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NIGERIA: THE IMPERATIVE OF NATIONAL DIALOGUE ON 1999 CONSTITUTION

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SUMMARY

The paper evaluated the essential need for the proposed National Dialogue on the 1999 constitution, because it does not reflect the 'General Will' of the Nigerian people. The study sought to highlight the import of the national dialogue. It revealed that the amalgamation was actually to enhance British colonial economic interests. The other reasons being that the various protectorates were lying contiguous to one another hence it made administrative sense to merge the Northern and Southern Protectorates. It adopted the comparative descriptive approach by which it generated data from the processes of the American model, which remained the source of the Nigeria constitution.

It exposed that the American constitution went through series of processes, which could be equated, to national Dialogue, and concluded that when a group

of nations are bound together without prior negotiations, suspicions and centrifugal strains (e.g Boko Haram, OPC & MASSOB etc) define the relationship. The study recommended active participation in the conference by all ethnic-nationality to create a united Nigeria or two or more countries out of the present Nigeria. Furthermore, the study advocated that one knotty issue that the dialogue must resolve is that of national revenue creation and allocation.

INTRODUCTION

The study seeks among other things to establish the imperatives for the proposed national dialogue. The proposed dialogue rests on constitutionalism, which raises questions such as; (i) what type of constitution is most generally practicable? (ii) What sort of constitution is desirable for which sort of civic body? (iii) What methods exist for establishing constitutions and what are the causes for the destruction and preservation of constitutions? It would be recalled

that the current section 162(2) of the 1999 constitution which granted 13 per cent derivation fund, to the South-South group of states, was obtained from the 1994-95 conference. This is the kind of changes that the national dialogue could achieve hence it should be encouraged and attended.

The paper consists of three (3) sections, section one (1) introduces the subject matter, two (II) examined the 1999 constitution, while three (III) discussed the National conference and the issues to be corrected at the conference. It then concluded and made recommendations for the future Nigeria State.

The other imperatives are embedded in the fact that, Nigeria is a country created in 1914 by the colonial masters. Nigeria a country of triple heritage, colonialism, Christianity, Islamity and to a lesser extent traditionalism. Nigeria before 1914 was as clearly revealed in the supreme courts judgement in the resource control case on the 5th April 2002; 'until the advent of the British colonial rule in what is now known as the Federal Republic of Nigeria (Nigeria, for short), there exited at various times various sovereign states known as emirates, Kingdoms and empires made up of ethnic groups in Nigeria. Each was independent of the other with its mode of government indigenous to it. At one time or another, these sovereign states were either waging wars on one another or making alliances, on equal terms' (Sagay, 2009). Like in Canada, the social, economic, and ethnic-diversity of the colonies made a unitary form of government or legislative union as it was then called, completely unacceptable to the Maritime and Quebec....All provinces wished to retain control over matters that would allow them to preserve their local character and institutions (Leon, 1987).

The colonial masters took control of the North and South, East and the West at various dates, and decided to amalgamate these territories. A memo dated May 1905, was sent to the colonial office; it was approved in 1912 and implemented in 1914.

1914 Amalgamation; Raison D'etre

i) There are in British tropical Africa several blocks of territory under separate administrations which are contiguous to each other, and the question arises whether it would be more advantageous that they should be placed under a single directing authority, with a single fiscal system, a common railway policy, and identical laws, more especially *if one controls the coast area and the other has no access to the sea board.*(emphasis mine).

ii) Amalgamation (that is unification) and federation are both political processes of evolution, as we have seen in the United States, in Canada, Australia and South Africa.

iii) Where one administration comprises the coast area, and collects the customs dues (which have hitherto) formed the bulk of the revenue in most African dependencies) while another forms its hinterland, the latter must either establish an inland fiscal frontiers, or share the duties collected by its neighbours.

iv)Imported goods which have paid duty in the coast pass into the hands of native middlemen, and their ultimate destination, by a thousand byways of

trade, may be in the hinterland; or the exportable produce for which they are bartered may originate in the interior territory.

