

FEDERALISM, THE CONSTITUTION AND RESOURCE CONTROL

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1. In the Beginning

In the beginning, there was no Nigeria. There were Ijaws, Igbos, Urhobos, Itsekiris, Yorubas, Hausas, Fulanis, Nupes, Kanuris, Ogonis, Gwaris, Katafs, Jukars, Nupes, Edos, Ibibios, Efiks, Idomas, Tivs, Junkuns, Biroms, Angas, Ogojas and so on.

There were Kingdoms like, Oyo, Lagos, Calabar, Brass, Itsekiri, Benin, Tiv, Borno, Sokoto Caliphate (with loose control over Kano, Ilorin, Zaria etc.) Bonny, Opobo etc.

Prior to the British conquest of the different Nations making up the present day Nigeria, these Nations were independent Nation States - and Communities Independent of each other and of Britain.

Prelude to the creation of Nigeria

- 1.1 The bulk of what is now Nigeria became British Territory between 1885 and 1914, although some autonomous Communities were not conquered and incorporated in the protectorate until the early twenties.
- 1.2 Between the 15th and 19th Centuries, European relationship with West African States were trade/commercial, with little or no political undertones. The Europeans depended on the coastal rulers not only for securing trade, but also for the safety of their lives and property, Thus European traders went out of their way to ensure they were in the good books of Native rulers.
- 1.3 It should be noted that the main commodity during this period were human beings. This was the era of slave trade.

- 1.4 It was in a bid to protect the lives, properties and trade of British traders that the British Prime Minister, Palmerston appointed John Beecroft as British Consul in Nigeria in 1849. This was the beginning of peaceful British colonisation of the independent nations of what later became Nigeria.
- 1.5 This was followed by:
- i) gunboat diplomacy for the enforcement of one-sided agreements for the protection of interests of British traders and
 - ii) the signing of the notorious 'protection treaties' which led directly to colonialism
- 1.6 A typical 'protection treaty' would contain the following clauses:
- i) "The British majesty hereby undertakes to extend to them (Protected Peoples) and to territory under their authority and jurisdiction her gracious favour and protection."
 - ii) 'Protected' people were prohibited from entering into any correspondence, agreement or treaty with any foreign power or nation except with the knowledge and sanction of Britain.
 - iii) Britain had exclusive jurisdiction, civil and criminal over British and British protected subjects in the protected territory and authority was exercised by the British Consul.
 - iv) Any disputes between the 'native' chiefs themselves or between them and British or foreign traders had to be submitted to the British Consul.
 - v) Native chiefs were bound to act on the advice of the British officers in matters relating to the administration of justice, the development of the resources of the country, the interests of commerce or in any matter in relation to peace, order and good government and the general progress of civilisation.

- 1.7 Meanwhile, the European colonists organised the Berlin Conference, 1885. A Conference in which Africa was carved into spheres of influence amongst the powers. The aim was primarily to eliminate friction amongst them in their commercial and colonising activities in Africa. The Nations in the territory now called Nigeria were parcelled off to Britain at the Conference.
- 1.8 Based on the protection treaties and the Berlin Conferences, the British in 1885 proclaimed the establishment of a protectorate of the oil rivers, which later became the Niger Delta Protectorate.
- 1.9 As various quarells and disputes arose between British traders or British officials on the one hand, and the Rulers of the States of the Niger Delta on the other hand, the latter's territories were invaded, conquered and colonised, individually.
- i) Jaja's kidnapping - 1886
 - ii) 1894 - Nana War - The fall of the Itsekiri (Benin River and Warri) Kingdom
 - iii) 1894-1914 - Push and control of Urhobo and Isoko country; Efunrun (1896), Orokpo (1901), Etua 1904; Ezeonum (1905), Iyede (1908; Owe, Oleh, Uzoro (1910)
 - iv) Igbo and Ibibio land were taken over without war between 1890 and 1905 and only Okrika (1895) Aboh (1896), Aro 1901-2, Ezza (1905), gave the British any resistance.
 - v) Lagos fell in 1861; Ijebu, 1892; Egba, 1914;
- 1.10 Much of the North was under the Sokoto Caliphate in the 19th Century, with the exception of Borno and the middle belt.
- i) The Royal Niger Company operated in the North until 1899 when their Charter was abrogated and a protectorate of Northern Nigeria was proclaimed in 1900 to forestall German and French occupation of those territories.

- ii) The British now engaged in the progressive conquest of the Northern states.
- 1.11 i) Lord Lugard was made High Commissioner of Northern Nigeria in 1899 and British Conquest followed thereafter, in the following order;
- Bida - 1901,
 - Adamawa - 1901,
 - Bauchi and Gombe - 1902,
 - Zaria - 1902
 - Kano - 1902
 - Sokoto - 1903
- ii) The fall of Sokoto meant the effective end of the independence of the states of the present North Western Nigeria.
- 1.12 i) 1903 - 1906 was a period of British consolidation in the present North. In fact the protectorate of Northern Nigeria had been proclaimed before the Northern states were conquered. The Protectorate of Southern - Nigeria was proclaimed in 1900
- ii) In 1906 the Protectorate of Southern Nigeria was amalgamated with the Colony of Lagos. And in 1914 - the Colony and Protectorate of Southern Nigeria, was merged with the Protectorate of Northern Nigeria.¹

¹ With minor exceptions, virtually all the information in this section is obtained from Obaro Ikime's The Fall of Nigeria. The British Conquest, Heinemann, 1977, pp. 3-198.

The Pre-Independence Constitutions

2. Governor as the sole Executive and Legislature

During the period 1900 to 1906 the Governor of the Protectorate of Southern Nigeria, exercised full executive powers and was also the legislature. This applied to the Protectorate of Northern Nigeria from 1900 to 1914. The Governor in each case made laws by proclamation. Such proclamation was however, subject to approval by the British Government. In 1900 the Southern Protectorate and the Colony of Lagos were amalgamated under the title "the colony and Protectorate of Southern Nigeria". In the same year, a legislative Council was created for the Protectorate. At this stage the legislative Councils were however constituted by officials of government.

In 1914, the Colony and Protectorate of Southern Nigeria, and the Protectorate of Northern Nigeria, were amalgamated, and ruled by one Governor-general, Lord Lugard. The legislative Council of the Colony was restricted to making laws for the Colony alone, whilst the Governor-general made laws for the whole country.

3. The 1922 Constitution - The Clifford Constitution

In 1922 a new Constitution revoking the 1914 constitution was promulgated under Governor Clifford. Under this Constitution a Nigerian Legislative Council was constituted, but its jurisdiction was limited to the Southern Provinces i.e. the colony of Lagos and the Protectorate of Southern Nigeria. The Governor continued to be the legislative authority for the Northern half of the Country. Also an executive Council was established for the whole country.

4. The 1946 (Richards) Constitution

In 1946, Governor Richards promulgated a new constitution which came into effect on 1st January 1946. Prior to this Nigeria had been divided into three Regions in 1939, the Northern, Western and Eastern Regions. The following features of the 1946 Constitution are worth noting.

- 4.1 The new council was composed of the Governor as President, 16 officials and 28 unofficials (the latter including the four elected persons).
- 4.2 This meant that for the first time the non-officials were more in number than the officials.
- 4.3 The majority of the non-officials were elected or nominated by the Regional Legislatures which the 1946 Constitution also brought into being. This meant that the unofficial majority were not subject to the Governor's control.
- 4.4 The Regional Houses were not competent to legislate, even for their own Regions. They could only consider bills affecting their Regions, and make recommendations or pass resolutions for the central legislature in Lagos to consider. It was the latter only that could pass legislation.

5. The 1951 (Mactherson) Constitution

The 1951 Constitution was the one that really introduced fundamental changes into the Imperial/Native relationship and the relationship between the Native Nigerian groups themselves. The following points need to be noted.

- 5.1 The 1951 Constitution came into being after an unprecedented process of consultation with the peoples of Nigeria as a whole. In accordance with the directives of the Legislature Council, meetings and consultations were held at (a) village, (b) district, (c) divisional (d) and provincial levels before the (e) regional and finally (f) the national conference.
- 5.2 The reports of each region from village to the regional level were then submitted to the Legislative Council. These reports and recommendations were published in October 1949 and reviewed by a drafting committee of the Legislative Council.
- 5.3 On 9 January 1950 a General Conference of representatives from all parts of Nigeria started meeting in Ibadan to map out the future system of Government in Nigeria with the recommendation of the Regional Conferences as the working documents.
- 5.4 The General conference was composed of 25 unofficial members drawn from the earlier regional conferences as representatives of the three regions, 25 unofficial members from the Nigerian Legislative Council, 3 official members and the non-voting Chairman who was the Attorney-General of Nigeria. The Conference rose on 29 January 1950 with recommendations which were accepted and implemented by the Governor of Nigeria.
- 5.5 The new Constitution represented a major advance on the existing state of legislative competence of Nigerians by (i) introducing elected majorities in the Central Legislature and (ii) in the Regional Houses of Assembly (iii) endowing the Legislative Houses with independent legislative power in many areas of state activity (iv) and establishing a Federal system for Nigeria for the first time.
- 5.6 The elected majorities in each regional House were as follows:-
 - a) North - Elected 90, non - elected - 14

- b) West - Elected 80, non - elected - 7
- c) East - elected 80, non - elected 8.

5.7 The modes of election were a combination between direct and indirect elections. The central legislature had 136 elected members and 13 nominated members. Of these, 68 were from the North and 34 each were from the East and West. The representatives of the Regions in the Central legislature were elected by the Regional Legislatures from amongst themselves.

This marked the first formal introduction of federalism into Nigeria. Thus the Conference noted that: "we have no doubt at all that the process already given constitutional sanction, and fully justified by experience, of devolution of authority from the Centre to the Regions should be carried much further so that a **federal system of government** can be developed." And that:

The Central Legislature and Executive must retain both residual and overall powers, but since the Central Legislature and Executive will themselves be made up of representatives of the Regional Legislatures and since the policy of greater Regional autonomy is so widely accepted we do not fear that there will be any desire at the Centre unnecessarily to interfere with purely regional legislation or administration.

