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CONSTITUTIONAL DEVELOPMENT AND INTER-GROUP RELATIONS IN NIGERIA: THE UNENDING DILEMMA

*Egharevba, Matthew Etinosa

ABSTRACT

Awolowo's conceptualization of Nigeria as a mere geographical contraction occasioned to serve the interest of our erstwhile British colonialists and the post-colonial state collaborators clearly underscores her existentiality and the ensuing social and inter-group relations that has permeated the diverse groupings since 1914. Since independence in 1960, the leadership of the Nigerian nation-state for the umpteenth time with little or no results have engaged, dissipated energy and scarce resources as well as employed diversionary tactics/antics of constitutional development, reforms and amendment for enforcing the nation's continuity. The latent manifestation of this forced togetherness is exacerbated by various crises of marginalization, deprivation, self-secession agitation, Ethno-regional competition for state power and resource control etc. This paper critically examines the underlying dynamics and contradiction that characterized Nigeria's constitutional development process that is meant to serve as the foundational basis upon which the essence of our collectivity is anchored. This paper concludes that until there is an all inclusiveness of the various diverse nationalities (whether majority or minority) that make up the Nigerian nation-state in altruistically having defined stakes in the nation-state, the present razz mantas that constitute the crux and modus operandi of our inter-group relations and interactions is nothing but a futile exercise that will not advance our national aspirations.

INTRODUCTION

It is recognizable today that the life of any society and its survival as a cohesive, functional entity, hinges upon the existence of commonly acceptable standards of what is, morally speaking, a right or wrong behaviour, as judged by its collective conscience. What makes a society, therefore, is not just a community of ideas, beliefs, aspirations, political ideas embedded in form of a constitution alone, but also ideas about the way its members should behave and govern their lives. It is

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therefore no exaggeration to agree with what Lord Devlin (cited in Nwabueze, 1993) said that 'a society's shared morality is as necessary to its existence as a recognized government.

The history of the Nigerian state predates the period of constitutional developments which began with the annexation of Lagos colony in 1861 by the British colonialists. Thus, before 1800, the states and peoples in the territory now known as Nigeria had engaged in peaceful and not so peaceful economic, political, cultural interactions as distinct political and ethnic units. In this context, the development of collective identities was a complex process. However, these processes were altered following the foist occupation of the territory by the British colonialist in which it brought together the disparate peoples under one government in 1914. The colonial government right from the onset did not reflect the interests of the complex pluralities of people as it engaged the policy of indirect rule that engendered centrifugal tendencies while attempting to turn the Nigerian project into a reality.

Imbued with an unjustified sense of superiority, the colonial state relied heavily on the use of force to subjugate the indigenous peoples excluding a vast majority of them from participating in the administration of the country. This situation induced in the people the tendency to regard it as a hostile force, which led many of them to begin to form solidarity groups such as ethnic or national groups which became centres of resistance and means of self affirmation against the colonizer's integrative policies and acculturation as well as network for survival (Ake, 2000).

This tendency was accentuated by the lack of commitment from the colonialist to provide the people with a social welfare system, which gave the impetus for the strengthening of ethnic solidarity groups which provided for their members a rudimentary social welfare system. By this role, these solidarity groups overrode the state as a primary focus of political allegiance, which became the vehicle for participating in the struggle against the imposition of an arbitrary and coercive colonial state as well as the source for seeking political power. It was this context that set the rising tide of ethno-nationalism which marked Nigeria's march to independence and beyond, with the regionalization of nationalist leadership which evolved through varying constitutional development process that has always revealed divisions between the North and South that has consistently hindered the nation's prospects for national unity and integration.

This paper seeks to investigate the underlying dynamics and contexts within which the structuring of constitutional development has been able to provide the framework for development among the various multiethnic groups that constitute the Nigeria nation. To be able to achieve this objective, the paper is thereby broken into the following sections: Section one deals with the concept of understanding the framework of a constitution along with its basic features; Section two looks at Nigeria's Constitutional development process vis-à-vis her multicultural setting and inter-group relations among the multiethnic groups that comprise the collectivity; Section three provides the theoretical framework for analyzing inter-group relations in multicultural society such as Nigeria. Section four addresses the salient factors that constitute obstacles to the processes of constitutional development for a multiethnic society like Nigeria and Section five sums up the conclusions.