v) It was not right to continue to allow the coast colonies alone to benefit by trade, a large proportion of which was destined for the interior;

vi) A hinterland Government has not only to bear heavy transport charges from and to the coast on its imports and exports, but upon it falls the burdened of frontiers defence. In order to balance its budget it will probably have to depend on a grant from Parliament, paid by the British taxpayer, while the coast government may have a surplus revenue.

vii) An interior administration depends largely for its development on railways and improved waterways for which capital was required but loans are not permissible while yet a country depends on an imperial grant. Even if sufficient revenue for its needs were raised by taxation, payment of taxes must be largely made in-kind which can only be realized by conveying it to the coast. Some small part may be sold to merchants for cash, but they will not establish themselves, unless means transport are available. The above reason meant that (a) *the northern protectorate could not obtain loans from the banks to develop its economy since it was bound by the imperial grant it was receiving annually to balance its budget. (b) Taxes were paid mostly in kind, which needed to be translated to cash by selling them to merchant. This conversion processes generated little*

income. (c) When the goods are transported to the coast for shipment, the final cost increases and it ultimately generated low net income.

ix) The colonial administration then concluded that; it was obviously inadvisable that contiguous communities should be under different systems of taxation, and different penal codes (Lugard, 1891).

Adedeji (1969), averred that the Northern Nigeria was amalgamated to Southern Nigeria because, Southern Nigeria was rich, because it had the spirits duties. As was expected the government of Southern Nigeria had no financial problems. In fact its revenue was always in excess of its expenditure...on the other hand, the government of the Protectorate of Northern Nigeria was unable to balance its budget and was dependent on annual grants from the British government. Even with these grants, which in the year before amalgamation were at the level of £136,000 and averaged £314,500 for the eleven years ending March 1912...Amalgamation was the only solution to this anomalous situation (1969:27 &32).

The above conditions which were applicable to Nigeria as they were to Uganda, were captured in a memo dated May 1905 and supported by the Governors of the coastal administrations, it was then sent to the Secretary of the colony for her majesty's assent to amalgamate the protectorates to form Nigeria. The approval was granted in 1912 but had to be delayed until January 1914 because;

a) Differences existed between the two protectorates, the financial year of the Northern protectorates started from April 1, while that of the South commenced in January 1.

b) The system of accounting in the two protectorates was different, it needed to be unified. These were accomplished by posting colonial financial officers, with the natives deputising. The stage was now set for the amalgamation on January 1, 1914. The above background laid the roadmap for the issues to be evaluated, particularly the 1999 constitution that is the focus of the current constitutional dialogue 2013.

The Problem of the Study

The story of the origin of Nigeria indicates a multi-ethnic nationality. This calls for a constitution, which is federal rather than Unitary in form and application. The 1999 constitution is a unitary one, which is not suitable for a multi-ethnic state such as Nigeria. Secondly, the constitution was enacted by the military devoid of all variables, which often give birth to a constitution. It is a product of Decree No. 24 of 1999, which gave 'force of law' to the 1999 constitution, which was copied from the American system.

Thirdly, being a unitary constitution in an environment which had a federal constitution in 1960/63, given birth to through the 1958 constitutional conferences, it generates considerable injustice which has made the society atomistic with considerable centrifugal forces manifested by;

(i) Boko Haram which- rejects Nigeria's unilateral constitutional imposition of democracy secularity and western legislative Judicial and executive procedure as well as western pattern of learning, on their traditionally 'Sharia' territory.