5.8 In his book, History and the law of the Constitution of Nigeria, Dr. Udoma noted that for the first time in the history of the foundation of British-Nigerian relationship and the establishment of Nigeria's Regions by the Richard's Constitution of 1946, Regional Legislatures were granted powers to legislate over a variety of subjects within the Region. These included:

- 1) Local Government;
- 2) Town and Country Planning;
- 3) Agriculture and Fisheries;

- 4) Education;
- 5) Public Works for the Region;
- 6) Public Health in the Region;
- 7) Forestry;
- 8) Veterinary Services;
- 9) Land;
- 10) Welfare;
- 11) Local Industries;
- 12) Native Courts; (subject to Central Legislation regarding Appeals to Courts outside the Regions);
- 13) Direct Taxation (other than Income Tax and Companies Tax).

5.9 The General Conference was of the view that over-centralisation would be a grave error" in this vast country with its widely differing conditions and needs," and that the policy which had received enthusiastic support throughout the country was the policy of achieving unity at the centre through strength in the Regions. It was confidently expected that when the regions felt that they had wide powers to run their own regional affairs, they would be more likely ready to co-operate with the other Regions through their representatives in the Council of Ministers and the House of Representatives in serving the interest of Nigeria as a whole."

6. The Period 1954 - 60

6.1 Between 1954 and 1959, all officials in the House of Assembly and the Central Legislature, were progressively withdrawn.

6.2 In 1954, there was for the first time, direct elections into the Federal Legislature.

- 6.3 In 1958, all modes of indirect elections were abolished and throughout Nigeria, all elections from then on were by direct polls.
- 6.4 The Governors ceased to preside over the Executive Councils in the East and West by 1957 and in the North, in 1959.
- 6.5 In 1954, the office of Premier was created the Regions and the office of Prime Minister was established at the Centre in 1957.
- 6.6 Subsequent changes were not fundamental, but merely in further preparation for full independence. For example, the Western and Eastern Regions attained self-Government (with the regional Governor becoming a mere titular figure) in 1957 and in the North in 1959.²

² Virtually all the information contained in the Sections 5 and 6 were obtained from (1) Nwabueze's A Constitutional History of Nigeria Longman, 1982, particularly chapter 2, and (ii) Dr. Udo Udoma's History and the Law of the Constitution of Nigeria Malthouse Press, 1994, particularly, chapter 5.

7. Irresistable Inferences

From the very brief account given of the back ground of the establishment of the State called Nigeria, the following inferences are irresistable.

- 7.1 Contrary to the assertions of some scholars with mischievous motives and intentions, the Federal Structures of Nigeria did not operate from the 'top' to the 'bottom', but from the 'bottom' to the top.
- 7.2 In otherwords it was not a question of a Country that was originally unitary, being broken into federating units, but of formerly totally independent Kingdoms, Empires, Nations and autonomous communities being forcefully brought together, and ending up in a federal union. With due respect, Fatayi-Williams, then a Judge of the Supreme Court was wrong when he stated at a Conference in 1976 that "Unlike most of the older federations, what we did in Nigeria was like unscrambling scrambled eggs. We started as a unitary State and then opted as a Confederation afterwards".
- 7.3 Fatayi-Williams' fundamental error was the assumption that the Nations constituting Nigeria did not exist until the British came and conquered them. This gross falacy forms the grundnorm of the Bala Usman thesis of public deceit.
- 7.4 In the second place it is also clear that it is the coming together of these autonomous communities that gave rise to a Federal Government. In otherwords, the Federal Government is an agency of the Nigerian nationalities which make up the various States. The subsequent "creation" of States by Federal Military Governments must be discounted as part of the distortions and mutilations of the true political order, brought about by unlawful military usurpation of power.
- 7.5 Nigeria is therefore a federation of former Kingdoms, Empires, States, Nations and autonomous Communities.

7.6 It is an irony that in the enlightened age of late 20th and early 21st Centuries, when the right of self determination and freedom from colonialism has been proclaimed and established, Bala Usman and his gang of predatory intellectuals, hungry for the oil of the Niger Delta are advocating the everlasting legitimacy of British colonial for Nigerian Communities.

7.7 The diabolical objective is obvious (i) Establish that Nigerian Communities have no identity outside the British Colonial legacy (ii) Show that the Nigerian Federal State is the Successor of the British Colonial Master (iii) it follows that the Federal State is now the colonial master of Nigerian nationalities and communities (iv) Since the Federal State was handed over to the Hausa-Fulani, it further follows that the Hausa-Fulani are the current colonial masters of the nations of Nigeria, and therefore like any other slave master, the owner of the resources of his slaves. For slaves insert southern Nigeria, with special emphasis on the Niger Delta.

8. Federalism

We have seen that at the end of the first national conference held by the representatives of Nigerian nations and communities, the delegations opted unanimously for Federalism. Why?

8.1 Let us seek an answer from the most consummate student of federalism, Nigeria has ever known - Chief Obafemi Awolowo [See Thoughts on Nigerian Constitution, pp.48-49]

"From our study of the constitutional evolution of all the countries of the world, two things stand out quite clearly and prominently.

First, in any country where there are divergences of language and of nationality - particularly of language - a unitary constitution is always a

source of bitterness and hostility on the part of linguistic or national minority groups. On the other hand, as soon as a federal constitution is introduced in which each linguistic or national group is recognised and accorded regional autonomy, any bitterness and hostility against the constitutional arrangements as such disappear. If the linguistic or national group concerned are backward, or too weak vis-a-vis the majority group or groups, their bitterness or hostility may be dormant or suppressed. But as soon as they become enlightened and politically conscious, and/or courageous leadership emerges amongst them, the bitterness and hostility come into the open, and remain sustained with all possible venom and rancour, until home rule is achieved.

Secondly, a federal constitution is usually a more or less dead letter in any country which lacks any of the factors conducive to federalism.

From the facts and the analysis thereof which we have given and made in this Section, the following four principles or laws can be deduced:

- ONE: If a country is unilingual and uni-national, the constitution must be unitary.
- TWO: If a country is unilingual or bilingual or multi-lingual, and also consists of communities which, over a period of years, have developed divergent nationalities, the constitution must be federal, and the constituent states must be organised on the dual basis of language and nationality.
- THREE: If a country is bilingual or multilingual, the constitution must be federal, and the constituent states must be organised on a linguistic basis.
- FOUR: Any experiment with a unitary constitution in a bilingual or multilingual or multinational country must fail, in the long run."

8.2 More well known ofcourse is his famous or notorious (depending on your view) statement in Path to Nigerian Freedom (Faber & Faber, 1947, page.48) wherein he said:

Nigeria is not a nation. It is a mere geographical expression. there are no 'Nigerians' in the same sense as there are 'English', 'Welsh', or 'French'. The word 'Nigerian' is merely a distinctive appellation to distinguish those who live within the boundaries of Nigeria from those who do not.

There are various national or ethnical groups in the country. Ten such main groups were recorded during the 1931 census as follows: (1) Hausa, (2) Ibo, (3) Yoruba, (4) Fulani, (5) Kanuri, (6) Ibibio, (7) Munshi or Tiv, (8) Edo, (9) Nupe, and (10) Ijaw. According to Nigerian Handbook, eleventh edition, 'there are also a great number of other small tribes too numerous to enumerate separately, whose combined total population amounts to 4,683,044.'

It is a mistake to designate them 'tribes'. Each of them is a nation by itself with many tribes and clans. There is as much difference between them as there is between Germans, English, Russians and Turks, for instance. The fact that they have a common overlord does not destroy this fundamental difference.

The languages differ. The readiest means of communication between them now is English. Their cultural backgrounds and social outlooks differ widely; and their indigenous political institutions have little in common. Their present stages of development vary."

- 8.3 This view, though popularised by Awolowo, was the almost universally held view about the best form of government for Nigeria. In 1953, during the debate on the famous motion for independence by Chief Anthony Enahoro, Sir Ahmadu Bello, Premier of the North and Leader of the ruling NPC made one of the most eloquent cases for true federalism when he said:

"Sixty years ago there was no country called Nigeria. What is now Nigeria consisted of a number of large and small communities all of which were different in their outlook and beliefs. The advent of the British and of Western education has not materially altered the situation and these many and varied Communities have not knit themselves into a composite unit.....

Whatever Nigerians may say, the British people have done them a great service by bringing all the different communities of Nigeria together."

8.4 Thus not only was Awolowo's statement absolutely correct, it is even more accurate about today's Nigeria than the Nigeria of the 40s. Inter-ethnic intolerance which has become chronic, confirm that we are a country of many mutually distrustful nations, as is evident from the clashes we have experienced since the return of civil democratic rule in 1999. There is clearly a need for the Nigerian nationalities to enjoy separate and autonomous existence as states, whilst uniting with each other through a Federal Government exercising some basic powers, and running some common services.

Federalism is therefore an arrangement whereby powers within a multi national country are shared between a federal or central authority, and a number of regionalised governments in such a way that each unit including this central authority exists as a government separately and independently from the others, operating directly on persons and property with its territorial area, with a will of its own and its own apparatus for the conduct of affairs and with an authority in some matters exclusive of all others. In a federation, each government enjoys autonomy, a separate existence and independence of the control of any other government. Each government exists, not as an appendage of another government (e.g. the federal or central government) but as an autonomous entity in the sense of being able to exercise its own will on the conduct of its affairs free from direction by any government. Thus, the Central government on the one hand and the State governments on the other hand are autonomous in their respective spheres.

As Wheare put it, "the fundamental and distinguishing characteristic of a federal system is that neither the central nor the regional governments are subordinate to each other, but rather, the two are co-ordinate and independent".³ In short, in a federal system, there is no hierarchy of authorities, with the central government sitting on top of the others. All governments have a horizontal

³ Wheare Federal Government, 4th Ed., OUP, 1963.

relationship with each other. Thus there can be no federalism under military rule. Nwabueze, has identified the following additional characteristics in a federal system.

