INSTITUTIONAL DESIGN, ETHNIC CONFLICT-MANAGEMENT AND DEMOCRACY IN NIGERIA

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Summary of Paper

Nigeria provides a rich terrain for exploring the relationship between institutional design and conflict management. The following issues have been particularly pertinent in the Nigerian context: the relative impact of democratic constitutionalism and military authoritarianism on inter-ethnic outcomes; the role of federal design in the accommodation of cultural pluralism; the relative auspiciousness of presidentialism and parliamentarianism under conditions of ethnic fragmentation and socioeconomic underdevelopment; the tensions between integrative and accommodative responses to the challenges of national unity; the duality and complementarity of formal and informal ethnic conflict management practices; the impact of state expansion on inter-ethnic relations; and the possible elements of an agenda of institutional reform for democratic conflict management. The Nigerian experience shows the importance for both ethnic conflict management and democratic development of a vertically and horizontally balanced system of federalism, of formal <u>and</u> informal strategies for national integration and ethnic accommodation, and of autonomous institutions of political restraint.

Introduction

Nigeria, Africa's most populous country and one of the world's most deeply divided societies, has trodden a complex, turbulent and contradictory political trajectory since gaining independence from Britain in 1960. In four decades of independent statehood, Nigeria has fashioned six separate federal constitutions, witnessed the rise and replacement of eleven different national administrations, and straddled the political poles between democratic pluralism and military authoritarianism, between pseudo-federalism and institutionally balanced federalism, between Westminster-style parliamentary government and American-type presidentialism, and between inter-ethnic reconciliation and fierce, often violent ethnic conflicts. This dizzying political odyssey offers a compelling canvas for illustrating some of the dramas and dilemmas of institutional politics in deeply divided societies. In particular, the Nigerian experience offers rich material for reflection on a number of crucial institutional themes:

(i) The relative impact of democratic constitutionalism and military authoritarianism on inter-ethnic outcomes.

(ii) The relationship between the form and character of federalism, on the one hand, and success or failure in ethnic conflict-management, on the other.

(iii) The relative auspiciousness of presidentialism and parliamentarianism for deeply divided developing countries.

(iv) The latent tensions between integrative and accommodative (concociational) solutions to the dilemmas of national unity (see Sisk 1996).

(v) The duality and complementarity of formal and informal ethnic conflict-management practices.

(vi) The severe constraints on both democratic development and inter-ethnic accommodation in societies where the state is overweening, rather than self-restraining, and where virtually the whole gamut of social existence is 'open to political determination...'(Mackintosh 1966, 619).

(vii) The possible elements of a reform agenda for promoting or enhancing stable, peaceful, and democratic ethnic conflict-management.

Briefly stated, these are the seven themes we intend to sketch in the following discussion of institutional design, ethnic conflict management, and democracy in Nigeria.

(I) Political cycles and inter-ethnic outcomes in Nigeria's post-independence history.

Nigeria's post-independence political history may be demarcated into five broad moments. The initial phase, often referred to as the First Nigerian Republic, spanned the five-year period beginning with Nigeria's independence in October 1960 up until the time the military violently overthrew the Republic in January 1966. The second phase involved the 13-year era of military rule from January 1966 to September 1979. The next phase was the Second Republic; the brief interregnum of civilian rule between October 1979 and December 1983. The fourth phase began with the second coming of the military on the eve of 1984 and ended with the restoration of civilian democratic rule in May 1999. That restitution ushered Nigeria into the fifth, and ongoing, moment of its post-independence political history.

The First Republic labored under immense structural strains largely induced by the British colonial legacy. This legacy, which began with the annexation of the port city of Lagos in

1861, involved three major elements. The first was the arbitrary consolidation of three major ethnic nationalities (accounting for some two-thirds of the country's 100 million people) and about 200 smaller ethnicities into a single state in 1914. The second was the differential administration and modernization of the Northern and Southern sections of this colonial state. This differentiation engendered a huge historic geopolitical fissure between the political hegemony of the North and the socioeconomic ascendancy of the South, which has continued to haunt Nigerian politics to this day. The third element of the British legacy was the establishment in 1954 of a three-unit federal structure that secured political autonomy and hegemony for the principal ethnicities of Hausa-Fulani, Yoruba and Igbo in the Northern, Western and Eastern regions respectively. This ethno-regional federal structure, along with the abuse of the liberal political game by competing sectional political coalitions, engendered the series of conflicts and crises that culminated in the fatal military coup of January 1966 and the demise of parliamentary government in Nigeria.

The immediate impact of military rule was the militarization and exacerbation of ethno-regional conflict. This led to the gradual isolation of the Igbo-dominated Eastern Region from the Federation. Amidst the looming specter of Eastern secession and national disintegration, however, the military moved decisively in May 1967 to transform the country's regionalized federation into a more integrated structure of twelve states, six each in the North and South. Although this initiative could not avert (and, in fact, actually precipitated) the tragic 30-month civil war, it contributed decisively both to the defeat of the secessionists and to the long-term stability of the federation. Specifically, the new multistate federalism diluted the widely resented hegemony of the geographically and demographically preponderant Northern region, fragmented

the regional bastions of domineering ethnic majority chauvinism and separatism, satisfied the longstanding constituent statehood aspirations of key ethnic minority groups(including non-Igbo groups in the secessionist East), and broadly promoted a more institutionally balanced, structurally integrated, and ethnically decentralized system of federalism. The phenomenal expansion in centrally-collected oil revenues as from the 1970s, and the creation of seven new states in 1976, consolidated the integration of the federation. This era of remarkable institutional engineering by the military climaxed with the inauguration of the Second Nigerian Republic in October 1979. It was also to heavily influence the context for subsequent constitutional planning in Nigeria, a 'constrained' setting in which the military would initiate and supervise future 'transition' or re-democratization programs in general, and exercise the prerogative to dictate, reject, alter, modify or approve the recommendations of constitutional review bodies and/or constituent assemblies, in particular (Linz and Stepan 1996, 82-83; Joseph 1987, 70).

The new democratic dispensation reflected both structural change and attitudinal continuity vis-a-vis the First Nigerian Republic. Institutionally, the key element of change involved the shift from the parliamentary system of the First Republic to a presidential system. The choice of a relatively strong executive presidency was promoted by the military and their civilian associates (mainly bureaucrats, intellectuals and elements of a 'politico-commercial' class) as an integrative antidote to the relentless sectionalism of the First Republic. The anticipated shift from the centrifugal politics of the First Republic, it was hoped, would be facilitated by such other institutional changes as the multistate federalism, stringent constitutional prescriptions for federation-wide parties, and the substantial expansion in the legislative powers of the federal government in areas like local government, land use, the police, revenue collection,

and electoral processes. Although condemned by many as unduly overcentralizing, these integrative reforms helped significantly to mitigate ethno-regional polarization.

Continuity between the First and Second Republics was tragically reflected in the corruption, economic mismanagement, violence, intolerance and electoral fraud that the politicians unleashed on the polity. Although ethno-regional conflict was not a manifest source of the Second Republic's collapse, the massive rigging of the 1983 elections (mainly by the northern-dominated ruling party) all but destroyed the delicate institutional balance of partisan and ethnic interests that had underpinned Nigerian federalism since the inception of the Republic in 1979.

