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## Contents

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<b>1</b>	<b>What is the problem about ethnicity and federalism?</b>	<b>1</b>
1.1	The problem and intellectual traditions	1
1.2	The central argument	2
1.3	Enduring issues in Nigerian federalism	2
1.4	The problem of definition of key concepts	3
<b>2</b>	<b>What is ethnicity?</b>	<b>4</b>
2.1	The minimum differentiae of ethnicity	4
2.2	Ethnic attributes	4
2.3	Flexibility in identification of Nigerian ethnic groups	5
2.4	Centrality of ethnicity to politics of federalism in Nigeria	6
<b>3</b>	<b>Federalism and ‘the federal spectrum’</b>	<b>7</b>
3.1	Covenantal relevance of federalism for ethnicity	7
3.2	Varieties of federalism	7
3.3	Resurgent ethnicity in global and comparative perspective	8
3.4	Why globalized ethnic resurgence?	9
3.5	Ethnicity and the liberal state	10
3.6	The powerful materialist symbolism of ethnicity	11
3.7	Ethnicity and political architecture	11
<b>4</b>	<b>Historical view on Nigerian federalism</b>	<b>13</b>
4.1	Pre-colonial geopolitical factors for integration	13
4.2	Colonial dual administration: federal implications	13
4.3	Nigerian nationalism and federalist ideology: intellectual roots	14
4.4	General unpopularity of federalism in Africa	15
<b>5</b>	<b>Explanatory notes: originating building blocks of Nigeria’s ethno-federalism</b>	<b>16</b>
5.1	Federalism as an expression of ethnic, not geographical diversity	16
5.2	Minorities’ redux?: extending the frontiers of self-determination	19
5.3	“Re-engineering” the originating building blocks	22

<b>6</b>	<b>Nigerian federalism: enduring issues and the price of federalism</b>	<b>28</b>
6.1	Political asymmetry	28
6.2	Constitutional “engineering” of ethnic accommodation	32
6.3	The “son/daughter of the soil” syndrome	35
<b>7</b>	<b>Conclusion and outlook: The imperative of restructuring</b>	<b>38</b>
7.1	Democracy, ethnicity and federalism	38
7.2	The way forward: strengthening democracy	39
7.3	The way forward: a personal view of steps towards a “more perfect” federal union	40
<b>8</b>	<b>References</b>	<b>41</b>

# 1 What is the problem about ethnicity and federalism?

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The problem I want to examine is how to characterize the relationship between *ethnicity* and *federalism* in Nigeria. I want to illustrate how the dynamics of ethnicity, by which I mean its manipulation as a political resource of conflict and accommodation by the political elite, has shaped the development of federalism in the country. In what follows I attempt to build on arguments I have advanced elsewhere (Jinadu, 1982; 1984; 1985; 1994), drawing on recent trends in Nigerian politics, and situating the discussion in historical and comparative perspective.

The problem is complex and deep-rooted. However, it can be reduced to a simple but paradoxical formulation, as follows: *how has Nigerian federalism been designed and how has it worked in practice to pursue the objective of “diversity in unity,”* to borrow Preston King’s (1981:20-21) broader generalized description of the problem that federalism and federations are designed to solve?

## 1.1 The problem and intellectual traditions

I find provocative and useful insights in recent literature on ethnicity, citizenship and federalism (Kymlicka and Norman, 2000; Cairns et al., 1999) on which to anchor my earlier thesis that Nigerian federalism and its architecture are best viewed as strategic theoretical and institutional design options to regulate and accommodate the problem of competitive politics and state- (nation-) building that ethnicity or *ethnic diversity* poses for the country.

The enduring problem which diversity and pluralism continue to pose for constitutional government and politics has put the relationship between ethnicity, as a particular form of diversity, and federalism, defined as a constitutional strategy to entrench the devolution of power and to ensure ethnic accommodation in the nation-state, at the center of intellectual debate about *citizenship, accountability and participation* in the contemporary liberal democratic state. Other aspects of the debate, which have questioned the validity of mainstream thinking about the nature of the liberal state, include the relationship between culture, freedom, human rights, broadly understood to include culture and socio-economic rights, on the one hand, and economic and political development, among others, on the other.

I shall explore the problem of ethnicity and federalism in Nigeria through historical and comparative perspectives. I shall indicate how ethnicity has shaped or affected, and has in turn been affected by the adoption and practice of federalism in the country. To do this requires some historical reconstruction and some element of psychological reductionism, situated within the

framework of a number of intervening variables and political processes, notably the social forces and ideas in contention for the control of the Nigerian state.

## 1.2 The central argument

My central argument is the following. Historically, it is useful to see ethnic as opposed to geographical diversity as the primary building block of Nigerian federalism. The unfolding economic and political costs of maintaining and sustaining Nigerian federalism suggest that there will be a threshold, beyond which the ideological formulation by the various ethnic fractions of the Nigerian political elite of Nigerian federalism as “diversity in unity,” as a principle of state organization, will come into serious question, engendering public debate about “the price of federalism,” to borrow Peterson’s (1995) expression.

The resultant systemic strains and stresses in the country will endanger the continued existence of the Nigerian federation as one indivisible entity. The political and socioeconomic dynamics of inter-ethnic and intra-ethnic (i.e. sub-ethnic) elite competition for control of, and access to, state power at the national and unit levels will generate demands for the reconsideration, by which is generally meant the restructuring of the constitutional and institutional framework of Nigerian federalism.

Framed in this way, the problem basically derives from the rationality of Nigerian federalism as “diversity in unity,” since it makes sense and is not inconsistent or illogical to ask the question, always asked at critical times of fundamental political crises by the parties to the federal covenants in other federations, “diversity in unity at what price?” In the case of Nigeria, where federalism is a strategic device to accommodate ethnic diversity, the centrifugal pull of the political mobilization of ethnicity is a fundamental problem, raised by the rational calculation of the cost of federalism by the covenantal parties. The problem in Nigeria is beyond the customary ones of the seesaw between dual or divided sovereignty, of national government preeminence, or of secession in a federation. It fundamentally concerns the perception of domination by other ethnic or sub-ethnic groups on the part of some ethnic or sub-ethnic groups, and the exclusion of the “dominated” groups from national or unit-level government, and from national or unit-level government patronage.

## 1.3 Enduring issues in Nigerian federalism

It is against this background of the underlying economic and psychological cost calculus or rationality behind Nigerian federalism that a number of enduring issues in the intersection of ethnicity and federalism in the country must be understood and examined. Some of these enduring issues are the following: the prevalence of federal political asymmetry or imbalance and the consequential fear of domination, expressed especially by, but not limited to minority ethnic groups, in the period immediately leading to independence in 1960 and ever thereafter;

and arising from this, the related issue of the creation of new states; the alarm raised, particularly since the mid-1970s, over the geometric accretion of power to the national government, at the expense of the unit-level governments and over the consequential drift towards organic federalism under military rule, and concern with what this has been assumed to portend for the autonomy or self-government of ethnic groups; and the lingering problem of revenue allocation and, related to it, the fiscal empowerment of unit-level governments to enable them effectively and efficiently undertake their constitutional functions.

No less important are recent political developments, which must, nevertheless, be viewed in the broader historical context that gave rise to the recurrent issues, providing a link between the past, the present and, perhaps, the future. The more prominent of such developments include: the destabilizing impact of the annulment of the presidential elections of June 12, 1993 and the serious issues of citizenship, ethnic participation, fear of ethnic domination, secession and accountability in Nigerian federalism that it has raised anew; and following on the annulment, the resistance across ethnic boundaries to the crass form that the hegemonic push by some groups within the Hausa/Fulani oligarchy and strategically placed Hausa/Fulani in the federal public service, especially under the military ruler, General Sani Abacha, assumed; the resultant call for constitutional provisions under democratic rule for a rotatory presidency among six, even if ill-defined geopolitical zones in the federation, grouping majority and minority ethnic groups in each zone, but basically reflecting the North/ South cultural, political and socioeconomic axis in the country; and the on-going demand for a sovereign national conference to “restructure” Nigerian federalism.

### 1.4 The problem of definition of key concepts

It is useful to indicate the sense(s) in which I shall use “ethnicity” and “federalism,” bearing in mind the observation of Alexis de Tocqueville (1969:164) that, “the human understanding more easily invents new things than new words, and we are hence constrained to employ many improper and inadequate expressions.”

## 2 What is ethnicity?

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### 2.1 The minimum differentiae of ethnicity

Ethnicity generally refers to shared identity relationships, spawned by such primordial ties as blood, language, religion, custom and culture. Put in this way, however, the notion of “primordial diversity,” coined by Geertz (1973:263), is not too helpful in defining ethnicity. But Geertz’s (1973:261-262) reference to “assumed blood ties,” as well as Horowitz’s (1985:51-52) claim that “... ethnicity is connected to birth and blood, but not absolutely so” is a useful starting point, in that both expressions focus on the *minimum differentiae* of ethnicity. Kinship or “quasi-kinship,” as Geertz (1973:261) puts it, or, in Horowitz’s (1987:52) words, “the myth of collective ancestry, which usually carries with it traits believed to be innate,” are necessary, if not sufficient defining attributes of ethnicity.

Horowitz (1987:53) admits that this formulation is itself problematic, requiring “a concept of ethnicity that is somewhat elastic, “ if only because ethnicity, like all social phenomena, is not immutable, is not static and is not unaffected by extraneous forces and factors other than ties of blood and birth, such as, according to Horowitz (1987:53), “conversion, intermarriage, passing, “forgetting” origins, and the like—as well as the merger of subgroups.”

In the words of Smith (1991:20), “for some it has a ‘primordial’ quality ... at the other extreme ethnicity is seen as ‘situational’. Belonging to an ethnic group is a matter of attitudes, perceptions and sentiments that are necessarily fleeting and mutable, varying with the particular situation of the subject.”

### 2.2 Ethnic attributes

What are the minimum differentiae of ethnicity, of an ethnic community? The following list of “six main attributes of ethnic community,” given by Smith (1991:21), is as good as any:

*“a collective proper name; a myth of common ancestry; shared historical memories; one or more differentiating elements of a common culture; an association with a specific homeland; and a sense of solidarity for significant sectors of the population.”*

Because it vests itself with the inclusionary, basically ascriptive (and, therefore, exclusionary) symbolisms, of “us” and “they,” (cf Nnoli, 1980:6-8), ethnicity carries with it the potential for conflict as well as for cooperation and accommodation. In other words, the deployment of ethnicity for competitive purposes in the face of scarcity tends to assume conflict or cooperative dimensions among the various ethnic groups, depending on the social situation,



on the constellation of social forces in contention, although Horowitz (1987:53-54) has argued that “(its) ascriptive character imparts to ethnic conflict intense and permeative qualities ... Ascription is what makes interethnic compromise so difficult in divided societies, for those who practice compromise may be treated “with the bitter contempt reserved for brothers who betray a cause.”

### 2.3 Flexibility in identification of Nigerian ethnic groups

Ethnicity has its own Janus-like face. Accommodation, compromise or cooperation, in the form of coalition building across the ethnic divide, among ethnic groups, is not necessarily incompatible with the concept of an ethnic group. Accommodation or compromise may be a political resource, deployed as a survival strategy, as much as conflict is in the armoury of the political leadership of ethnic and sub-ethnic groups, dictated, even impelled by the rationality or logic of the particular social situation in which various ethnic, including sub-ethnic groups are located. It must be understood that ethnic and sub-ethnic political leaders also play a brokerage, bridge-building function across the ethnic divide.

