.

The boomerang effects of citizenship rights have over the years clearly emerged. For instance, although the constitution of Nigeria defined citizenship in legal terms, family descent has become the primary basis for the determinant of membership of the states and of the local government units.⁴⁷⁵ This has led to sensitivity in the ethnic/state origin of people contesting for political positions and of those appointed or selected into national institutions. In fact, although the country had started implementing federal character principles since the late 1970s, Federal Character Commission (FCC) was specifically established in 1996 to monitor geo-ethnic origin of public employees.⁴⁷⁶

⁴⁷² For more detailed critiques of Rawl’s original position which models groups as equal and excludes characteristics such as ethnicity, race and religion etc. see Young, *Justice and the Politics of Difference*, 104, Young, ‘Polity and Group Difference: A Critique of the Ideal of Universal Citizenship’, *Ethics*, 261.

⁴⁷³ See Joseph H. Carens, ‘Dimensions of Citizenship and National Identity in Canada’, *Philosophy Forum*, XXVIII (1-2), (1996), 120.

⁴⁷⁴ See Taylor, *Multiculturalism: Examining the Politics of Recognition*, 56-59.

⁴⁷⁵ For the definition of Nigerian citizenship, see, *Constitution of the Federal Republic of Nigeria (Amended)*, Chap. III, Section 25 (1), sub-sections (a-c), Section 26 and 27.

⁴⁷⁶ Based on the Report of the 1995 Constitutional conference contained in volume II, p. 145, the Federal Character Commission was established by Decree 34 of 1996, but not constitutionalised until 1999.

Thus, apart from the other key state building strategies discussed within chapters' three to eight of this thesis, the formal establishment of the FCC has further made ethnicity to become the basis for citizenship identification. For example, individuals relating with national institutions have to first submit letters of identification from the chairperson of their local government areas attesting to their ethnic origin. Indeed, the Political Bureau of 1986 observed that the constitutional definition of membership of the sub-units of the federation in terms of indigeneity was an impediment to the development of Nigerian citizenship and encouraging attachments to home communities.⁴⁷⁷

The multiple roles of Nigeria's state building strategies in recognising ethnicity as indicated above notwithstanding, the country's experience shows enormous costs and contradictions in terms of elevating ascriptive criterion such as ethnicity as the major determinant of citizenship. For instance, the perpetration by states and local governments of discriminatory practices that exclude so-called non-indigenes-Nigerians resident in a constituent state that does not incorporate their presumed historic ancestral or indigenous communities from opportunities (educational admissions, bureaucratic placement, political offices, land and other economic resources, federal projects) available in such states has engendered a monumental crisis of internal citizenship in Nigeria, including convulsive violence between indigenes and long-settled non-indigenes in states such as Plateau, Taraba and Benue.⁴⁷⁸

Similarly, the above problem shows that normative arguments for the recognition and accommodation of ethnic difference in state building and constitutional processes run the danger of elevating ascriptive group membership as the major determinant of citizenship. Critics of multiculturalism such as Nathan Glazer, Alvin Schmidt, and Arthur Schlesinger Jr. etc., have made similar criticism. For example, Alvin Schmidt equates multi-culturalists to soldiers seeking to conquer and destroy America. He regards bilingual education and a curriculum that reflects multiculturalism as evils that bring ethnic separateness, disunity and conflict.⁴⁷⁹ Schmidt and his fellow critics emphasise what Steven Rockefeller has referred to as the danger of elevating ethnic identity over universal human potential.⁴⁸⁰

⁴⁷⁷ See *Political Bureau Report*, 197.

⁴⁷⁸ See Rotimi T. Suberu, 'The Nigerian Federal System: Performance, Problems, and Prospects', *Journal of Contemporary Studies*, 28 (4), (October, 2010), 466. See also Figure 1 with particular attention to ethno-political/religious violence.

⁴⁷⁹ See Schmidt, *The Menace of multiculturalism: Trojan Horse in America*, chap. 8.

⁴⁸⁰ The comment of Steven Rockefeller is extracted from Taylor, *Multiculturalism: Examining the Politics of Recognition*, 89.

In fairness, theorists such as Kymlicka and Taylor are particularly interested in opening up a space in liberalism for the rights of minority groups. They separately argue that departure from liberal individualist rights is justified only to the extent that is needed to rectify inequality. In a chapter on apartheid, Kymlicka shows that ‘the notion of cultural membership and the principle of equalising cultural circumstances would not justify petty apartheid.’⁴⁸¹ But as the Nigerian experience shows, and as the country’s Political Bureau of 1986 reported, a deep sense of ascriptive inclusion and exclusion are inevitable outcomes of the principle of equalising cultures. These are the very fears that the critics of multiculturalism in North America harbour. But the Nigerian experience especially; the fears and reluctance of the country’s successive governments to abandon the use of indigeneity in the definition of membership of political sub-units, would suggest that there is no better alternative to the ethnic principle. What all this means is that it is to criticise the prescription of theorists that they elevate group rights over individual rights.

A third issue in the Nigerian experience is the tension and confusion associated with the right of ownership and control of resources on groups. Scholars such as Kymlicka and Taylor for instance are more or less arguing that cultural minorities such as the Niger Delta communities suffering injustice should be granted right to internal self-government which will include the right to determine the use of resources in their land.⁴⁸² In this case the unit of government is expected to be co-extensive with the cultural group, so resources are to belong to the unit. In the Nigerian case where internal boundaries have been drawn over and over to take account of ethnic cleavages, rights to natural resources have been vested under the sovereign body with the central government acting as its agents. This has to do with the disaster that resulted from winner-takes-all system of politics that is being practised in the country. The system made for political determination by elites from a few ethnic regions of the country and also made for unequal distribution of public goods.

⁴⁸¹ See Kymlicka, *Liberalism, Community and Culture*, 247.

⁴⁸² Recall that in chapter two of this thesis, Charles Taylor in his *Shared and Divergent Values*, and in his *Multiculturalism: Examining the Politics of Recognition* advocates that, in order to ensure equality and justice in culturally diverse societies that treats groups as equal partners, there should be some form of federal arrangement. Similarly, Will Kymlicka, in his *Multicultural Citizenship: A Liberal Theory of Minority Rights*, and also in his *Liberalism, Community, and Culture* advocates that, in order to ensure that political institutions of the states reflects the culture of both the majority and minority ethnic groups, there should be a federal sub-units, special representation, and veto rights for ethnic minorities.

The determination to do away with unequal allocation of goods after the civil war made the federal government to declare state's ownership of natural resources with the aim of sharing their monetary benefits proportionally among various ethnic sections of the country. Proportional distribution of wealth derived from natural resources was held as the key to public perception of state objectivity and neutrality and to long term political stability. The federal character strategies designed in the 1970s/80s were all about proportional distribution of public positions and national wealth. Theoretical arguments for rights of groups to use resources in their land may sound reasonable, but the Nigerian case shows that such rights work against equity and generate grievances among ethno-regional groups that are not so endowed in natural resources. In addition, recent claims to oil wealth by groups such as the Ogoni, the Ijaw and others in the oil producing Niger Delta do show that investing ethno-cultural groups with right to resources would set a precedent for every other ethnic community in any part of the country to exercise similar rights with regard to what is in its land.

The fourth issue is the social and economic base of the Nigerian elite. Members of the dominant social class in Nigeria, as in most parts of Africa, are not rooted in industry. They are not capitalist in the technical sense of the word. Instead, they have their roots in politics. If elsewhere in the western world, economic productive activity is the principal means of accumulating wealth, in the case of Nigeria, it is the state. Politics is a career, a full time economic activity, and the chief medium for material self-improvement, and rather like the absolutist state which was the principal means of surplus extraction, and war a full time occupation of the nobility.⁴⁸³ Thus, those who control power have no intention of losing it, while those out of power are obliged to seek alternative centres of power. For instance, the combination of federal revenue allocation system from the 1970s which disconnected allocation formula from revenue generation to such criterion as population, equality of states, and establishment of Distributable Pool Account etc. gave impetus to the demands for alternative centres of power.⁴⁸⁴

On the contrary, the social and economic base of elites in Western societies is that in which the social base of the dominant class is rooted in economic productive

⁴⁸³ For more discussion of this argument, see Richard G. Fox; C. Aull and L. Cimino, 'Ethnic Nationalism and the Welfare State', in Charles F. Keyes, (ed.); *Ethnic Change* (Seattle: University of Washington Press, 1981), 199-245.