THE CONCEPTUAL FRAMEWORK OF A CONSTITUTION

The *Longman Dictionary of Contemporary English* (2001:288) defines a constitution as the system of basic laws and principles that a democratic country is governed by, which cannot be easily changed by the political party in power. A constitution is the law of the land on which the rule of law is vested. However, constitutions are fundamentally contracts on which terms the people of a nation co-exist. It provides people with an opportunity to own the process to determine their future and to agree on the fundamental terms of such a continued existence (IDEA, 2000). It embraces not only a frame of government but also the relations of the government to the individuals that compose the nation or other association and the fundamental objectives of the association.

With the constitution being an act by which the frame of government is constituted for a people, it means therefore, that the constitution must be an original act of the people. Hence the notion of the people as a constituent power is only an integral part of the wider concept of the people as repository of the totality of a country's sovereignty, constituent power being the crowning point of sovereignty. From these definitions, it is clear that a constitution is thus:

A charter of government deriving its whole authority from the governed, agreed upon by the people of the union as an absolute rule of action and decision for all

departments and officers of government in respect of all points covered by it . . . and in opposition to which any act or ordinance of any such department or officer is null and void (Agbakoba and Mamah, 2002).

Thus, a constitution can be termed an autochthonous one if it derives its legitimacy from the will of the people. The process of recognizing the people as the repository of sovereignty, including constituent power, and as the only entity entitled to exercise power, is a development that dates back to the American Revolution of 1776-1787. However, the mere use of the preamble "We the people . . ." does not distinguish a constitution as autochthonous as is the case with the constitutions that we have had since independence. For a constitution to be autochthonous, it must incorporate as it benchmarks, the principles of popular participation, inclusiveness, diversity, transparency, accountability and legitimacy.

The basic foundation for an autochthonous constitution is to perform two chief functions, viz, as a source of governmental power and as a means of limiting power. According to Nwabueze (1993:26) Constitutional limitations upon government may take five main forms:-

1. Limitation on the extent of power by means of constitutional protection of the life, liberty and property of the individual;
2. constitutional provisions designed to secure observance by government of the ends or purpose for which power is granted to government;
3. limitation directed, not to the extent or purposes of power, but to how and by whom it may be exercised-what is termed separation of powers;
4. limitation of power by dividing it between two or more tiers of government; i.e. federalism
5. Constitutional protection of local self government.

A 'democratic' constitution may, therefore, be defined as one approved by the people either directly at a referendum or through a constituent assembly specially elected and mandated to establish one on their behalf. It would therefore, be expedient that a democratic constitution would establish a constitutional government, indeed a constitutional democracy. Constitutional democracy combines the notion of a constitutional government and a democratic one, where government activities are regulated and limited by a constitution.

Besides, its enactment by the people enhances the democratic character of the constitution; it institutionalizes the people and their role in government, thereby imparting greater legitimacy to the constitution. It is this notion of the people as the law maker and a supreme one at that, with power not only to approve a frame of government, but to give force of law to a constitution, that is the most radical principle implied in a democratic republic as implemented in the United States, followed by Switzerland from where it has spread to become a common feature of modern democracy throughout the world.

HISTORY OF CONSTITUTIONAL DEVELOPMENT IN NIGERIA

A constitution is an autobiography of the nation, and its making is a process by which a nation births and writes itself, its past, present and future. The process of constitutional development in Nigeria began with the Clifford constitution of 1922, which marked the bane for the unending constitutional development crises that has befallen this nation even after the attainment of independence. To begin with, the constitution was an imposition by the colonial government, as its framework did not cover the whole nation, but only applied to the Southern Nigeria protectorate while the Northern was governed by proclamations emanating from the governor.