This much is clear from the dynamics of ethnic politics in Nigeria and in other multiethnic societies. In addition to this must be set the fact that ethnic groups, like all human groups, can and may oftentimes be polarized among and within themselves over strategies to pursue in competitive situations with other ethnic groups. They can also be, and often are, divided over leadership succession and in their “internal” economic and political arrangements, causing deep divisions within their membership. This possibility calls for focus on intra-ethnic competition, accommodation and conflict, as a micro-level and micro-unit of analysis, within the broader, crowded canvass of inter-ethnic relations.

The fluidity in the meaning attached to ethnicity and ethnic affiliations comes out clearly in the Nigerian situation and in the various efforts to design Nigerian federalism on the basis of ethnic diversity. Using various “cultural criteria as ethnic group makers,” including “language spoken,” “home territory,” “value systems and normative behaviour,” Otite (1990:44-57) identifies 374 ethnic groups in Nigeria. He qualifies his classificatory schema with the observation that the unpredictable and incomprehensible juxtaposition of changing socio-linguistic and socio-political variables in Nigeria has tended obscure ethnic group identification and, therefore, affiliation in Nigeria. He argues that the juxtaposition is complicated by the fact that many members of an ethnic group are to be found in territories other than their natal, aboriginal or ancestral ones. (Otite, 1990:58-59).

Iwaloye and Ibeanu (1997:54) agree that “it is apparent that no classification of Nigerian language groups into ethnic affinity would be completely satisfactory ... Most of the existing classifications of Nigerian ethnic nations have not been realistic, as such divisions are entirely arbitrary.” They use “a more realistic classification ... based on the geographical space, the relative size and topographical continuity of the language groups,” to arrive at the conclusion

that, "... on the basis of these criteria, about fifty-six ethnic nations are identified in Nigeria." (Iwaloye and Ibeanu, 1997:54)

## 2.4 Centrality of ethnicity to politics of federalism in Nigeria

Even if there is no agreement on the number of ethnic groups in Nigeria and on the classificatory schemata to use in identifying them, this is not to say that ethnicity has not been an important factor in the politics of Nigerian federalism. Indeed, ethnicity, in the form of "ethnic politics" has been a central feature of Nigerian politics. (Nnoli, 1980) To talk of ethnicity and federalism in Nigeria is, in this sense, to focus on those ethnic groups and sub-ethnic groups, even if by self-identification, which have emerged as significant and major protagonists in the politics of Nigerian federalism.

What must be emphasized is that the primary *ethnicised* building block of Nigerian federalism provides a changing and expanding competitive political space for self-defined ethnic groups or sub-ethnic groups who, hitherto denied statehood, through unit-level self-government in their homelands, are successful in asserting and winning recognition for the right to such statehood, as part of the broader process of ethnic accommodation within the country's ethnic-based federal structure or arrangement. This is the essence of the politics of state-creation in country despite the assertion in official quarters that state-creation in Nigeria has been informed less by ethnic than by other considerations, such as even development. (Federal Republic of Nigeria, 1975:31-32)

The emergence of these self-defined ethnic and sub-ethnic groups as a political force has characteristically been propelled by self-seeking and self-styled ethnic/sub-ethnic group political leaders, who are seeking a niche for themselves in the country's enormous "apple pie," to enable them disburse patronage and to divert state resources to corruptly enrich themselves, under a political economy characterized by "pirate capitalism," (Schatz, 1984), compounded by lack of accountability and transparency.

Nnoli (1980:258) makes much the same point when, analyzing the relationship between "ethnicity and the creation of states," he concludes that, "the foregone analysis of ethnic politics suggests that the relevant explanation (of the endless stream of demand for the creation of more states) lies in the class character of Nigerian ethnicity, particularly the desire of the various regional factions of the privileged classes to carve out their own spheres of economic domination." The clamour for state creation has also been fuelled by the Nigerian variant of fiscal federalism, especially "... revenue sharing formulae (which) give considerable, even inordinate, importance to the principle of inter-state equality," by means of which "... half of the statutory central revenues assigned to the states was divided equally among the state administrations." (Suberu, 1994:69)

### 3 Federalism and 'the federal spectrum'

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The popularity of federalism now seems to be on the ascendant again, after a period that witnessed the ebb and flow of its popularity, between the late 1940s and the late 1980s. (Watts, 1999:2-6) There is reason to believe that this development has coincided with the resurgence of ethnicity and ethnic politics on a global scale. The problem that resurgent ethnicity poses for the multiethnic liberal democratic state has fed the renewed interest in federalism as a public policy response as well as a constitutional arrangement to contain, if not resolve, the problem.

#### 3.1 Covenantal relevance of federalism for ethnicity

Federalism, as ideology, seems well suited to forging a covenant, a political accommodation or "consociation," grounded in autonomy and self-government, and shared control of power at the center, in some cases with entrenched "mutual veto" or nullification rights for the covenanting ethnic groups in a multiethnic society. This is because the federalist ideology of "diversity in unity," and its requirement of a "compound republic" or of a polycentric, as opposed to the Hobbesian or Austinian monocentric, solution to the problem of sovereignty seem, at face value, more suited than a unitarist or centralist ideology to meet the interrelated demands of ethnic and sub-ethnic groups for self-determination, for control over "their" own affairs within their own separate sub-national territories or homeland and for enhanced participation and representation in the national government to protect their larger interests. (Baubock, 2000:369-70; King, 1993:6; Weinstock, 2001:75)

#### 3.2 Varieties of federalism

What is now noteworthy, in view of the Nigerian debate that has tended to assume that there was or is a "classical," juristic model of federalism, exemplified by Wheare's (1963) seminal work on the subject, is Watts' (1999:6) observation that, "a distinctive feature about the current popularity of federalism in the world is that the application of the federal idea has taken a great variety of forms. The degrees of centralization or decentralization differ across federations as do their financial arrangements, the character of their federal legislative and executive institutions, institutional arrangements for facilitating intergovernmental relations, judicial arrangements for umpiring internal conflicts and procedures for constitutional amendments."

It is appropriate at this junction to refer to the distinction which Watts (1999:6-11) and others (e.g. Riker, 1975; King, 1982) have drawn between federalism as the ideology or normative formulation of "diversity in unity," federal political systems, as a "broad genus," or "federal spectrum" in which "by contrast to the single central source of authority in unitary

systems, there are two (or more) levels of government thus combining elements of *shared rule* through common institutions and *regional self-rule* for government of the constituent units,” (Watts, 1999:7) and federation, as a “particular species,” (“within the genus of federal political systems” or as a point along “the federal spectrum”), in which neither the federal nor constituent units of government are constitutionally subordinate to the other ...” (Watts, 1999:7)

### 3.3 Resurgent ethnicity in global and comparative perspective

It is pertinent to situate the political significance of ethnicity in Nigerian politics within a broader setting, if only to show that it reflects a broader kaleidoscope. This is the more necessary since ethnicity continues to be a pervasive feature of national and international politics in the contemporary world. In the challenge it has posed to liberal (including social) democratic and Marxist theories of the modern nation-state, ethnicity has proved to be a durable and complex source of efforts or, better still, of conflict-ridden contention to reconstitute or redesign the character and nature of the state in many parts of the world. (Weinstock, 2001)

In other words, ethnicity is at the center of politics in many countries, cross-cutting class, gender, age-grade, religious and other solidarity ties, defining and shaping the forces that seek to control and influence the composition of the state and its policy direction. “The Integrative Revolution,” characterized by the opposition or tension between “primordial sentiments and civil politics,” about which Geertz (1973:255-310) wrote several years ago, is no longer, if ever it was, confined to the “New States.” But we should seek the explanation for this ethnic-generated tension, not in ethnicity as such but in what Frantz Fanon and other radical Afro-centric critics of colonialism and imperialism have described as the “Manichean” nature and character of the colonial situation and colonial rule generally.

Colonial rule and the form that finance capital assumed in colonial Africa and Asia contributed in no small scale to the fragility of state formation processes. It left an inheritance of coercion, lack of representation and accountability. It institutionalized arbitrariness as an instrument of rule. The colonial state was little more than the embodiment and enforcer of coercion in many of these former colonies in Africa and Asia. In many cases also, the political economy of colonial rule tended to put ethnic groups in the colonies into polarizing compartments, reflecting the subjective and paternalistic caricatures of African peoples held by colonial anthropologists, Christian missionaries, traders and explorers. Horowitz (1981:160) has described these prejudices as “colonial evaluations of imputed group character.” These caricatures or “colonial evaluations” favoured some ethnic groups at the expense of others, and sowed the seeds of postcolonial animosities and conflicts among the ethnic groups.

Colonial rule undermined the emergence of a sense of nationhood by using the policy of “*divide and rule*” to advance its hegemony with the effect of not only weakening national solidarity but also stunting the development and consolidation of overarching national loyalties across ethnic lines. As Ajayi (1984:4-5) has observed, “in the uncertainties of the colonial

situation (created by “Indirect Rule”), different peoples reacted to British policy in a spirit of competition to gain whatever advantages were available and to minimize the ill effects of British policies and the insensitivities of obtuse officials. Thus, while British rule diminished existing inter-cultural linkages, it also strengthened the sense of internal cohesion within the component polities and language groups.”

The departure of the colonial powers, hasty in many places, was accompanied by internecine struggle to maintain control of or to capture the embodiment of violence and coercion, represented in the colonial state. As it turned out, ethnicity provided a powerful manipulative tool, albeit not the only one, in the struggle by the various fractions of the inheritance elite to control the state, as the recent histories of Angola, Burundi and Rwanda, Chad, Djibouti, Ethiopia, Liberia, Nigeria, Somali, South Africa and the Sudan illustrate only too poignantly. The postcolonial history of Africa is, therefore, littered with the decimating turn that superordinate/subordinate ethnic relations, revolving around the capture of the state, have assumed on the continent, precisely, though not only because of the colonial inheritance.

An interesting dimension of the global resurgence of ethnicity is its apparent historical coincidence with the end of empire and with the subsequent re-importation to Europe of some of the unwholesome assumptions and practices of colonial racism. Another interesting historical coincidence is the apparent demonstration effect of terminal colonial nationalism and the achievement of independence by colonial territories on marginal and dominated minority ethnic groups in Europe. The radicalization of nationalism in the Celtic fringe in the United Kingdom coincided with the end of the British Empire. (Hutchinson and Smith, 1994:10) The political anthropologist’s distinction between political pluralism and cultural pluralism, and the general application of the concept of “the plural society” to Africa and Asia by Nicholls (1974:38-53), among others, has now been shown to be too restrictive. Cultural pluralism, in other words ethnically based pluralism, is as much a feature of Africa and Asia as of Europe.

### 3.4 Why globalized ethnic resurgence?

The global resurgence of ethnicity is the more remarkable, if one takes into account the fact that mainstream social science literature on modernization or “the politics of developing areas” (Binder et al., 1971; Geertz, 1973; Rustow, 1957; Apter, 1998) had tended to localize its political (system dysfunctional) salience only to the “backwoods,” to the politics of “the new states” in ex-colonial territories in Africa and Asia, where, because they are so-called “follower-societies,” it was hypothesized that modernization, in the form of the replication of development already charted by Western industrial societies, would, through a process of *detrribalisation*, blunt the political potency of ethnicity.