- i) The power sharing arrangement should not place such a preponderance of power in the hands of either the national or regional government to make it so powerful that it is able to bend the will of the others to its own.
- ii) Federalism presupposes that the national and regional governments should stand to each other in a relation of meaningful independence resting upon a balanced division of powers and resources. Each must have powers and resources sufficient to support the structure of a functioning government, able to stand on its own against the other.
- iii) From the separate and autonomous existence of each government and the plenary character of its powers within the sphere assigned to it, by the constitution, flows the doctrine that the exercise of these powers is not to be impeded, obstructed or otherwise interfered with by the other government, acting within its own powers.⁴

9. The Independence and Republican Constitutions (1960 and 1963)

9.1 In view of the above, it is hardly surprising that the 1960 and 1963 Constitutions epitomised true Federalism. The 1950 National Conference had been followed by others in 1953, 1954, 1957 and 1959, in which the practice of true federalism were perfected.

9.2 It can thus be said that the period 1950 to 1959 represented a 10 year period of negotiations between the major stakeholders in the Nigerian project and that what they finally arrived at in the form of 1960 Constitution was, subject to minor,

⁴ Nwabueze, Federalism in Nigeria, under the Presidential Constitution, Sweet & Maxwell, 1983.

non-structural modifications, the only legitimate basis of association of all the different nationalities in Nigeria.

- 9.3 One important feature of the 1960 Constitution is the extensive powers granted the Regions, making them effectively autonomous entities and the revenue arrangements which ensured that the regions had the resources to carry out the immense responsibilities.
- 9.4 Under the 1960 and 1963 Constitutions, a true federal system made up of strong States or Regions and a Central or Federal 'state' with limited powers, was instituted. Both the 1960 (Independence) Constitution and the 1963 (Republican) Constitution were the same. The only differences were the provisions for ceremonial President (1963) in place of the Queen of England (1960) and the judicial appeals system which terminated with the Supreme Court, (1963) rather than the judicial Committee of the British Privy Council (1960).
- 9.5 The following Features, which emphasised the existence of a true federal system composed of powerful and autonomous Regions and a Centre with limited powers are worth noting.
- i) Each Region had its own separate Constitution, in addition to the Federal Government Constitution, in which it declared itself self governing.
 - ii) Each Region had its own separate coat of arms and motto, from the Federal State or Government.
 - iii) Each Region established its own separate semi-independent mission in the U.K. headed by 'Agents - General'
 - iv) The Regional Governments had Residual Powers, i.e., where any matter was not allocated to the Regions or the Federal Government, it automatically became a matter for Regional jurisdiction.
- 9.6 Thus apart from items like, Aviation, Borrowing of moneys outside Nigeria, Control of Capital issues, Copyright, Deportation, External Affairs, Extraction, Immigration, Maritime Shipping, Mines and Minerals, Military Affairs, Posts and

Telegraphs, Railways, all other important items were in the concurrent list, thus permitting the Regions equal rights to legislate and operate in those areas. The most significant of these included; Arms and Ammunition, Bankruptcy and Insolvency, Census, Commercial and Industrial Monopolies, Combines, and Trusts, Higher Education, Industrial Development, the regulation of Professions, Maintaining and Securing of Public Safety and Public Order, Registration of Business Names, and Statistics.

9.7 It is important to observe once more that anything outside these two lists was exclusively a matter for Regional jurisdiction. Other features indicative of the autonomous status of the Regions included;

- i) Separate Regional Judiciaries and the power of the Regions to establish, not only High Courts, but also Regional Courts of Appeal.
- ii) The Regions had their own separate electoral commissions for Local Government elections. However the Chairman of the Federal Electoral Commission was the statutory Chairman of the State Commission.
- iii) The Revenue Allocation system under the 1963 Constitution was strictly based on derivation.

9.8 It will be observed that Mines, Minerals, including Oil fields, Oil mining, geological surveys and gas were put in the exclusive legislative list in the 1960 and 1963 Constitutions. This was a carry over from the provisions of the 1946 Minerals Act, under which the Colonial Government gave itself the exclusive ownership and control of all minerals in Nigeria. This was understandable under a Colonial Regime whose objective was the exploitation of the colonised peoples, but certainly not acceptable in an independent country constituted by autonomous (Federal) Regions. It is therefore not surprising that what was lost by placing mines, minerals, oil fields etc. in the Exclusive Legislative List, was regained by the very strict adherence to the principle of derivation in the revenue allocation formula, particularly, the allocation of the proceeds from mineral exploitation.

10. RESOURCE CONTROL

- 10.1 No one has given the term "resource control" an official definition. Indeed it is the very recent coinage of the Southern Governors, particularly Governor James Ibori of Delta State. However I believe we all know what term means, because we are all involved in the situation that brought it into existence.
- 10.2 Resource control in my view involves three major components:
- i) The power and right of a Community or State to raise funds by way of taxation on persons, matters, services and materials within its territory.
 - ii) The exclusive right to the ownership and control of resources, both natural and created within its territory.
 - iii) The right to customs duties on goods destined for its territory and excise duties on goods manufactured in its territory.
- 10.3 Resource Control which in certain circumstances can be referred to as fiscal federalism (in a federation) goes hand in hand with true federalism. This was recognised and implemented faithfully in the Independence and Republican Constitutions (1960 and 1963).
- 10.4 The Regional Constitutions, in the 1960 and 1963 Constitutions described each Region as "a self-governing Region of the Federal Republic of Nigeria".⁵ To buttress the self-governing status of each Region, adequate provisions were made to guarantee the economic independence of the Regions, thus avoiding the hollowness of a declaration of self-governing status totally undermined by economic dependence. Moreover, consistently with the Federal character of the country i.e. a country of many nations, the basis of revenue allocation was strictly derivative.
- 10.5 Section 140 which made provision for the sharing of the proceeds of minerals including mineral oil, stated that "there shall be paid by the Federal Government

⁵ Preamble of each Constitution

to a Region, a sum equal to fifty percent of the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region and any mining rents derived by the Federal Government from within any Region." For the purposes of this section, the continental shelf of a Region was deemed part of that Region. This is totally consistent with international law which characterises the continental shelf as a seaward extension of the land of the coastal State

- 10.6 By Section 136(1) 30% of general import duties, were paid into a distributable pool for the benefit of the Regions. With regard to import duties on petrol, diesel oil and tobacco the total sum of import duty collected less administrative expenses, were fully payable to the Region for which the petrol or diesel oil or tobacco was destined. A similar provision was made for excise duty on tobacco.
- 10.7 With regard to produce i.e., cocoa, palm oil, groundnuts, rubber and hides and skin, the proceeds of export duty were shared on the basis of the proportion of that commodity that was derived from a particular Region.
- 10.8 As noted above, the derivative bases of the allocation of revenue and the proportionate share of such proceeds that went to the Region it originated from, clearly buttressed the operating base of true Federalism.

Summary of Revenue Allocation 1960/63 Constitution

Basis: Derivative Principle.

- i) Minerals including mineral oil: 50% of proceeds to all Regions from which they were extracted. S. 140 (1)
- ii) 30% went into the distributable pool (for all the regions including the producing region)
- iii) 20% for the Federal Government.

- iv) 30% of import duties went into the distributable pool.
- v) Import duty on Petrol and diesel consigned to any Region was refundable to that region.
- vi) This applied to excise duty on tobacco

10.9 It can thus be seen that although the 1960 Constitution did not provide for the ownership and control of mineral resources by the producing State or community, the entitlement of the producer State to 50% of the proceeds, and a share in another 30% with the Federal Government being entitled to only 20%, was a true reflection of the derivative principles which is the economic indication of true federalism.

It is unlikely that a State which is entitled to full ownership of its mineral resources, which then has to pay taxes to the Federal Government for inclusion in the distributable pool, could have received more than 50% plus a percentage of 30%.

The following table prepared by Professor Sheikh Abdullah, a clear opponent of fiscal federalism and resource control clearly reveals how our founding fathers faithfully implemented the fundamental requirements of true federalism.

VERTICAL REVENUE SHARING BY 1963 CONSTITUTION

<u>Type of Revenue</u>	<u>Share of Federal Government</u>	<u>States' Share</u>
1. <u>IMPORT DUTY</u>		
Tobacco	-	100%
Beer, Wine & Spirits	100%	-
Motor spirit & Fuel	-	100%
Other Imports	65%	35%

2.	<u>EXPORT DUTY</u>		
	Produce, Hides & Skins	-	100%
3.	<u>EXCISE DUTY</u>		
	All commodities except		
	Tobacco & Motor Fuel	100%	-
	Tobacco & Motor Fuel	-	100%
4.	<u>MINING RENTS AND ROYALTIES</u>	15%	85%

Source: Ikpeze, N.I., "Financial Transfers - Vertical Revenue Allocation in Nigeria", (1992), p.7.

VERTICAL REVENUE SHARING PRIOR TO 1979 CONSTITUTION

States, on Bases of States, through

Type of Revenue	Federation	Derivation	Distributable Pool Account
<u>IMPORT DUTY</u>	%	%	%
Tobacco	-	-	100
Beverages - Beers, Wines and Spirits	100	-	-
Petroleum Products, Motor Spirit and Diesel Oil	-	-	100
Unspecified Imports	65	-	35

EXPORT DUTY

Produce, Hides and Skins, Live

Animals, Birds and Reptiles	-	-	100
<u>EXCISE DUTY</u>			
All Commodities	50	-	50
<u>MINING</u>			
Minning Rents & Royalties: Off Shore	-	-	100
On-Shore	-	20	80
<u>DIRECT TAXES</u>			
Personal Income Tax of Armed Forces Personnel, External Affairs Officers & Pensioners resident Overseas	-	-	100
Petroleum Profit Tax	100	-	-
Companies Income Tax	100	-	-
Others not specified	100	-	-

Source: Report of the Presidential Commission on Revenue Allocation Vol. I, P.12.
The Federal Government Press, Apapa, 1980.

*Rent on Government property, Dividends, Interest and Repayment
Earnings and Sales, Miscellaneous, etc.

11. Unitary Constitutions and Centripetal Developments: 1967-99

With the military take-over in January 1960, centralisation of governmental powers, followed centralisation of command. General Gowon who was military Head of State from August 1966 to July 1975 was mainly responsible for this development. It is indeed ironical, that the reason given by those who installed Gowon as Head of State, after overthrowing the government of General Ironsi, his predecessor, and killing him, was that by Decree 32 of 1966, Ironsi tried to establish a unitary government for Nigeria by abolishing the Regions. Indeed, one of the first things Gowon did, was to repeal Decree 32 of 1966. And yet it was under Gowon's government that the Regions, later States, became systematically emasculated. The

truth ofcourse was that the inheritors of colonial power, lost control to Ironsi, who was outside their 'zone' and until that power was recovered there was to be no peace. The same syndrome is once again pervasive in the attitude of the Arewa North to the Obasanjo Government.