(ii) MEND rejects the hijack and confiscation of the oil and gas resources of the Niger Delta and placing it on the Exclusive list, which vests the Federal government with ownership and control of the resources to the neglect of the people. (iii) Odua People's Congress (OPC) rejects the hijack of power and responsibility for the internal security of Youruba land by Exclusive list, which puts the all-important matter of security of life and property in Yourba land exclusively in the hands of stranger elements who may not wish the Yoruba well. (iv) MASSOB rejects the lie in the constitution that we have resolved to live together. The East is kept in Nigeria by naked force since 1967 through a campaign of genocide (v) OLF-rejects the seizing of their waterfront, harbouring crude oil which serves Akwa Ibom and Nigeria yet marginalised in development calculus and denied access to the highest office of governor in the state. (vi) MOSOP-decries the despoliation of their land for crude oil and the attendant environmental hazard, which kills people by instalment.

The 1999 constitution is of great problem because it has ignored the principles of federalism, which is often meant to give vent to the various ethnic nationalities in a state to retain some of its inalienable

rights, and set the tone of its relation with other nationalities. It would be recalled that a unification decree by General Ironsi in 1966 was one of the several reasons for the July 29, 1966 counter coup d'etat.

The principal issues of this problem are that there are certain specific laws or statutes, which must be reviewed. This is because laws ought to be made to suit constitutions (as indeed in practice they always are), and not constitutions made to suit laws. The reason is this, a constitution may be defined as 'an organization of offices in a state, by which the method of their distribution is fixed, the sovereign authority is determined, and the nature of the end to be pursued by the association and all its members is prescribed (Baker, 1945). The statutes must make way to create the people's constitution. These include;

i) The 1969 Petroleum Act (51) which confer the ownership of all the petroleum resources in the country on the federal government.

ii) The 1978 Land Use Act

iii) The 1978 Exclusive Economic Zone Act (which confer off-shore resources on the federal government)

iv) The oil terminal Drill Act

v) The 1978 Gas re-injection Act

vi) The 1990 territorial water Act (CAP 16)

vii) Oil Pipeline and Land (title vesting etc) decree #2 of 1993.

viii) The 1971 offshore oil revenue act which gives the Federal government the exclusive rights over the continental shelf of the coastal areas.

ix) VAT and port tax everywhere belongs to the state and localities where they are collected.

These statutes create a lopsided economic structure as shown.

Table 1

Contribution and Allocations to Zones (State and LGAs) from Federation Account

Jan-April 2005

A Zones in Billions # North Central	B Amt Received in Billions #	C %	D % Each Zone Contributes to Allocation
North Central	45.811	0.00	7.48
North East	46.213	0.00	8.00
North West	33.476	2.75	5.48
South East	44.488	0.00	8.31
South West	44.502	3.97	7.43
South-South	145.171	91.54	17.3

Source: Federal Ministry of Finance, Abuja 2003

The table, above indicates that the North Central, North East and North West contributed zero amount to

the Distributable Pool Account (DPA) yet obtained for the same period 7-8.31 from the federation account (DPA). The South East, West and South-South have been carrying the burden of the whole country.

The pains and gains of development have not been shared equitably. This is where the National conference become imperative, in order to redraw the constitution.

The Methodology of the Study

By methodology, we mean a designed knowledge craft adopted for conducting investigation and research. As a designed knowledge model, it guides the investigator and researcher on how to approach the investigative problem of concern in the way and manner for justification or falsification of results. It prescribes and specifies requirements, which must be strictly adhered to by the user(s).

The permanent fundamental requirement of scientific method demand that the investigation and research be based on concrete data, in this case, the making of American constitution from where Nigeria derived its constitution. Babbie (1992) described methodology as a set of rules for formulation of knowledge in a manner that facilitates its communications among the members of the discipline. The study of methodology deals with an analysis of the rules of presenting theoretical claims and formal explanations in a scientific study. This orientation deals with the application of specific methods of

creating a new constitution when there is subsisting legislatures.

The method American Case-History- the United States of America was a colony of the British imperial power, consisting of thirteen (13) colonies. They elected to come together into the United States of America and went through the following steps. (i) The American constitution originated as law and not by way or by means of an Act of Congress. The US constitution was made (not by congress, but) by a special convention, a kind of constituent assembly, held in Philadelphia in 1787, where the articles of confederation were drawn from the propositions of the 13 colonies and major proponents. (ii) The Nationalist Majority herein known as the Federalists or Virginia Plan. (iii) The colonies based on Proportional Representation among states by Population, (iv) The Anti-Federalist, or New Jersey Plan. (v) The Connecticut Compromise, allowed both Plans to be put together into a single documents with representatives from the zones in attendance.