The hypothesis that the salience of ethnicity was muted in liberal democratic Europe and that in due course it would be so in Africa and Asia, following the logic and trajectory of industrial development in Europe, constituted the ideological underpinnings of structural-

functionalism and pluralism in mainstream Western social science, in their application or extrapolation to study of the politics of Africa and Asia.

Against this mainstream hypothesis must be set the contrary thesis of a number of social anthropologists and political scientists (Cohen, 1969; Melson and Wolpe, 1970 and 1971) that the “melting pot” thesis was a myth, or at best an oversimplification of the dialectics of a much more complex development which involved the coexistence of processes of *detrribalisation* and *retribalisation* which characterized or defined the socio-economic and political landscape of the urban cities of North America and Africa.

Industrialization and urbanization did not or would not necessarily lead to “detrribalisation,” the weakening, irrelevance and eventual disappearance of primordial or “blood” ties and the prejudices they elicited and their competitive deployment as capital by political entrepreneurs in the political market-place. The systemic dysfunctional effect of such a deployment, if not adroitly handled through responsive public policies, was graphically illustrated, in Europe and North America, by the deadly violence of race riots in the United States and the murderous ethno-communal confrontations and wars in Northern Ireland, the Russian Federation, Yugoslavia, Belgium, France and Spain.

But, as the recent experience of these countries illustrates, ethnic conflict is not always a zero-sum game. It is amendable to conflict reducing strategies and to attenuation through agreements on power-sharing and other political agreements of ethnic accommodation brokered by ethnic leadership.

### 3.5 Ethnicity and the liberal state

The resurgence of ethnicity is partly due to the complex philosophical as well as constitutional practical design problems that ethnicity poses for the nation-state. This is because ethnicity raises vexing issues of justice, equality, minority (human) rights, citizenship, self-determination and autonomy, loyalty, tolerance and freedom. These are recurring public policy issues which the liberal democratic state, as constituted, in view of its lack of autonomy and its manipulation to serve particular interests by hegemonic groups in society, has failed to resolve or is incapable of resolving. (Kymlicka and Norman, 2000)

This requires some elaboration. Resurgent ethnicity attests to the failure of the liberal democratic state to match the rhetoric or myth of the nation, as a singular, indivisible unified entity, with the contradictions emerging from the fact that the nation is, indeed, made up of many “nations,” or “nationalities,” that in its composition the nation-state is in fact, in most places, in Africa, Asia, Australia, Europe, North and South America, made up of diverse, heterogeneous peoples, with primordial ties that will not dissolve but are passed on from one generation to another. Such ties remain relevant because of the strong, almost blinding hold of what Burke calls “prejudice,” on people’s minds and also because of their influence on political practice.

Gurr and Harff (1994:4-7) have attempted to provide a mosaic of “politically active national peoples and ethnic minorities in the world.” The mosaic reflected the following distribution by regions of the world: Africa in 1990: 74; Asia: 43; Latin America: 29; Mideast: 31; Soviet Bloc: 32; and Western Democracies, 24. Regarding the distribution of “protracted communal conflicts” by region between 1945 and 1989, the mosaic exhibited the following pattern: Africa, 12; Asia, 16; Latin America, 1; Mideast, 11; Soviet Bloc, 1; and Western Democracies, 8.

What this global distribution indicates is that the political salience of ethnicity or ethnicised cultural pluralism is a reflection of failed or flawed attempts at nation-building by the political mainstream—the dominant ethnic group(s)—to integrate or assimilate or expel marginal ethnic groups within particular nation-states. According to Gurr and Harff (1994:13), “... the “explosion” of ethnopolitical conflicts since the end of the Cold War is, in fact, a continuation of a trend that began as early as the 1960s. It is a manifestation of the enduring tension between states that want to consolidate and expand their power and ethnic groups that want to defend and promote their collective identity and interests.” Even more to the point is Horowitz’s (1987:5) argument that, “... the states system that first grew out of European feudalism and now, in the post-colonial period, covers virtually the entire earth provides the framework in which ethnic conflict occurs. Control of the state, control of a state, and exemption from control by others are among the main goals of ethnic conflict.”

### 3.6 The powerful materialist symbolism of ethnicity

The salience of ethnicity derives from the symbolism of identity that enshrines it in the collective subconscious of members of ethnic groups in the market place. This is what gives it social and political force and meaning across national boundaries and across historical time. (Geertz, 1973:261) But we need to go beyond this to observe that ethnicity, in the face of the scarcity problem and the choice, access and (re-) distributive questions it raises, is embedded in the social relations of production in the state, and that its salience or political resource value also derives from the sometimes coincidence or near-coincidence of class and ethnicity in many parts of the world. (Nnoli, 1980:30)

### 3.7 Ethnicity and political architecture

The salience of ethnicity is also to be found in the design or engineering problem it poses for the nation-state. The problem is, how, short of separation or secession, we are to, or should accommodate ethnic diversity within the nation-state? How should the state be reconstituted as a multinational state? In other words, what principles or theories of political and socio-economic organization must inform the constitution or reconstitution of the nation-state, away from its

initial flawed design, “flawed” because of its partial or parochial and ideologized, unificationist, integrationist or assimilationist assumptions and thrust?

Are there forms of governance or particular political systems or constitutional forms that can accommodate, better than others, ethnic diversity? What design strategies and economic, legal-political and socioculture institutions and structural arrangements can attenuate divisive ethnic rivalries, competition and ethnic fears of domination more effectively than others, thereby offering the conducive policy environment to channel them to constructive super-arching national ends? What new rules or laws are to govern questions of “contract” and access to resources in the state, and what institutional remedies are imperative to provide access to historically excluded ethnic groups, as confidence-building and confidence-reinforcing mechanisms?

Ethnicity, in bringing forth these questions, touches on the cost calculus of preserving the nation-state. Resurgent ethnicity raises new questions about the nature of international society and about the feasibility and desirability of federalism as a design option in coming to grips with these questions. At the theoretical or philosophical level, the questions raised by resurgent ethnicity are the timeless ones about equality, fairness, freedom, national identity, justice, liberty, needs, political representation, and the relationship between political obligation (and its correlative rights) and ethno-communal and similar obligation (and its correlative rights). (Kymlicka and Norman, 2000; Parekh, 1998:509-510)



### 4 Historical view on Nigerian federalism

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What were the historical forces that gave rise to federalism in Nigeria? This question is important because the relationship between ethnicity and federalism, as well as that between ethnicity and ethnic conflict is more contingent or empirical than analytical. Nigeria needed not to have become a federation merely because of its ethnic diversity. This is where historical forces and human agency or will become critical and important. The particular form that the interaction of these forces and human will with ethnicity assumed inexorably pointed towards federalism. What were these historical forces and what was their nature? What light does experience elsewhere shed on the Nigerian experience and about the nature of these historical forces and the human agency that they unleashed?

#### 4.1 Pre-colonial geopolitical factors for integration

Some anthropologists and historians have pointed to a number of “pre-colonial factors of integration” in Nigeria. Among such factors are ecology, complementary networks of economic, political and socio-cultural exchanges and defense among the states, kingdoms and peoples of what is now Nigeria. This is not to suggest that relations were smooth and conflict free in pre-colonial Nigeria.

#### 4.2 Colonial dual administration: federal implications

The importance of these pre-colonial factors of integration is that they prevented the ‘balkanization’ of what is now Nigeria and led to the adoption, by the colonial administration in 1914, of what was in effect, in view of the size and cultural diversity of the country, a form of administrative federalism, by which the country was divided into two administrative units, the Northern and Southern protectorates, each virtually independent of the other, but both coexisting within the same country.

The administrative division had its long-term implications for the eventual development of federal government in the country, as is evident in the North/South dichotomy that is always simmering as “an open sore” in Nigerian federalism, and in the episodic convergence of ethnicity, religion and politics in the country, reflected in the long-standing problem which *sharia* poses for the secular state.

If the roots of Nigerian federalism lay partly in this administrative duality, they were reinforced by the active adoption of federalism by the leadership of the emergent nationalist movement. In a way, the dual administrative system had, in the long run, created its own

dynamics, reflected in the regionalisation or ethnicisation of nationalist politics and the party system, in the country's gradual emergence as a federation through a series of constitutional developments between 1922 and 1960, and in the differential "diffusion of modernity" (Bates, 183:5) among the two protectorates, and later the three regions, creating "advanced" (or "advantaged") and "backward" (or "disadvantaged") ethnic groups, to use terms coined by Horowitz (1981:156-181), to describe the differential diffusion, distribution and impact of westernisation among them.

Because of this, unitary government was by and large ruled out. This was due to the fear of domination by the "disadvantaged" ethnic Hausa/Fulani group, the dominant ethnic group in the North, which wanted self-government within a federal Nigeria, while the "advantaged" ethnic groups, Igbo in the East and Yoruba in the West, saw in self-government within a federal Nigeria, the possibility of running their own affairs. Both groups, the "advantaged" and the "disadvantaged", saw economic and political advantages, deriving from economies of scale, the country's large integrated internal market and the complementary nature of its economics zones, in remaining in one country, even as threats of secession became, for both groups, bargaining ploys to secure favourable concessions in the federal set-up and in the various constitutional conferences, leading up to independence.

As in Malaya, where the much more numerically bigger but "disadvantaged" ethnic Malays were faced by the numerically smaller but "advantaged" combination of ethnic Chinese and Indians, the bargaining that went into the evolution of the Nigerian federation was informed by the overriding concern of the British and the Nigerian nationalist leadership generally to assuage the fears of the allegedly numerically bigger but "disadvantaged" Hausa/Fulani in the North of being dominated in Nigeria's fledgling federalism. Divided sovereignty within the country, in the form of two levels of government, was the "price of federalism," of staying together with the Hausa/Fulani dominated North, which the political leadership of the South was prepared to accept, once their self-government was constitutionally entrenched in their respective "homelands" or sub-national territories. However, the three big ethnic groups, Hausa/Fulani, Igbo and Yoruba, were unwilling and reluctant to concede the same right to constitutionally entrenched self-government to minority ethnic groups within the minorities' own homelands.

### **4.3 Nigerian nationalism and federalist ideology: intellectual roots**

Beyond this rationality, the leadership of the nationalist movement and of the emergent political parties subscribed to federalism, as a matter of principle and political philosophy. The more articulate among them, for example, Dr Nnamdi Azikiwe (1943), and Chief Obafemi Awolowo (1947), both of whom were later to become, with the leader of the Hausa/Fulani, Ahmadu Bello, the Sardauna of Sokoto, the pre-eminent founding fathers of Nigerian independence, had, as early as the 1940s, put forward concrete proposals, amounting to a Nigerian theory of federalism, to reflect what they believed was the significant geopolitical ethno-linguistic configurations in the country.

The influence of constitutional developments in the penultimate decade before, and shortly after independence in India on nationalist thinking in Nigeria was considerable. The adoption of federalism in India and Pakistan, and the mass carnage and murderous consequences of the partition of the Indian sub-continent had considerable impact on the preference of Nigerian political leaders for federalism. Partition, which in effect meant secession, brought to them the graphic nightmare of the consequences of a divided or “partitioned” Nigeria.

The later movement within independent India for the creation of states on an ethno-linguistic basis, culminating in the States Reorganization Act of 1956, which made most states in the Indian Union unilingual, was another aspect of the Indian experiment with federalism that impressed itself upon the leadership of the nationalist movement in Nigeria. It reinforced their articulated preference for federalism, as an expression of ethnic-linguistic accommodation. In short the federal model on which Nigerian political leaders drew was the Indian one.