⁴⁸⁴ See Eme Ekekwe, *Class and State in Nigeria*, See also Claude Ake, 'The State in Africa', in Claude Ake, (ed.); *Political Economy of Nigeria*.

activity, and the custodians of power are constrained from using power for private purposes. In liberal democratic societies of the West, officials of the state use power to secure freedom, equality and autonomy of individuals, values necessary for capital accumulation etc. These liberal democratic values are desirable, and apparently they are either weak or non-existent in the developing world. In fact, it is precisely because of the weakness of these values in the Nigerian society that the state is used as a private power by its custodians.⁴⁸⁵ To be more specific, the lack or weak mechanisms for preventing the custodians of power from using it for private purposes and more or less politically automatic access of governments to centrally collected and redistributed oil revenues has promoted grand corruption and patronage politics, including the theft of ‘more than \$380 billion in public funds ... by those in government between 1960 and 1999’.⁴⁸⁶

In addition, the oil-based funding of constituent states and local governments has been a particularly powerful inducement to corruption at the sub-national level. This is because these governments are neither responsible to the centre nor accountable to their constituents for the use of the funds. Instead, despite their overwhelming dependence on central government- oil-based financial transfers, the state governments regard them as an unconditional, constitutional entitlement that is not subject to central government discretion or oversight under Nigeria’s federal practice.

Between 1999 and 2007, 31 State Governors were indicted or brought under investigation by Nigeria’s anti-corruption agencies for various breaches of the public trust, including embezzlement, money laundering, false declaration of assets, maintaining foreign bank accounts in contravention of the statutory code of conduct for Nigerian public officers, and the fraudulent acquisition of properties abroad. Corruption has been equally rampant at the local government level.⁴⁸⁷ Thus, a 2007 report on local government corruption in oil-rich Rivers State highlights several cases of embezzlement that included, for instance, the illegal allocation to the chairman of Khana local government in 2005 of salary and allowances worth \$376,000, which were ‘nearly half

⁴⁸⁵ This argument recognises capitalism in Nigeria as peripheral. The elites as disconnected from industrial production and the political practices as those not consistent with those of liberal democracy. See Claude Ake, ‘The state in Africa’, in Claude Ake, (ed.); *Political Economy of Nigeria* (London: Longman), chapter 1.

⁴⁸⁶ Citation comes from Human Rights Watch (HRW), *Chop Fine: The Human Rights Impact of Local Government Corruption and Mismanagement in Rivers State, Nigeria* (New York: Human Rights Watch, 2007), 16.

⁴⁸⁷ For further discussion of corruption at the local government in Nigeria, see J.O Aluko, *Corruption in the Local Government System in Nigeria* (Ibadan: BookBuilders, 2006).

the total amount allocated for the wages and allowances of Khana's 325 health-sector workers'; the allocation in 2006 to the chairman of Tai local government of a security vote of \$300,000, which exceeded the council's total capital budgets for either health or education; and the illegal awarding during 2005-2006 by the chairman of Opobo Nkoro local government of \$91,000 worth of construction contracts to himself.⁴⁸⁸

The large-scale economic corruption in the Nigeria is also closely intertwined with massive electoral corruption, which has been the most basic source of political democratic instability in the country. Monumental electoral frauds were the primary element in the collapse of the First and Second Nigerian Republics, and the proximate factor in the abortion of the Third Republic. Although the Fourth Republic has endured longer than any of its predecessors, Presidential elections held under the Republic in 1999, 2003, 2009 and 2011 have been 'successively less fair, less efficient, and less credible'.⁴⁸⁹ Electoral corruption, which is enormously facilitated by the overwhelming Presidential and Gubernatorial control over the appointments and funding of the Independent National Electoral Commission (INEC) and the 36 state Independent Electoral Commissions (SIEC), has distorted and degraded Nigeria's political system in the different interrelated ways.

Electoral corruption has undermined the incentives for inter-ethnic coalition and accommodation embedded in the 'federal character' electoral rules that require Presidential and Gubernatorial candidates to obtain broad geographical support. Instead of generating and mobilising genuine support across the nation's ethnic, regional and religious fault-lines, candidates have been able to use force and fraud to manufacture seemingly broad-based, but actually farcical, electoral mandates. For instance, although his policies on the Niger Delta during the 1999-2003 periods were extremely unpopular in the region, President Obasanjo was still able to win with landslide victories in the Niger Delta States in the 2003 elections. In essence, as long as parties and candidates can simply concoct election results, they will have very little incentive to cultivate or exhibit the ethnically conciliatory or moderate behaviour necessary to achieve the broad geographical support mandated by formal electoral rules.⁴⁹⁰

⁴⁸⁸ See *Ibid.*, *Chop Fine: The Human Rights Impact of Local Government Corruption and Mismanagement in Rivers State, Nigeria*, 32, 36, 56.

⁴⁸⁹ Citation comes from Rudolph Joseph, 'Challenges of a Frontier Region', *Journal of Democracy*, 19 (2), (2008), 96.

⁴⁹⁰ For additional readings on electoral corruption in Nigeria, see Michael Bratton, 'Vote Buying and Violence in Nigerian Election Campaigns', *Electoral Studies*, 27 (2008), 621-632. See also Francis C.

Furthermore, electoral corruption in Nigeria has impeded the development of the robust, nationally integrated party systems considered to be crucial for the stability and development of federations in general, and multi-ethnic federal systems, in particular. Without the competitive discipline of a credible electoral system that rewards partisan coalitions with power on the basis of the voters' verdict, Nigeria's parties will continue to be weak, faction-ridden, personality-driven institutions lacking internal democracy, viable organisations, coherent policy platforms, vibrant social bases, effective representation for women and other marginalised social groups, and genuine cross-regional, inter-religious, and/or trans-ethnic appeals. Even the PDP, which proclaims itself to be Africa's largest party, and is in fact impressively multi-regional, remains a fractious and ideologically in-articulate conglomerate of politicians, whose great common enterprise is the doling out of patronage along ethno-geographical lines.

In addition, electoral corruption has promoted political over-centralisation, and retarded decentralisation in Nigeria. A promise of Nigeria's three-tier system of government is that the existence of multiple state and local governments, with significant policy autonomy and access to resources, can disperse the stakes of political competition, making struggles for control over the centre less intense and helping political pluralism and policy innovations to gain footholds in different states and localities governed by various parties. But the malign hand of electoral manipulation has suppressed this federalist genius, producing an artificial condition of single-party domination of central, state and local governments.⁴⁹¹ Thus, in the First, Second and current Fourth Republics, the ruling parties at the national level used their control of key electoral and security institutions to dislodge opposition parties at the regional or state level, thereby imposing an oppressive, ethnically provocative, single-party hegemony on the entire country. Regional and state governments have similarly used their control of the institutions for local electoral administration to undermine opposition control, and thus political devolution and diversity, at the local level.

At the same time, as it has fostered an artificial near-monolithic party system in the country, electoral manipulation has obstructed the development of the robust intergovernmental co-partisanship associated with genuinely integrated party systems. Such co-partisanship promotes the sustainability of federal programmes and policies

Enemuo, 'Elite Solidarity, Communal Support, and the 1999 Presidential Election in Nigeria', *Issue: A Journal of Opinion*, 27 (1), (1999), 3-7.

⁴⁹¹ For more discussion of political over-centralisation and PDP domination, see Rotimi T. Suberu, 'Nigeria's Muddled Elections', *Journal of Democracy*, 18 (4), (2007), 95-110.

through the support of those agendas by state governments that share the same party label and electoral interests with the federal government. However, because it is largely the by-product of electoral manipulation and corruption, inter-governmental co-partisanship in Nigeria often fails to yield genuine political or policy consensus between levels of government. During Obasanjo's civilian Presidency, for instance, the PDP federal government orchestrated the impeachment or political subversion of several PDP state governments in Anambra, Bayelsa, Oyo, and Plateau states, while many PDP state governments similarly challenged the federal government's positions on major policy issues like Sharia implementation, anti-corruption reform, and the savings of windfall oil revenues.⁴⁹²

Electoral manipulation has directly contributed to ethno-regional conflict and communal violence in Nigeria's multi-ethnic society. The control of federal, state, and local governments by corruptly imposed and politically unaccountable governments has obstructed the alleviation of the inter-regional inequalities and mass poverty that fuel violent ethno-regional militancy and religious extremism. In the Niger Delta, for instance, the mismanagement of derivation revenues by fraudulently elected, and thus politically unaccountable, state and local governments has fuelled militant uprisings against the region's ecological neglect, economic underdevelopment, social inequalities, and abysmal governance. Similarly, in Jos the rigging of local government elections by the state government in 2008 directly provoked convulsive ethno-religious violence.