The Nigerian military self-righteously resumed governance of the country on 1 January 1984. However, by the time of its disengagement from the polity on 29 May 1999, the military had been denuded of all moral, institutional, or professional integrity. Egregious abuses typified the second phase of military rule in Nigeria. These transgressions included breathtaking corruption and financial mismanagement, the repeated manipulation and trivialisation of political transition programs, the ultimate abortion of the Third Nigerian Republic (even before its formal instauration) following the annulment of the June 1993 presidential election, the monopolization of power by an ethno-military oligarchy, the center's emasculation and immiseration of subnational governments, the wanton violation of civil and communal rights, and the attendant intensification and mobilization of disintegrative ethnoregional resentments. The June 12, 1993 election marked a watershed event in the political life of Nigeria because it was the first time that a southern candidate won the chief executive office of the country in a democratic process, and yet that candidate, Moshood K. O. Abiola, did so by capturing extensive support in the north,

including the home state (Kano) of the opposing candidate. Its annulment accelerated Nigeria's descent into the abyss of authoritarianism and ethnic turmoil.

Essentially, the 1984-99 era represented the degeneration of military rule from the regime of hegemonic exchange that was institutionalized for much of the post-civil war period to a system of steep hegemonic repression (Rotchild 1991). Although both are systems of non-democratic (military or one-party) rule, hegemonic exchange involves practices designed to ensure some equitable stabilization or accommodation in state-ethnic and inter-ethnic relations, while ethnic exclusion, domination and coercion characterize hegemonic repression. To cite the most elemental illustration, while the four military governments of the 1966-79 era were headed by a southern Igbo Christian, Northern Minority Christian, Northern Hausa-Fulani Muslim, and Southern Yoruba Christian, respectively, all four military governments in the 1984-99 era were headed by Northern Muslims.

In general, the worst sectarian upheavals in Nigeria's history, and the greatest threats to the country's corporate existence, have occurred under military, rather than civilian, rule. Examples include the bloody ethno-military coups of January and July 1966, the 1966-67 anti-Igbo pogroms in Northern Nigeria, the ghastly three-year civil war, and the controversy during 1975-78 over Sharia (Muslim) law, all of which took place during the first phase of military rule. During the second phase, Nigeria was buffeted by such sectarian crises as the controversy over General Babangida's surreptitious enlistment of Nigeria into the Organization of Islamic Conference (OIC) in 1986, the attempted expulsion of the Muslim North from the federation by military putschists in 1990, southern Yoruba mobilization against the annulment of M.K.O. Abiola's 1993 presidential election victory, the executions in 1995 of the "Ogoni nine" (ethnic

minority activists in the long-suffering but oil-rich Nigeria Delta area, led by famed novelist Ken Saro-Wiwa, who was among those hung by the military), the general upsurge of violent separatist nationalism in the oil-rich Delta region, and the broad clamor in southern Nigeria for a Sovereign National conference (SNC) that would reconsider the desirability or modalities of Nigeria's continued survival as one country.

Although ethnic, regional, and (more recently) religious mobilization and conflict have been extensive in politics under civilian rule, civilian constitutional rule has generally seen less violent and convulsive sectional conflict because a civilian multiparty constitutional regime provides a framework, and if structured properly, certain incentives for building multiethnic political coalitions and expressing ethnic interests and grievances through peaceful means.

Quite obviously, the constitutional institutions and competitive processes of a truly democratic system assure some voice or representation for diverse ethnic views and interests, preclude the systematic transgression of basic group rights, provide for an iterative bargaining process among ethnic elites and, consequently, reduce the likelihood of violent ethnic confrontation and polarization. Military regimes are rarely subject to these institutional restraints and incentives. Thus, although the military has been consistently sanctimonious in proclaiming its commitment to the unity or survival of the Nigerian state, and although it has been able to implement swift and decisive action to enforce that commitment, it has also tended to be ethnically exclusive and provocative in composition and conduct.

Nevertheless, the capacity of Nigerian democracy effectively to promote inter-group equity and stability has often been undermined by flawed political institutions or by abusive or repressive behavior on the part of dominant partisan interests. What is more, prolonged abusive

rule by the military has piled up political contradictions and stakes that make the post-military regime distinctly more vulnerable to sectarian turmoil. Nigeria's Fourth Republic, now bears the burden of multiple debilitating legacies of military rule: a flawed and contested constitutional framework, arising from an undemocratic process of constitution-making that lacks legitimacy; a culture of militant ethnic agitation and mobilization (especially in Niger Delta region); the persistence and resurgence of inter-communal violence, the politicization of religion; and most important, a federal system that has been centralized, battered, and bloated by successive military administrations concerned primarily with concentrating control over resources while shoring up their sagging legitimacy by creating ever more states and local government areas..

(II) The Federal system: From Crisis to Reform To Decay

Nigeria is Africa's most consistently federal polity (Adamolekun and Kincaid, 1991). At the same time, the Nigerian system of federalism has been characterized variously as 'peculiar', 'bizarre', 'irregular', 'misleading', 'purely distributive' or 'failed', and as representing a 'hollow federation' or 'a unitary state in federal guise' (Mackintosh 1962, 233; Diamond 1988, 155; Osaghae 1992, 182; Welch 1995, 635; Bach 1997, 346; Soyinka 1999, 27; AM News 7 January 1996, 14; Williams 1980, 100). These characterizations point to certain specificities and pathologies in the evolution and operation of the Nigerian federation.

Leaving aside the centrifugalism inherent in the character of Nigeria as a 'holding together' or disaggregative (rather than 'coming together' or aggregative) federation (Stepan 1997,4), the three - unit federal arrangement established by the British in 1954 was a recipe for ethno-regional friction and convulsion. Specifically, by institutionalizing the hegemony of one constituent unit

(the North, which official census figures since 1954 have given a slight population majority) over the rest of the federation, by constructing the internal boundaries of the federation around the country's three principal rival cultural segments, by denying the country's ethnic minority communities the security of their own constituent states or regions, and by providing for just three (four, after 1963) units in the federation, the federal system of the First Republic served not to moderate but to exacerbate ethnic and regional conflicts (Diamond, 1988).

The transformation of this unwieldy federal structure into a system of 12, later 19 states during the 1967-79 era has been mentioned. However, the enormous ameliorative achievement and promise of this multistate federation became only truly visible after the reintroduction of competitive party politics in the Second Republic (Horowitz 1985,604).

In the first place, the constitution of the 19 states as units that crosscut the country's principal ethnic and regional divisions reduced the politicization and polarization of ethno-regional identities. Thus, for instance, the ten states of the old monolithic Northern Region, and particularly the former region's four core Muslim Hausa-Fulani states, were no longer submerged under the one-party regional rule that obtained in the First Republic. Instead, they divided their partisan loyalties effectively between two or more parties in the Second Republic. Although block ethnic voting took place in the two Igbo states and four Yoruba states in 1979, this outcome had begun to dissolve into a more fragmented and decentralized ethno-political configuration by the time of the 1983 elections.

Second, the 19-state system endowed the ethnic minorities (now constituted into approximately nine largely heterogeneous states) with an effective independent or mediatory role in the overall system. Their electoral support, which was vigorously courted by ethnic majority

politicians, was critical in the victory of the National Party of Nigeria (NPN) in the 1979 and 1983 elections.