### 4.4 General unpopularity of federalism in Africa

The trend towards federalism in Nigeria was happening at a time when federalism was unpopular among African nationalist leaders who saw in the British efforts to introduce it into some of its African colonies in Central Africa, East Africa, Southern Africa and West Africa not only a further illustration of its “divide and rule” policy but also a prescription for the tyranny of minority rule and for weak and conservative government, at a time when the exigencies of nation-building and nation-hood demanded, in their view, a strong and active nation-state in the form of unitary government and the submergence, even elimination of ethno-parochial differences which only serve negatively to undermine and weaken the state as a positive force for integration and socioeconomic development. (Rothchild, 1966; Welch, 1969) It was on this basis that Kwame Nkrumah and the leadership of the Convention People’s Party in the then Gold Coast had between 1954 and 1957 campaigned vigorously against federalism, when it was proposed by the opposition National Liberation Movement which later became the United Party to assuage fears of domination and of what it described as “the creeping dictatorship of the South,” in Ashanti and the Northern Territories. The solution, suggested in his report by Sir Frederick Bourne, who had been invited by the colonial administration to look into the demand for federalism, was the decentralization of power to the regional assemblies. (Bourret, 1960:187ff)

## 5 Explanatory notes: originating building blocks of Nigeria's ethno-federalism

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The combination of administrative federalism and the shared views of the Colonial Office and the inheritance elite in Nigeria on the desirability of federalism shaped the form which the building blocks of Nigerian federalism assumed, providing the fulcrum around which some of the recurrent issues and themes in Nigerian federalism have been revolving. Let me explore some of the more durable elements of these building blocks.

### 5.1 Federalism as an expression of ethnic, not geographical diversity

The shape of the first set of building blocks was molded around the conception of federalism as a constitutional project to reflect the ethnic, as opposed to the geographical, diversity of the country. Nigerian federalism continues to rise from this set of building blocks. The period between 1945 and 1954 which, through constitutional devolution, saw the extension of representative and later responsible government and independence to Nigeria was critical in providing an ethnic mould for Nigerian federalism.

The administrative federalism, introduced gradually between 1900 and 1914, could have evolved to reflect geographical diversity in the country, incorporating within each geographical unit diverse ethnic groups. Yet, as I have pointed out, the British colonial administration did not emphasize the geographical and other geopolitical factors unifying the country in operating this administrative federalism in the country.

But once federalism had been linked to ethnic diversity, and then defined by the British and the emergent Nigerian political elite, whose leadership ranks were dominated by the three major ethnic groups, Hausa/Fulani, Igbo and Yoruba, in terms of autonomy or self-government for the dominant ethnic group within each geographical zone, it inescapably had a demonstration effect on other ethnic (minority) groups in the country. It was only a matter of time before these other ethnic (minority) groups, mobilized by their leaders, for various reasons, principally for fear of domination but also on grounds of equity, fairness, human (i.e. collective group) rights and justice, would demand autonomy and the right to self-determination themselves.

This was the background to the 1954 Constitution which introduced a federal constitution into the country, on the basis of three constituent regions, East, North and West, and a national or central government. The foundations of this constitutional arrangement were laid by the 1946 Constitution, which created three regions (East, North and West) and the 1951 Constitution, which combined quasi-federal and confederal features. Further constitutional developments,

within the federalist foundations laid by the 1954 Constitution, led to self government for the Eastern and Western Regions in 1956, for the Northern Region in 1959 and independence for the country in 1960. (Elias, 1966)

The hegemonic position of each of the three ethnic groups within the particular region where it was the numerical majority ethnic group was facilitated between 1946 and 1952 by the evolution of an ethno-regionalized party system in the country. Each of the three nascent major political parties substantially drew its electoral strength in its region of dominance from the majority ethnic group in the region to which its leader belonged. The Northern Peoples Congress (NPC) drew its strength mainly from the Hausa/Fulani dominated North and was seen as a northern party because its leader, Ahmadu Bello, belonged to the majority Hausa/Fulani ethnic group; the National Council of Nigeria and the Cameroons, later to become the National Council of Nigerian Citizens (NCNC), was strong among the majority Igbo-speaking people in the East, although it also had considerable support among the Yoruba-speaking and non-Yoruba-speaking peoples in the West, because its leader after 1946 was Nnamdi Azikiwe, an Igbo; and the Action Group (AG), had its stronghold in the West, but with substantial support among the non-Igbo-speaking peoples in the East and the minorities in the North, because its leader, Obafemi Awolowo was Yoruba. Each of the three major parties, therefore, derived substantial electoral strength and support from the geographical zone where its leadership was a member of the dominant ethnic group. (Coleman, 1958; Sklar, 1963)

In fact, at least two of these three major political parties, the NPC and the AG, each respectively grew out of Hausa/Fulani and Yoruba pan-ethnic cultural movements, while the third, the NCNC, was, after 1946, closely associated with the Igbo-speaking people's pan-cultural movement, the Ibo State Union. Their hegemonic position in their respective geographical strongholds and ethnic homelands was also facilitated by an electoral system that was based on the first-past-the-post, winners-take-all system.

It was against this geopolitical background that the issue of representation, accountability and collective ethnic group rights became so much important for minority ethnic groups in each of the three regions that they began, even before independence, to demand the creation of their own state in each of their sub-national territories. This was because each of the three regions contained sizeable minority ethnic groups. The Tiv, Idoma, the Kanuri, Jukun, the Nupe, Igbirra, the Yoruba and other minority ethnic groups were in the Northern Region; the Efik, Ibibio, Ijaw and other minority ethnic groups were in the Eastern Region; and the Edo, Ishan, Ijaw, Itshekiri, Igbo and other minority ethnic groups were in the Western Region.

In the circumstance, minority ethnic groups' fears of domination were politicized and mobilized by their political leadership, through the formation of political parties or quasi-political parties and minority ethnic group pan-cultural movements. (Nnoli, 1980:169-170)

There was, in addition to the minorities' fear of domination, a general fear of Northern domination in the South, particular among the Igbo and Yoruba, because of what was seen as the structural imbalance of the tripolar federation. (Oyovbaire, 1985:39-44; Dudley, 1966)

The imbalance lay in the fact that, in population size (containing, by 1960, about 54% of the country's population of 55 million) and geographical size (occupying about three-quarters of the country's land mass), the North was larger than the two other regions combined. This was enormous political capital that the Northern leadership used to good effect and with political sagacity, although there was a general perception in the South that colonial population censuses, which gave the North a higher population figure than the East and West combined were contrived by the colonial administration to give the North an electoral advantage. For this reason the population census has continued to be a controversial issue in Nigeria because of its implications for national electoral politics and federal fiscal disbursements.

This is because under federal parliamentary electoral politics and an electoral system that is based on first-past-the-post, it is apparent that, given its "contested" predominant population size, and a constituency delimitation on the basis of population size, the North was assured control of the federal parliament and, therefore, of the national government in the 1959 general elections, leading to independence. This electoral advantage of the North was strengthened by the rivalry between the two other major ethnic groups, the Igbo in the Eastern region and the Yoruba in the Western region.

Had the Igbo and Yoruba been able to coalesce or form an electoral alliance for the 1959 general elections and to exploit the electoral weakness of the Hausa/Fulani in the minority areas of the Northern Nigeria, particularly in the Middle Belt, where between them, the AG and the NCNC had won a sizeable number of seats in both regional and federal elections since 1954, thereby eroding the electoral strength of the NPC in the North, they might have been able to gain political control of the national government. As it turned out, the NPC was able to manipulate, exploit and turn the Igbo-Yoruba rivalry to its own advantage at the federal level by entering into coalition at the federal level to form a government with the NCNC in 1959. The NPC was helped in this respect by the hasty and preemptive invitation extended to it by the British Governor-General to form a government, at a time when the election results were inconclusive and while the AG and NCNC were seriously in negotiation over the terms of a coalition government between the two political parties, AG and NCNC.

The NPC realized its electoral vulnerability because of the substantial erosion of its electoral strength in the minorities' areas of the North. It launched its own counter-offensive in the mid 1960s to seek electoral base in the Eastern and Western regions. It did this by seeking alliance with the leadership of minority ethnic groups in both regions and by taking advantage of debilitating leadership fissures and cleavages within the Yoruba leadership of the AG in the Western Region. The fissures and cleavages, arising out of intra-ethnic leadership rivalry, enabled the NPC, in pursuing its counter-offensive, to deploy federal patronage and

constitutional powers to deepen the cleavages to its advantage. It achieved this objective by using its majority in the federal parliament to declare a state of emergency in the Western region and through the appointment by the Prime Minister of an Administrator to run the affairs of the region for an initial six-month period, thereby destabilizing the politics of the region.

This goes to illustrate a point made earlier on above. This is that the dynamics of ethnicity may impel accommodation, cooperation, and coalition building, in a situation of competitive electoral politics, across ethnic lines. In other words, ethnic conflict or competition is not necessarily a zero-sum game, even if the cumulative outcome of politics in Nigeria entailed great loss for the losers. Ethnic leaders, if not their followers, are rational actors in the game of competitive ethnic politics. They calculate the comparative cost of alternative lines of action and option before they make their next move. This is why party electoral politics in Nigeria between 1959 and early 1966 was characterized by shifting electoral coalitions among the country's major and minority ethnic groups. (Dudley, 1973; Jinadu, 1994; Mackintosh, 1966; Post and Vickers, 1973).

The dynamic logic of competitive electoral politics during this period impelled the federalization of the ethno-regionalized party system. It encouraged political horse-trading across ethnic and regional boundaries, as the major ethnic-based political parties were compelled, by the need to control the national government, to move outside their ethno-regional homelands. Federalism forced them to be multiethnic, or at least to pretend to be multiethnic and national, even if their origins lay in or were closely linked with pan ethno-cultural movements. In fact, this could not have been otherwise, given that each political party was not a closed shop, open only to particular ethnic groups.

The leadership cadres of the parties at the national and state levels were necessarily multiethnic, given the imperative logic competitive electoral politics and the vision of a united Nigeria that was proclaimed in their various party constitutions and manifestos. In this way, the three major political parties were forced to cross-cut ethnic ties, not only in their search for alliances across the country but also in the appeal of their ideologies and programs to the electorate, especially in the cosmopolitan urban areas across the federation. Yet, the appeal of ethnicity constituted a pall over the federalization of the party system.

### 5.2 Minorities' redux?: extending the frontiers of self-determination

The second set of the building blocks of Nigerian federalism is ethnic diversity. It provided a structuring principle around which ethnic groups have continued to assert their collective group rights for home rule or self-government within the Nigerian federation, through the creation of their own autonomous states. The problem this creates is that it is not about admitting a new state to the federation through territorial expansion but one about creating a new state or states out of one or more existing ones. Because federal constitutions are rigid and generally require special provisions to prevent unilateral amendments by either level of

government, the creation of new states, after the initial covenant creating the federation, has tended to require special constitutional procedures and processes.

These special requirements are necessary probably because such an exercise would, in effect, constitute an amendment of the originating federal covenant. It was probably for this reason that pressures mounted for the creation of more states in the minority areas of the three of the three regions in the Nigerian federation in the penultimate years before independence.