Derived from the American example, the Government of Nigeria could nominate certain interest groups to participate in the conference from North, West, South and East; such as the Afenifere, Arewa Consultative Forum etc.

Applications of the steps in Nigeria

i) Lets assemble the positions of the six geopolitical zones on all the issues set to be discussed into articles of confederation (Agenda).

ii) The articles of confederation would be ratified not by the existing state legislatures (State-Assemblies) but by special conventions in each state.

iii) The constituent Assemblies-assumed the constituent power reposed in the people, the people being the body recognised and accepted as having authority to make a constitution and bestow on it the force of law.

iv) It is important to state here that the American constitution made it clear that the constitution is an act of the people and not an ordinary law of Parliament, which could be amended by it. Once the people through their freely chosen representatives have made the constitution, it review should require the approval of the people as a whole in a referendum.

v) Constitution review and amendment-It is important to establish the constitutional meanings of these terms in order to minimise legislative rascality. The national assembly is properly denominated to deal with the issues of constitutional amendment as provided for in section 9 of the 1999 constitution.

No section in the constitution however gives the National Assembly power to review the constitution. Constitutional review implies a comprehensive revision of a constitution usually involving fundamental changes in the system of government and in the structure of state powers and relationships.

Only the power of amendment in this strict, narrow sense is delegated by the mandate conferred on it by its election, whilst constitution review remains with the people, just like the making of a complete new constitution (Nwabueze cited in Sagay, 2010).

Consequently, all these fundamental changes, which the 1999 constitution requires, generate the imperative of national conference on the 1999 grundnorm.

Framework of Analysis

The framework for addressing the issue of the National conference as raised herein transcends law order and enforcement. For a clearer understanding of the issues involved, this analysis would liken the situation to a limited liability company starting, from the promoters who generated the ideas and put together the 'articles' which define their relationship, through the management, to the share holders.

Every limited liability Company usually has prospective promoters' shareholders as owners of the enterprise. First, they come together and agree to form themselves into a company and spell out all the terms of their relationship in the would be enterprise in a document call. Memorandum and Articles of Association. They then get registered or incorporated. This is the level of coming together of the ethnic nationalities in Nigeria in a national conference or constituent assembly. They subsequently hire a Management team (who may be shareholders) to

carry out their wishes strictly as contained in the memorandum and article of association. This refers to the Executive, Legislature and Judiciary at all levels. At no time does it become the legitimate business of the hired management team to wholly substitute or alter the contents of the memorandum and articles over the head of the owners, the share holders as that would be criminal and the shareholders may either reinstate the memo or dissolve the company. This explains the rationale why the legislature has the power to amend and not to review the constitution.

Constitution Making Powers

The power required for constitution making is called constituent powers and it resides exclusively in the hands of the sovereign peoples of Nigeria who could have been countries of their own but for the Nigerian Union. It is exactly like the power of shareholders/owners of a limited liability company to draw-up their Memorandum and Articles of Association. An elected Government is exactly in the position of the hired management team of a company and therefore does not have the powers to make or alter the contents of the constitution/fundamentally just like a management team cannot tamper with Memo and Articles of a company. Globally, the limited powers of amendment delegated to the legislature are subjected to referendum as a sure mechanism for giving the owners of the enterprise, the people, final say on the Charter of their relationship, the constitution (The Guardian, Nov.12, 2013).