Third, the 19-state system spawned a robust system of intergovernmental relations. This showed that Nigerian politics could be re-channeled creatively along institutional, rather than purely ethno-patrimonial, lines. Specifically, a multiethnic, multipartisan and multi-regional intergovernmental coalition of opposition-controlled states emerged to defend states' rights against encroachment by the NPN-controlled Federal Government. Unfortunately, a major source of the abuses that characterized the 1983 elections and delegitimated the Second Republic involved the attempts by elements in the NPN to use the center's relatively superior institutional and fiscal resources to 'uproot' this intergovernmental opposition coalition (Suberu 1990, 283).

Fourth, the existence of the states as alternative and substantive arenas of governance helped significantly to moderate the intensity or the potential destructiveness of the competition for power at the federal level. Following the 1979 elections, the party in power at the center (the NPN) controlled only seven of the 19 states in the federation. The Unity Party of Nigeria (UPN) was in control of five states, the Nigerian Peoples Party (NPP) three, and the Great Nigerian Peoples Party (GNPP) and the People Redemption Party (PRP) two each. Thus, although embittered by its legally controversial loss of the federal presidency to the NPN, the UPN could take solace in the relatively substantial power it enjoyed at the sub-federal level. Again, this critical element of federalist accommodation was undermined during the 1983 elections when the NPN fraudulently seized control of 12 states, thereby reducing the number of opposition-controlled states to seven (four, two, one, and none for the UPN, NPP, PRP, and GNPP, respectively).

Finally, and related to the preceding point, the 19-state system functioned as an important vehicle for the decentralization and dissemination of resources, developmental undertakings and welfare delivery to diverse local constituencies. The states increased their share of the joint "Federation Account" and total government expenditures from about 20 percent and 28 percent, respectively, under military rule to 30.5 percent and 48 percent by the end of the Second Republic (cf. Mbanefoh 1986, 18). In essence, the states were not only important sources of patronage and positions for their indigenes, but also critical centers of policy innovation and experimentation. Several of the states, especially those controlled by the welfarist PRP and UPN, embarked on ambitious social programs, including housing delivery and mass literacy or 'free education' programs, that were significantly more successful or effective than comparable initiatives at the federal level.

Sadly, these federalist achievements were undermined by contradictions arising from the operation of the centrist 1979 constitution, by the overwhelming economic reliance of virtually all the states on statutory distribution of declining centrally-collected oil revenues, by political corruption and intolerance, and by the predictable return of the military at the end of 1983. Thereafter, the decline of Nigerian federalism was dramatic and consequential. Apart from the sheer centralism arising from renewed military rule, this institutional attrition was induced and underscored by four factors.

The first involved the extravagant proliferation, by military fiat, of new states and local government areas, under the pressure of incessant mobilization from various communities that have felt themselves "marginalized". The 19-state structure instituted in 1976 was reorganized into 21 states in 1987, 30 states in 1991, and 36 states since 1996. Similarly, the localities

increased from the 301 areas that were first established in 1976 and then reinstated in 1984, to 449 in 1989, 589 in 1991, and 774 in 1996. These reorganizations were ostensibly designed to respond to local agitation for political and economic decentralization, which pressures were largely fuelled by the considerable official reliance on the principle of inter-unit equality as the basis for the devolution of central revenues and related developmental patronage. Yet, instead of satisfying the pressures for decentralization in any meaningful way, the reorganizations served to weaken the size and resource base of individual sub-federal units, to augment the hegemony and visibility of the central government, to increase administrative costs, and to provoke often violent inter-communal rivalries and conflicts over the administrative location, ethnic configuration, and distributive disposition of the new units of government (Suberu 1997).

The second element of Nigeria's federal decline during the 1984-99 era involved the systematic and self-serving centralization and manipulation of the revenue allocation system by the "Federal Military Government". Basically, this involved the gross underpayment of centrally-collected revenues into the Federation Account, the direct appropriation by the center of all special funds (i.e., monies not directly allocated to any of the three tiers of government) in the Account, the reduction of the states' statutory share of the Account from 30.5 percent in 1981 to 24 percent since 1992, and the center's usurpation or restriction of states' jurisdictions over such taxes as the Value Added Tax (VAT) and personal income tax. As a result of these and related fiscal manipulations, the Federal Government's share of public expenditures expanded dramatically from 52 percent in 1983 to 74 percent in 1995, while the state governments' share declined from over 40 percent to about 20 percent during the same period (Phillips 1997, 33). Yet, given the effective assimilation of state administrations into the military command structure,

it was impossible (indeed unthinkable) for these administrations (headed by middle-ranking or relatively junior officers typically concerned more with personal accumulation than governance) to challenge the abuses of the federal government.

Sectional domination of the central state apparatus was the third feature of Nigeria's federal decline during the 1984-99 era. As already indicated, Northern Muslims headed all four military governments of this period. For much of the period following General Abacha's rise to power in 1993, in particular, the position; of head of state, chief of defense staff, inspector general of police, secretary to the Government of the federation, Minister of Internal Affairs, National security Adviser, Chief Justice of the federation, and several other strategic or sensitive offices, were occupied by Northern Muslims. In a country that is not only almost equally demographically divided between North and South, Muslim and Christian, but also long committed to reflecting its "federal character" or cultural plurality in the composition of government agencies, this sectionalism provoked much alarm, alienation, and even paranoia.

The final feature of Nigeria's federalist crisis during the second phase of military rule was the official campaign of overt ethnic repression that was conducted under the Abacha Government, the single most venal and abusive in the country's history. This repression, which was emblematic of the pervasive climate of human rights violations that prevailed throughout the federation during Abacha's rule, was "particularly severe" in the oil-rich, ethnic minority-populated, Niger Delta region (Human Rights Watch/Africa 1995, 2). In this region, nearly three decades of developmental and ecological neglect by the Nigerian state and oil multinationals, as well as unfulfilled communal demands for the reallocation of centrally collected oil revenues on a derivation basis, produced a militant indigenous movement for ecological rehabilitation, economic

restitution and political self-determination. In 1995, Abacha approved, but did not implement, a constitutional body's recommendation for an expansion from three to 13 percent of the proportion of mineral revenues to be allocated on a derivation basis. In fact, the primary response of the military to the agitation of the oil-bearing communities involved the proscription of ethnic minority associations, the promulgation of a treasonable offences decree for minority group activists, the military invasion and suppression of restive oil-producing villages or areas, and the harassment, detention, arbitrary prosecution and quasi-judicial (or extra-judicial) execution of ethnic minority activists.

Much of the euphoria that accompanied the inauguration of civilian rule in Nigeria in May 1999 reflected the popular expectation that the restoration of democratic governance would end, and perhaps reverse, the systematic vandalization and desecration of federal structures and processes by the military. Yet, the new post-military dispensation will be challenged by at least two fundamental obstacles to genuine federalism. The first is Nigeria's array of structurally and fiscally weak sub-federal administrations, which depend, on the average, on the Federation Account and other external sources of revenue for some 70 percent of their expenditures. Indeed, for some of the states created in the 1990s, like Kebbi and Yobe, the level of dependence on external funding is as high as 99 percent (Federal Office of Statistics 1996, 21). As noted by a group of Nigerian scholars, 'what to do with these military-created states, some of which may be unable to perform the normal functions of states in a full-fledged federal system, will be one of the thorniest issues in a post-military reform of Nigerian federalism' (Ekeh et al 1997, 16).

The second onerous challenge of post-military federalism involves the division of powers in the 1999 constitution, which has restored the highly centralized and contentious construction

of the 1979 constitution. In essence, under the new constitution, there 'are few, if any,… areas in which state governments can act independently of the Federal Government' (Joye and Igweike 1982, 94).