This dichotomy created by Sir Hugh Clifford with the creation of the legislative council which had the power to discuss expenditure estimates for the nation but not to legislate for the North on the flimsy excuses that the country was too large, coupled with the ethnic diversity of the people began the institutional inadequacy to properly integrate the North and the South, which has turned out to become the nation's albatross in the entrenchment of national unity. However, the events that followed the outbreak of the Second World War, resulting from the Allied forces propaganda which emphasized democracy and the right of all peoples to choose whatever form of government they would like to be under, stimulated considerable political consciousness in the country regarding the demand for self governance by the Nigerian nationalists.

This political awakening did set the pace for the wind of change which led the colonial administration granting of constitutional concessions which thus resulted in the establishment of the 1946 Richards constitution. The constitution provided the landmark move in the process of constitutional development in Nigeria by bringing together the

Northern and Southern Nigeria with the aim of paving the way for national unity in diversity. To attain this objective, the new constitution divided the country into three administrative regions in order to provide for unity in diversity.

Regrettably, the objective of promoting the unity of Nigeria could not be attained, as it rather brought to the open the ethnic divisions in the country, which was clearly evident in the conflict between the north and the south during the various constitutional conferences preceding the formation of a new constitution in 1951 and beyond, where the leaders in the various regions were more interested in pursuing their narrow ethnic agenda, given the overt display of fear and distrust of one region dominating the other. However, it was the establishment of the 1954 constitution which provided the basis of the constitution of independent Nigeria by creating a federal structure for the country where powers were devolved to the regions, which was maintained with various transmutations till the attainment of independence in 1960.

However, the salient feature of the independence constitution was its federal structure which allowed for political power to be decentralized in a manner that allowed each of the two levels of government (federal and regional) to make choices in both the political, social and economic spheres. Also, in the area of resource allocation, primacy was assigned to the principle of derivation, with each regional government exerting maximum efforts in mobilizing resources within its territorial area for economic and social development.

This whole federal framework changed with the coming of the military government in 1966, which bastardized the structure, replacing its basic features of choice, incentive and competition among the regions with the unitary and centralized command structure and arbitrary diktats which underlie 'military federalism.' Following the abandonment of the military to renegotiate the structure and operations of governance through a national dialogue during the second half of 1966, coupled with the stark reality of a loomy civil war during the second quarter of 1967 between the federal and the eastern regional governments, General Gowon restructured the three regions into 12 states: six each in the Northern and Southern part of the country. This was followed by more state creations (19 in 1976; 21 in 1987, 30 in 1991 and 36 in 1996) and local government councils in 1976 as the third tier of government with uniform organizational structure and operational guidelines by subsequent military regimes.

Furthermore, it is critical to mention that subsequent processes of constitutional formation that has midwived the second republic (1979-83), the aborted third republic (1990-92) during the Babangida era and the present democratic experiment since 1999, were all carried out under military "guidance" which established the presidential system of government. Besides, the 1979, 1995 and 1999 constitutions formulated to midwife the various democratic republics, are characterized by the feature of a centralized "unitary" power base coloured with federal label where the power of the state is concentrated in one person known as the executive president

It is this form of constitutional development created by the military leadership over the years that has thrown up a perilous partisan politics that has been dominated by inter- and intra- party political struggles, political killings, institutionalized corruption, serious dislocations in the social and moral fabrics of the society. These occurrences has brought to the fore, the unending complaints and discontents championed by ethnic nationalities about "marginalization" in the distribution of political and top bureaucratic appointments, social services, economic amenities and infrastructural facilities.

NIGERIA'S MULTICULTURAL SETTING AND INTER-GROUP RELATIONS

The Nigerian geographical units and its vegetation as sandwiched by the unity of its waterways have encouraged a network of relationships and movement of peoples and ideas across the zones from the East to the West as well as the North and South before 1800. River systems played a much larger part as a means of communication and carriers of trade and ideas in the past than they do in modern times. Before the coming of highways, railways and airways, rivers provided the only thoroughfares for the cheaper transportation of large quantities of commodities over long distances in many parts of Africa (Obaro, 1980).