The corollary of the above framework in the case of Nigeria is that the people in exercise of their sovereignty agree to form country (the enterprise) or political union on certain terms. They spell out this agreement on terms in a charter document call the '*Constitution*', which defines the enterprise. They then periodically hire a management team called 'Government' by a process known as 'election', to carry out their wishes, strictly according to the charter document, 'the Constitution'. At no time does it become the legitimate business of that hired management team called the Government (including the Executive, Judiciary, Legislature), to wholly substitute or review the charter document, the constitution over the head of the owners of the enterprise, the people.

Put differently, at no point can the hired management team (or the Government), dictate to the body of shareholders (or the sovereign peoples). If the hired management team fraudulently changes the memo Articles thereby hijacking the enterprise, then the shareholders must find a way to re-enact or restore their memo/article. If prevented, they can dissolve the company and retrieve their individual asset. These are the bases of the imperative of the National Conference, for the shareholders to review the articles of association, make amend or review the entire structure of the enterprise accordingly.

Section II

The 1999 Constitution in Perspective

i) It was born by the Constitution of the Federal Republic of Nigeria (Promulgation) Decree #24 of 1999. It contains 319 sections and 7 schedules. As the late chief Rotimi Williams (SAN) observed it tells a lie against itself, when it proclaims 'We the people of the Federal Republic of Nigeria...enact and give'.

ii) Every constitution, particularly the USA constitution from where it was copied is a Federal Constitution with powers and responsibility share between the central and constituent states in an equal manner. This constitution is unitary in form and content. The Exclusive legislative list in the 1999 constitution contains **68** items, compared to **66** in the 1979, 1989 and 1995, 45 in the 1960/63 constitutions respectively. It is the nature of the actual items on the list that reveals the dominant federal powers. This list includes not only matters, which should be exclusively within the competence of states, but also many matters, which should have rightly been in the concurrent list, that is, within Federal and the state competences (Sagay, 2009).

iii) Federalism –a form of governance system, which combines unity with diversity often suitable in states with numerous ethnic-nationalities. The actual creation of federal polities has been either from below, through the consent of the constituent units such as for example, United States (Mclean, 2003). This is

what the current national conference seeks to achieve. The conditions for the operations of Federalism consist of (a) the power sharing arrangement should not place such a preponderance of power in the hands of either the central or regional government to make it so powerful that it is able to bend the will of the others to its own. (b) Federalism presupposes that the central 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. (c) From the separate and autonomous existence of each government and the plenary character of its power 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 (Nwabueze cited in Sagay, 2009). The list of items in the Exclusive legislative list of the 1999 constitution made nonsense of the above principles of Federalism, with 68 items.

Agenda: The Contradictions of the 1999 Constitution

The contradiction listed and discussed below are found in the Second schedule, part 1, Exclusive legislative list. They are ideally supposed to be in the Concurrent list because of their nature. They ought to

be dealt with by both the federal and state or regional government. They are;

i) Census (item 8): Planning is a basic administrative function involving formulation of one or more detailed plans to achieve optimum balance of needs or demands with the available resources. The planning process include (i) identifying the goals or objectives to be achieved based on the need assessment arising from the problems on ground. (ii) Formulating strategies to achieve them (iii) arranging or creating the means required (iv) implements, direct and monitor all steps in their proper sequence. Census is needed to plan for development programs. The national censuses since 1962 have been enmeshed in controversies. Every state deserves to know its population distribution for purposes of effective service delivery. How many adults, teenagers and old people, in order to provide corresponding social services? How many schools, hospitals, roads, housing estates and where should they be cited? The need for effective service delivery has made it imperative that census should be moved to the concurrent list in the new constitution. The caveat should be that it should cease to be the basis for revenue allocation; else, it should also be the basis of revenue generation (taxes) so that allocation would be proportionally based on per capita generation to the consolidated revenue fund. This nullifies section 162(2) of the 1999 constitution.

ii) Fishing in Rivers (Item 29)

The rivers are located in the states or regions and local government areas. What sense does it make the federal government to have exclusive rights of facilities located in say Akwa Ibom and in Oron local Government? To what extent does the Federal Government ensure that these rivers do not constitute nuisance to the people of the locality where they are found (even its federal roads in this locality are not fixed) only for them to take all the advantages of the resources therein.