Finally, the prevalence and perpetuation of the above mentioned corrupt practices were carried out before the watchful eyes of the Economic and Financial Crime Commission (EFCC). The EFCC is Nigeria's crimes watch agency was established in 2002, and inaugurated on the 11th April, 2003. Since its establishment, despite the publicity about arrests of highly placed Nigerians allegedly involved in money laundering and other financial crimes such as the ones mentioned above, the EFCC, like a toothless bull dog barks, but does not bite.⁴⁹³

⁴⁹² In 2000, Ahmed Sani, an ANPP gubernatorial candidate in Zamfara State, ran his campaign on returning to Sharia laws. He won, and Zamfara and 11 other Northern states returned to the Sharia laws. See John O. Paden, 2008, 58-59.

⁴⁹³ For the powers and functions of the EFCC, see *Economic and Financial Crimes Commission (EFCC) (Establishment) Act*, 2002. This Act was repealed when *the Economic and Financial Crimes Commission (Establishment) Act (EFCC Act)* was adopted on 4 June, 2004. See also, Michael Abiodun Oni, 'Institutional Approach as a Strategy for Anti-Corruption Practices in Developing Nations: A Review of ICPC and EFCC in Nigeria', *Corruption and the Challenge of Human Development* 1, (2007), 257-271.

Overall, it is important to mention at this point that, highlight of the above fundamental and underlying issues inherent in the Nigerian body politics are not to suggest that the theoretical and empirical arguments have no relevance to Nigeria. Rather, when the issues are critically appraised against the backdrop of the roles of the political military and the attendant corruption following the discovery of oil resources, the issues would serve to further reveal that it is the inherent internal contradictions in the Nigerian society complicated by Military incursion in politics that prevents full realisation of the main theme of the group recognition theories. For instance, of the sixty two years since the country attained political independence from Britain, about thirty five years was under the Military hegemony.⁴⁹⁴ This thus means that a fundamental and underlying issue in state building and constitutional politics in Nigeria is the ascendancy of the Military to power following the Northern sponsored *coup d'état* of 1966 and corrupt practices that has posed serious challenges to the peace and stability of the country. For instance, the Military incursion in politics brought out the worst in Nigerian politics: repression, intimidation, violence, corruption, betrayals, and the manipulation of primordial loyalties. It is this kind of socio-political and economic environment perpetuated by the Nigerian Armed forces that inhibits the practice of democratic values advanced in the prescriptions of the normative and empirical scholars.

In conclusion, the commitment of successive Nigerian governments to design series of state building strategies that accommodate ethnicity and the determination to revisit the arrangements to redress the existing inequalities, validate the main theme of theories of group recognition. The theme being that, in a multicultural society such as Nigeria, equality and justice are likely to prevail if state building mechanisms recognise and accommodate ethnic diversity. Despite the tensions, Nigerian case has demonstrated that the central government should not abandon the state building strategies that accommodate ethnic pluralism in politics. Nigeria stands to benefit from revising periodically the impacts of such strategies until the side effects are minimised or completely eliminated from the body politics of the country.

⁴⁹⁴ For more discussion of the Armed Forces in politics, see Eric A. Nordlinger, *Soldiers in Politics: Military Coups and Governments*, (London: Prentice-Hall, 1977). See also, Kelechi A. Kalu, 'Political Economy in Nigeria: The Military, Ethnic Politics and Development', *International Journal of Politics, Culture and Society*, 10 (2) (1996), 229-247.

9.2 Findings

The following are the findings of the thesis based on the discussions and analysis on: what governmental strategies have been attempted to establish state building institutions that accommodate ethnic diversity? And what roles do the state building strategies play in the generation and recurrence of ethno-political conflicts in the country?

1. Nigeria's attempts at coping with ethnic diversity validate the normative philosophy prescriptions proposed by Michael Walzer, Charles Taylor and Will Kymlicka on the one hand, and the empirical prescriptions proposed by Crawford Young, Eric Nordlinger, Donald Horowitz, and Donald Rothchild on the other. In fairness to these scholars, the generation and recurrence of ethno-political conflicts and institutional instabilities in the country are rather due to fundamental and underlying tensions in Nigeria's body politics such as military dominance of the political scene, perpetuation of large scale electoral and financial corruption, and manipulation of ethnic loyalties among others.
2. Of all the opposing proposals/positions by the elites of the three majority groups on how best to accommodate multiple groups in the country, federalism triumphed over all the other types of political systems, and indeed validates the normative and empirical prescriptions that are the frameworks for discussing Nigeria's attempts at coping with ethnic diversity. However, the federal arrangement that was negotiated in the pre-independence was imperfect because it rested on the mutual advantages of the regional leaders and the majority ethnic groups. Hence, it generated large scale ethno-political conflict between the majority and minority groups in the country.
3. The Quota System greatly disadvantaged people in the Western and Eastern regions, more especially the latter, as it reduced the positions they would have filled under the merit system. A critical evaluation of the quota policy showed that the historically rooted educational backwardness of the Muslim North required the use of a distributive principle other than merit for a just allocation of positions. To insist on merit is to insist on punishing people in the predominantly Muslim North.

The justification for the Quota System is even further strengthened by the Constitutional subscription of the Nigerian-state to justice and equality. The adoption of justice and equality as the fundamental objectives of state

presupposed a desire to promote the common good. It presupposed a desire for the general well-being, not the well-being of some. Actualising the general well-being required a set of distributive principles that take account of the circumstances and interest of each section of the country. Merit principle reflected the circumstances and interest of the Southern regions, while reservation of spots through quota addressed the circumstances and interest of the North. Combinations of both principles were reasonably fair.

4. The creation of the Midwest region was the result of power struggle between the NPC and its NCNC. The means, the carving of the Midwest region out of the Western region was essentially to fragment the West, and thus increase the bargaining power of the coalition. In just the same manner, strategic consideration for power also prompted the creation of the twelve states that separated ethnic minority groups from the three major groups in 1967. The implication of both the 1963 and 1967 boundary adjustment exercises is that they were driven strictly by strategic consideration for power and military success, not by considerations for local self-determination and equal recognition on which the minorities' right from the pre-independence era based their claims.

Thus, despite the claim that the 1963 and 1967 exercises were to preserve the unity of Nigeria, the exercise could be inferred to have been used as pretence to meet normative claims. In the above context, therefore, the separation of the minorities' strategies has not only failed to meet normative claims, but the exercises triggered an inevitable slippery slope and the unforeseen consequential problems. For instance, since recognition of groups in separate states during the 1963 and 1967 exercises, Nigeria's internal boundaries has been adjusted and re-adjusted over and over again, and many more demands are being made. Even worse, the circumstances and speed with which states are being created are generating recurrence of ethno-political conflicts and institutional instabilities in the Nigerian federation.

5. Demands for creation of more states were driven by elite and group competition for public wealth, and by the need for equal political accommodation of groups. Wealth was found to be a weak basis for political claims and that internal self-determination granted on account of it would be endless demand for creation of new units. On the other hand, demands for equal accommodation were found to

have emanated from unequal distribution of states during the 1967 states creation exercise, and could be properly regarded as claims to redress injustice. Denying the claims on account of their economic viability had the advantage of avoiding the emergence of new and endless claims. But groups that felt cheated during the 1967 exercise would have been treated unfairly.

6. Federal character policy was a reflection of the multi-ethnic make-up of the country and was informed by real historical experiences regarding the monopoly of power by elites of a few ethnic regions. It was aimed at ensuring balanced representation in public institutions through the combination of free competition and geo-ethnic appointments. One of the key assumptions behind the policy was that its electoral requirements would induce ethno-regional elites to reach across ethnic lines and build inclusive political parties which would in turn be induced by the same electoral requirements to reach across groups in order to win their support. The expectation was that the government that would finally emerge will be highly inclusive. This turned out not be very correct. The electoral requirements of the federal character succeeded in inducing the most efficient means of acquiring power.

In addition to the above problem, political parties remained under the firm control of a few ethnic elites who recruited clients from other geo-ethnic areas in order to give their parties some legitimacy. Governments that emerged equally remained under their firm control and were less inclusive.