Apart from various individual Decrees, the very first Decree issued by every successive military regime usually destroys the foundations of Federalism. Thus Sections 3 and 4 of Decree number 1 of 1966 state as follows:

1. The Federal Military Government shall have power to make laws for the peace, order and good government of Nigeria or any part thereof with respect to any matter whatsoever.
2. The Military Governor of a Region:
 - a) shall not have power to make laws with respect to any matter included in the Exclusive Legislative List; and
 - b) except with prior consent of the Federal Military Government, shall not make any law with respect to any matter included in the Concurrent Legislative List.
3. Subject to subsection (2) above and to the Constitution of the Federation the Military Governor of a Region shall have power to make laws for the peace, order and good government of that Region.

Thus the first Federal Military Government, completely undermined the Federal status of Nigeria by giving itself the power to make laws for the peace, order and good government for the whole of Nigeria with respect to any matter whatsoever. It is as if the Regions or later states did not exist.

The matter reached its apogee in the Abacha era, when by Decree 12 of 1994 the Federal Military declared itself as being established "with absolute powers

to make laws for the peace, order and good government of Nigeria or any part thereof (including of course all the States) with respect to any matter whatsoever"

12. 1979 and 1999 Constitutions

The 1979 and 1999 Constitutions, maintained the trend towards centralisation, even though they were made "by the people" for the operations of a democratic and federal system of government. Thus instead of the 45 items in the Exclusive Legislative list as in the 1960/63 Constitutions, there were 66 items in the 1979 Constitution and 68 in the 1999 one. Basic State matters like (i) drugs and poisons, (ii) election of State Governors and State Houses of Assembly (iii) Finger print identification and criminal records (iv) Labour and trade Union matters, (v) meteorology, (vi) Police, (vii) Prisons, (viii) Professional Occupations, (ix) Stamp duties (x) taxation of incomes, profits and capital gains, (xi) the regulation of tourist traffic, (xii) registration of business names, (xiii) incorporation of companies (xiv) Traffic on Federal Trunk roads passing through States, (xv) Trade and Commerce and census, were transferred from the concurrent to the exclusive List.

13. The Expropriation of the Natural Resources of the Niger-Delta Minorities

This unitary absolutism in the political sphere has been complemented by unitarism in the economic sphere since 1966. Thus by the Petroleum Decree (No. 51) of 1969, the Federal Military Government declared that the entire ownership and control of all petroleum resources in, under or upon any lands in Nigeria was vested in itself. Section one spells out in detail, for the avoidance of any doubt, the type of territory covered by this exclusive Federal Government ownership. These are, all lands in Nigeria. (including land covered by water) land under Nigerian territorial sea and land forming part of our continental shelf.

Ownership of Minerals by the Federal Government is thus absolute. Not only are individuals on or under whose land minerals are found denied any right to them, so too are mineral producing communities, local government areas and states. What could be the basis and justification for this wholesale expropriation of the properties of peoples, communities and state governments?

It should be noted that the Federal Government's assumption of absolute ownership of all minerals in Nigeria's land and maritime territory was progressive. The claim to absolute and total ownership of all minerals, no matter where found or located only reached its climax in 1971. Thus by section 140(6) of the 1963 constitution, all minerals, both solid and oil, found in the continental shelf of a region of Nigeria, belonged exclusively to that region. For the purposes of exploitation of minerals, including mineral oil, the continental shelf of a region was deemed to be a part of that region. But by offshore oil Revenue Decree 1971 (No. 9 of 1971), the rights of the regions (states) in the minerals in their continental shelves were abrogated and ownership and title to the territorial waters, continental shelf as well as royalties, rents and other revenues derived from or relating to the exploration, prospecting, or searching for, winning or working of petroleum from these seaward appurtenances of the states became vested in the Federal Government.

This has been repeated in all subsequent constitutions. Thus in Section 40(3) of the 1979 constitution (repeated in section 44(3) of the 1999 Constitution) it is stated as follows:

"Notwithstanding the foregoing provisions of this Section, the entire property in and control of all minerals, mineral oils and natural gas, under or upon the territorial waters and the exclusive economic zone of Nigeria shall rest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly"

The Shagari Government (1979-83) initially 'conceded' one and half percent of oil proceeds as against fifty percent in the negotiated independence and Republican constitutions, to the oil producing States. Later this was increased to

three percent by the Babangida Government, which established, the Oil Mineral Producing Areas Development Commission (OMPADEC).

Arising from the increasing agitation from the exploited peoples of the devastated oil producing areas, the Federal Government gave grudging though limited recognition to the rights of these communities to their oil by establishing the Oil Mineral Producing Areas Development Commission in 1992, whose objectives are inter alia as follows:

- to receive and administer the monthly sums from the allocation of the Federation Account in accordance with confirmed ratio of oil production in each State, for the rehabilitation and development of oil mineral producing areas, and for tackling ecological problems that have arisen from the exploration of oil minerals.
- to determine and identify, through the Commission and the respective oil mineral producing States, the actual oil mineral producing areas and embark on the development of projects properly agreed upon with the local communities of the oil mineral producing areas.
- to consult with the relevant Federal and State Government authorities on the control and effective methods of tackling the problem of oil pollution and spillages.
- to liaise with the various oil companies on matters of pollution control;
- to obtain from the Nigerian National Petroleum Corporation the proper formula for actual oil mineral production of each State, Local Government Area and community and to ensure the fair and equitable distribution of projects, services and employment of personnel in accordance with recognised percentage production.

- to consult with the Federal Government through the Presidency, the State Local Governments and oil mineral producing communities regarding projects, services and all other requirements relating to the special fund.
- to liaise with the oil producing companies regarding the proper number, location and other relevant data regarding oil mineral producing areas and
- to execute the other works and perform such other functions which in the opinion of the Commission is geared towards the development of the oil mineral producing areas. Only 3% of the Oil revenue was allocated to OMPADEC.

It is conceded of course that section 162(2) of the 1999 Constitution makes provision for at least 13% of the proceeds derived from natural resources being paid the producing state.

However 13% cannot be compared with 50% and a proportion of another 30% . Moreover, the so-called 13% was paid with effect from January 2000 rather than from 29th May 1999, and off-shore production has been illegally excluded from the 13%.

Even a superficial political analysis of the situation, will reveal that the fate of the mineral resources of the Niger-Delta minorities, particularly the trend from derivation to Federal absolutism, is itself a function of majority control of the Federal Government apparatus. In 1960, there were no petroleum resources of any significance. The main income earning exports were cocoa (Yoruba West) Groundnuts and Hydes and Skin (Hausa/Fulani North) and Palm Oil (Ibo East). Therefore it was convenient for these majority groups to emphasise derivation - hence its strong showing in the 1960/63 Constitutions.

However, by 1967 and certainly by 1969, petroleum particularly, the mineral oil, was becoming the major resource in terms of total income and foreign exchange

earning in the country. It was therefore not difficult for the majority groups in government to reverse the basis of revenue allocation with regard to petroleum resources, from derivation to Federal Government exclusive ownership.

They were in control of the Federal Government and their control of the Mineral resources by virtue of that fact effectively meant that the resources of the Niger-Delta were being transferred to the majority group in control of the Federal Government at any point in time.

14. Oppressive Legal Regime of Oil Production in Nigeria since 1967

As I have already noted above, when Nigeria attained independence in 1960, the formula for sharing the revenue from mineral resources, recognised the basic principle that the people from whose land the minerals were extracted, were the owners of their natural resources. Accordingly, 50% of all the proceeds of mineral resources, went to the Region (State) from which they were extracted.⁶ When the Military seized power, this recognition of the rights of producing States, and their communities was progressively eliminated as the table below shows;

⁶ See S. 140 1960 and 1963 Constitutions.

FEDERAL - STATE PERCENTAGE SHARE IN PETROLEUM PROCEEDS

1960 - 1999

<u>Years</u>	<u>Producing State</u>	<u>Federal Government</u>	<u>Distributable Pool</u>
1960 - 67	50	20	30
1967 - 69	50	50	-
1969 - 71	45	55	-
1971 - 75	45 minus off-shore proceeds	55 plus off-shore proceeds	-
1975 - 79	20 minus off-shore proceeds	80 plus off-shore proceeds	-
1979 - 81	-	100	-
1982 - 92	1 and half	98 and half	-
1992 - 99	3%	97	-
1999 -	13	87	-

Even the so-called OMPADEC⁷ was a hoax essentially; a cruel joke on the oil producing States. Figures provided by the first Chairman of OMPADEC, Chief A.K. Horsfall, during the three year period he was in office (1992 - 1995) shows that the Commission, going by the 3% derivation formula, was supposed to have received 72 billion. In fact it only received 11 billion.⁸ In the period 1995 - 96, when Professor Opia

⁷ Oil Mineral Producing Areas Development Commission.

⁸ See A.K. Horsfall, The OMPADEC Dream, 1997, P.5

was in office, the Commission received just over 2 billion. By contrast, during the three year period of 1994 - 97, the Petroleum (Special Trust Fund) (PTF) jocularly referred to as the 'Northern OMPADEC' received N346 Billion.

The following major pieces of legislation, enacted during the period, 1969 to 1999 show how oppressive these laws made under rulership of the majority ethnic nationalities in Nigeria, deprived and marginalised the minorities who own the petroleum resources of this country.

1. Petroleum Decree (51) 1969 - Expropriated all petroleum resources from the oil producing states and placed them under total Federal Government ownership.
2. Off-shore Oil Revenues Decree (No. 9 of 1971) - all the minerals in the continental shelves of coastal States were expropriated by the Federal Government.