Responding, therefore, to the insistent demand of minority ethnic groups for the creation of their own states before the country was granted independence, the British government in 1957, apparently reluctant to grant the demands, set up the *Willink Commission* to enquire into the fears of Minorities and the means of allaying them. (Cmd., 505/1957)

The Commission (Cmd., 505/1957) recommended against creating more regions out of the three regions, arguing that

*“ (in each Region)—on its own merits—a separate state would not provide remedy for the fears expressed; we were clear all the same that, even when allowance had been made for some exaggeration, there remained a body of genuine fears and that the future was regarded with real apprehension ... In considering the problem within each region, we were impressed by the fact that it is seldom possible to draw a clean boundary which does not create a fresh minority ... Some years ago, before the relations between the Federation and the Regions had crystallized, it was possible to conceive a larger number of states with smaller powers, but a new state today would have to compete with the existing regions and the cost in overheads, not only financial but in resources, particularly of trained minds—would be high. This consideration, when combined with the difficulty of finding a clean boundary, was in each particular case to our minds decisive.”*

The bottom-line, of course, was that both the colonial office and the political leadership of the three major ethnic groups and of the major political parties opposed the creation of new states out of the existing ones before independence. The *Willink Report*, therefore, provided the rationalization for the official British decision not to create new state(s) out of the any of the existing regions before independence, just as it had done in the case of Malaya and Northern Rhodesia, preferring “strong and stable administration” in Malaya, and opposing “the fragmentation of existing regions,” in the case of Northern Rhodesia. (Watts, 1966:124)

In the case of the regional governments and the major political parties, the principle of creating more states in the minority areas of some of the existing regions was conceded, by and large. However, no regional government was prepared to allow its region to be divided or reduced through state creation, if new states were not to be simultaneously created in the other regions. In any case, the Northern regional government and the leadership of NPC were adamantly opposed to the creation of new states out of the Northern region. That the regions prevailed in this matter, so much so that provisions were inserted into the 1960 Independence Constitution, which made states creation a virtual dead letter or impossibility, was a reflection of their strength as powerful players within the Nigerian federation.



The *Willink Report* neither put an end to the demand for, nor stemmed the crescendo of pressures for the creation of new states out of the existing regions. In fact, in some of the regions the demand intensified, fuelled by the majority ethnic groups for electoral advantage in other than their own regional homelands, escalating into a vicious cycle of violence, political repression and victimization, and in the process affecting, indeed necessitating the party political realignments earlier referred to and contributing in part to the demise of the First Republic and the chain of events that led to the civil war (1967-70) in the country. (Dudley, 1973)

More states have, of course, been created out of existing ones, since *Willink*. Nigerian federalism has in the process moved from a federation of three regions to the present federation of 36 states and a federal capital territory. With this figure, Nigeria has the third largest number of constituent units, among contemporary federations, coming after the United States of America, which has 50 constituent units and the Russian Federation, with 86 constituent units. (Watts, 1999:10)

This is because under military rule, pressures for state creation from leaders of state creation movements, erstwhile politicians and traditional rulers received sympathetic hearing from the various military governments which saw in state creation a powerful resource it could deploy to gain legitimacy and support. The state creation process under the military was further facilitated by the fact that, with the constitution of the country virtually suspended, the military did not have to go through entrenched tedious and complex constitutional procedures which were designed more to discourage than to encourage state creation after independence. Thus, other than the Mid-West Region, created in 1963 out of the Western Region, state creation exercises were carried out under military rule in 1967, 1976, 1987, 1991 and 1996.

Through all the state creation exercises, however, there has been a recurrence of a number of problematic issues, articulated by *Willink* and other reports on state creation in the country. (see, Federal Republic of Nigeria, 1987) These issues, which continue to dog Nigerian federalism, have included the issue of territoriality, in the sense that, as *Willink* (Cmd., 505/1958) puts it, "it is seldom possible to draw a clean boundary which does not create a fresh minority." This is complicated by the flexibility and protean character of the concept of ethnicity itself, as has been argued, making it difficult to concretely define an ethnic group and to give it operational point of reference, as criteria for state creation.

No wonder, the politics of state-creation has given rise to the fragmentation or further segmentation not only of the country's majority ethnic groups into sub-ethnic groups among the Hausa/Fulani, the Igbo and the Yoruba but also of minority ethnic groups. As was suggested earlier on, this fragmentation is encouraged by the competitive logic or rationality of Nigeria's fiscal federalism, as in the allocation of fiscal grants to state on the basis of state equality. This same rationality was reflected in incessant demand, under military rule for the creation of more and more local governments within each state. This was because federal fiscal allocation to the

local governments was also based on the equality of local governments. As a result, more federally disbursed money accrued to states with large numbers of local governments than to those with small numbers. It, therefore, seems that, once ethnicity has been mobilized for the purpose of state-creation, there may be no end to it.

It is useful here to refer to the experience of India for comparison. The Indian Constitution provides for more flexibility in respect of state creation. All that is required for state creation is legislation by the union parliament, on the introduction of a bill on the recommendation of the President, and requiring not the consent of the affected states, but only a time limit for them to express views on the proposal.

What is important for our purpose here is that, reacting to popular pressures and demands, Nehru and the Congress Party leadership took a far-sighted view of the demands, decided in the mid-1950s that it was in the national interest to support and accede to them. They overcame their initial resistance and opposition to the reorganization of the states along linguistic and cultural lines. The federal or union parliament in India, therefore, carried out a major reorganization of the constituent units along linguistic and cultural lines in 1956.

Had the political leadership of the three major ethnic groups and the major political parties in Nigeria borrowed a leaf from the leadership of the Congress Party in India, had they faced the matter squarely, the more so since some of them, for example, Azikiwe and Awolowo, had argued, in any case, for constituting Nigerian federalism on an ethno-linguistic basis, and, consistent with this position, had they taken the bull by the horns before independence, working out some compromise on the number of new states to be created out of the existing regions, perhaps the steam or force would have been taken out of the demand for the creation of more states in independent Nigeria, with the matter subsequently settled once and for all before or shortly after the country's independence.

### 5.3 "Re-engineering" the originating building blocks

Nigerian federalism, on the basis of these building blocks, has concretely defined "diversity in unity" to mean the constitutional entrenchment of collective ethnic group rights. Using the *Willink Report* as a point of departure, we can see the historical link between federalism and the constitutional entrenchment of collective ethnic group rights in Nigerian federalism.

Although it did not recommend the creation of more states, *Willink* had asserted that minority ethnic group fears were well-founded. To allay these fears, *Willink* recommended the establishment of Minority Areas and Special Areas as development areas or growth points for some of the minority ethnic groups. More fundamentally, it recommended that a Bill of Rights, similar to the one in the Indian Constitution, should be entrenched in the Nigerian Constitution to

protect the rights of ethnic minorities. But these rights were also to apply other Nigerians as such. Let me elaborate.

The 1960 Nigerian Constitution, reflecting *Willink's* recommendation of the need to assuage minority ethnic group fears through constitutional provisions and policy measures, entrenched ethnic rights as minority ethnic group rights. However, constitutional developments resulted in the appropriation of the minority ethnic group-driven conception of group rights by the majority ethnic groups who were unprepared to create, entrench and alienate themselves from certain rights, designed as special rights due *only* to and to be enjoyed *only* by the minority ethnic groups. It is pertinent, in this respect, to point out that the Constitution Drafting Committee which produced the initial draft of the 1979 Constitution rejected the recommendation of its Sub-Committee on Fundamental Objectives and Public Accountability that the need to achieve a balance among Nigeria's ethnic groups should be "...without prejudice to special safeguards designed to protect the position of minority groups." The effect of this appropriation has been a noticeable trend away from ethnic rights as minority ethnic group rights to rights that belong to ethnic groups in general. (Jinadu, 1989:22-27)

To illustrate this argument, let us begin with the 1960 Independent Constitution. It contained provisions for the application of what has since come to be described as "affirmative action-type policies," for example, those relating to *proportionality, quota or reverse discrimination*. The general justification of such policies is typically partly that they are required in the public interest to bridge the gap between the most and the least advantaged ethnic groups in the country, particularly since the gap was created by the sometimes deliberate operation of public policies in the past.

Section 27 of the 1960 Constitution and later Section 28 of the 1963 Republican Constitution provided for the fair representation of ethnic minorities in the public services of the regions. In addition, during the First Republic (1960-1966), there was the convention regarding proportionality in cabinet appointments at the federal and state levels. At the federal level, there were at least three ministers from each of the three regions, usually chosen, on the recommendation of their party, from among elected members of parliament from the party that won majority seats in the federal parliament elections in the region. These ministers were usually chosen to reflect the majority and minority ethnic group configurations in each region. Cabinet appointments at the regional level, by convention, reflected the majority/minority ethnic configurations in each region.

During the First Republic, following upon the recommendation of *Willink*, compensatory measures, like the establishment of the Niger-Delta Development Board and the Special Area Scholarship Award were introduced and implemented to promote the socio-economic and cultural development of minority ethnic groups in the Niger-Delta and other minority areas of the country. It was during this period that the quota principle, though not a constitutional requirement, was introduced as a bridge building and compensatory measure, in the national

interest, in the recruitment of Northern officers to the senior service cadre of the federal bureaucracy and in the armed forces. The thinking in official quarters was probably that, with the Nigerianization or localization of the federal civil service on the eve of independence, preferential treatment should be accorded to northerners, if the top and middle echelons of the federal service were not to be monopolized by southerners.

The 1979 Constitution entrenched a number of clauses to provide the constitutional and legal basis for affirmative-action type public policies to protect ethnic rights *per se*, not just ethnic minority rights. It is pertinent to provide some historical background for this constitutional development.

During the long period of military rule between 1966 and 1979, such policies were used as a means of achieving equitable distribution of employment, particularly in the higher echelons of the public services, for sectoral public project allocation along ethnic lines and for admission to federal secondary schools and federal universities.

The 1979 Constitution built on this practice under military rule, by entrenching constitutional provisions, requiring the reflection of what was described as “the federal character of Nigeria,” in the federal, state and local government public services and other public institutions and in the allocation of the country’s resources at these levels. Section 14, sub-section 3 of the 1979 Constitution provides that,

*“the composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or a few ethnic or other sectional groups in that Government or any of its agencies.”*

Section 277, sub-section 1 of the same constitution, defines “*federal character of Nigeria*,” in the following words,

*“Federal character of Nigeria refers to the distinctive desire of the peoples of Nigeria to promote national unity, foster national unity and give every Nigerian citizen a sense of belonging to the nation as expressed in section 14(3) and (4) of this Constitution.”*

It should be added that similar clauses, with appropriate modifications, were included as provisions in the articles of the 1979 Constitution, dealing with the executive and legislative powers and functions of state governments.

Under these federal character clauses and such other clauses as Section 157, sub-section 5 and section 197, sub-section 2 and section 199, the *proportionality* or *quota principle* was extended to appointments and promotions in the public services, to the appointment of the Chairmanship and membership of the Boards of Directors of public parastatals and appointments

and promotions in the armed forces, to the allocation of public revenue and public projects, to the composition of a number of federal executive bodies and to admission to federal secondary schools and federal universities.

To put the introduction and application of these clauses in comparative perspective, it must be pointed out that an important aspect of the formulation and application of the *proportionality principle* in Nigeria, as a strategic device to promote and protect ethnic rights, is that, unlike the practice in countries like Belgium, Cyprus, Malaysia, Lebanon, and Sri Lanka, where similar principles are reflected in constitutional provisions or in administrative circulars, the Nigerian Constitution does not specifically reserve or earmark statutorily defined or stipulated public elective or appointive offices or admissions policy to public educational institutions for specific ethnic groups.