7. One aspect of the revised federal character policy was the successive creation of more states and local government units to further accommodate groups. This was necessary for group equity but the problem was that the multiplication of units turned into an endless exercise that risked trivialising what it was meant to accomplish.
8. The revised federal character policy failed attempt to do away with the indigeneity requirement for political appointment and recruitment. The requirement amounted to discriminating against citizens resident in states not of their biological descent and, in this respect, violated their right to equal treatment as citizens. But there were no better alternatives to the requirement. Reverting to unrestrained universal criteria for appointment and recruitment

would have meant going back to the winner-takes-all system of political competition that resulted in civil war. Substituting residency for indigeneity requirement was not a better alternative either, for it would have made room for some groups to be dominated in their own states. But perhaps, the indigeneity clause in the federal character principle could be allowed to stay with amendment to include percentage on residency right.

9. The revised Federal character also involved Constitutional agreements on competing claims to alternative political structure, power sharing arrangements, and revenue generating natural resource ownership. Claims to confederation and political break-up as alternative forms of structural arrangement were defensible on ground of denial of right to exercise political leadership to members of some geo-ethnic sections of the country, and example was when Moshood Abiola legitimately won in a free and fair election, but the election was annulled by the military junta from another section of the country. They were also defensible on ground of military campaigns against some ethnic minorities of the South-South demanding equitable share of wealth derived from their land. However, confederation or political break up posed frightful political and social costs. They were not alternatives that offered hope for peace and stability. Even though rotational Presidency has the danger of limiting the freedom of citizens to compete for the office in question, it nevertheless was found to make for groups equity in recruitment into the highest office in the land.
10. Despite the basic changes in revenue allocation under various Nigeria governments, RAS remain politically skewed as it is alleged in favour of sections of the country. Clearly, the fundamental flaw of RAS is that, it is politically skewed against the oil producing states. This development has created anti-government campaigns in the oil producing Niger Delta. Thus, further worsening the already fragile unity among Nigerian federation.
11. Oil being the mainstay of the Nigerian economy, the stakes and volatility in its ownership and control is high on all parties. Thus, the lessons to be learned in the manner in which politics is being played around it are: first, it was not fair for the federal government to abandon the derivation principle of revenue allocation. Second, the arbitrary factoring of 13% as baseline figure for

compensation to the oil producing states was not fair. Third, the lack of basic infrastructures in the oil producing states is indication of failure and developmental irresponsibility. It is therefore not surprising that the legitimacy of the government of the country. Finally, in an ideal federal set up, agitation for who is to own and control resources is not ideally the essence of ethnic groups, but that of the federal and state governments. Thus, allowing the ethnic groups in the Niger Delta to partake in the ownership and control of the oil resources instead of the political units or states would set precedents for others to follow, and this in so many ways would amount to chaos and institutional instability in Nigeria's multi-ethnic society.

12. Finally, while it is important not to down play the roles of the various state building strategies in the generation and recurrence of ethno-political conflicts and institutional stability in the country, two factors has further aided the already bad situation: the ascendancy of Military rule following the successful Northern-sponsored counter-coup of 29 July 1966 which created the ample opportunity for the Military to rule for about thirty five years, i.e. to fashion the Nigerian state in their image. And the immediate post-civil war period which coincided with the era of petroleum boom that created a deepening crisis of corruption.

The conclusion one can make out of the above findings is that, given the military command structure in place, and the early taste of the apparent over-abundance of petrodollars in the national treasury, it is not surprising that the Military visibly hung unto power until 1999, and have been operating from behind the scenes up till now. Most if not all of the state building strategies that are generating ethno-political tension and instabilities were executed during the Military era between 1966 and 1999. The consequence is that a combination of military power and abundance of petro-dollars has exposed the nature and extent of Nigerian political corruption.

The above observation implies that the origins of Nigeria's post-independence ethno-political conflict and institutional instabilities can be tracked to the central role played by the military in the control and management of the country's oil wealth, and the tendency toward personal accumulation of oil wealth. The situation is so serious that all successive Military regimes and civilian administration have been pervaded by corruption. For instance, many of the Military officers who ruled the country are linked to leading businesses in the country, especially through its implementation of the

Nigerian Enterprises Decrees of 1972 and 1977. It is for the above reason that only the retired Army officers and their civilian collaborators that corruptly enriched themselves are still the prominent politicians in the country.

9.3 Recommendations and Conclusion

State building and Constitutional politics in Nigeria's multi-ethnic society is a difficult task. Overcoming ethno-political conflict and institutional instabilities perpetuated by the Nigerian Armed Forces that has built up over the years requires commitment and patriotism on the part of all the citizens. On the basis of the discussions and findings in this thesis, it is clear Nigeria has the potential to be a great country, but sadly, it has been engulfed in ethno-political and institutional chaos. The ethno-political conflict/tensions and institutional instabilities that were discussed in this thesis could be minimised and or eliminated by pursuing the following minimum political agenda:

1. The post-independence group based claims and government responses to the claims, for instance, strategies such as state creation, Quota System etc. that are generating recurrence of ethno-political conflicts and institutional instabilities in the country today could have been resolved right from the pre-independence era through rounds of Constitutional Conferences on power sharing and institutional checks to domination that involved the representatives of both the majority and minority groups in the country.
2. The ethno-political conflict/tensions being generated by the implementation of the quota approach to state building can be gradually mitigated if the Muslim North begins to take concrete measures that include among others, embarking on Nomadic education, and socio-cultural orientation. The socio-cultural orientation should be particularly targeted at demystifying the negative impact of Western education on Islamic beliefs among the Muslim youths.
3. Even though separation of minorities and the continuing multiplication of the internal political units into states and local government areas in order to recognise smaller groups to some large extent meet normative claims, there is the need to stop this tendency to fragmentation. Therefore, the Nigerian government should respond to the problem of slippery slope by making a

Constitutional provision that place moratorium for the creation of states and local government units to at least twenty five years.

4. The present arrangement that allows political power to be confined to and or dominated by a section of the country could be remedied by embracing the proportional representation inclusive of all relevant competing parties in the executive cabinet and or full implementation of power shift, for instance, rotation of the office of the President among six geo-political zones every five years. This would allow equal opportunity to all the geo-political zones in the country to exercise the right to rule.
5. The indigeneity clause no doubt violates equal citizenship rights. However, in order to douse the ethno-political conflict/tensions in the country, the indigeneity clause could be amended to incorporate some elements of percentage on residency rights. This in essence entails making Constitutional provision for certain percentage right that allows non-indigenes to take appointment in states not of their biological descent.
6. Of all the political structures advance by the various groups in the pre and post-independence that were discussed in this thesis, the present federal arrangement is the best of the other alternatives. The federal structure of the country itself is not the problem, but underlying tensions in the Nigerian body politics such as electoral corruption and the continuing domination of the political scene. These fundamental and underlying issues can be mitigated by Constitutional reform of the Military and institutional reform of the relevant agencies.

A balanced and desirable framework for revenue formula that combines principles such as derivation, need and population that would reduce ethno-political tensions should be incorporated into the Constitution. The current National Revenue Mobilisation and Fiscal Commission (NRMAFC) should be disbanded and replaced by a permanent and independent Commission.

All the state building strategies play roles in the generation and recurrence of ethno-political and institutional instabilities in the country. However, given the environment and circumstances the country has been corruptly managed by the Military and their civilian collaborators, it becomes necessary to enforce Constitutional and institutional safeguards against military incursions in both government and politics. In

this respect, safeguards against military incursion in politics and corruption can be facilitated by pursuing the following democratic measures:

a) The institutionalisation of a multi-party political system in which parties must be genuinely mass-based, national in outlook and exclusively funded by its members' financial contributions, which must be limited to what an ordinary working person can afford. This will safeguard the parties from being hijacked and turned into the political instruments of money bags against the people.

b) The Constitutional entrenchment of the principle that the Nigerian people in their respective constituencies have the power to recall at any point in time any elected official who has been found by due process to abuse or betray the people's mandate.

c) The Constitutional requirement that only men and women with proven ability and integrity should be appointed to the governing boards of public institutions, corporations and businesses to ensure that the public resources and assets therein will be safeguarded and enhanced rather than looted and squandered by their official custodians as has hitherto been the case.

d) Freedom of information as an entrenched legal norm to include (a) the requirement of open declaration of assets by all public officers, on entering and leaving office and irrespective of rank or status. Such asset declaration should be available for verification and monitoring by any interested citizen; (b) open and uninhibited access by interested citizens to all documents relating to, or dealing with any aspect of public policy. (This will mean, effectively, the death of all secrecy laws, behind which past and present governments have covered up all manner of crimes against the people).

e) The Constitutional entrenchment of freedom of the press as the watchdog of the people's interest, subject only to the limitations imposed by the laws of libel and defamation.

f) The Constitutional entrenchment of the principle of independence of the judiciary and the independence of the appointment and tenure of judges from interference by political decision makers whose conducts might be subjects of adjudication by the courts.