In order to fully appreciate the blatantly oppressive nature of this Decree on the minority oil producing States, and the utter contempt which the majority controlled Federal Government has for them, the relevant part of the Decree may be reproduced as follows:

1. (1) Section 140 (6) of the Constitution of the Federation (which provides that the continental shelf of a State shall be deemed to be part of that State) is hereby repealed.
- (2) Accordingly -
 - (a) the ownership of and the title to the territorial waters and the continental shelf shall vest in the Federal Military Government; and
 - (b) all royalties, rents and other revenues derived from or relating to the exploration, prospecting or searching for or the winning or working of petroleum (as defined in the Petroleum Decree 1969) in the territorial waters and the continental shelf shall accrue to the Federal Military Government.

This is the oppressive cause of action that General Obasanjo is presently prosecuting at the Supreme Court.

3. The Land Use Act, 1978 - transferred ownership of land from communities to the State Governors, without compensation.

4. Sections 40(3), 42(3) and 44(3) of the 1979, 1989 and 1999 Constitutions respectively, re-state the exclusive Federal ownership of the mineral resources of mineral producing communities.

Although the (1) Oil Pipeline Act 1965, (2) the Petroleum Drilling and Production Regulation 1969 (3) and the Petroleum Decree 1969, make provisions, for compensation in cases of leakage, spillage, damage to surface rights or their compulsory acquisition thereof, in reality, these communities are left to bargain with the oil companies, who exploit their weak economic and legal positions to extort their consent to paltry compensation for lost land and natural resources.

15. The North South Dichotomy and Federalism

15.1 Until the discovery of oil in the Niger-Delta and its increasing role as a major income earner, the North was always a reluctant partner in the Federal Republic of Nigeria. It will be recalled that at the National Conference at Ibadan, the Northern delegates declared adamantly that they would not be part of Nigeria, unless they were allocated at least 50% of the seats in the Federal Legislature. In other words they demanded and got not less than the combined number of seats of both the Eastern and Western Regions.

15.2 After the accrimonious debate on Chief Anthony Enahoro's motion for independence in 1956 which pitched the Northern and Southern Legislators sharply against each other, the Northerners issued an 8 - point demand as a condition for remaining in Nigeria as follows:

1. This region shall have complete legislative and executive autonomy with respect to all matters except the following: defence, external affairs, customs and West African research institutions.
2. That there shall be no Central legislative body and no Central executive or policy making body for the whole of Nigeria.
3. There shall be a Central agency for all Regions which will be responsible for the matters mentioned in paragraph one and other matters delegated to it by a Region.
4. The Central Agency shall be at a neutral place preferably Lagos.

5. The composition and responsibility of the Central Agency shall be defined by the order-in-council establishing the constitutional arrangement. The agency shall be a non political body.
6. The services of the railway, air services, posts and telegraphs, electricity and coal mining shall be organised on an inter-Regional basis and shall be administered by public corporations. These corporations shall be independent bodies covered by the statute under which they are created. The Board of the coal corporation shall be composed of experts with a minority Representation of the Regional government.
7. All revenue shall be levied and collected by the Regional government except customs revenue at the port of discharge by the Central Agency and paid to its treasury. The administration of the customs shall be so organised as to assure that goods consigned to the Region are separately cleared and charged to duty.
8. Each Region shall have a separate public service.!!!⁹

15.3 Even Nigeria's much praised first Prime Minister Sir Abubakar Tafawa Balewa, stated in 1947 that "Nigeria has existed as one Country only on paper, and that it was still far from being considered as one country, much less think of it as united"*¹⁰

After the Counter-Coup of 29 July 1966, the original intention of the Northern mutineers was to withdraw from Lagos and the rest of the South and secede from Nigeria. As Ahmadu Kurfi recounts in this book The Nigerian General Elections 1959 and 1979, (Macmillan 1983, pp.38-39*¹¹

"The original intention of the July 29 counter coup leaders was to seize the reigns of government and then announce the secession of the Northern Region from the rest of the country. This was in line with the general mood of the people of the North whose clarion call during the May 29 disturbances in the North, which claimed many Igbo lives, was Araba or Aware (Hausa word for 'secede'). As

⁹ See Daily Times May 22 1953.

¹⁰ NAI, NAL/F2 Legislative Council Debates, First Session, March 24 1947, p. 208.

¹¹ Reported in Ironside, by Chucks Iuoegbunam, 2000, p. 182.

soon as the success of the insurgency was apparent the leaders of the coup who were based at the Ikeja Garrison informed Northern elements resident in Lagos to leave the metropolis for the North, giving a deadline within which to comply. At the expiry of the deadline the coup leaders planned to dynamite, if not sink, the whole of Lagos. So serious was the threat that many senior federal government officers in Lagos actually trooped to Ilorin, Kaduna and other Northern towns. The families of the coup leaders had earlier been airlifted in a hijacked VC10 plane of a British airline."

Only wise Counsel that the North could not survive without the South, persuaded the rebels to jettison the plan. But they insisted that a relatively junior officer, Lt. Colonel Gowon should supercede many senior Southern officers to become the new military Head of State.

15.4 Even during the conferences that followed the July 29 Coup, the Northern Delegation submitted a memorandum demanding a confederation as the basis of association of the Regions including the right to succede. When they subsequently modified this position, their proposals still clearly revealed their half-hearted commitment to Nigerian Unity. They called for regional commands for the Army, made up only of people from that Region and controlled by a Regional Commander. They also called for a rotational Presidency and Prime Ministership and each State was to contribute an equal number of members to a unicameral Federal Legislature.

15.5 Why then have the same Northerners become the advocates of a powerful central government controlling all the country's resources and weak client states fully dependent on the centre for survival? The answer is simply the enormous wealth that is being generated from the Niger Delta's Petroleum resources. Even in the midst of the crisis brought about by the bloody counter-coup of July 29, 1966 and the program that followed, the Northern delegation, with one foot outside Nigeria and halfway into secession, had started craving for the wealth of the Niger Delta's oil. On mines, minerals, including oilfields, oil mining, natural gas etc., the Northern Delegation took the following clear position which they have held onto, till this day.

"The right to all mines and minerals was, before the handover of power in that regard, vested in the Crown. This right was derived from the Crown's prerogative of being the owner of all minerals attaching to the land. The right was accentuated by the provision in our laws laying down that the entire property in and control of all minerals and mineral oils in, under or upon any lands in Nigeria and of all rivers, streams and water-courses throughout Nigeria, was and should be vested in the Crown.

Upon handover of power the right was transferred to the Federal Government which has to date been exercising it. In this regard the Federal Government continues to hold the right among other things to legislate on mines and minerals, including oilfields, oil mining, geological surveys and natural gas as provided in the Constitution. This right of course, is being exercised for the benefit of the Country as a whole. The Constitution of the Federation for example provides for a fair distribution of revenue obtained from mining royalties and rents between the Regions in so far as such revenue is in respect of minerals obtained from inland.

In these circumstances the Northern Delegation does not see how this item can be removed from the Federal to the Regional Legislative List.

It is noteworthy that at one time the country's main sources of revenue from Mines and Minerals came from tin and columbite of the North. And throughout such time there was never an objection raised from any quarter as regards Central and later Federal Control of mines and minerals.

It is interesting to note that now that we have, for the meantime, the main sources of revenue coming from oil from East, Mid-West and possibly West the the other delegations at the Conference should raise an objection to what has in effect been the usual practice purely and simply in order to enrich their respective regional governments at the expense of the overall national interest.

On the other hand since it agreed that Nigeria should have an 'effective Federal Government' it is vital that the Federal Government should have an independent source of revenue."

15.6 It is obvious that as has already been noted, the Northern position is predicated on their permanent right of control over a predatory Federal Government, that expropriates the resources of a weak Niger Delta. Let us now scrutinise the mechanism used for this

permanent control of government and power which are supposed to be a common patrimony of all sectors and nationalities of Nigeria.

16. Origins and Methods of Permanent Northern Sovereignty over Southern Nigeria's Resources

16.1 In his seminal expose on the events of June 12 1993 entitled The Tale of June 12: Betrayal of Democratic Rights of Nigerian Professor Omo Omoruyi went to the British Archives and unearthed a canfull of worms on the British machinations and manipulations which has resulted in the enslavement of Southern Nigeria.

16.2 The position can be summarised as follows:

- i) Lord Lugard started his career in what became Nigeria from the North as an agent of the Royal Niger Company
- ii) By a process of coercion, persuasion and force, he obtained a series of treaties from the Northern traditional rulers and was appointed the High Commissioner for the Northern territories by the company. He welded the North together as one unit.
- iii) He was later appointed Governor of the Northern and Southern Protectorates of Nigeria, which were still totally separate entities, with the mandate to amalgamate the two totally foreign territories together as one country. The intention was to unify the administrations of the two protectorates and not its peoples.
- iv) The reason for the decision of the British Government to amalgamate the two incompatible territories was purely financial or economic. The Northern Protectorate was not economically viable. It had become a great drain on the British tax payer. On the other hand, the Southern Protectorate was not just economically bouyant, it was producing surpluses every year. The British design was therefore to remove the Northern financial burden from its own neck and hang it on the neck of the hapless Southern Protectorate.
- v) According to Lord Harcourt, the British Colonial Secretary, unification of Nigeria demanded both "method" and "a man". The man was to be Lord Luguard and the method was to be the "marriage" of the two entities. According to Lord Harcourt:

"We have released Northern Nigeria from the leading strings of the Treasury. The promising and well conducted youth is now on an allowance on his own and is about to effect an alliance with a Southern lady of means. I have issued the special license and Sir Frederick Lugard will perform the ceremony. May the union be fruitful and the couple constant".

Thus in this "marriage" the North right from the beginning was to be "man" and "husband" and the South, the "woman" and "wife".

16.3 The use of the term "Youth" (man) for the North and "Lady" (woman) for the South was not an accident, nor an exercise in humour. It was a deadly serious matter, with the game plan being to bring the two parties together in order to give the North Political power over the South and permanent control over Southern resources.

In the England of the time of Lord Harcourt, married women had no independent legal existence outside their marriage. All the women's property and resources automatically became the husband's. The woman could not enter into a contract in her own right. Her husband had to conclude all her contracts on her behalf.