The significant continuity between the 1979 and 1999 constitutions has also meant the preservation of Nigeria's break with the parliamentary system of its First Republic. It is to this theme that we now turn.

(iii)   From Parliamentarianism To Presidentialism: A flawed Transition?

It was the declared intention of the military managers of Nigeria's transition to the Second Republic that the parliamentary system of the 1960 (Independence) and 1963 (Republican) constitutions should be abandoned for a presidential system under the 1979 constitution. This preference was subsequently endorsed, 'after a prolonged and heated debate,' by two separate constitutional bodies instituted by the military during the 1975-79 transition process (Nwabueze 1987, 11). These were the 49-member Constitution Drafting committee (CDC) and the 232-member Constituent Assembly, which prepared and debated the draft of the 1979 constitution before it was finally amended, ratified and promulgated by the Supreme Military Council (SMC). Both then and now, proponents of presidentialism have cited several advantages of the system in the Nigerian milieu. These include: presidentialism's presumed compatibility with African indigenous kingship or chieftiancy traditions; the system's capacity to overcome the First Republic's conflicts of authority, personality and ethno-political interest between the (ceremonial) president and the prime Minister; the role that the president could play as a 'symbol' of 'national unity' by virtue both of his preeminent constitutional status as the chief executive of the federation and his direct election by the whole nation voting as one constituency;

the presidential system's capacity to lend relatively greater energy, stability, initiative and direction (in short, effective leadership) to the process of government; presidentialism's greater institutional consistency with Nigeria's federalist commitments; and the system's greater structural elegance and 'democraticness' in imposing a strict separation of powers between the executive and the legislature, in specifying fixed terms of office for the chief executive, and in providing for regular (rather than unstable) electoral cycles that could minimize the advantages of incumbency in the Nigerian setting (see Federal Republic of Nigeria-FRN-1976b; 1987)

Of these asserted advantages, presidentialism's capacity to foster greater inter-ethnic unity was the factor that was most consistently stressed officially. According to then-former military head of state and now civilian president, Olusegun Obasanjo (1994, 24), 'the greatest advantage of the presidential system is that the country is the constituency of the president. He is obliged to know the country and seek support across the country. Even if he is a tribal baron, his horizon and outlook will be broadened by the end of a nationwide campaign'. For this reason, and despite the purely self-serving promotion of the idea of a presidential-parliamentary system under the Babangida and Abacha administrations, the military has regularly projected presidentialism as an 'agreed' or immutable 'ingredient' of Nigeria's 'political order...'(Babangida 1989, 48). What is more, because both parliamentarianism and presidentialism have collapsed in Nigeria, broad skepticism has often greeted any suggestions for a further change in the country's governmental system. The primary source of contemporary Nigerian instability, it is argued, is not presidentialism, but the misdemeanor of the political class (see FRN 1987, 71).

Yet, as reflected in the growing passionate criticisms of presidentialism by some sections of the Nigerian political class, there is a sense in which the presidential system may have

exacerbated some of the pathologies of Nigerian politics. In the first place, the huge financial costs associated with a federation -wide presidential campaign seem to constitute an invitation for the further 'monetization' and corruption of politics, the very bane of Nigerian public life. As things stand, the presidential race in Nigeria has become an exclusive turf for the so-called 'money bags' or wealthy barons and their 'fronts'.

Second, one may question the wisdom of instituting an executive presidency with very wide powers in Nigeria given the fragile and faltering nature of the country's federalism, the already relatively strong traditions of executive political domination and development, the weakness of legislative institutions and formal party structures, the fledgling nature of civil society, the general vulnerability of horizontal and vertical institutions of accountability, and the overwhelming socioeconomic position of government in general, and the central state apparatus, in particular. Under these conditions, a presidential system could promote personal rule at the expense of 'shared rule" and 'limited rule', further immerse the political system in a statist and monolithic mould, and engender destructive competition for the preeminent position of the presidency. At a minimum, there is a compelling case for constraining presidential power by strengthening such institutions of horizontal accountability as the legislature, judiciary, and counter-corruption apparatus, and by largely removing the president from the appointment of judges and members of various regulatory bodies.

Third, and most important, presidentialism has exacerbated the politics of ethno-regional anxiety in Nigeria. Much inter-ethnic suspicion, contention and recrimination have been generated in Nigeria by the perception that such a singularly important position is in, or could fall into, the hands of a politician from a rival ethnic group. The problem is exacerbated by the fixed term of

the president (four years), and by the ability of an incumbent president under the constitutions of the second, third, and fourth republics to win a second term. The CDC's subcommittee on the executive recommended an antidote to this problem. This involved an elaborate scheme for the rotation of nominations to the presidency and vice-presidency among four geopolitical zones (two each in the north and south) in the country. Each zone, in turn, was to comprise between four and six states of the country's then 19 constituent state units. The subcommittee recommended the rotation of the presidency 'until there has been a president from each zone', and ultimately, from each state (FRN 1976[b], 68-69). This rotational scheme was, however, rejected by the whole committee of the CDC. According to a prominent academic member of the CDC, the scheme would have been adopted but for the realization that it would take some states 'no less than 144 years' to produce the president, even as some ethnic groups in the states would still' stand no chance of their members ever becoming the president ...'(Dudley 1982, 162). Moreover, a scheme to rotate the presidency on a geopolitical basis would appear to contradict the objective of projecting the office as a unifying symbol. Consequently, opinion in the CDC 'swung to the more realistic position of ensuring that whoever became the president had the widest possible acceptability among the electorate' (Dudley 1982, 162). The result is Nigeria's widely acclaimed presidential election formula, which has been variously and controversially reinterpreted and adjusted since it was first formulated by the CDC in the draft 1979 constitution. Under the current 1999 constitution (similar to that in the 1979 constitution), this formula requires a successful presidential candidate to obtain a nation-wide majority or plurality (depending on whether there are two or more candidates) plus 'not less than one-quarter of the

votes cast... in each of at least two-thirds of all the states in the federation and the federal capital Territory, Abuja' (FRN 1999, 55).

Apart from its potential capacity to generate an electoral deadlock, as was graphically underscored by the 1979 presidential election controversy, it is dubious whether the presidential election formula has 'de-ethnicized' the presidency in the perceptions of Nigerians. As president in the Second Republic, Shehu Shagari never passed the test of ethno-regional neutrality or escaped insinuations that he worked 'to preserve the strategic position of his own northern culture and society' (Whitaker 1991, 266 and 271) Babangida's annulment of M.K.O.Abiola's presidential election victory in 1993 prevailed because several northern military officers and politicians would not tolerate a 'southern president.' And after Obasanjo assumed the presidency in May 1999, he was accused of implementing a 'Yoruba agenda' by dismissing predominantly Northern Muslim functionaries from the military and bureaucracy, and assigning 'plum' federal positions to persons from 'some states of the South-West' (Adeniyi Olusegun 1999, 16; Ekpu 1999, 6) Thus, notwithstanding Obansanjo's previous reputation as a 'detribalized' Nigerian, and his overwhelming political rejection by the Yoruba electorate in the 1999 elections (in favor of a different Yoruba candidate), the perception is strong that he has become beholden to his own section of the country as president. All of this can be taken as support for Arend Lijphart's counsel that 'a broadly supported presidency' is still an inferior mechanism of ethnic accommodation to a parliamentary-type, 'broadly representative' or inclusive collegial executive (Lijphart 1996, 266 fn. 8).