In conclusion, whilst the thesis acknowledges that earlier researches on Nigeria's state building strategies, diversity and ethnicity were conducted strictly from empirical viewpoint, explicit attempts that generates awareness about the applicability of theory were underrated. This thesis is a response to this gap, and the above mentioned core findings are a reflection of the importance of recognising *dynamics* in

group claims and government responses to them through state building institutions and constitutions and/or decrees. The employment of theoretical alternative to discussing and understanding the research problems of this thesis is not a rejection of earlier empirical contributions, but differentiates it from the approach of earlier studies as it provides an alternative approach through which group claims and responses to them are discussed and analysed.⁴⁹⁵ Similarly, the use of content/textual analysis has in a useful way been able to provide understanding and discussion of the formulated research questions the thesis addressed. It is the hope of this author that the findings and recommendations contained herein will assist policy makers in their attempts aimed at resolving ethno-political crisis and institutional instabilities prevailing in the country, and also be a source of inspiration and reference for future research on related subject matter.

⁴⁹⁵ The significance of this research is discussed in chapter one, section 1.3 of this thesis.

APPENDICES

Figure 1: Chronology of Major State Building/Constitutional Events, and Ethno-Political/Religious Violence

Year	Events
1950/1953 1956 1957 1959 1960	<ul style="list-style-type: none"> - Political elites that represented Northern, Western and Eastern regions in series of London and Lagos Conferences negotiated a federal system of government for the country - Minority groups felt marginalised and agitated for representation and separation - Northern regions opposed motion for independence for fear of domination - Western and Eastern regions attained internal self-government amid clashes among regional leaders - Northern region reluctantly attained self-rule - October – Political independence from the United Kingdom amid pronounced cultural and political differences among its dominant groups (Hausa, Igbo and Yoruba). - Sir Abubakar Tafawa Balewa became head of a fragile NPC/NCNC coalition government.
1962 1962/1963	<ul style="list-style-type: none"> - The NPC Federal controlled government introduced Quota System in the Nigerian Army - Controversial census fuels regional and ethnic tensions.
1963 1964 1964/1965	<ul style="list-style-type: none"> -Nigeria became a Federal Republic with Nnamdi Azikiwe as its first President. - Fear of Western regional domination, but under the guise of minorities agitation for separation, NPC/NCNC coalition government created Midwestern region in addition to Northern, Western and Eastern regions - Political tension between Obafemi Awolowo and Samuel Akintola sparked Western Nigeria regional violence code named operation <i>wet ye</i> - Regional fears of outwitting the other triggered Federal Election violence
1966	<ul style="list-style-type: none"> - January - Fear of Northern hegemony contributed to first military coup headed by Major General Johnson T.U Aguiyi-Ironsi against the Northern-dominated Federal Government. - Northern resentment led to second coup headed by Major General Yakubu Gowon heightening ethnic tensions. - July/October - Northern mobs kill thousands of Southerners, mostly Igbos in Kano, forcing hundreds of thousands to flee back to safety in the South.
1967 1969	<ul style="list-style-type: none"> - Fears of emerging regional Armies made the Federal Government to abandon the Quota System of recruitment - May- Lieutenant Colonel Odumegwu Ojukwu declared the Eastern region as Republic of Biafra, sparking a brutal three-year civil war. - Yakubu Gowon reorganised Nigeria’s four regions into twelve states. - The 1969 Petroleum Acts vested ownership and control of petroleum resources to the Federal Government
1970	<ul style="list-style-type: none"> - After 30 months of civil war, Biafra surrendered and was re-integrated. - Yakubu Gowon introduced 3Rs- Reconciliation, Rehabilitation and reconstruction programme

1971	- May - Yakubu Gowon nationalised the oil industry and established the Nigerian National Oil Company (NNOC) via a Decree
1974	- Federal Government participation in oil industry increased by 55%
1975	- Federal Government increased its stake in oil industry to 80% leaving 20% to states via Decree 6
1976	- Yakubu Gowon was overthrown. Brigadier Murtala Ramat Mohammed became Head of State. - Constitution Drafting Committee was set up to develop Executive Presidential Constitution with instruction to introduce Federal Character - Murtala Ramat Mohammed reorganised twelve states into nineteen - Murtala Ramat Mohammed was assassinated in a bloody military coup. - Lieutenant General Olusegun Obasanjo became Head of State
1978	- Constituent Assembly endorsed the 1979 Draft Constitution. - Olusegun Obasanjo lifted twelve year state of emergency opening the way for registration of political parties, preparatory for democratic elections - Federal Government enacted Land Use Act which declared all minerals, oil, natural gas, and natural resources within Nigeria boundary as property of the Federal Government - Government endorsed Executive Presidential System of Government, and enshrined the Federal Character into the 1979 Constitution.
1979	- October- After a keenly contested election, Lt. Gen. Obasanjo transferred power to the National Party of Nigeria (NPN) candidate Alhaji Aliyu Usman Shehu Shagari.
1980	- 18 December - Confrontation between Maitatsine (a fundamentalist Muslim group) and police at a rally in Dan Awaki Ward, Kano sparked massive, week-long rioting, left many hundreds dead and spread to other states. Despite leader's death- Muhammadu Marwa in the initial riots, sporadic violence continued for several years in neighbouring states.
1981	- Alhaji Aliyu Usman Shehu Shagari announced austerity measures due to fall in petroleum prices in the world market
1982	- 30 October - The Archbishop of Canterbury laid the foundation stone of Anglican church in Fegge, Kano, in Kano state triggered violent Kano Metropolitan riot. - Maitatsine uprising witnessed in Rigasa, Kaduna, Kaduna state, and Bulumkutu, Maiduguri Borno state
1983	- December - Shagari government (viewed as corrupt and incompetent) was overthrown in military coup by Muhammadu Buhari.
1984	- Major General Muhammadu Buhari launched the War Against Indiscipline (WAI) - Maitatsine uprising witnessed in Jimeta, Yola, Adamawa state, Bauchi and Gombe, Bauchi and Gombe state respectively.
1985	- January - Decree no. 36 fixed Revenue Allocation at 55% for the Federal Government, 32.5% for the states, and 10% for the Local Governments - 27 August - Buhari government was overthrown in military coup by Major General Ibrahim Badamosi Babangida.
1986	- 27 June - Ibrahim Badamosi Babangida announced the Structural Adjustment Programme (SAP). - As palliatives to SAP, Ibrahim Badamosi Babangida announced MAMSER and NDE - Nationwide riots against SAP forced the Federal Government to enact