Although this position was altered by the married women's Property Act of 1882, Lord Harcourt had the common law position in mind when he decided to marry the young man without means, to the young lady of means. That latter was to provide the wherewithal for the former to live well and be master of the house for the rest of their lives. Omo Omoruyi has lamented as follows regarding the devastating consequences of this marriage on the Southern lady of means;

"Today, the "Southern Lady of Means" is richer and the bridegroom "the well conducted youth" from the North is poorer and poorer over the years, a situation not even anticipated in 1914. Hence the "husband" in the typical Nigerian fashion would ensure that the relationship is maintained at all cost, even if it means killing the bride in order to take over her wealth. This is the situation the oil producing part of the South finds itself in today. According to Alhaji Gambo Jimeta, the North (husband) will go to war over oil."¹²

¹² Omoruyi page 307

16.4 The Northern Politicians understood the plan perfectly and have implemented it faithfully and fervently since then. They are well focussed on how to cling to power, for they know that that is the route to Southern resources.

16.5 How have they retained power? The formula has been an amazingly simple one. Control of the Army and manipulation of the Census figures. All this combined with help from British Administrators of Nigeria right up till independence, have assured the North of permanent political power and control of Southern resources.

17. British Manipulation of Access to Power

17.1 Having installed the North as 'husband' of the South and Master of Nigeria in 1914, the British Colonial Master did not let matters rest there. At every stage they ensured that the reins of power would remain in a hands of their beloved proteges.

17.2 Thus in preparing the North for its future role as the Rulers of Nigeria, the British rigged the very first Nigerian-wide population census conducted in 1931, in favour of the North. The figures awarded by the British were as follows:

Northern Region	-	11,434,000
Western Region	-	3,855,000
Eastern Region	-	<u>4,641,000</u>
Total	=	<u>19,930,000</u>

Plurality in favour of the North = 2,938,000

17.3 Thus from the very beginning, a permanent majority in population which was intended to translate into a permanent majority in the future Central Legislature and consequently a permanent control of power, was programmed for the Northern Ruling class.

17.4 It will be recalled that at the 1950 National Conference, the North demanded at least 50% of the seats in the Central Legislature, as a condition for being part of Nigeria. That demand was based on the census figures that had been rigged in their favour.

The colonial master quickly granted the Northern demand and distributed the seats in the 1951 Central Legislature as follows:

Total Number of Elected Members	=	136
North	-	68
East	-	34
West	-	34

17.5 In the 1952 Census the balance of 1931 in favour of the North was again meticulously maintained by the British. The increase of population in the 21 years between 1931 and 1952 was doctored so carefully that the birth rate in the three Regions was virtually the same and the difference between the population of the North and that of the South remained virtually the same. The figures this time were:

Northern Region	-	16,840,000
Western Region	-	6,369,000
Eastern Region	-	7,971,000
Total	=	31,180,000
Plurality in favour of the North	=	<u>2,500,000</u>

17.6 Finally in the last federal elections before independence, which was organised by the British Masters, the Governor-General, Sir James Robertson, was so anxious for the Northern Peoples Congress to retain power, that he called on Sir Abubakar Tafawa Balewa to form a new government whilst the votes were still being counted and results were being announced. When the final results were announced, the NPC did not have a simple majority in the House of Representatives, and it is clear that on the basis of the results, the NCNC (89 Seats) could have successfully established a coalition government with the Action Group (73 Seats) and put the NPC (134 Seats) in the opposition benches. Omoruyi explains the hasty action of Sir James Robertson in the following way:

"Sir James Robertson was the shrewd implementor of Northern rule earlier fashioned by Lords Harcourt and Lugard. Sir James was especially recruited by

the British Government in 1955 because of his experience in the Sudan with an identical situation to Nigeria. He is on record as confessing that he did not handle this phase to the satisfaction of Dr. Nnamdi Azikiwe and Chief Obafemi Awolowo. Sir James confessed that he called Sir Abubakar Tafawa Balewa to form the government in 1959 "by persuading some of the Southern members to support him and Sir Abubakar assured him he would get a Southern group to work with him. Sir James did this before the results were released in full. He confessed that he did this to appease the Sardauna of Sokoto, the Leader of NPC, to stop him from taking the North out of Nigeria.¹³ The question is why was he more interested in the feelings of the Sardauna of Sokoto and not in the feelings of Dr. Azikiwe and Chief Awolowo. Was this not in furtherance of the design of the Colonial government? We shall come to this again.

The "Model" of a free and fair election sold to the successor regime, the North, was another issue which we should recognise. The way the 1959 election was handled taught the successor regime that the result of any election must be tailored to suit the anticipated outcome.¹⁴ What General Babangida did in preparation for the June 12 election was vehemently opposed by the former Sultan of Sokoto, Alhaji Ibrahim Dasuki, on behalf of the Northern leadership because the North was not able to determine its outcome in favour of the North. Alhaji Ibrahim tried to prevail on the President to cancel the Presidential election as early as May 19, 1993 because the plan was seen as capable of reversing the British design.¹⁵ What could Britain have done in 1959? The three parties should have been allowed by Sir James to negotiate and if he wanted to help, that would have been an opportunity for Sir James to pressurise them to form a government of national unity that would have ushered in independence in an atmosphere of intergroup trust.¹⁶ But Sir James was too much in haste to formalise a succession and formally named a Northerner as the Prime Minister who was to be the successor to his executive power at independence."

¹³ Omoruyi p. 303

¹⁴ Omoruyi P. 302

¹⁵ Ibid.

¹⁶

17.7 The British predilection for the North, particularly the Arewa North can be summarised in the following views expressed by Sir James Robertson about the differences between Northerners and Southerners. In his assessment he referred to "the differences in ordinary custom and behaviour between the dignified, polite and rather aloof Northerner and the uninhibited, vociferous Southerner, who noisily showed his disagreement in Council and Parliament without good manners and restraint."¹⁷

18. Arewa Implementation of the British Legacy

18.1 The Arewa North has remorselessly sustained and adamantly implemented this British legacy of permanent Northern rule. When the very first post-independence challenge of Northern control arose, in the form of the 1964 Federal elections, the Northern Peoples Congress moved fast to put the election results beyond doubt.

The strategy was simple. Prevent the candidates of the UPGA from filing their nomination papers, and NNA candidates would be returned unopposed. It was a simple scheme and it was successfully implemented. In the North alone, 78 NPC candidates out of a total of 167 constituencies were unopposed. The tactic was repeated in the West, although the proportion of un-opposed NNDP candidates was smaller, only 15 out of about 94 seats. The UPGA boycotted the election and the country was precipitated into a crisis that nearly ended in violence and country-wide anarchy.

18.2 The matter did not end there. When for a period of 4 days, Dr. Nnamdi Azikiwe, the President, refused to endorse the fraudulent elections and therefore refused to call Abubakar Tafawa Balewa to form a new government, the NPC hierarchy concluded plans to declare Zik medically unfit, instal Sir Adetokunbo Ademola the Chief Justice as acting President, who would then call on Abubakar to form a government. There were also plans to call on the Military hierarchy not to recognise Azikiwe as Commander-In-Chief of the Armed Forces.

¹⁷ Sir James Robertson quoted in Omoruyi, The Tale of June 12, p. 306

These desperate measures designed to ensure the continued Northern hold on power were recently revealed by the former President, Alhaji Shehu Shagari as follows;¹⁸

"In the evening that same day, Senator Dr. Majekodunmi and I visited Sir Adetokunbo Adegboyega Ademola, the Chief Justice of the Federation, at his residence, where we also met Dr. Taslim O. Elias, the Attorney-General and Minister of Justice. Both told us that there were strong indications the army might intervene very soon at the instance of the President, and advised that something be done immediately. They had already asked Dr. Majekodunmi to advise the PM to instruct the service chiefs to disoblige any orders from the President. They now wanted me to help persuade Balewa to act instantly. I proceeded to Balewa's residence and urged him to accept their advice, or the one earlier offered by Sir Ahmadu. Balewa refused both but after continuous urging he decided to summon the service chiefs the following morning rather than that night as I insisted.

Meanwhile, Sir Adetokunbo and Dr. Elias took a new initiative. They requested Sir Vahe Bairamian, a British-Cypriot and Justice of the Supreme Court, to speak to his fellow British national, Major-General Sir Christopher E. Welby-Everard, the General Officer Commanding (GOC), to dissuade him from taking any precipitate action which might implicate and embarrass the British government. Justice Bairamian accordingly advised Major-General Welby-Everard on his constitutional position, pointing out that the office of the President was ceremonial; and that it was the PM who had the constitutional power to issue orders to the armed forces.

Sir Adetokunbo also took another initiative. He contacted Dr. Azikiwe's intimate, Sir Louis Mbanefo, the Justice of Eastern Region, and persuaded him to use his influence on the President to defuse the crisis. Sir Louis, assisted by Mr. Dan Onuora Ibekwe, the Eastern Region Attorney-General (both of whom also shared Justice Bairamian's view), got busy working on the President as well as on the PM. Simultaneously, Dr. Okpara, leading other UPGA figures and sympathetic trade union leaders, continually pressed Dr. Azikiwe to stand fast.

¹⁸ Shagari, Beckoned to Serve, an Autobiography, Heinemani 2001, pp. 112-3.

Alhaji Muhammadu Ribadu, the Minister of Defence, later arrived from Yola and immediately began intensive consultations with all the relevant groups, including the armed forces chiefs. When Dr. Azikiwe appeared unnecessarily difficult, Ribadu called an emergency meeting of NPC Ministers to reappraise the situation. After considering various options, it was decided that the Constitution be utilised if the President remained unreasonable.

Clause 39(1)(b) of the Constitution provided that during "any period while the President is absent from Nigeria or is, in the opinion of the Prime Minister, unable to perform the functions of his office by reason of his illness....." the Senate President would act on his behalf. But if the latter was unavailable, the Constitution also allowed the federal Chief Justice to act as President. Incidentally, Dr. Azikiwe had since May 1964 been spending a great deal of his time at his Nsukka country home during which period it was announced that he was unwell and required specialist medical attention.