In Malaysia, for example, the country's Constitution, in sections 89 and 153 confers a "special position," to the majority ethnic Malay population, reserving quotas or shares of positions in Malaysian public services, and in admissions into secondary schools and universities to ethnic Malays. Unlike the practice in India, too, where articles 341 and 342 of the Indian Constitution provide or reserve places in educational institutions and in the civil services for "scheduled" castes or tribes, the 1979 Nigerian Constitution does not distinguish between majority and minority ethnic groups. What also sets these constitutional clauses in Nigeria apart from similar ones in these other countries is that they are not, in Nigeria, intended as *ad interim* measure, to operate for a number of years, after which they would be reviewed, and then renewed, modified or dropped.

Although the *proportionality principle*, entrenched in the 1979 Constitution, assumed equal treatment for all ethnic groups, as opposed to special group preference, administrative action by strategically placed "gate keepers" in the federal public service, has in fact, over the years, had the unintended effect of converting *proportionality* into special group preference, especially in admission to federal secondary schools. This has been made possible through the use of different cut-off points that favour students with lower scores, from some states assigned lower cut-off points over other students with higher scores from states with higher cut-off points. This has created the situation where a student with a lower test score than his or her classmate with a higher test score is offered admission, whereas his or her classmate with the higher score is denied admission, because they come from different states, with the student offered admission coming from a state with a lower cutoff point than the one from a state with a higher cut off point. In essence, the allocation of cutoff points for different states assumes the existence of educationally advantaged states (i.e. those with higher cutoffs) and educationally backward or disadvantaged states (i.e. those with lower cutoff). This form of "reverse discrimination" has further fuelled and deepened the ethnic animosities it was intended to contain. (Jinadu, 1985) As a result, the practical implementation of the federal character clause has generated controversy, particularly concerning how best it can serve its instrumental conception as a tool for achieving

the objective of “diversity in unity.” (Kirk Greene, 1983; Adekanya, 1983; Nnoli, 1982; Briggs, 1980; Jinadu, 1986; Bodunrin, n.d.)

How *proportionality* is to be achieved has turned out to be problematic. Questions are raised about how “predominance of persons from a few states or from a few ethnic or other sectional groups” is to be prevented; or about how such predominance, where it already exists, is to be remedied. Should public policy to reflect “federal character” aim at numerical equality, representativeness or geographical spread, for example, in the distribution of appointments and in promotions in the public services, and in admission to secondary schools and universities? How is *proportionality* to be attained without compromising the *merit* principle and lowering efficiency and morale in the public services? How should the assertion of ethnic group rights to favour poor performing students from some states in admission to federal secondary schools be reconciled with the individual rights of better performing students from other states who have been denied admission?

Those who support the federal character clauses base their position on the potential of the clauses to promote even development and facilitate national integration in the country, while agreeing that their implementation may have disadvantages, such as infringing the individual rights of some citizens. They also justify the clauses on the ground that they are intended to make amend or compensate for, and prevent the recurrence of what was seen as a history of the dominance of the federal government and its institutions by a few powerful ethnic groups.

Those who oppose the clauses point to their unfairness and typically argue that their application will reward mediocrity. These critics also argue that the clauses are inconsistent with the entrenched fundamental human rights provision of the Constitution. In one celebrated case, *Badejo v. Federal Ministry of Education (1990)*, the federal government was taken to court by the parents of a student denied admission to a federal government girl’s secondary school of her choice, although she did much better than several candidates with lower scores who were offered admission to the same school, because they came from “educationally backward” states with lower cut-off marks than the cut-off mark for the “educationally advanced state from which the plaintiff’s daughter came. These critics further argue that, in any case, a person’s worth and the respect due to him or her as a human being should not be defined in terms of his or her ethnic origin, otherwise, they contend that, in the long run, the clauses would be counter-productive, in that they would in practice exacerbate what they were intended to curb or diminish.

But it is not so much that these clauses necessarily reject as that they seek to modify, pragmatically, constitutional provisions of fundamental human rights in the light of the country’s historical experience with majority/minority ethnic relations. As was pointed out earlier on, the assertion of ethnic rights in the country’s competitive federal politics involves assumption about the state and its role in the society, different from mainstream liberal theory of politics and of the state. The clauses, at least in theory, are focused on the material conditions for justice and equality in the society, different from the assumptions of liberal democratic theory that the state

is a neutral reconciler of individual interests. The misapplication of the clauses should be separated from their underlying and justificatory principles

The apparent antinomy between individual rights and group rights in mainstream liberal democratic theory, with its market assumptions of “possessive individualism,” arises because liberalism typically rejects the notion of group rights as moral rights which require legal or constitutional enforcement and protection, independent of individual rights. In other words, as van Dyke (1977:343) has argued, for liberal constitution-makers, “the question is whether ethnic communities that meet certain criteria should be considered units (corporate bodies) with moral rights, and whether legal status and moral rights should be accorded to them.”

Nigerian constitution-makers have answered this question in the positive, by regarding ethnic communities in the country as right-and-duty bearing entities that can assert the right to self-determination within Nigeria’s federal system of government. This is unlike the United States where the building block of the country’s federalism is not provided by ethnic diversity and ethnic group rights but by geographical diversity and individual rights. As a result, the utilization of a number of compensatory and preferential measures to favour ethnic minority groups has been more a matter of controversial judicial “legislation,” and of congressional legislation, initiated by the executive branch of government than of constitutional entrenchment of ethnic rights. This explains recent legislative action and judicial decisions in the United States, questioning the constitutionality of affirmative action programs that give minority ethnic groups preferential treatment.

## 6 Nigerian federalism: enduring issues and the price of federalism

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I now turn to a consideration of some enduring issues in Nigerian federalism. The issues are important because they raise the general issue of “the price” of federalism. In other words, they can raise the stake of federalism, in that they have a critical bearing on the success or failure of federations. (Frank, 1966; Hicks, 1978) They can create political stress which may reach breaking-point, if unresolved, leading to secession, as exemplified by the USSR, Pakistan, the West Indies Federation, the East African Federation, the Mali Federation, Czechoslovakia, Yugoslavia. Alternatively they may lead to attempted or threatened secession or separation, as in Nigeria and Canada.

The enduring issues I want to consider fall under the following three broad categories: *political asymmetry*, *constitutional engineering* to promote and protect ethnic rights; and, in a way deriving from these two categories, “*the son/daughter of the soil*” syndrome, in so far as it raises the issue of the tension between citizenship and state indigeneship in Nigerian federalism.

### 6.1 Political asymmetry

Political asymmetry generally “arises from the impact of cultural, economic, social and political conditions affecting the relative power, influence and relations of different regional units with each other and with the federal government.” It is usually distinguished from constitutional asymmetry, which “relates specifically to the degree to which powers assigned to regional units by the constitution of the federation are not uniform.” (Watts, 1999:63)

In the case of Nigeria’s ethnicized federalism, political asymmetry arises from the situation of the marginalized ethnic groups within an existing unit (regional or state) governments and their demand for self-government within their own homelands or sub-national territories. This is because an important dimension of the problematic nature of federal political asymmetry in Nigeria is the fear of domination by one or a combination of ethnic groups over others in the federation.

I have already indicated the nature of this political asymmetry in Nigeria, namely the preponderant, but contested or disputed population and geographical size of the North in the original three-regional structure and the pre-eminent position of the three majority ethnic groups, in relation to the minority ethnic groups. I have also indicated the nature of some measures taken to redress the imbalance, primarily in the form of the creation of more states and the constitutional clauses on the federal character.



Political asymmetry persists and endures in Nigeria. It is the serious concern with it that has elicited strong and persistent calls for restructuring the country's federal system. Why has political asymmetry persisted in Nigeria? The reasons are complex and multifaceted.

First, there is the fear of ethnic domination in the context of zero-sum clientelist politics and the struggle for the control of political power, and of the enormous financial resources and patronage deriving from it, at the national and state levels. There is also the issue of an accurate population census on which constituency delimitation and legislative seats in the federal House of Representatives will be based. Given the first-past-the-post electoral system, numbers count, especially on the assumption of ethnic block voting.

To this must be added the more complex psycho-cultural fixation of the country's political elite, and of the general public on the North/South power configuration, a relic of the dual administrative structure introduced by the colonial administration. This fixation has had an enduring impact not only on majority ethnic group politics but also on majority/minority ethnic group relations and minority ethnic group politics, especially the various movements for state creation.

The enduring salience of political asymmetry is reflected in the contemporary debate in the country over the necessity for the shift of political power at the federal level from the North to the South. The historical context for the debate is provided by the fact that, of the ten heads of government at the federal level between 1954 and 1999, before the present administration assumed office in May 1999, eight had come from the north. Of these ten, the only two civilian, democratically elected heads of the federal government had been Hausa/Fulani from the north.

This is why the annulment of the results of the Presidential Elections of June 12, 1993 which a southern (Yoruba) candidate, Chief M.K.O. Abiola won, stretched the federation, almost to breaking point. For many in the south, annulment was clear evidence that the leadership core of the northern Hausa/Fulani was determined not to give up, or relax its grips on political power at the national level. This assumption was further fuelled by the self-succession plan of the late General Sani Abacha who took over power in a military coup against the National Interim Government, headed by a Yoruba southerner, Ernest Sonekan, in the aftermath of the controversy over the annulment.

The retreat from the widely discussed break-up of the federation under the Abacha regime was only partially "engineered," after Abacha's death, with the apparent consensus among the leadership fractions of the country's ethnic political leadership and opinion-makers that, for the country to move forward and to lay to death the ghost of northern domination, the "price of federalism" must be the "zoning" of the next president of the country to the south, if only to validate the success of the late chief Abiola at the polls and to prevent the break-up of a federal Nigeria. The consensus on a southern president demonstrated in a show of ethnic

accommodation across ethnic lines that the north was prepared to concede the federal presidency to the south. Furthermore, the possibility of constitutional provisions for rotating the federal presidency and for a multiple vice-presidency among six geopolitical zones in the country, a modified version of the North/South axis, was actively raised and discussed, in the aftermath of the annulment, as solutions to the problem of fear of perpetual northern domination.

Secondly, the current political asymmetry is due to the accretion in the power of the national government, relative to that of the constituent units. Several years of military rule (almost 30 years out of 41 years of independence) have contributed to the phenomenal growth of federal power. The centralizing and “unconstitutional” nature of military rule, the absence of the countervailing powers of the legislature vis a vis the executive under a system of separation of powers at both the federal and state levels, and the virtual absence of judicial review, to ward off or guard against federal encroachment on the legislative functions and powers of state governments under military rule—all combined to contribute to tilt the federal balance disproportionately in favour of the national government.

In short, the trend towards organic or centralized federalism under military rule has generated concern over whether such a development was not too high or too prohibitive a price to pay for Nigeria’s federalism, since it had undermined ethnic autonomy and its corollary self-government within ethnic sub-national territories, given the ethnic building blocks of Nigerian federalism.

To the centralizing impact of military rule on the country’s federalism must be added other reasons, some of which reflect the general trend in virtually all federations to federal pre-eminence. Some of these reasons are the imperative of national economic planning, the conduct of foreign relations, including international economic relations and, in the specific case of the Nigerian federation, worsening balance of foreign trade terms and low world primary commodity prices for agricultural products from the states, phenomenal revenue accruing to the national government from the production and export of crude petroleum, constitutional provisions for revenue collection and revenue allocation that favour the national government, as in the case of the Petroleum Tax Fund and the Value Added Tax, giving the national government large discretion, especially with respect to their disbursements to the constituent units.