Yet, there would be serious problems with a parliamentary system in Nigeria, as well (as there were in the First Republic). In particular, the dependence of a government on a

parliamentary majority in the context of endemic corruption in Nigeria would probably lead to even more expensive ethnic logrolling to form and maintain governments, and possibly the frequent holding of governments hostage to expensive "side-payments" and sheer gross bribery in exchange for fending off votes of no confidence. A requirement for a "constructive vote of no confidence" might preempt the most opportunistic efforts in this regard, but the possibility of recurrent regional, ethnic, partisan and political blackmail would remain. The frequent resort to impeachment and removal of legislative officials in the first few months of the Fourth Republic does not inspire confidence about the prospects of parliamentary government in Nigeria.

Nonetheless, since the 1979-83 experiment, Nigerian politicians have continued to promote constitutional reform proposals for reducing the zero-sum ethno-political outcomes associated with presidentialism. Apart from the resuscitation and popularization of formulas for zoning and rotating the presidency, these reform proposals have included suggestions for the limitation of the tenure of the president to a single 4-6 year term (partly in order to facilitate or accelerate the geo-ethnic rotation of the presidency), the introduction of multiple vice-presidents in order to broaden the ethno-regional base of federal executive power; and the selection of the presidential cabinet from elected members of the national legislature who would, therefore, owe their loyalty not only to the president but also to specific local or regional constituencies (FRN 1995, a and b). Nevertheless, these proposals have not only been condemned by several critics as inherently unworkable and undesirable, they have been disallowed by the military promulgators and supervisors of the Nigerian constitutions and political transitions.

All of this is not to conclude, however, that presidentialism has been foisted by the military on the Nigerian people 'against their legitimate yearnings and aspirations', as claimed by

the Nigerian National Democratic Coalition (NADECO) (The Guardian, 20 May 1999, 15). Although no referendum has been held on the issue, or on any of the Nigerian constitutions, recent constitutional discussions and conferences suggest that a presidential system, with or without significant modifications, still remains the preference of a majority of Nigerians (see FRN 1987, 73). However, the growing opposition to this preference underscores a wider and deeper tension in the country between integrative and accommodative solutions to the problems of unity.

(IV) Between Integration and Accommodation. A Perennial Dilemma.

This global institutional dilemma was succinctly formulated in the Nigerian setting over three decades ago by the editors of the magazine, West Africa, in the following words;

> The great question remains: If tribal feeling is still as strong in Nigeria as recent events suggest, is the best course to create constitutional and administrative machinery that allows this feeling full expression or, is it, as we think, better, while avoiding any kind of provocation, to create machinery which encourages development of national feeling and, above all, national political parties? (West Africa 11 June 1966, 647).

Like the editors of West Africa, the military architects of Nigeria's four post-civil war Constitutions (1979, 1989, 1995 and 1999) leaned towards a nationally integrative, rather than ethnically accommodative, approach to the country's problems of unity. In other words, faced with the dilemma of sustaining Nigerian unity amidst the pressures of ethnic fragmentation and competition, the military sought to rein in, rather than give free rein to, ethnic group interests. Thus, as already indicated, federalism was used to crosscut the identities of the country's three

major groups, while presidentialism was deployed as an instrument for inducing an integrated electoral process and for providing a potential pan-ethnic symbol of national unity. While subsequent military governments avoided General Aguiyi-Ironsi's fatal misadventure in 1966 in abolishing federalism altogether, they all nevertheless ruled the country as a 'unitary state in federal disguise' and maintained the ban he imposed on ethnic political associations (Suberu 1999, 76-79).

Indeed, no other issue better illustrates the ultra-integrative bias of political engineering under military tutelage in Nigeria than the constitutional provisions for national parties. Since General Mohammed's charge to the CDC in 1975 to engineer 'genuine and truly national parties', successive Nigerian Constitutions have required political associations to fulfill a number of stringent conditions before they could be registered by the national electoral agency and function legally as political parties. The most important of these conditions include: the absence of any sectional (ethnic, regional or religious) connotation in the name, emblem or motto of the association; a membership that is open to every Nigerian citizen 'irrespective of religion or ethnic grouping'; the maintenance of functional branches in, or a governing body that includes members from at least, two-thirds of the states in the federation; and the location of the headquarters of the association in the federal capital territory (FRN 1979,64: FRN 1989, A141; FRN 1995a, 95; FRN 1999, 86).

Beyond these common constitutional requirements, the governments of Babangida, Abacha and Abubakar, all in the name of ensuring genuinely national parties, imposed additional conditions for party formation. The most bizarre condition was imposed by the Babangida government which, under the 1989 constitution for the still-born Third Republic, restricted

electoral competition to only two government-designated and state-funded political parties (FRN 1989, A140). While avoiding the democratic aberration of a mandatory two-party system, both the Abacha and Abubakar Administrations imposed novel statutory (not constitutionalized) conditions of their own. The Abacha government required prospective parties to establish offices in two-thirds of the local government areas in each state of the federation, and to enlist at least 40,000 members in each state, plus 10,000 members in the federal Capital Territory—over a million members total! (see Human Rights Watch/Africa 1996,13). To qualify for permanent registration under General Abubakar's transition program, political associations were required to win at least ten percent (later reduced to five percent) of national local government election votes in two-thirds of the states, and in the FCT.

Predictably, the various stipulations for integrating the Nigerian party system have provoked criticisms. They have been denounced as anti-democratic and anti-federalist because they restrict the freedom of individuals to associate freely in partisan formations and deny effective autonomous political expression to legitimate ethno-territorial interests. Because they are directed at the institutional expression, and not the underlying structural conditions, of ethno-political affiliations, the provisions may also be dismissed as largely superficial. More concretely, implementation of the provisions has almost always provoked criticisms regarding the partisan manipulation of the party registration process by the electoral agency. In addition, the regulations have tended to promote the emergence of weak, faction-ridden, crisis-prone, clientelistic parties, and to 'muscle ... out ... parties of deep philosophical expression, ... of conscience ... belonging to the deep political tradition...' (The Guardian May 1999, 48).

The choice of a directly and explicitly regulated and integrated party system in Nigeria partially accounts for the almost complete lack of attention to electoral system design or reform in the country. From the commencement of national electoral politics in the pre-independence era, up to the present time, Nigeria has maintained the first-past-the-post, single-member constituency, electoral system.

However, in 1975, the subcommittee of the CDC on electoral systems recommended a Proportional Representation Party List System for the upcoming Second Republic. In making this recommendation, the subcommittee claimed it had considered such criteria of a desirable electoral system as 'representativity' equitability, intelligibility, ease of implementation and capacity to promote governmental stability, free and fair elections, and a positive-sum 'conception of the political process' (FRN 1976 b, 181). The subcommittee surmised that, 'on balance', the party list system was more representative and equitable, and less prone to electoral corruption and zero-sum outcomes, than the simple plurality system. It also argued that the party list system was as intelligible and easy to operate as the single-member constituency system. The other major forms of PR (i.e., Alternative Vote and Single Transferable vote), the subcommittee argued, were better than the party list system only with respect to the criterion of representativity. (Evidence for the potential relative impact of the various electoral systems on governmental stability, according to the subcommittee, was inconclusive 'in our circumstances') (FRN 1976 b 182). In essence, 'PR based on a list system' was the 'best... (and) also the least objectionable of the different systems we could have adopted' (FRN 1976 b, 182). Finally, the subcommittee acknowledged such potential disadvantages of the use of the PR as 'possible remoteness of representatives from the electorate, likelihood of skewness in spatial

representation (and) party proliferation' (FRN 1976 b, 182). It argued, however, that these disadvantages could be mitigated in the Nigerian setting through appropriate civic education programs, the establishment of equivalent moderate-sized constituencies, and the constitutional provisions for federation-wide parties.