Now, the idea was that since the Senate presidency was vacant following the dissolution of Parliament, the President's professed illness would be officially recognised and proclaimed to enable the federal Chief Justice to stand in for him. Thereupon, the federal Chief Justice would ask Balewa to form a federal government. Somehow, this plan rapidly leaked to Dr. Azikiwe late on Sunday night, 3 January 1965. Within hours, the State House issued a statement, which the press carried the following morning. It said that Dr. HI Idehen, the President's physician, had announced that Dr. Azikiwe "who was recently indisposed, is now quite fit and fully recovered and capable of fulfilling all his engagements both inside and outside the State House". This frustrated our plans".

18.3 As we all know, an unsatisfactory compromise was eventually reached under which elections were to be repeated in the East alone and a broad based Federal Government was to be formed. The NCNC was invited to join this broad based Government and the gathering storm and the hurricane behind it was averted for some time. It still came in January 1966.

18.4 Ofcourse the story of the 1963 census which was again doctored to favour the North, was no different. The Eastern Region in particular challenged the results and the country was almost brought to its knees by the fierce controversy that followed. The

matter was taken to the Supreme Court which typically, held the census figures valid. Shagari recalls this episode in his memoirs:

"But the new census, held between 5th and 8th November 1963, provoked even fiercer controversy after the results were declared on 24th February 1964. Four days later, Dr. Okpara branded the exercise as "worse than useless". His harsh denunciations actually focussed on the northern aspect, even though the North showed the least percentage increase while the East had maintained its previously inflated total-one, which Okpara had defended. After meeting with NPC leaders on 2 March, Sir Ahmadu reacted in equally vitriolic terms; alleging malpractice by visiting eastern census inspectors in the North. Sir Ahmadu, like Chief Akintola whose region recorded about 100 per cent rise, said his party accepted and would stand firm by the results.

When Dr. Okpara delivered a riposte on 9th March, he accused the NPC of reckless attacks and threats on the Igbo. Revealing his true worry, he deplored, reported the Morning Post the next day, the alleged situation in which "mere publication of the census figures precludes a leader of a major political party from aspiring to the leadership of the nation" and determines in advance the outcome of a general election. Northern and eastern legislatures too entered the brawl, while the dispute split the western NCNC many of whose figures joined with UPP and some AG politicians to form the NNDP."

18.5 The 1991 Census, the very latest in this country was conducted to maintain the carefully designed colonial programme. Out of a total population of 88,504,477, the North was awarded 47,261,962 and the South 41,242,512. Thus the colonial margin is still being maintained. The most absurd aspect of the announced figures is the attempt to equate Kano State with Lagos State. Thus Lagos State is given a figure of 5,685,781 and to march that Kano is given a figure of 5,632,040. Any honest observer knows that the Lagos population cannot be less than 15 million. But by the Legacy of colonial manipulation, the most populous state in the South must not be allowed to have a higher population than the most populated State in the North.

18.6 That is not all. Having kept the population of Lagos State down to just over 5 million, the State is allocated only 20 local governments whilst Kano and Jigawa States (officially with a combined population slightly less than Lagos), are allocated a total of 71 local

government councils. Again, whilst Lagos State has only 24 members in the House of representatives, Kano and Jigawa (with a smaller combined population) have a total of 35 seats.

18.7 It is clear that NO. BILL CAN PASS THROUGH THE HOUSE WITHOUT THE CONCURRENCE OF THE NORTHERN STATES. But bills will sail smoothly through the House, even if the whole of the Southern representatives oppose them. That is permanent power, installed by a combination of the colonial master, the Arewa political oligarchy and the Northern Military organisation.

18.8 What all this means is that effectively the South is the object of internal colonialism; That the British merely handed over colonial authority to the Arewa North, and the Arewa North is determined to sustain this colonial relationship with the South indefinitely.

19. Control Through the Military

19.1 As Omoruyi and many other Scholars and Writers have noted, the Arewa North has always ensured that it controlled the Military, particularly the Army as an insurance of its retention of power.

19.2 The 1966 coup was a devastating blow against the Arewa North - the beneficiaries of the colonial legacy. Their shock and pain did not arise from the death of Balewa, Ahmadu Bello and their Military officers - no. Their main grievance was loss of power to the Ibos. That is how they perceived Ironsi's rise to power.

19.3 Therefore the carefully orchestrated uprisings in the North in May 1966, and the violent and bloody coup that followed it in July were not reactions to Decree 32 of 1966, abolishing the Regions and unifying the civil services of the country. The Decree was a convenient excuse for the Northern bid to seize back power.

For as we have seen, soon after power was restored to the North through Gowon and those behind him, they (the Northerners in powers) introduced a level of unitary government this country had never known and embarked on a deliberate programme for dismantling all federal structures in the country as we saw earlier in the series of

Decrees transferring State resources to the Federal Government. The truth of the matter was power, raw power. It is also interesting to recall that the attempt of the North to secede after the counter coup of July 1966, was halted when it was pointed out to them that in seceding, they were in effect divorcing the young lady of wealth, with her oil, seaports etc.

19.4 The whole saga of June 12 1993 is merely a manifestation of the belief regiously held by the Arewa North that power was transfered to them as a right by the Colonial Masters. Omoruyi recalls that Alhaji Ibrahim Dasuki, the Sultan of Sokoto, vehemently opposed General Babangida's preparation for the June 12 1993 elections on behalf of the Northern Leadership because the North was not able to decide the outcome in favour of the North before hand. He then prevailed on Babangida to cancel the Presidential election, because the result was a reversal of the British legacy. So much then for Dasuki's characterisation of the event as Allah's will.

20. Current Programme For the Sustenance of Northern Control

20.1 It is true that a Southerner, General Olusegun Obasanjo is currently the President of Nigeria. No one doubt's the President's capacity to fight for his independence from Northern control. But that is neither the main nor the central issue in the power game. Some points should be bourne in mind.

- i) Obasanjo was the Southern candidate of the Northern traditional and political elites and significantly of the retired Northern Generals. He was forced down the throat of the south.
- ii) Through the 1999 Constitution, General Abdul Salami Abubakar installed a permanent Northern majority in the National Assembly by the lopsided manner the seats in the House of Representatives have been allocated.
- iii) In the same manner the number of local governments per state, have been so structured, as to give the North a permanent majority in local governments. The major implication of this is that the direct funding of local governments from Abuja, means that the bulk of the 20% of the Federation account that goes to local government, ends up in the North.

20.2 The statistics are interesting. Whilst the Southern States have a total 357 Councils, the Northern States have 419 Councils out of a country wide total of 776.

On the issue of representation in the House of Representatives, the North has 182 Seats as against the Souths 154. It was therefore no surprise that the courageous bill for Resource Control, brought by Hon. Temi Harriman on Wednesday 9th May 2001 was defeated by the permanent Northern majority by 81 votes against the 64 in favour. The bill merely sought to amend the 1969 Petroleum Act, praying that oil producing States, local governments and communities be granted ownership and control of the resources thus "reversing the present situation where the Federal Government exercises excessive control over oil"

According to a Newspaper Report,¹⁹

"Those opposed to the bill were mostly northerners who sat to the left of the public gallery, and wore babaringa with straight caps. The proponents of the bill predominantly southern legislators in their agbada with bent caps (fila), sat to the right. When eventually the clerk of the House, Yomi Ogunyemi, took the counts, the Southern group's 64 votes were inferior to the 81 votes of their northern counterparts who roared thunderously to celebrate the "killing" of a bill the sponsors had hoped would bring the deprived and the dehumanised peoples of the Niger Delta and adjoining states succour."

20.3 Until these structural unbalances of representation are corrected or a new basis is created for representation and other unfair but in Pro-Northern factors redressed, Nigerian nations cannot enjoy a harmonious relationship with each other.

It is obvious that only a Conference of Nigerian nationalities and communities, plus some special interest groups can resolve our problems and bring lasting peace that will really ensure that this country will remain "indivisible" and "undissoluble" (Section 2(1) of the 1999 Constitution).

¹⁹ Guardian, 17 May, pp.8-9

21. Recommendations

21.1 We have clearly seen that the future of this country lies in only one direction - true federalism, together with fiscal federalism and resource control by the owners of the resources.

21.2 In making specific recommendations for structural changes which will create an atmosphere of enduring peace, harmony and progress, I willingly and happily adopt the text of the Aburi Agreement of 4th January 1967 between the Military Governors of the then Regions and the Head of the Federal Government, with regard to the control of the Nigerian Armed forces.

"The Supreme Military Council now meeting in Ghana has agreed on the following reorganisation of the Army:

- a). The Army is to be governed by the Supreme Military Council the Chairman of which will be known as Commander-in-Chief and Head of the Federal Military Government.
- b) There will be a Military Headquarters on which the Regions will be equally represented and which will be headed by a Chief of Staff.
- c) In each Region there shall be an Area Command under the charge of an Area Commander and corresponding with the existing Regions.
- d) All matters of policy including appointments and promotions of persons in executive posts in the Armed Forces and Police shall be dealt with by the Supreme Military Council".

Police administration and operation should come under the same arrangement.

21.3 Division of Powers and Functions

- i) As already noted, in a true federal system, the federal State or government, exercises exclusive power in certain basic matters of general relevance and importance, leaving the bulk of the subject matter to the states, with a few in the concurrent list. A federal government should exercise powers exclusively only in the following areas: National Defence, Foreign Relations, Currency, Exchange Control, Telecommunications, Immigration, Customs & Exercise, copyright, patents and designs, citizenship and naturalisation, shipping in external waters.

And other matters currently in the exclusive Legislative List (Federal) should be in the concurrent list (Federal and States). The States and the Federal state should exercise their powers in these matters in a manner that does not interfere with the jurisdiction of other authorities.

As Soyinka has accurately observed:

"Centralisation, in short, has been the bane of the nation - on any level you choose - and nothing will answer the necessity of a harmonious relationship and development of its parts other than a severe curtailment of the control of the centre over the functioning of its parts. How, I ask you, can an individual sitting in Abuja arbitrate the boundary differences in Kontagora, in Okitipupa, Port Harcourt or even Makurdi close by. These are simply no areas of competence for the centre, and any re-designing of the nation's internal portrait must depend absolutely on strategies that emanate from the people themselves".

ii) Exclusive State Matters

In the following areas, the State must have exclusive authority except that the Federal Government could lay down standards and guide lines and perhaps make grants towards some of these subject matters.