Thirdly, political asymmetry in the Nigerian federation in the favour of the national government has been facilitated by the various state creation exercises. While state creation exercises were carried out, in some cases, to redress asymmetry between some of the states, it has nevertheless created unviable or less viable states, what some have referred to as “glorified local governments,” created less for economic than for political considerations. Thus, the argument has been put forward that the more states that are created, the less autonomous or less economically viable will such states be, relative to the national government and indeed relative to one another. Furthermore, it has been claimed that the cumulative effect of state creation exercises has been to make the unit governments more dependent on the national government, in

the long run. To some, therefore, “the price of federalism” in the country has, paradoxically, been raised in favour of the national government by exercises intended to extend the self-government or home-rule principle to ethnic and sub-ethnic groups hitherto denied group rights enjoyed or granted other ethnic and sub-ethnic groups.

It is one of the ironies of state creation in Nigeria’s federalism that state creation exercises have deepened political asymmetries *within* some of the states. This is because, contrary to the expectations or assumptions that state creation would serve as a catalyst for development and growth, creating multiplier effects, which are expected to trickle down from new administrative capitals or headquarters, new growth points, to the local governments, political and socioeconomic development has, in fact, gravitated around or been restricted to the new state capitals.

Nowhere is this truer than in the oil-rich Niger Delta area where the demand for state creation because of perceived marginalization and discriminatory practices against the indigenous peoples dates back to the 1950s. This demand, as was pointed out earlier, was a major reason for constituting the *Willink Commission* which, in accepting that some of the fears expressed by minority ethnic groups in the area were well-founded, recommended the creation of a Niger-Delta Special Area for development purposes in the area. Yet forty-four years after the *Willink Commission*, and in spite of the creation of at least six new states in the area since 1967, development has neither significantly trickled down nor had the assumed or intended multiplier effects in the area.

Ecological devastation, caused by oil exploration and other activities of the oil companies in the area, as well as neglect by successive federal and state governments have compounded the underdevelopment and the impoverishment of the area, creating a typical political economy of internal colonialism. The over-all effect of this political economy is manifesting itself in separatist agitation and in demand for the fundamental restructuring of Nigeria’s federalism and also in the demand for new federal fiscal arrangements to ensure that each constituent ethnic group would receive by far the greater share of the country’s revenue derived or generated from its area. (Osaghae, 1995; Ibeanu, 1997). This is the re-negotiated price of federalism, which the Niger-Delta ethnic groups are prepared to pay.

Fourthly, state creation exercises have resulted in another kind of political asymmetry. This is the asymmetry between the various states, caused by variations in resource–human, capital and financial, and natural–endowment among them. Some of the new states have weak internal revenue-generating capacity and they are barely able to pay monthly salaries of their civil servants. Whether the more endowed states and the national government are prepared as “the price of federalism” to subsidize the less viable states through a revenue allocation formula and other federal fiscal grants and transfers that emphasize need and even development is a different issue altogether. In fact, there is a current of opinion that reconstituting or reintegrating

the less viable states, where feasible geographically, into more viable ones might be the price of federalism which such less viable states must be prepared to pay.

## 6.2 Constitutional “engineering” of ethnic accommodation

The federal character clauses of the 1979 Nigerian Constitution were strategic expressions of the need to engineer ethnic accommodation in the country. Yet while there seems to be a general consensus about their desirability, going by their retention in the 1989 Constitution and in the 1999 Constitution, they continue to generate controversy. Much of this controversy has to do with their flawed application and implementation as public policy, through administrative action that has tended to favour particular ethnic groups. This was due partly to the absence of monitoring mechanisms and the fact that, not being justiciable, non-conformity by government has not been subject to judicial action, to ensure their faithful application. (Susu, 1988) It was also partly due to the absence of sanctions, other than moral suasion, against non-compliance. As will be discussed later, the establishment of the Federal Character Commission in the early 1990s was an attempt to redress these lacunas.

There is a more persuasive, underlying problem with the implementation of the federal character clauses, especially in the federal civil service. For historical reasons, arising from the differential diffusion of modernity among the various ethnic groups, but more especially among the three major ethnic groups, the middle and upper ranks of the federal civil service were dominated by southerners. Quota system had been introduced, through administrative action, not constitutional provisions, in the late 1950s to recruit more and more northerners to the federal civil service. The appointment and promotion of northern officers were made in some cases without regard to the requisite qualification or seniority. All this was done as a compensatory measure, designed to fill the gap created by the historic lack of representativeness of the higher echelons of the federal civil service.

The immediate or short-term practical impact of administrative action to make the federal higher civil service more representative in composition was minimal. This was due to two reasons, among others. First, the head start and advantage of the southerners were considerable and would have required massive injection of northerners to correct the historical imbalance. The second reason has to do with the fact that, for cultural reasons, the northern petit-bourgeoisie and the rising northern bureaucrats did not generally feel at home in Lagos, the seat of the federal government until the mid 1990s when it was moved to a more central but culturally and geopolitically “northern” location, Abuja. Two developments changed all this.

First, the IMF induced civil service reforms of the mid 1980s onwards provided an opportunity to retrench a considerable number of the higher civil service, through dismissals and early forced retirements. Whether by deliberate policy or not, or by the coincidence that there were many more of them in the various ranks of the federal public service, many of those affected by the retrenchment were southern civil servants. Secondly, the movement of the federal

capital from Lagos to Abuja, carved out as the federal capital from the central northern state of Niger, provided the opportunity, in the face of a weakened federal civil service commission, for a number of strategically placed northerners in the federal civil service to “pack” the higher echelons of the service with northerners, through the appointment and promotion of northerners, at the levels of Directors and Directors-General, especially in the Presidency. This action, which was done in blatant contravention of the federal character clauses of the constitution, raised the price of federalism in the country, especially among the southerners who began to wonder aloud, “federalism at what cost”?

This process was accompanied by a siege mentality among southern civil servants, following the apparent witch-hunting and psychological harassment of such officers who were assumed, wrongly and allegedly in most cases to be closet members of the pro-democracy National Democratic Coalition (NADECO) by the Abacha administration. The same process of deliberate “packing” of northerners at the top and other strategic public institutions was replicated in the federal parastatals, in the Nigeria Police Force, in the security agencies, and in the banking sector, where the federal government held considerable shares in some of the big banks.

In short, rightly or wrongly, the strong perception, reinforced by the annulment of the June 12, 1993 Presidential Elections, began to gain ground in the south that there was an orchestrated hegemonic thrust by the north. The federal civil service, it seemed to many in the south, was one vital target of the thrust, in view of its strategic location, as the preeminent “government machine,” at the core of the disbursement of huge federal economic and political patronage.

This is why the misapplication or abuse of the federal character clauses is a source of bitter acrimony, which continues to raise the price of federalism for some sections of the country. It is likely in the long run to undermine and fracture irreparably the building blocks of ethnic accommodation on which Nigerian federalism rests. It was a cause of concern for the Committee on Fundamental Rights and Directive Principles of State Policy and Press Freedom of the 1994/1995 Constitutional Conference. Reviewing the experience with the application of the federal character clauses, the committee recommended that, “... Government should ensure that the Federal Character Principle is evenly applied ...” (Federal Republic of Nigeria, 1995:109)

The 1999 Constitution marks a significant departure from the earlier constitutions in establishing in section 153 the Federal Character Commission, as a federal executive body, whose membership, functions and powers are spelt out in the Third Schedule, Part 1 of the Constitution. The Commission is empowered in section 8(1) of the Third Schedule to:

*“(a) work out an equitable formula subject to the approval of the National Assembly for the distribution of all cadres of posts in the public service of the Federation and of the States, the armed forces of the Federation, the Nigeria Police Force and other security agencies, government owed companies and parastatals of the States;*

*(b) promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government;*

*(c) take such legal measures, including prosecution of the head or staff of any Ministry or government body or agency which fails to comply with any federal character principle or formula prescribed or adopted by the Commission.”*

Section 8(3) of the Third Schedule additionally provides that,

*“Notwithstanding any provisions in any other law or enactment, the Commission shall ensure that every public company or corporation reflects the federal character in the appointments of its directors and senior management staff.”*

It remains to be seen how effective these constitutional provisions will be in preventing the abuse or flawed implementation of the federal character clauses under the 1999 Constitution. Much will depend also on how vigorously the Federal Character Commission undertakes its monitoring functions, in applying sanctions and in pursuing judicial action, where necessary, to enforce compliance. The task ahead of the Commission is, therefore, a monumental one, because of the possibility for abuse of what are very sensitive constitutional provisions, against which it must be prepared to act decisively.

The wording of its task and how it can attain consensus on the meaning of key concepts in the formulation of its functions and powers constitute constraints and challenges that it must resolve decisively. For example: on what is the “equitable formula” to be based—population or something else? How does this relate to merit and how is it to apply to “the distribution of all cadres of posts” in the public service of the federation? Is “equitable formula” the same as “proportional sharing”? What about the reach of the federal character clauses and of the powers of the Commission, to include, presumably, the private sector, “every public company or corporation”?

There is, moreover, an influential body of opinion leaders in the country that is less than enthusiastic about the psychological/behavioural effect of the application of the federal character clauses on *esprit de corps*, *morale* and *professionalism* in the federal public service, if not of its underlying principle. For example, talking about the effect of the clauses on the civil service, a former head of the federal civil service observed at the 8<sup>th</sup> Obafemi Awolowo Foundation Dialogue on *Nigeria: Path To Sustainable Democracy*, in December 1999 that, with “... the introduction of the federal character (clauses) in 1979 ... (What) was referred to before as loyalty to the civil service changed overnight. It became loyalty to where you came from in order to make progress. This cannot be the basis for reform.” (Oseni et al., 2000:194)

### 6.3 The “son/daughter of the soil” syndrome

A related enduring issue, which continues to raise the price of federalism, and to strain and endanger Nigerian federalism is what is best described as “the son/daughter of the soil syndrome.” It refers to the conflict between indigeneship and citizenship in Nigerian federalism. It has been complicated by the creation of new states and the application of the federal character clauses of the constitution.

The 1999 Constitution (section 147(3)) stipulates that in appointing his/her cabinet, the “president shall appoint at least one Minister from each state, who shall be an indigene of such a state.” Similar provisions apply to the appointments of permanent secretaries and ambassadors. But the constitution does not define or stipulate criteria for indigeneship, other than to say in section 318(1) that,

*“belong to or its grammatical expression when used with reference to a person in a State refers to a person either of whose parents or any of whose grand parents was a member of a community indigenous to that State.”*

In a fundamental sense, the conflict brings into sharp relief the conflict, already referred to, between liberal theories of individual rights and theories of collective group rights, in this case ethnic group rights.

In this particular case, the problem that is posed is whether, in pursuing “diversity in unity,” and, as a “practical policy-making” consideration, to borrow Coulombe’s (2000:275) formulation in a not-too-dissimilar context, “a (nation-) state can accommodate cultural diversity without undermining the sense of unity and solidarity among its members.” In a federation, the problem is posed in even starker terms because of the divided citizenship that is created by virtue of the creation of two levels of government with direct and concurrent legislative and juridical impact on the country’s citizens.