iii) Labour, Trade Union (Item 34)

It would be recalled that states and local Government as well as the Federal Government do employ staff for their services. These employers should be allowed to negotiate wages, which they would be able to pay commensurate with resources they can generate with their employees. These are no reasons why there should be uniform wages in the country. The removal of this to the concurrent list would minimise the spade of industrial crisis in both the state and the local government respectively. A minimum wage and federalism is a laughable contradiction.

iv) Mines and Minerals including Oilfield (Item 39)

Federalism is anti-thetical with colonising resources and denying the ethnic-nationalities the right to own the resources that are natural to them completely. The ownership of the oilfields 100% by the Federal

government by virtue of its inclusion in the exclusive list.

iv.i) Addressing section 43 (Item 39)

The expectant constitution which would be the outcome of the current national dialogue, should be able to resolve these ambivalence by adopting and reproducing section 140 and 141 of the 1963 Republican Constitution which stated as follows; Section 140**(1)** The Federation shall pay to each state there a sum equal to fifty (50%) per cent of –(a) The proceeds of any royalty received by the federation in respect of any minerals extracted in that state, and, (b) Any mining rents derived by the federation (c) Any petroleum profit tax (i) bonuses, (premium), (ii) licensing (iii) prospecting (iv) mining and other fees (v) rents (vi) oil terminals dues, etc from within that state. Section **(2)**, the federation shall credit to the distributable pool Account a sum equal to thirty (30%) per cent of; (a) The proceeds of any royalty received by the federation in respect of minerals extracted in any state; and (b) Any mining rents derived by the federation. (c) Any petroleum profits tax (i) bonuses, (premium) (ii) licensing

(iii) Prospecting (iv) mining and other fees (v) rents (vi) oil terminals dues, etc from within any state. Section**(3)**, for the purpose of this section the proceeds of a royalty shall be the amount remaining from the receipts of that royalty after any refunds or other repayment relating to those receipts have been deducted there from or allowed for. Section

(4) Parliament may prescribe the periods in relation to which the proceeds of any royalty or mining rents shall be calculated for the purposes of this section. Section **(5)** in this section 'materials' includes mineral oil. Section **(6)** for the purposes of this section the continental shelf of a state shall be deemed part of that state and the adjoining local government.

(7) Section 141 –Distribution: There shall be paid by the federation to the funds in each state at the end of each quarter sums distributable equal to the fraction arrived at by dividing the Pool Account amount standing to the credit of the Distributable Pool Account by the number of states in the federation.

v) Police **(Item 45)-** Everywhere there is a federation both the states and local Government Police exist. In the USA and Britain, there are Federal and State Police. There is need to have state police in the Nigeria context. Already there are the Sharia (Hisba) Police operating in the Sharia states.

vi) Registration of Business Names, Prison and Stamp Duties **(Item 58 & 62)** By the nature of these items, they should be in the concurrent or residual list.
(vii) Taxation of Income-Capital gains **(Item 59)**

The economic activities, which generate income for taxation to be paid, take place in state and local government environments. Why should the rights to tax be exclusive to the federal government? The state provides the roads, water and other social infrastructure, which the personnel of companies who pay tax live on. Why should they pay tax to the federal

government only at most it should be in concurrent lists?

Value Added Tax (VAT is essentially a sale tax which take place in the state, Why should it go to the Federal Government? Local government should be deleted from the constitution; it belongs to the residual list. This is the outlook of the 1999 constitution, which should be reviewed in the new expectant constitution.