	<p>Decree 17, and eventually proscribed NANS, ASUU and NLC</p> <ul style="list-style-type: none"> - Ibrahim Badamosi Babangida announced 1990 as the official deadline for a return to democratic governance, a date he later changed to 1992 after surviving a bloody military coup. - Maitatsine uprisings witnessed in Bauchi, Bauchi state - January/February - Organisation of the Islamic Conference (OIC) crisis - March – Christian procession march at Easter sparked Muslim/Christian riots in Ilorin, Kwara state - Babangida inaugurated the Political Bureau to recommend constitutional design and political reforms such as power shifts and political representation
1987	<ul style="list-style-type: none"> - 4 March- Dispute between Muslim and Christian students of the College of Education in Kafanchan over a Christian sermon triggered religious violence at Kafanchan, Kaduna, Zaria and Funtua in Kaduna state - September - Ibrahim Badamosi Babangida reorganised nineteen states into twenty one (Akwa- Ibom and Katsina states)
1988	<ul style="list-style-type: none"> -29 February - Federal Government banned the Nigerian Labour Congress (NLC) - March/April – Increase in fuel price demanded by the IMF inspired SAP sparked violent riot throughout University campuses
1989	<ul style="list-style-type: none"> - 14 June – Constituent Assembly convened in Abuja - 3 May - Ibrahim Badamosi Babangida created additional 149 Local Governments Areas - October/November – Nigeria was engulfed in Sharia (Islamic law) Debate - Ibrahim Badamosi Babangida lifted ban on partisan politics and announced new Constitution recommended by the Constituent Assembly - 7 October- Ibrahim Badamosi Babangida announced two state sponsored political parties- Social Democratic Party (SDP) and National Republican Convention (NRC). - Ibrahim Badamosi Babangida promulgated the Nigeria’s Third Republic Constitution. - Intra-religious fundamentalism triggered the Bayero University riot in Kano, Kano state between the Muslim Students Society (MSS) and Fellowship of Christian Students (FCS).
1991	<ul style="list-style-type: none"> - October - Visit of German revivalist Reinhard Bonnke at the request of the Christian Association of Nigeria triggered rioting in Kano. - Ibrahim Badamosi Babangida increased the number of states to thirty - March – December - Religious fundamentalism and ethno-political rivalry between minority and majority groups ignited riots in Bauchi and Tafawa Balewa, Bauchi state; Katsina, Katsina state; Zangon-Kataf, Kaduna state; Kano, Kano state, and Jos, Plateau state.
1993	<ul style="list-style-type: none"> - June- Ibrahim Badamosi Babangida annulled the Presidential election result that presumed a victory for SDP candidate Moshood Kashimawo Olawale Abiola, leading to 12 June, 1993 violence. - August – Ibrahim Badamosi Babangida handed over power to a civilian-led Interim National Government (ING) under Ernest Shonekan - November – Three months later, General Sani Abacha seized power after Federal High Court declared the ING unconstitutional.
1994	<ul style="list-style-type: none"> - Sani Abacha convened the National Constitutional Conference (NCC), which gave preliminary endorsement to draft Constitution.

1995	- A riotous situation broke out in Kano following the killing of an Igbo man allegedly by Shiites Muslims
1996	- The final NCC report to Sani Abacha contained new Constitution and fixed the Revenue Allocation to oil producing states at 13%.
1998	- Sani Abacha increased the number of states in Nigeria by six. One each in the geo-political zones. This brought to a total of thirty six states in the federation. - Shiites attacks on orthodox Muslims, with some political undertone sparked intra-religious blood bath in Kano, Kano state. - The Military Government of Sani Abacha killed Ken Saro-Wiwa and nine other Ogoni/Niger Delta activists by hanging - June – Sani Abacha died in a mysterious and unexpected circumstance. - General Abdulsalam Abubakar took over as President, and announced transition to civilian administration to terminate by 29 May, 1999. - Government published the draft Constitution by NCC - July – Moshood Kashimawo Olawale Abiola, the man thought to be the winner of the 12 June, 1993 election died in government custody. - December- Arising from the Ijaw Youth Council (IYC) Kaiama Declaration, the Niger Delta areas witnessed violent protests and occupation of oil production facilities.
1999	- Abdulsalam Abubakar declared the Fourth republic - February – In a controversial election, INEC declared the former military leader Olusegun Obasanjo as President, and this marked return to democracy on 29 May. - Mass protests erupted as twelve of the Northern states adopted Sharia (Islamic legal codes) - July – Southern states expressed anti- Sharia legal codes resulting in Shagamu, Ogun state ethnic tension - Federal Government launched the Operation Hakuri to counter Niger Delta violence and insurgencies - An anti-establishment and rejectionist group known as Boko Haram surfaced in Borno and Yobe states. Police silenced it.
2000	- Opposition to Sharia legal codes triggered violent Christian-Muslim clashes, mainly in Kaduna and Kano states.
2001	- April – Jos North Local government election results triggered violent clashes between the Native Biroms; Anaguta; Jarawa; Buji; Miango, and Rukuba and Hausa/Fulani settlers in Jos, Plateau state. - 7-11 September – The Al Qaeda attacks in the USA, and the erroneous spirit of identifying with Osama Bin Laden sparked violent clashes between Muslims and Christians in Jos, Plateau state after Friday Juma'at prayers.
2002	- February – Sporadic clashes in Lagos between Hausas from mainly Islamic North and ethnic Yorubas from predominantly Christian South-West. - November - Rioting, mainly in Kaduna, Kaduna state stoked by Muslim fury over the Miss World beauty pageant planned for December. The organisers relocated the event to the United Kingdom. - Ethno-Political rivalries between the natives and the Hausa/Fulani settlers in Jos sparked violent ethno/religious clashes
2004	- May - Government declared state of emergency in the central Plateau state after Muslims were killed in Yelwa area of Jos in presumed attacks by

	<p>Christian militia.</p> <ul style="list-style-type: none"> - Muslim youths in Kano, Kano state launched series of revenge attacks. - Clashes between a sect known as <i>Nigerian Taliban</i> presumably replacing the silences of Boko Haram and Police in Borno and Yobe states
2006	<ul style="list-style-type: none"> - February - Muslim protest against Danish cartoons of the Prophet Mohammed ran out of control. Violence began in Maiduguri and retaliatory attacks in the Southern city of Onitsha, Anambra state. - MEND detonated bomb near Chinese Oil Refinery in the Niger Delta
2007	<ul style="list-style-type: none"> - Tensions over Obasanjo's attempts at manipulating the Constitution to allow him a third term - Umaru Musa Yar'Adua became President in an election condemned by the international community as massively flawed.
2008	<ul style="list-style-type: none"> - MEND declared <i>oil war</i> in the Niger Delta - November- Massive clashes between Christians and Muslims in the town of Jos, Plateau state over disputed local government election.
2009	<ul style="list-style-type: none"> - January - Violence between Christian and Muslim gangs in Jos, Plateau state. - March – Suspicion, fear and distrust triggered clashes between Muslims and Christians in Jos, Plateau state. - July- Maiduguri, Borno state, Boko Haram Islamist Movement re-launches anti-establishment campaign replacing <i>Nigerian Taliban</i>. Security forces stormed its stronghold and killed the movement's leader- Mohammed Yusuf on 30 July. - August - Umaru Musa Yar'Adua announced the Niger Delta Amnesty. - December- clashes between security forces and members of Boko Haram Islamic sect witnessed in the Northern city of Bauchi, Bauchi state.
2010	<ul style="list-style-type: none"> - January - Recurring religious and ethno-political rivalry triggered violent clashes between Muslims and Christians in Jos. - March – Clashes between Muslims and Christians resurfaced in Jos. - 5 May - Yar'Adua died after prolonged illness and five-month absence that created Constitutional crisis. 6 May - Vice President Goodluck Ebele Jonathan was sworn in as President to serve until the election scheduled in April 2011. - September - Boko Haram freed over 700 prisoners, including 150 of its members in dramatic prison break in Bauchi, Bauchi state. - October - Series of Boko Haram assassinations witnessed in Maiduguri, Borno state
2011	<ul style="list-style-type: none"> - Boko Haram assassination and bombing of government establishments spread from North-East to North-Central/North-West zones, Kano, Kaduna and Niger states - Ethnic hatred and religious arrogance deepened the recurring Jos ethnic/religious crisis. - April- In a keenly contested election with Muhammadu Buhari of Congress for Progressive Change (CPC), INEC announced Goodluck Ebele Jonathan, a Southerner and the PDP candidate as the elected President. - Northern Nigeria witnessed violent post-Presidential election crisis 13 December – President Goodluck Ebele Jonathan presented the proposed 2012 budget of N4.74 Trillion to the joint session of the National Assembly with security taking lion share- N921.91 billion. - 25 December - Boko Haram detonated massive bomb at Roman Catholic

	Church Madalla near Abuja
2012	<ul style="list-style-type: none"> - January - Massive Boko Haram bombings targeted government establishments in Niger, Kano, Bauchi and Kaduna states. - January - Boko Haram attacks spreads to lower North-Central zone when it freed prisoners in a dramatic prison break in Kotonkarfe, and attacked Police Headquarters in Lokoja Kogi state. - Removal of Oil subsidy by the PDP government of Goodluck Ebele Jonathan triggered Nationwide strike organised by labour and civil society organisations. <p>25 April - Parliamentary probe into fuel subsidy headed by Lawan Farouk submitted its report. Subsidy graft cost the country \$6.8 billion. Prosecution of individuals and organisations indicted urged.</p> <ul style="list-style-type: none"> - 29 April, 2 University Professors and 18 students were killed in a Boko Haram suspected bomb attacks at the St. Stephen Catholic Church, Bayero University, Kano, Kano state.

Source: Adapted from International Crisis Group, *Northern Nigeria: Background to Conflict*, Africa Report No. 168 (Brussels: International Crisis Group, 20 December 2010), 31, and Rotimi T. Suberu, *Federalism and Ethnic Conflict in Nigeria* (Washington DC: United States Institute of Peace Press, 2001), xxiv-xxvi.