Given such a geographical environment, we can presume that a good deal of interaction existed among the different multi-ethnic peoples in Nigeria from early times in the area of agriculture, bronze technology, trade in slaves and goods, crafts etc, across the Niger-Benue rivers which serve as important trade routes for inter-group relations. In all, geographical factors seem to dispose the territory of Nigeria to

movement of peoples from one ecological zone to another in migrations or in interdependent relationships of trade exchange.

Similarly, since the time of British colonialism, the structure of multi-cultural societies like Nigeria have often been perceived in terms of segmentation and conflict given the colonialist adoption and entrenchment of the "principle of exclusion" into the nation's multi-ethnic setting. Underlying multi-culturalism is the complexity which deals with ethnic pluralism, of which the ethnic-cultural boundaries continuously respond to changing economic, political and administrative circumstances. Within this context, the phenomenon of ethnicity is used as an instrument for the struggle for privilege and opportunities. Ethnicity in this setting refers to personal or group exploitation of a collective consciousness of difference, identity and exclusiveness, strengthened by symbols, with inherent phenomenon of conflict and discrimination against non members in a situation of social crises and competition over commonly valued political and economic resources (Otite, 2002:164).

In looking at inter-group relations, factors which determine harmony and conflict in multi-cultural/multi-ethnic societies include the comparative size of the groups, the balance between their concentration in and dispersal from their specific territorial location, the underlying cultural patterns, their historical background and the degree of competition for the scarce resources available within the plural society. When the phenomena of class and ethnicity intersect in the competition for limited resources, it is possible to argue that the strength of ethnicity in Nigeria's contemporary situation is the structural corollary of the phenomenon of class that structures the underlying relationships among the various multi-ethnic groupings.

Under these circumstances, members of any of the ethnic-cultural groups, classified as rural or urban and in any social class, however incipient or visible, share the same system of symbols and values and protective exclusiveness. This was the attitude that characterized the process of constitutional development among the nationalist elite who held on to their ethnic cleavages in their pursuit for independence and the quest for control for power as exemplified in their formation of political parties along ethnic leanings, that is, NPC; AG, NCNC etc.

These existential social practices inhibit national integration in multi-cultural societies in which there is a demand for loyalty of all

citizens and interest groups to uphold the supremacy of the nation and symbols. Here, the problems posed for national integration and national building consists in the strategies for transferring loyalties and uncompromising commitment from the micro level and spheres of primordial activities to the nation within which citizens can find protection and secure provisions for participation in various arenas of the wider societal life. This creates a problem of mass education and re-socialization that underscores the fact that an integrated nation is an absolute necessity for socio-political and economic development to benefit all individuals and multi-cultural groups.

The elite, as members of the emerging 'upper class' as well as leaders of their ethnic-cultural groups, can constitute an asset or liability in national integration and development. The conflicts, which do involve the elite often, sensitize and divide the nation along the lines defined by multiculturalism. In some circumstances, the elite, as a group, often find it beneficial to submerge their cultural differences, even if on an ad hoc basis, and mobilize along class alliances for personal or group gains, and for sharing political and government goods and services. Even here, they take care not to destroy their ethnic-cultural base. Indeed, since their access to power rests partly on this ethnic base, the elite as leaders have an incentive to assert and maintain their multi-ethnic multi-cultural boundaries (Otitte, 1979:87).

Similarly, political pluralism and ethnic based membership in multi party systems have great potential of heightening ethnic consciousness and creating problems for the integration of multicultural societies. They carry a heavy risk of ethnic competition in the electoral process, thus pointing to the issue that the democratic aspiration of most Nigerians is to bring about a restructuring, decentralization and devolution of power from the centre through the constant demand for the creation of more states and local government councils.