1. Agriculture & Fisheries
2. Education
3. Health
4. Labour
5. Housing
6. Local Government
7. Forestry
8. Town and Country Planning
9. Lands
10. State Judiciary
11. Veterinary Services

21.4 Revenue Allocation

As already noted the States have to be given the economic power to carry out their increased political, social and economic responsibilities. A system of revenue allocation to meet this has been suggested already. This may be summarised as follows:

i) Minerals - Oil & Solid

50% of the proceeds should be paid to the State from which it is produced. Such State territory includes 200 miles continental shelf.

ii) Customs & Excise

50% should go to the State to which the goods are going or in the case of Excise duty, the State in which the goods are produced.

iii) Value Added Tax (VAT)

Only States should collect value added tax. The Federal Government should have no such power. States should retain their VAT for their own use.

21.5 The VAT is a tax on the consumer of goods and services within the territory of the States. The Federal Government may only collect VAT in the Federal Capital Territory.

Thus all taxes made from purchases of petroleum products from a State should be remitted to that State. At the moment, VAT is collected and administered by the Federal Government which keeps a percentage to itself and then distributes the balance in an arbitrary manner, under which states from which little or nothing has been collected, get the bulk of the funds.

21.6 Ownership And Control of The Petroleum Industry

Under the oppressive and unjust 1969 Petroleum Act, the Federal Minister of Petroleum Resources under The Head of the Federal Government, is virtually the sole administrator of the petroleum, (oil and gas) are not consulted or involved at any stage whatsoever, even though they provide the product and suffer the devastating consequences of the production process. The excuses for this are the illegitimate provisions in the Constitutions since 1979 and the Petroleum Act 1969 that vest the ownership and control of petroleum and other mineral resources in the Federal Government.

Consistently with the doctrine of resource control, justice, and truth, there can be no separation between true ownership and control. Therefore the following provisions of the Petroleum Act must be repealed, namely. Sections 1 and 2. Other sections should be modified to accommodate the proposals which follow. Also, section 44(3) and item 39 in the Exclusive Legislative List of the Constitution should be deleted. The States and Communities from whose territory and land the oil and gas are produced should be acknowledged the owners of these resources, in all relevant legislation. However, given the role the Federal Government and its agencies have played in the oil industry, I propose the following arrangements for the future management and control of the industry. A Petroleum Affairs Commission should be established, to manage and control the industry and to takeover the functions of the Minister of Petroleum Affairs.

The Commission will be composed of two representatives from the Federal Government, three representatives each from Delta, Rivers and Bayelsa States, and one each from the other six oil producing States. The chairmanship will be rotational amongst its members and a chairman shall serve in that position for only one year at a time. This body will be charged with all the present functions of the Minister of Petroleum Affairs, including the issuance of permits, licenses, and the conclusion of agreements with oil companies. It will generally supervise all areas of the industry and agencies like the DPR and NNPC will come under its control. In this manner true ownership and control of petroleum resources will converge.

22. A Conference of Nigerian Nationalities

22.1 Nigeria, according to the late sage Chief Obafemi Awolowo, is a mere geographical expression. As we saw earlier, the nations and peoples of Nigeria existed separately and independently for centuries until they were forcefully brought into the artificial State called Nigeria.

The territory called Nigeria is as much a victim of European colonial callousness as the rest of Africa. Many of the internal boundaries of Nigeria are as artificial as inter State boundaries of Africa. Was it not Lord Salisbury who stated thus at the Berlin Conference 1885?

"We have been engaged in drawing lines on maps where no white

man's foot ever trod; we have been giving away mountains and rivers and lakes to each other, only hindered by the small impediment that we have never known where the rivers and lakes and mountains were."²⁰

22.2 Another Briton, an official who participated in the drawing of the Southern section of the Nigerian-Cameroon border, is also recorded to have recalled, years after that-

"In those days we just took a blue pencil and ruler, and we put it down at Old Calabar, and drew that blue line to Yola.....
I recollect thinking when I was sitting having an audience with the Emir [of Yola] surrounded by his tribe, that it was a very good thing that he did not know that I, with a blue pencil, had drawn a line through his territory."

22.3 The carry over of this artificiality of boundaries into Nigeria, is evident when Kwara and Kogi States are treated as Northern, instead of Yoruba (Western) States, or when Asaba and Agbor (Oshimili, Anioma and Ika) are included in a Delta State. It is therefore clear that a Conference of Nationalities will involve, not only a re-structuring of functions between the bloated Centre and the States, but there also has to be, a re-grouping of the States along national/ethnic lines. To continue with the examples I have given above, Kwara and Kogi will merge with the Yoruba States and Asaba and Agbor (Oshimili, Anioma & Ika) should merge with their sister Igbo States east of the Niger.

²⁰ Anene, The International Boundaries of Nigeria, Longman, London 1970. p.3.

22.4 Indeed there has been much talk of zoning Nigeria into 6 or 8 political zones. The idea is that larger political units will better be able to carry out major social and economic projects in the decentralised regional system being demanded. The movement for National Reformation (M.N.R.) has infact made elaborate proposals in this regard which merit serious consideration. It is important that only groups of the same or similar nationalities should come within a zone. Grouping must be voluntary and states within a zone should be free to decide what matters they wish to retain for themselves and what they want jointly handled in the zonal system. These structural changes need to be tabled for discusion at a Conference of Nigerian Nationalities.

22.5 The M.N.R. proposals are stated clearly thus;

"Proposals so far discussed entail the application of the federal principle from the national level down to the local level. One reason for this is the need to resolve the "nationalities" question in Nigeria. Another reason is the need to restore genuine federalism as envisaged by the country's founding fathers, by the creation of units large enough to perform the functions originally reserved to the Regions but which have been progressively eroded by the Federal Government, by reason, among other causes, of the dimunitiveness and impecuniousness of the present States.

The Movement for National Reformation advocates that intermediate authorities be created by providing for States of the same "nationality", or neighbouring States of smaller size and different "nationalities", to coalesce in a federation interposed between the State and Union levels. The country as a whole could then be the **Union of the Federations of Nigeria (UFN) or the Union of the Federated States of Nigeria (UFSN).**

A new **Act of Union**, freely subscribed to by the "nationalities" and Federations, is envisaged.

23. Conclusion

The current struggle by the peoples of the Niger Delta and their other Brethren from the South, is the 4th phase of our struggle.

23.1 We must recall the very first heroic liberation struggle by Isaac Adaka Boro - "the twelve day revolution" which commenced on 23rd February 1966 and ended 12 days later with a heroic surrender. No one was killed. But the seed of consciousness had been planted.

Although these earlier revolutionaries were naive enough to believe that the Arewa North was our friend, their struggle has been immortalised by history. Boro's address to his troops was inspiring and showed the level of civilisation and enlightenment in the Leadership of the Force.

"Today is a great day, not only in your lives, but also in the history of the Niger Delta. Perhaps it will be the greatest day for a very long time. This is not because we are going to bring heavens down, but because we are going to demonstrate to the world what and how we feel about oppression. Before today, we were branded robbers, bandits, terrorists or gangsters but after today, we shall be heroes of our land.

"For this reason, and for the good name of the Ijaws, do not commit atrocities such as rape, looting or robbery. Whatever people say, we must maintain our integrity. Moreover, you know it is against Ijaw tradition to mess about with women during war. You have been purified these many days. Be assured that if you do not get yourselves defiled within the period of battle, you shall return home safe even if we fail"

The men of the Niger Delta Volunteer Force each took the following oath before the revolution:

"I a Niger Delta Citizen from the town of today herein sworn in at the Revolutionary Camp of the Niger Delta Volunteer Service , as (an Officer, warrant officer, non-commissioned or a serviceman) do solemnly declare to uphold the natural rights and integrity of the Niger Delta Peoples and fight with my life for the restoration of same. So help me God."

- 23.2. The next major mile-stone is the Ogoni struggle, lead by the legendary Ken Saro-Wiwa and Mossop - The Movement for the Survival of the Ogoni People.
- 23.3 The third stage occurred in late 1998 and early 1999, when the Youths of Izon land issued the Kaiama Declaration.
- 23.4 We are now in the fourth and final phase, in which the gauntlet has been picked up by the Southern Governors, with the Governor of Delta in the Vanguard. It is a peaceful, well coordinated struggle, with dialogue as the main weapon. We pray that inspite of decades of exercise of predatory instincts and undeserved enrichment, the Arewa North will see reason and realise that the end of the Lugard era has come. We in the South want to be friends and Brothers and not wives of anybody.
- 23.5 We have a lot of lessons to learn from the Arewa North. How a small band of men from the Sudan and Northern parts of West Africa could come to what became Northern Nigeria, and conquer most of it, is amazing enough. How inspite of not having the Military capacity to conquer the middle belt, North East Arewa (Borno Empire) and the South, and yet applying political, administrative and organisational skills, managed to put the whole of Nigeria under their control for 50 years, is a truly incredible feat. And yet, these people are a minority even in the North. Let us learn from them.
- 23.6 They are a focused, determined, united and well coordinated and organised group. We must adopt their methods. We must mobilise and enlist all our people in this struggle. The institutions such as the legislative Houses, Governors and local governments must be involved.
- 23.7 We must nuture our minorities. If the minorities in our Communities feel that they will be oppressed, disenfranchised and deprived of their resources, then they will look up to other groups like the Arewa North as alies against local oppression. This is what motivated the Boro group and the Niger Delta Congress of Chief Harold Dappa Biriye to seek allaiance with the NPC in the First Republic. Let us give concrete assurances to

our minorities, otherwise they will become our Achilles heel and we will fail in our great and just Odyssey.

23.8 I would like to conclude this address, by repeating the following wise words uttered by a respected elder Statesman of Nigeria and the Niger Delta, Dr. M.T. Akobo.

"Like the Americans in 1787, "in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare and secure the blessings of liberty for ourselves and our posterity", we, as Nigerians of our various nationalities, cultures, historical, economic and social background of the Niger Delta will participate in producing and proclaiming a just and stable constitution for the Federal Republics of Nigeria."

Nigeria's coat of arms bears the words, Unity and Faith, Peace and Progress. One fundamental and indispensable word is missing from that coat of arms and this may be responsible for Nigeria's plight as a failed State. That word is JUSTICE.

THANK YOU.