Figure 2: The Structure of Nigerian Federation Before 1963.

Regions	Territory (Sq. Km)	Percentage of Nigeria Territory (%)	Population (No.)	Percentage of Nigeria Population %
Northern Region	79, 815	75.49	16,845, 376	54.02
Eastern Region	119, 308	12.34	7, 974, 399	25.58
Western Region	117, 524	12.16	6, 087, 414	19.52
Lagos Colony	70	0.01	272, 304	0.87
Total	966, 717	100.00	31, 179, 492	100.00

Source: Adapted from Omolade Adejuyigbe, 'Creation of States in 1967 and 1976', in Peter P. Ekeh; Patrick Cole and Gabriel Olusanya, (eds.); *Nigeria Since independence: The First Twenty Five Years, (Vol. V: Politics and Constitution)* (Ibadan: Heinemann Books, 1986), 207.

Figure 3: Highlights of Legislative Jurisdictional Powers in the 1999 Constitution as Amended in 2011

Type of Power	Legislative Jurisdictional Power
Exclusive List	Defense (Army, navy and Air force) an any other branch of the armed forces Foreign Affairs, diplomatic, consular and trade representation Creation of states and boundary adjustment International trade, customs and excise duties Currency and coinage, banking, borrowing, exchange control Use of water resources, fishing and fisheries Maritime shipping, navigation and federal trunk roads Formation and regulation of political parties, including elections Aviation, Railways, postal service (post, telegraph and telephones) Police, prisons and other security services Regulation of labour, interstate commerce, telecommunications Immigration, emigration, citizenship, naturalisation and alien, passports and visas Mines and minerals, including oil fields, nuclear energy, meteorology Social security, insurance, national statistical system (Census births, deaths, etc. Guidelines and basis for minimum education) Registration of business names, price control, standards and inspections Any matter with respect to which the national Assembly has power to make laws Any matter incidental or supplementary to any matter mentioned elsewhere in the list
Concurrent List	Culture, health, safety and social welfare Education (post primary/technology/professional) Antiquities, monuments, and archives Statistics, stamps duties, collection of taxes Regulation of commerce and industry Electricity (generation, transmission, distribution) Regulate, coordinate scientific and technological research Cinematography, Trigonometrical, cadastral and topographical surveys
Residual List	Any subject neither assigned to federal, state and local government
Local Government	Economic planning and development Health, Social welfare, and Marriages Land use, development of agriculture and natural resources Control and regulation of advertisements, pets, small businesses Markets, public conveniences, sewage and refuse disposal, Registration of births and deaths Primary, adult and vocational education Local government and chieftaincy affairs

Source: Federal Republic of Nigeria, *Constitution of the Federal Republic of Nigeria (Amended)* (Abuja: National Assembly Press, 2011), Second Schedule (Legislative), Part I and II.

Figure 4: Highlights of the Supreme Court Ruling on the On-shore/Off-shore Oil Revenue Distribution (Suit No. SC 28/2001)

This suit arose out of the Federal Government's dichotomisation of oil revenue between on-shore and off-shore sources. Its position was that, the principle of derivation was applicable only to oil extracted from on-shore deposits; off-shore oil extracted from the deep sea in the country is *commonwealth*, accruing jointly to the federation. Some oil producing states countered by challenging certain practices of the Federal Government relating to federation revenues. The major substance of the Supreme Court ruling are as follows:

- That oil mined in the deep sea belongs to the federation as a whole, and not to the nearest state, and as such, is not subject to 13% derivation
- That only on-shore mineral resources was subject to the 13% derivation payment to states
- That natural gas is a mineral resource and, where produced on-shore, is subject to 13% derivation (the practice of the federation had been to exclude the natural gas from its definition of mineral resources)
- That all revenues accruing jointly to the federation, including unexpected extra earnings from oil, are subject to distribution in the usual manner, the federal government having no power to "save" any part of it without the consent of the constituent governments.
- That payment of the 13% derivation should be with effect from 29 May, 1999 when the Constitution came into effect and not from January, 2000 as effected by the federal government.
- That the practice of making first line charges on the Federation Account for priority projects and debt service is unconstitutional and should be ended
- That the Federal Capital Territory (FCT) is not a state, and its area councils are not properly local governments, and so cannot benefit from direct allocation of resources from the Federation Account as had been the case before the ruling.

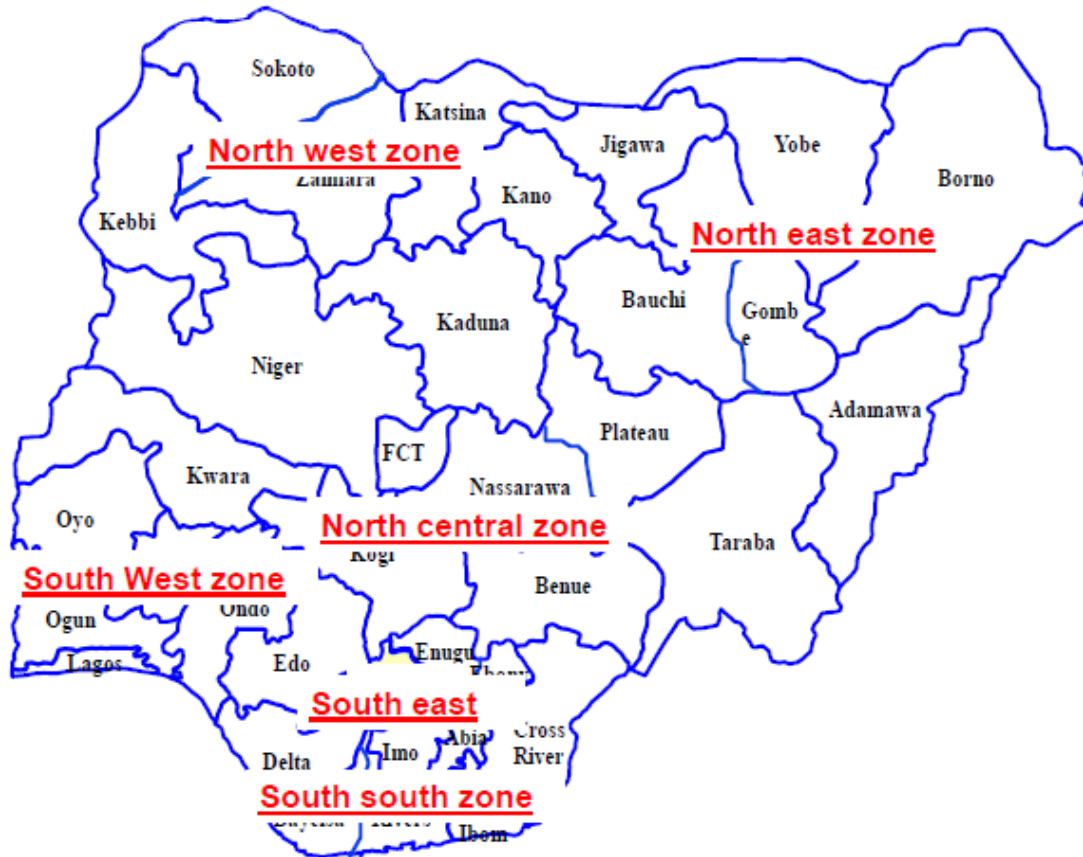
Source: Adapted from The World Bank, *Nigeria: State Finances Study, Report No. 25710-UNI* (Washington DC: The World Bank, 2003), 42.

Appendix B: Map of Nigeria Showing the Administrative Borders



Source: Adopted from International Crisis Group, *Northern Nigeria: Background to Conflict*, Africa Report No. 168 (Brussels: International Crisis Group, 20 December, 2010), 29.