At the state or unit level the problem, arising from the assertion of group rights within a multinational state, has been created because of the preferential treatment given, in pursuant of those rights, to indigenes of a state over non-indigenes of the state in appointments and promotions in state public services, in admissions to state educational institutions and in contract awards, and even in land or real estate property acquisition in various states of the Nigerian federation.

The syndrome is a dimension of the inner competitive logic of the interethnic and intra-ethnic relations and struggle for power in an ethnicized federation, deriving its salience from ethnic pride in seeing “our sons and daughters” in top positions, an indication that “we are in control of our domestic affairs.” It also derives from the strategic position of “gate-keepers” in

sensitive public positions to open or shut the doors of opportunities to those whom they please. In the case of state institutions, it is assumed that “gate-keepers” who are not indigenes of the state will open the gates of opportunities too wide to let in their blood kith and kin from other states. In some cases, the syndrome has assumed greater force because of the bitter experience of particular states’ indigenes in states other than their own, or in the old state(s) from which the particular states were carved out. Lack of reciprocity in extending normal citizenship rights to non-indigenes in the various states has, in its own way, also fed the evanescent embers of the “sons/daughters of the soil” syndrome, heightening its cost to Nigerian federalism.

The following examples illustrate this point. When new states were created out of existing ones, public servants in the old states who “come” from the new state(s) created out of the old ones were virtually chased out of what remained of the public service of the old state. They were asked to go back “home,” in most cases without being given the option of remaining in their posts in the old state, and regardless of disruptions the “expulsion” notices had caused to their families. In a number of states, rationalization exercises carried out under civil service reforms were used to weed out “non-indigenes” in the state public services.

In one state, a female judge who, on the basis of seniority, should have been appointed the Chief Judge of the State, as had apparently been the convention, was denied the appointment because her husband was from the new state carved out of the state. Preferential treatment accorded state indigenes in state public services has created problems for children of mixed, inter-ethnic marriages, especially where they seek employment in their mothers’ states of origin, and were asked to go to their fathers’ states, actions which reflect the patrilineal nature of Nigerian society but which is contrary to section 318(1) of the constitution which interprets indigeneship as derivable from either parent or any grandparent who “was a member of a community indigenous to that State.”

In some states, the issue of abandoned property left by “non-indigenes,” outstanding from the civil war or other causes, is still a public policy issue. In a recent controversy surrounding the privatization of a cement company, the state government in which the company is located expressed strong opposition to, and mobilized massive public demonstrations in the state against the sale of the company to a company owned by a prominent Nigerian businessman from another state.

In some states, admission to schools in the states’ school system has been denied to children of non-indigenes. Yet, in other states there have been persistent demands that chief executive officers of federal educational institutions, like Vice-chancellors of federal universities, rectors of federal polytechnics and principals of federal secondary schools should be appointed from among only indigenes of the states in which these institutions are located, even though such institutions like the federal unity (secondary) schools were established to foster national unity and to facilitate national integration.



In one particular instance, the federal ministry of education allegedly issued a circular that principals of federal unity schools must be indigenes of the states where the schools are located. In a number of states, advertisements for the appointment of vice-chancellors and other principal officers (registrar, bursar) of state-owned universities have clearly stated that only qualified indigenes of such states should apply for the advertised positions.

The “son/daughter of the soil syndrome” has also reared its head in party nominations to elective public political offices in state constituencies for both federal and state elections. In many states, the test of indigeneship, though not a constitutional or electoral law requirement, has been introduced, informally, to weed out or to “disqualify” non-state indigenes aspiring to elective office in these states. Where non-indigenes scale through the party nomination process, their non-indigeneship status was used against them during electioneering campaigns. It has sometimes happened that delegations of eminent “son/daughters of the soil” from a number of cosmopolitan areas, where “non-indigenes” outnumber indigenes, were sent to electoral bodies to demand that certain non-indigenes standing for elective public political offices in constituencies in their areas should be disqualified, failing which the indigenes would disrupt the electoral process or would not accept the results.

This syndrome is, of course, not peculiar to Nigerian federalism. In India, some states have passed legislation and introduced preferential treatment to indigenes over non-indigenes. (Weiner, 1978) In the new federal structure in Ethiopia, there are indications that some states are pursuing policies of preferential treatment to favour indigenes over non-indigenes in state civil services, with policy signals that create the impression that non-indigenes are not wanted any longer, even where there is a clear dearth of qualified indigenes. In the United States, many state educational institutions, like state universities, have separate tuition fees for residents and for non-residents. But this is not tied to indigeneship, to blood ties; and in all cases, residency status in a state can be acquired, in the United States, if a United States citizen or permanent resident alien has lived for a specified minimum number of years in the state.

In an apparent attempt to contain the conflict between citizenship and indigeneship, while not resolving it, the 1999 Nigerian Constitution contains the following provisions, directing the State to pursue the following political objectives:

*“(Section) 15(2) ... national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.*

*(3) For the purpose of promoting national integration, it shall be the duty of the State to (a) provide adequate facilities for and encourage free mobility of people, goods and services throughout the federation; (b) secure full residence rights for every citizen in all parts of the federation.*

*(4) The State shall foster a feeling of belonging and of involvement among the various peoples of the federation, to the end that loyalty to the nation shall override sectional loyalties.’’*

## 7 Conclusion and outlook: The imperative of restructuring

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### 7.1 Democracy, ethnicity and federalism

Nigeria's return to democratic rule after almost sixteen years of uninterrupted military rule from 1984 to 1999 has brought fresh hopes about the prospects for democracy and federalism in the country. This is, however, against the background of a volatile ethnic polarization and demand for good governance and a decentralized federal system of government. This means, in effect, that the enduring issues of ethnic accommodation described above, coupled with the worsening economic situation of the country, the inherited militarization of the polity and society, after several years of military rule, and the high cost of corruption, continue to provide the context around which to explore the possibility and feasibility of democracy and federalism in the country.

The management of the country's polity and economy during the 1984-1999 period, particularly between 1993 and 1998, stretched Nigerian federalism to the point where significant ethnic groups in the country began to express vocal reservations about the cost of remaining in the federation and about remaining in the federation. It seems to them that hindsight has shown that too high a price had been paid to prevent the secession of Biafra and to keep the federation intact. Others wonder aloud whether the planners of the abortive coup of 1991 who had announced their intention to excise the core Hausa/Fulani states from the federation were not right, after all.

Nigerian federalism has, nevertheless, been so resilient that, through the darkest hours of the 1993-98 period, during the administration of General Sani Abacha, the idea of Nigerian federalism has prevailed. This was because there were, and always have been a much stronger centripetal force than the opposing centrifugal one working in favour of maintaining the federal system. The alternative, the disintegration of the country, was unthinkable to many.

When all is said and done, it seems that Nigerian society has over the years become a federal society, in the sense in which Livingston (1967:39-42) distinguishes federalism as a constitutional artifact from federalism as a social force when he hypothesizes that, "the essence of federalism lies not in the constitutional or institutional structure but in society itself."

The myth of "diversity in unity" continues to be a powerful centripetal force in Nigerian federalism. But more than a myth is involved. In spite of the contradictions thrown up by the constitutional engineering of Nigerian federalism to reflect ethnic accommodation, federalism in

the country has also provided local space for home rule and local initiatives, creating polycentric centres of power and opportunities. It has made possible representation and participation at the federal level for significant ethnic groups. Federal political institutions for all their hegemonic manipulation have had some enduring unifying impact that many believe could and should be strengthened. The economy has thrown up institutions in commerce and industry in the public and private sectors with a broad national network. The federal nature of Nigerian society has fed the political consensus that within the broad federalist constitutional structure, there was room for movement along the federal spectrum to what some now refer to vaguely as “true federalism,” as part of the struggle to keep Nigeria one. Yet “true federalism” is another word for a “highly decentralized or peripheralized federal system,” similar to what obtained between 1954 and 1960 in the country when there were powerful regional governments. (Dudley, 1966)

It is against the background provided by “the push” and “pull” factors in Nigerian federalism that the inauguration of President Obasanjo in May 1999 brought renewed hope about the possibility and feasibility of democracy and federalism in Nigeria. The economic and political programs of his administration founded on accountability and transparency, on prudent management of the economy, on poverty alleviation and improved social services have been well-received, although reservations have been expressed about his style of governance and the way he has handled a number of sensitive issues, like the Sharia. At the state level, the various state administrations are yet to prove their mettle and doubts have been expressed about their ability to “deliver democratic dividends.”

At both the federal and state levels, executive branch/legislative branch face offs are slowing down the pace of governance. It is as if separation of powers has led to governmental *immobilisme* or paralysis. As a result, some have suggested that the country should revert to the parliamentary system of government, although others see the face offs as healthy and desirable development.

But the greatest worry, in terms of the feasibility of democracy, is that the material conditions for sustaining and consolidating it are yet to be established: poverty, decaying social infrastructures, rampant disease, poor health services, declining and deteriorating educational systems, the external debt overhang, the pervasiveness of a residual militarized or militaristic political culture from several years of military rule, lack of accountability and transparency in the public services of the federation and the weakness of oversight or ombudsman-like institution, to name a few, continue to be worrying features of Nigeria’s political economy.

### 7.2 The way forward: strengthening democracy

Which is the way forward? The answer is to be found partly in current demand for seizing the opportunity of the recent transition from military rule to anchor democracy and democratic institutions on a solid foundation of economic reform, accountability, a responsible party system, an “efficient” legislative branch, a strong judiciary, complemented by effective

oversight of the executive and legislative branches of government by quasi-judicial bodies and a robust and active civil society, at the federal, state and local government levels.

The 18-point recommendations of the 8<sup>th</sup> Obafemi Awolowo Foundation Dialogue on *Nigeria: Path to Sustainable Democracy* (Oseni et al., 2000:260-26), reflect the general mood in the country on the way forward.

### **7.3 The way forward: a personal view of steps towards a “more perfect” federal union**

The way forward is also to be found in “re-engineering” the building blocks of Nigerian federalism. This re-engineering must address process issues in the practice of Nigerian federalism. Let me address a few of such issues briefly.

The conflict between citizenship rights and indigeneship rights must be addressed urgently at the level of the president of the country and the governors of all the states. A political solution must be found to what has continued to generate deep animosities among the various ethnic groups and sub-ethnic groups in the country. Constitutional provisions like those in section 15(2) 15(3) and 15(4) on the political objectives which the state must pursue are not enough, mere “paper tiger,” without the political will to enforce them. It is necessary to create a special body on inter-governmental relations to monitor the conflict between citizenship rights and indigeneship rights and to proffer lasting solution to it.

The problem of political asymmetry between the federal and state governments and between the states must also be addressed. This has been the major concern of those who have called for a restructuring of the federation, for a more perfect, i.e. less centralized federation, in which the balance of federalism is in favour of the constituent units, as the level of government nearest the people. How can a more balanced federation be attained? The answer is that the state and local governments should be financially and politically empowered.

To this end, the 1999 Constitution should be reviewed to give more powers and functions, including the corresponding revenue base, to the states, without weakening the national government. This can be done by drastically reducing the exclusive federal list to cover principally defence, foreign affairs, currency, national security and inter-state commerce. Most of the items on the exclusive federal list can then be subsumed as residual, making it a state exclusive list. As a result of this, the revenue allocation formula should be revised in such a way as to match the financial resources at the disposal of the state with their enhanced functions. The principle of derivation should be extended and applied, such that the greater proportion of revenues collected from dutiable consumer products and services in a state should revert to that state but with allowance made for equalization transfers to assist less poorly endowed states and for even development.

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