Yet, the plenary committee of the CDC, and subsequently the Constituent Assembly and the military, opted to continue with the 'single- member constituency system' (FRN 1976 b, 212). Ten years later as Nigeria embarked on the ill-fated transition to the Third Republic, a separate constitutional body simply dismissed PR as 'an inappropriate electoral system' for Nigeria (FRN 1987, 134).

The principal, if not sole, proponent of the party list system in the CDC's subcommittee on electoral systems was the late Billy Dudley, the country's leading political science professor of that time. Dudley's characteristically ponderous simulations of the workings of the PR system in the report of the subcommittee belied the argument that the PR would be easy to understand and operate in Nigeria's still largely illiterate society. What is more, the report of the subcommittee also included such unfamiliar, or complex and potentially contentious, ideas as a recommendation for the declaration of the runner-up in a presidential race as the Vice-President of the federation, and another for the resolution of an inconclusive presidential contest through an electoral college using the alternative vote system (FRN 1976 b, 186). In essence, the 'academic' nature of the subcommittee's recommendations, coupled with the broad suspicion that a PR system would simply give vent to narrow partisan and sectional interests, undermined the case for the party list system (Oyediran 1996, xii). Paradoxically, however, the use of the first-past-the-post system for electing legislators from predominantly ethnically homogeneous, single-

member districts in Nigeria has simply served to reinforce parochial legislative politics, and to marginalize dissident sentiments and fissures within various tribal bastions (Diamond and Plattner 1994, xxv). Indeed, contrary to the largely integrative aspirations of the Nigerian Constitutions, informal political exchanges in the country have tended to promote freewheeling ethnic representation and accommodation.

(V) Ethnic Conflict Management: 'The informal Sector'

In conducting informal ethno-political exchanges in Nigeria, the country's politicians have derived enormous inspiration and encouragement from the 'federal character' provisions of Nigeria's post-civil war Constitutions. However, while the 'federal character' principle explicitly mandates only the effective or equal representation of the states in national bodies, the politicians have reinvented it to incorporate principles and strategies for regional, geopolitical, religious, ethnic and sub-ethnic 'balancing' at both federal and sub-federal levels. The most popular of these informal ethnic balancing or bargaining practices has remained the ethno-regional allocation and rotation of political offices and party posts (that is, the constitutionally unrecognized principle of zoning and rotation). The relatively rigorous implementation of zoning was a crucial factor in the electoral success of the NPN in the Second Republic. The party implemented a zoning scheme that effectively assigned the presidency of the Federation to the far (predominantly Muslim Hausa-Fulani) North, the vice-presidency to the Igbo southeast, the party chairmanship to the Yoruba southwest, the senate presidency to the south-south (southern minorities) and (effective from the 1983 elections) the office of the Speaker of the House of Representatives to the lower North or Northern minorities, otherwise known as the 'Middle-Belt' or North-central

zone. Had the Second Republic survived into 1987, the presidential nomination of the party would have rotated South, with consequential adjustments in the zonal allocation of other key offices.

The two parties of the unfulfilled Third Republic adopted even more elaborate zoning procedures. In the Social Democratic Party (SDP), the presidential candidacy went to the southwest, the vice-presidency to the northeast, the national chairmanship of the party and the deputy senate presidency to the south-south, the senate presidency and the post of party publicity secretary to the north-central zone, the offices of the speaker of the House of representatives and party Treasurer to the southeast; and the posts of party secretary and deputy-speaker of the House of Representatives to the northwest. The rival NRC, for its part, zoned its presidential nomination to the Muslim far North, the vice-presidential candidacy to the former Eastern Region, the party chairmanship to the old Western Region, and the post of party secretary to the North-central zone.

Of Nigeria's four post-civil war, military-sponsored, constitutions, the 1995 Constitution of the Abacha dispensation was exceptional in having sought explicitly to formalize or constitutionalize the principle of zoning and rotation. Reflecting southern disenchantment with the 1993 presidential election annulment, and a broader national angst over real or perceived sectional political marginalization, the Constitution provided for the rotation of the presidency between the north and south, a tripartite vice-presidency, the establishment of a 'Federal Character' commission, and the proportional representation in the Federal Executive of all parties winning up to ten percent of national legislative seats (FRN 1995a, 65, 69, 71, 98). Indeed, the national electoral agency asked all prospective parties under the Abacha transition project to

'accept the principle of power sharing and rotation of political offices as enshrined in Chapter VI of the Constitution of the Federal Republic of Nigeria 1995'. (Human Rights Watch/Africa 1996, 13). Finally, in October 1995, General Abacha himself announced an entirely novel scheme for rotational zoning. This was expected to involve the rotation, over an experimental 30-year period, of the six offices of president, vice-president, prime-minister, Deputy prime-minister, senate president and speaker of the House of Representatives among the six geo-political zones of northwest, northeast, north-central, southwest, southeast and south-south. However the duplicity of this scheme became apparent when all the five parties registered by the government went on to nominate General Abacha as their joint presidential candidate. The scheme collapsed, along with the five parties, with Abacha's demise in June 1998.

Rotational zoning resurfaced as an autonomous convention of party politics, rather than an explicit principle of constitutional stipulation, with the emergence of the Peoples Democratic Party (PDP), the All Peoples Party (APP) and the Alliance for Democracy (AD) under the transition program of Abacha's successor, General Abubakar. Reflecting continuing southern agitation for a genuine regional 'power-shift ', all three parties zoned their presidential nomination and party chairmanship to the south and north, respectively. In the event, the two candidates for president in the February 1999 election were both Yorubas from the southwest, Obasanjo of the PDP and Olu Falae of the APP/AD Alliance, who paired with vice- presidential candidates Abubakar Atiku (northeast) and Umaru Shinkafi (northwest), respectively. Following its triumph in the presidential and national assembly elections, the PDP zoned the senate presidency to the southeast, the post of speaker of House of Representatives to the northwest, the Deputy Senate

presidency to the northeast, and the posts of Deputy speaker of the House of Representatives and secretary to the Government of the Federation to the south-south.

The PDP also asked president Obasanjo 'to ensure that ...key ministries (read federal cabinet appointments) are not concentrated in one geographical region' (The Guardian 2 July 1999, 7). Although Obasanjo's cabinet appointments of June-July 1999 did observe the formal constitutional requirement to include at least one minister from each state, and also incorporated elements from the APP and AD, they were generally perceived to have been insufficiently faithful to the informal principle of equitable geopolitical sharing of strategic ministries. To cite one revealingly blunt newspaper analysis of the appointments:

> ...the northwest is in control of foreign affairs and communications...while finance, defense and FCT...have gone to a particular zone - northeast. North-central has industries, while southwest has internal affairs, power/steel, education and aviation as portfolios of consequence. ...southeast has transport, while south-south has works/housing. In summary northwest has two good ones, northeast three, north-central one, southwest four, southeast one, and south-south one (Adeniyi Abiodun 1999,8)

In essence, principles and strategies of ethnoregional power sharing, outside of the formal constitutional framework, have developed in Nigeria. They provide a consociational or accommodative complement to the integrative emphasis of formal constitutional rules, and could compensate for real or perceived weaknesses in those rules. As flexible conventions, these informal practices lend some degree of creativity to ethnic conflict management in Nigeria. Indeed,

they legitimize and institutionalize accommodative and bargaining practices that would be impossible or unwise to codify constitutionally. Above all, they reflect and reinforce Nigeria's 'multiple ethnic balance of power', and the broad desire to preserve the Nigerian state on an equitable inter-segmental basis, given the apparent unavailability of more peaceable or stable alternatives to the country's federal union (Lijphart 1977, 16;Suberu 1997).