THEORETICAL FRAMEWORK OF INTER-GROUP RELATIONS

The resource mobilization theory (RM) provides the basis for the analysis of inter-group relations among the various multi-ethnic groups that make up the Nigerian nation-state. In this view, the model sees activities such as protests, conflicts, differences and organized efforts to produce or resist change as part of the continuing process whereby social goods are distributed among competing groups (Tilly, 1978; Zald and

McCarthy, 1987). The resource mobilization model emphasizes that there will always be grounds for conflict, differences and protest by various groups in a modern plural setting like Nigeria where there are competing forces for resource control. But the success of a protest depends on timing and the capacity to secure a variety of material and symbolic resources: funding, leaders, members and legitimacy in the eyes of the public and politicians. Issues that often bring disagreement among multi-ethnic groups can result from free-floating anxiety, fear of domination and marginalization of one group by another, lack of equal opportunities to leadership and resources by a group, collectivity or nation. The RM model also views participants engagement in collective behaviour as it deal with inter-group relationships as rational decision makers who have weighed the various costs and benefits of collective action and have decided that the goals of the protest are worth the time and effort to fight for them (Klandermans, 1993).

Furthermore, social behaviour among people in a multi-ethnic society like Nigeria is to a large extent determined by the various group's definition of the situation and context in which they find themselves. The reality that the multi-ethnic groups create from the product of their collective association goes a long way to decide how they respond to the situation that they find themselves within the multicultural setting. Accordingly, interactions among the various multi ethnic groups in Nigeria is a product of the shared reality that the different groups create for themselves that continually shape their actions, perceptions and disposition to the other group within the corporate entity called Nigeria.

For example, in the motion for independence in 1956 moved by Chief Anthony Enahoro on the floor of the House of representative in March 1953, Sir Ahmadu Bello, the Sarduna of Sokoto on behalf of the Northerners strongly opposed the motion on the ground that they were not ready for independence and that to achieve independence as early as that time would be inviting the domination of the North by the South (FGN report, 1953:98). In the same vein, the emergence of militia groups in the Niger Delta in calling for the region's control of the oil resources arises as a result of the utter neglect of the area by the federal government in the provision of social services, economic amenities and infrastructure facilities; have created a volatile situation in the area which has resulted in the proliferation of several cases of hostage taking of foreign expatriates, which goes to further reinforce the apprehension

expressed by the minority groups about their domination by the major ethnic groups during the colonial times and beyond.

Similarly, the continuing politicization of using census figures as the basis for the allocation of seats for elective purposes and revenue allocation and sharing has over the years reemphasized the unending conflict and divisions among the various ethnic groups since the period of the first in 1952-53 to the last census in 2005, thus exacerbating the contradiction of our federalism, which threatens our stability and the further widening of our social pluralism.

PROBLEMS OF CONSTITUTIONAL DEVELOPMENT IN A MULTI-ETHNIC SOCIETY:

From the foregoing discourse, it is evident that the primary challenges in a multi-ethnic society is about how to give all the component groups the opportunity to participate in both the elective and non-elective organs, civil service bureaucracy, armed forces and other agencies of government. It is only then, can each Nigerian feel that he or she is a full member of the nation, bound to the others by a common feeling of belongingness. For "national loyalty" cannot immediately supplant tribal loyalty; it has to be built on top of tribal loyalty by creating a system in which all tribes feel that there is room for self-expression" and participation in the government.

A cursory look at the process of constitutional development during the colonial and post colonial period shows that the regional boundaries that the British colonialist divided the nation into has reinforced overtly the distinction between "us" and "them" which has been the bane of the many problems that the nation has had to contend with during the colonial and post independence period. This distinction among the multiethnic groups generates solidarity among members of the different groups, but at the same time creates hatred and contempt for members of the other group. Such hostility derives from an outgrowth of ethnocentrism, which is based on the belief of the superiority of one's own group over another, a disposition that thrives strongly under conditions of intense competition for resource allocation and derivation formula, leadership positions in government, infrastructural facilities etc that has characterized our constitutional development. This was clearly depicted in the National Political Reform Conference (NPRC) in 2005 which was inconclusive following the walk out by the South-South

delegates over disagreement to concede 50 per cent derivation to the region.