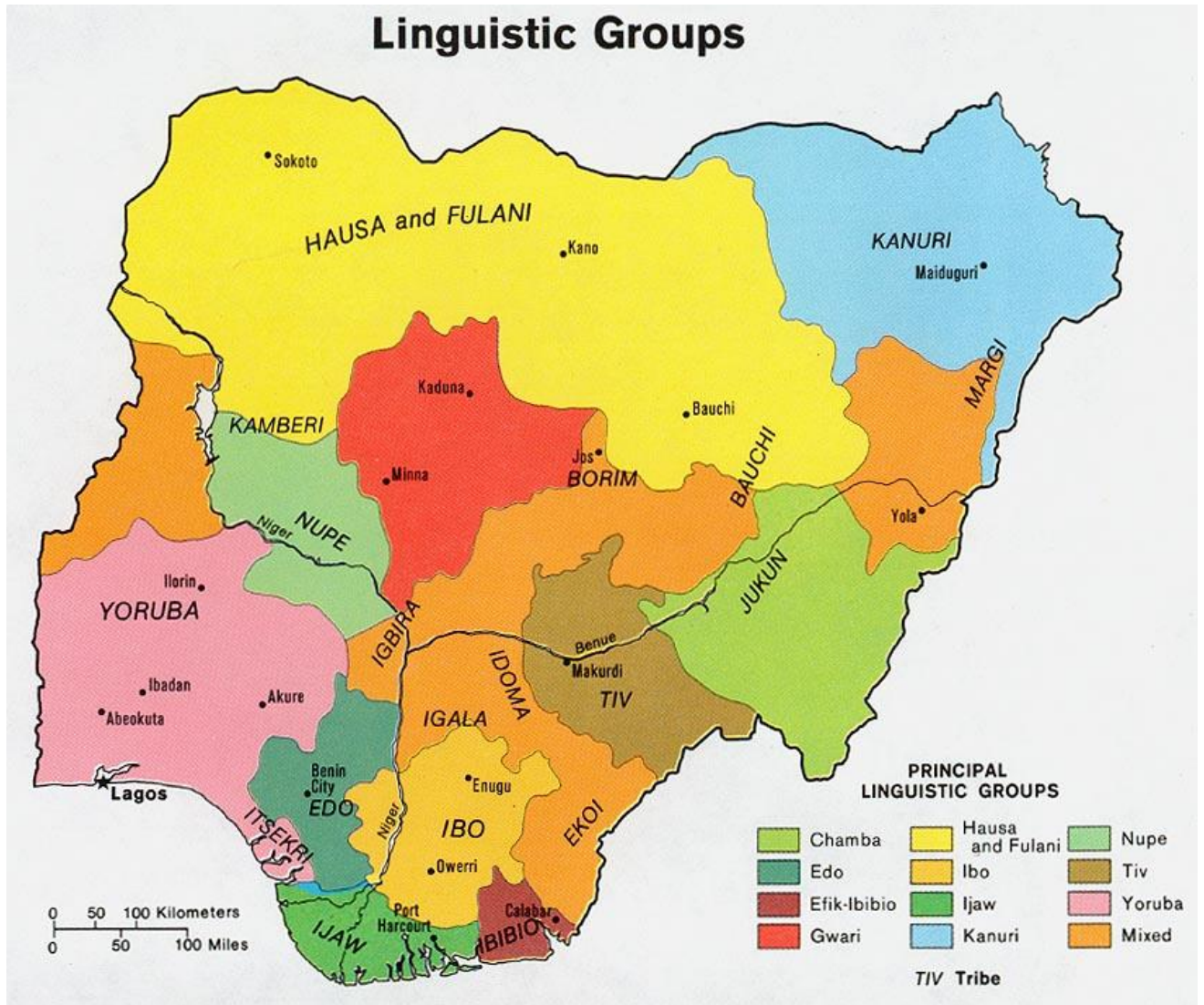
Appendix C: Map of Nigeria Showing the Six Geo-Political Zones



Source: Adopted from www.biomed.com [accessed 23 February 2012].

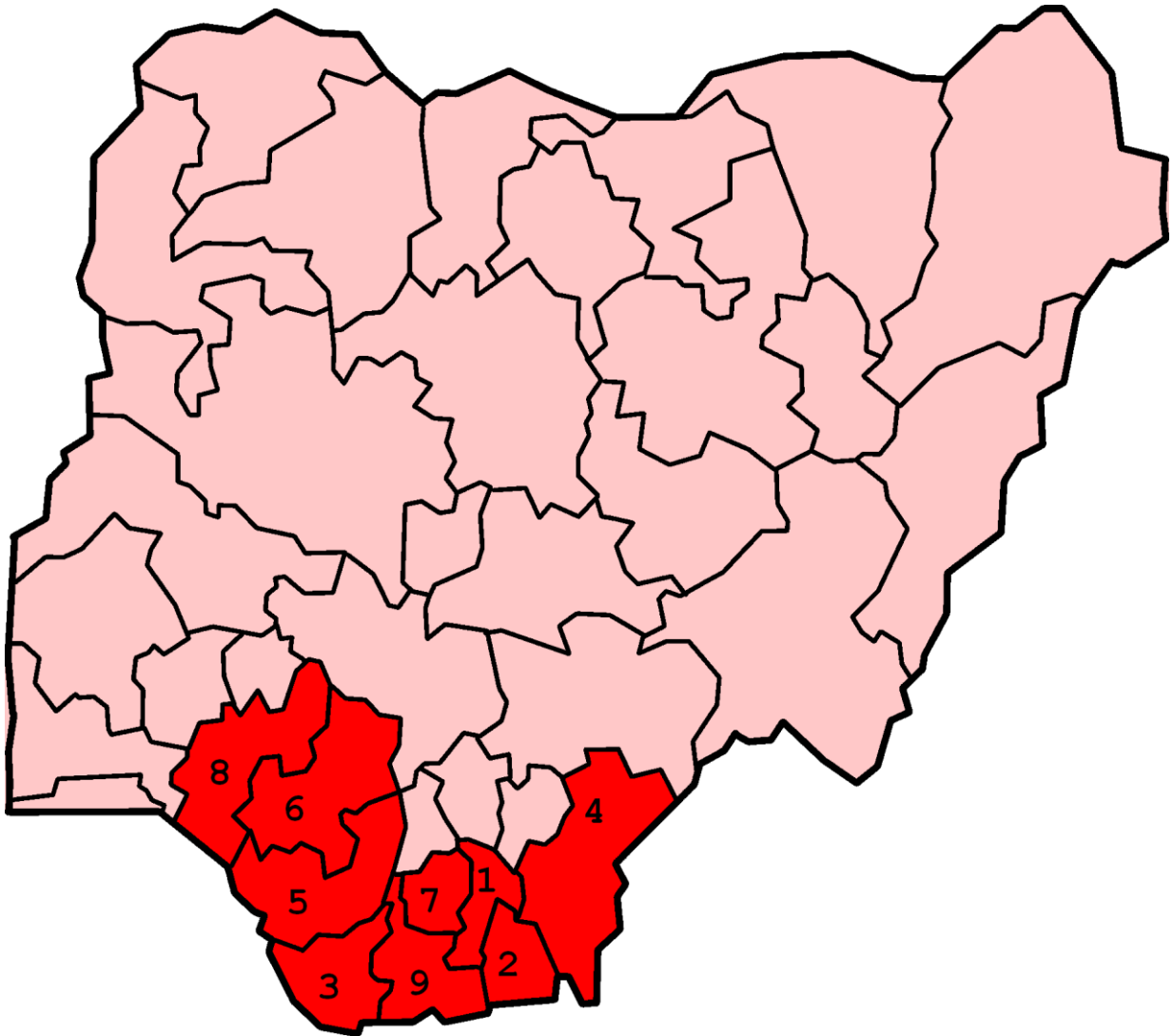
1. **North-West Zone:** Sokoto, Katsina, Jigawa, Kano, Kaduna, Kebbi, Zamfara.
2. **North-East Zone:** Borno, Yobe, Bauchi, Gombe, Adamawa.
3. **North-Central Zone:** Niger, FCT, Kwara, Kogi, Benue, Plateau, Taraba.
4. **South-West Zone:** Oyo, Ogun, Ondo, Lagos, Osun, Ekiti.
5. **South-East Zone:** Enugu, Anambra, Ebonyi, Imo, Abia.
6. **South-South Zone:** Edo, Delta, Bayelsa, Rivers, Cross Rivers, Akwa Ibom.

Appendix D: Map of Nigeria Showing Ethno-Linguistic Group



Source: Adopted from http://en.wikipedia.org/wiki/file:Nigeria_linguistic_1979.jpg [accessed 23 February 2012].

Appendix E: Map of Nigeria Numerically Showing Niger Delta Region



Source: Adopted from http://en.wikipedia.org/wiki/Niger_Delta [accessed 23 February 2012].

1. Abia State
2. Akwa Ibom State
3. Bayelsa State
4. Cross River State
5. Delta State
6. Edo State
7. Imo State
8. Ondo State
9. Rivers State

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