When they are respected, these informal practices could enhance significantly the stability of the entire system. When ignored, they could fuel a corrosive current of ethnic discontent. Such discontent could be particularly potent in the Nigerian setting because of the mammoth resources and powers of the state, and the pervasive apprehension regarding the possible use of the state apparatus to promote the interests of particular groups, to the detriment of the welfare or security of other sections.

(VI) Restraining the multi-ethnic state.

The roots of democratic instability and ethnic anxiety in Nigeria lie not so much in cultural diversity as in the destructive competition, the polarization and the repression that have come to be associated with the political struggles for control of the enormous socioeconomic powers and resources of the state. Given the country's relative economic underdevelopment, cultural artificiality and pervasive ethno-clientelistic ties, such competition, polarization and repression have crystallized along communal, ethnic, regional and, to a lesser extent, religious lines. Had Nigeria been a more ethnically homogeneous or culturally consolidated state, the

destructively intense socioeconomic premium on political power would still have undermined democracy, but perhaps without threatening the territorial disintegration of the state.

Institutional engineering to manage ethnic differentiation could compensate for the cultural artificiality of the state, or help to cement the basic 'political community' essential to democratic coexistence, without necessarily yielding a viable democratic order. However, repeated transgressions of the rules of the political game in the desperate competition to win or maintain power inevitably inflame the fissures inherent in a plural society, thereby jeopardizing not only democracy but also the very survival of the state. Thus, along with institutions explicitly directed at managing its ethnic diversity, a critical goal of constitutional design in Nigeria must 'be to check, balance, and decentralize political power as extensively and innovatively as possible, and hence to reduce both the stakes in any electoral contest and the scope for behavioral abuses' (Diamond 1987, 210).

Nigeria has several fledgling or potential institutions of restraint, but perhaps the three most crucial are the judiciary, the electoral commission, and the counter-corruption apparatus. Although blessed with some outstanding judges, the Nigerian judiciary has been enfeebled, particularly under military rule, by considerable executive control of its appointment and funding, extra-judicial military decrees, blunt authoritarian intimidation, corrupt inducement, ethno-political manipulations and financial starvation. A key and novel achievement of the 1999 Nigerian constitution is its attempt to strengthen the judicial branch via the establishment of a National Judicial Council. This 21-member Council of Jurists is to be headed, and largely appointed, by the Chief Justice of the Federation. It is empowered to make virtually binding recommendations, based on the advice of federal and state judicial service commissions, to the

president and state Governors regarding the appointments of persons to judicial positions at the federal and state levels, which appointments may also be subject to confirmation by the relevant legislative authority. Quite significantly, the National Judicial Council is also empowered to ' collect, control and disburse all moneys, capital and recurrent, for the judiciary' (FRN 1999, 145).

These provisions represent an important departure from past constitutional practice when the judiciary lacked financial autonomy, and the Judicial service commissions merely advised the executive on judicial appointments. To be sure, the new provisions have been criticized for not being explicit or far-reaching enough, and for somewhat centralizing control of the entire judiciary (at both federal and state levels) in the office of the chief Justice of the Federation. Yet, it appears the real challenge is for the judiciary to rise from the legacy of its perversion in the recent past to the demands of its now significantly enhanced status as 'umpire' in the federal democratic political process.

Unfortunately, the wise pragmatism that informed the establishment of the National Judicial Council has been absent in the design of the electoral administration. As in the past, members of the federal electoral agency, now rhetorically designated the Independent National Electoral Commission (INEC), will be appointed by the President, acting on the advice of the Council of state, and subject to confirmation by the senate. State Governors would exercise similar powers of appointment over the state electoral commissions, which conduct local government elections only. In the absence of the mitigating effects that could have come from the adoption of proposals for single or non-successive terms for elected office holders, the self-serving manipulation of the electoral machinery by incumbents will continue, and Nigerian elections are likely to remain violent, fraudulent, and contentious. The only potential restraining

influences on the electoral process would be the 'horizontal' oversight that may be exercised by the judiciary, and the 'vertical accountability' that could be enforced through the evolving tradition of local and international election monitoring (Diamond, Plattner and Schedler 1999, 11).

Similarly, the design of the institutional apparatus to control corruption, the Code of Conduct Bureau and Tribunal, has failed historically to produce bodies with sufficient political autonomy, will, professionalism, and resources to enforce seriously the laws and the Code of Conduct, which is on paper quite rigorous. President Obasanjo has submitted a bill to the National Assembly for creation of a Independent Commission Against Corruption, but human rights groups have expressed concern over its considerable abridgement of due process and the concentration of appointment and removal powers solely in the office of the president. If the premium on political power is to be reduced so that the ethnic stakes in winning office can be attenuated at least somewhat, Nigeria must have a counter-corruption apparatus that is imaginatively insulated from partisan politics, amply funded and staffed, and vigorously led.

Nigeria's federal institutional structure also represents a potential instrument for restraining, balancing and dispersing the powers of the state. To date, this potential has been heavily constrained by the centralizing legacies of military rule and the pathologies of the monolithic, oil-centric, political economy. A constitutional review process to consider modalities for restructuring or energizing the states, the permanent exclusion of the military from politics, and the shrewd use of revenue allocation arrangements to stimulate sub-federal fiscal capacity and autonomy, are imperative for the revitalization of Nigeria's weak federalism.

Astute observers recognize 'federalism as an analogue to the market' (Buchanan 1995, 19). The distribution of governmental functions among several competitive or cooperative

jurisdictions is analogous with the economic relegation of 'allocative and distributive choices... to the workings of markets' (Buchanan 1995, 19-20). By restraining, constraining or delimiting the domain of state power, both devices - federalism and the market - help to reduce the vulnerability of individuals and groups (including identity groups) to political manipulation, domination, coercion, exploitation or alienation. While the Nigerian state must play a key (and as yet largely unrealized) role in the stimulation and direction of broad based socioeconomic development, the attainment of the country's longstanding goals of national unity, democratic stability, and material progress would require the reduction of state control over economic resources and rewards.

VII An Agenda for Institutional Reform

No institutional design, however imaginative and fitting, can ensure the survival of democracy and the peaceful management of ethnic and regional conflict. The future of democracy in Nigeria, and of Nigeria itself, lies in the hands of politicians who have at virtually every critical juncture to date been driven by the quest for personal enrichment and ethnic and regional advantage over any commitment to the constitution, the democratic process, or the nation itself. Yet, institutions do structure incentives, and they can also restructure them. The challenge for Nigeria's Fourth Republic is to craft institutions that will restructure or at least constrain the pathological incentives that now prevail in politics.