Coupled with this viewpoint, is that very salient fact that all act of constitutional development in Nigeria has never truly given Nigerians the free hands to work out the groundnorm for their collective existence and ratified by a referendum to make it acceptable to all the various ethnic groups that make up the Nigerian state as is practiced in more developed democracies of the world such as the United States, Britain, France etc. Rather, the process of constitution making had always been a compromise between the competing interests and views of the various political leaders (military and civilian) which do not reflect the overall wishes of the greatest majority.

No wonder, every attempt at constitutional development in the nation has always reinforced the era of ethnic nationalism and regional divisions that have shown how more divided rather than united we really are as a plural nation-state. A more fundamental crisis that has consistently thwarted our collective drive toward the proper making of genuine constitution development is the factor of the weak leadership in the country and its failure to provide the needed political will to openly discuss the political restructuring arrangement and devolution of power in Nigeria along the part of true federalism.

This is very critical because of the fortuitous manner in which the "political integration" of the country was contrived during the colonial period coupled with the socio-economic imbalance that the nation has been thrown into since independence. Besides, there has never been any genuine desire on the part of Nigerian leaders to ensure the successful operation of the constitution formulated. Their self-centeredness and lack of high moral standard regarding the national question in the country had often times torn the nation apart contrary to their perceived belief to defend the nation's unity, as aptly manifested in the aborted third term saga of the Obasanjo administration to extend its stay in office, which eventually led to the suspension of the constitutional amendment bill brought before the national assembly in 2006, coupled with the annulment of the 1993 presidential elections by the Ibrahim Babangida administration against the wishes of the generality of Nigerians..

In all, the increasing social inequalities and inequitable distribution of basic amenities, development projects, resource control agitation, demand for self determination secession etc, are areas often

worked upon by interested elite and ethnic militia that have sprung up in the various parts of the nation. The aim of such agitations was to whip up ethnic sentiments and instigate conflicts within and between the different groups in a multi-cultural society as was witnessed in the civil strife between the Itsekeri's and the Urhobo's in Warri from the Niger Delta area., the Ife/Modakeke crisis in Osun state in the South-West region, to mention but a few. Nevertheless, it remain true that the constitution of most African nations bear unmistakable imprints of colonialism designed to protect foreign (imperialist) economic interests, to entrench the rule of a favoured group or to perpetuate a bequeathed political system that systematically hinder the entrenchment and promotion of national integration.

CONCLUSION

From the discourse regarding the continuing crisis of constitutional development that has hampered the process of inter-group relationships among the various multi-ethnic entities in Nigeria that has generated more centrifugal forces encapsulated in the controversies over marginalization, fiscal federalism, resource control, state policy calls for a thorough examination of these divisive tendencies. On the basis of the following, we offer the following suggestions:

First, to keep Nigeria one, it is important for us a people to rise up putting aside our tribal and ethnic chauvinistic tendencies, to involve all segments of Nigerians from all walks of life to come together in fashioning a constitution we can all our own with the sole aim of promoting the unity of the country and provide adequately within that unity for the diverse elements which make up the Nigerian state. This will be attainable if we have a purposeful leadership with the political will that can transcend particularistic interests to mediate the conflict and struggle associated with our ethnic social pluralism.

Two, it is also instructive for us as Nigerians to engage in the political restructuring that would remove the deficiencies inherent in our present lop-sided unitary structure, to create a true federalism where autonomous (self governing) nationalities or groups of nationalities within a federal union with a small coordinating central government. Thirdly, government and governance should be democratic, transparent, and accountable to the people. This should be coupled with the equitable development of all the parts of the country, and open fields of social activities should be created to allow for popular participation in local and

national contexts especially with regard to the choice of electing their own leaders and not the rape of the peoples' mandate as witnessed in both the 2003 and 2007 elections. In conclusion, there is the need for government to engage all Nigerians through massive public education and mobilization to forge national identities- cultures with unifying ideals. Implementing these strategies discussed in this paper will help galvanize in the various ethnic groups the spirit of oneness and togetherness, creating a circle of intimacy and caring, a haven of *Gemeinschaft* within the *Gesellschaft* settings of a plural modern society.

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