We have placed considerable emphasis on strengthening and restructuring institutions of horizontal accountability that can gradually generate key elements that have been grossly deficient in Nigeria's three previous attempts at democracy: fairness, transparency, probity and a rule of law. No one would dispute the importance of these principles for the legitimacy, hence

viability and ultimately consolidation, of democracy. Yet students of ethnic conflict might understandably question the emphasis we give to them here for addressing the specific challenge of managing ethnic and regional conflict. Our priority stems from the grotesque distortion of the incentive structure in Nigerian public life today. The premium on political power is simply too great to sustain democracy and to manage peacefully and democratically the ethnic and regional -- as well as factional and individual -- competition for it. Since the First Republic, there has been little if any effective check on the power of officeholders. They have been free to use their power virtually at will to enrich and aggrandize themselves and their communities, to return themselves to office, and to punish and disadvantage the political opposition. In those circumstances, where political power means so much to the life chances of individuals and groups, and where there is no perception of neutrality, autonomy, and fairness on the part of institutions that are charged to manage, supervise, and arbitrate the competition for power and resources, it is almost inevitable that electoral and political competition will be ruleless, abusive, and violent, whether it is polarized into grand ethnic and regional cleavages or fragmented along lower-scale lines of communal and sub-ethnic conflict and grievance. The latter do not threaten national disintegration and civil war in the same way that highly aggregated ethnic conflict does (particularly between north and south, Muslim and Christian, and the three largest ethnic groups, Hausa-Fulani, Yoruba, and Igbo). However, more fragmented and dispersed ethnic conflicts can also destabilize democracy and the nation itself. If democracy, development, and good governance are to be viable in Nigeria, the root causes of chronic political instability must be addressed.

We have mentioned three crucial agencies of horizontal accountability: the judiciary, whose management is now entrusted substantially to the National Judicial Council, and the electoral commission, and the Code of Conduct or counter-corruption institutions. But there are other crucial functions of horizontal accountability and refereeing of political and ethnic conflict. The census has been a recurrent bone of bitter, explosive ethnic and regional conflict, for from the census figures flow the allocation of political power and financial resources (as most states and local governments derive the overwhelming bulk of their revenue from federal revenue allocations). Like the National Judicial Council, the Independent National Electoral Commission, and the anti-corruption commission, the national census or population commission must be appointed and managed in a way that is insulated from partisan politics. This goes as well for the commissions and boards that oversee the civil service, the auditing of government agencies, the police, and the allocation of revenue.

All of these bodies which restrain, oversee, monitor, or referee the competition among communities and parties must be seen as neutral and fair if conflict is to be managed and contained. No formula can ensure that these sensitive functions are insulated from partisan conflict and ethnic or regional dominance and managed professionally and fairly. But imaginative constitutional provisions can be deployed to improve the image of neutrality and the prospects of insulation from partisan and ethnic politics. Currently, it is the President, subject to the advice of the Council of State and/or the confirmation of the Senate, who is entrusted with the appointment of many of these bodies. In the case of the counter-corruption commission proposed by the Obasanjo Administration, the situation is potentially even worse: it is the president unilaterally who is to appoint the members of the commission and who can remove

them for any cause. We think a new way must be found to appoint and oversee the agencies of restraint and refereeing in Nigeria. A Council of State is a valuable constitutional concept for this purpose, and charged with this function, it can become the pinnacle of a virtual fourth branch of government, separated from and checking the other three. But to do so, the Council must be autonomous of partisan politics. Currently it is composed primarily of serving politicians (the president, vice-president, Senate President, the Speaker of the House of Representatives, the Federal Attorney-General, the state governors, former presidents -- including former military heads of state who came to power via coups!) The only potentially non-partisan members of the Council are the former Chief Justices of the Federation. Nigeria needs to find a new way to constitute this Council of State so that its members come from civil society and are not serving politicians. Ironically, President Obasanjo himself, writing in the late 1980s as a retired head of state, proposed that the Council of State become a nonpartisan independent body, whose members would be required to relinquish any party membership or affiliation (Obasanjo, 1989: 90-91). He proposed then that the president of Nigeria be the only partisan member of the Council, and not its chairman. Other Nigerians have pondered whether it might be possible to draw membership of the Council from among respected organizations in civil society, like the Nigerian Bar Association, the Nigerian Medical Association, the Nigeria Labor Congress, the National Association of Nigerian Students, women's and human rights organizations, and so on. Many of these human rights and good government groups came together in a coalition, the Transition Monitoring Group, to ensure the fair completion of the Abubakar transition to democracy during 1998-1999. We think it is now time for these actors in civil society to turn their attention to this crucial challenge of how best to constitute and insulate the agencies of accountability.

There are, of course, many other institutional changes of a more conventional nature for managing ethnic conflict that could be proposed. But the scope to implement them is quite limited. Nigeria is too wedded to constituency representation to render feasible the kind of system of proportional representation in small to moderately sized multimember districts that Reynolds has proposed for African countries (Reynolds, 1998). However, as a federal system, Nigeria has the advantage of having two houses of parliament. The Lower House of the National Assembly, the House of Representatives, must be elected on the basis of single-member territorial districts. We think no other system of election would be accepted in Nigeria. However, it is quite conceivable that the Senate (which is now composed of 3 representatives from each of the 36 states plus one from the Federal Capital Territory of Abuja) could be elected by some other means. It would be feasible, for example, to make each of the states a three-member electoral district for the election of senators on the basis of proportional representation. Such a small district would offer only modest scope for a party with a base and an identity from a different ethnic group or region to gain a foothold in a "foreign" area. But it would begin to generate some possibility for such trans-ethnic alignments and linkages to emerge, and some greater incentive for parties to campaign and invest resources in states where they have historically been weak. Particularly in a two or three-party system, lowering the effective threshold for election of a representative from the range of 40 to 50 percent down to 25 to 30 percent might well create a much more complex picture of electoral competition.

A system of proportional representation for election of the Senate would work far better with larger states and hence larger electoral districts. But this would require fewer states. If the current 36 states could be consolidated down to 21 or even 24, and the number of Senators were

increased to 5 per state, the Senate would be roughly the same size as today (in the range of 106 to 121 members, adding one for Aubja, compared to the current 109). Consolidation of states would thus serve the principle of ethnic conflict management, while making state government a more viable level of governance again and restoring some of the complexity to politics at the state level. Consolidation is thus a worthy and we think almost necessary goal for the effective functioning of federalism in Nigeria. However, it is one that would surely set off intense ethnic and regional mobilization and violence, as the communities that would be losing states and state capitals would also see themselves to be losing governors, civil services, and various types of resources. The Nigerian military has done a grave disservice to federalism and governance in Nigeria by creating so many states, but it is not a change that will be easily reversible any time soon. Institutional redesign must proceed with a sense of realism about what is possible in the near term.

Conclusions

Nigeria has demonstrated a capacity creatively to nurture "Unity in diversity'. It has also betrayed a vulnerability to disintegrative sectarian conflicts. The Nigerian experience shows that the instauration of a vertically and horizontally balanced system of federalism, and the implementation of both formal and informal strategies for national integration and ethnic accommodation, can help to contain the threats to institutional stability inherent in a multiethnic developing state. The same experience instructs that the distortion or decline of federalism, the transgression or abortion of basic democratic processes, and the general underdevelopment of institutions of political restraint could inflame the fissures of a plural society, and precipitate the

disintegration of an otherwise reasonably manageable multiethnic state. The fortunes of Nigeria's Fourth Republic, launched with as much optimism as pessimism in May 1999, may determine which of the two historic tendencies finally prevails in the country.

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