Section III

National Conference: Call for Memoranda

a) Structure: the conference should be composed of ethnic nationalities selected/elected by their apex organizations. For Akwa Ibom State for instance, the Ibibios, Annangs, Oro and the Obolos should present 12 representatives on the ratio of 5:4:3:2. How they produce them should be left to their apex organizations. Each state therefore should have twelve (12) representatives; this should be spread among the composed ethnic groups within the states. Ethnic nationalities here defined, as we knew it in the 60s.

b)Legal framework of the Dialogue; The President should send a bill to the national Assembly for passage into an act legalizing the conference and its outcome. The Bill would provide legal backing to the conference. The people's assembly would present the bill when pass into law should bind the National Assembly to adopt the Review of the Constitution as passed. The Bill should make it clear that the power to

amend the constitution is domiciled in the National Assembly, while the power to review the constitution rest with the people. The national dialogue therefore has the right to review the constitution without prejudice to the power of the National Assembly to make laws and amend sections of the constitution.

c) Duration of the Conference: Given the fact that the conference is not going to amend the 1999 constitution but to review it, the issues involved are serious and critical. The duration should be elastic enough to allow for exhaustive deliberation of all contending issues.

d) Agenda for Deliberation : The following items have to be addressed to generate federalism, justice and equity in Nigeria. These are;

i) Equal number of States between North and South and any further state should be based on their viability.

ii) Equal number of Local Governments between the North and South, if Local Government would not be expunged from the constitution. Viability should be the basis for their creation, as Revenue allocation would discount it.

iii) Equal number of legislators to make deliberation in the parliament more robust. (It would be recalled that in the 50s the North threatened secession if they were not given equal number of seats in the proposed parliament (Federal House, if they were more than the south in population, would that have been necessary?).

iv) Repeal of the statutes (1-VIII) as listed in the 'problem statement' section of the paper.

v) Rotation of important political offices in the land between North and South and within the major ethnic groups in each state (Presidency, Governor, senator, House of representative, House member, Speaker, Local Government chairman, Chairman of Party, Chapter, Ward and units chairmen of party respectively), this is because political inclusiveness is panacea to peace. It is foolhardy to request rotation between the North and South, when we come home to profess majoritarianism, which excludes certain ethnic groups. This is political hypocrisy.

vi) Crime against the People: The new constitution should recognise what constitute a crime against the people and punish it with stringent measures. Any person being a representative of the people who exercises his 'trusted mandate in a way considered 'unconstitutional' if it cannot be shown to be for the wellbeing and for the protection of the people or crime. This crime would include;

i) Coupists
ii) Persons who engage in election malpractices
iii) Public officers and other uniform groups who engage in corrupt practices
iv) All other immoral actions

These transgressions must be punished henceforth very severely. These offences are injuries against all, therefore, anyone

should be able to prosecute them without the hindrance of immunity.

vii) Only the office of the President should have immunity

viii) Recruitment into the military must be strictly on federal character and merit

ix) Differential admission policy and 'cut- off- marks' should be dropped for a general- pass- mark, between the North and the South.

x) Nomadic School for the Riverine coastal communities should be established for the migrant fishermen.

xi) The right to secession and the conditions thereof should be spelt out and the body that would preside to affirm the fulfilment of the condition should be established.

Conclusion:

When group of nations are bound together without prior negotiations, the relationship is often characterized by suspicion. When the opportunity comes, they break apart like Commonwealth of Independent States (Commonwealth of Independent States (CIS), these are break-away States from the former USSR). There are already several centrifugal forces pulling the Nigeria state in different directions. It is now time to renegotiate and define a common nationality.

It should be restated that the current lopsided nature of the Nigeria state could be corrected at the conference. The current 13 per cent derivation fund being enjoyed by the Oil producing states was secured in the 1994/5 conference. There is therefore a very high probability that greater corrective measures of the constitution and statutes, which have held some group of people captive in the Nigeria state, would be corrected with serious politicking. This lays the imperative for National Conference to reshape the Nigeria state.

Recommendations:

i) All states must have a pre-conference session to set their agenda on the issues and structure of proposed Nigeria. (ii) The Geopolitical zones should meet with the states within it to collate the agenda. (iii) The states should choose their delegates based on the major ethnic nationalities and get ready to pursue the changes of the laws identified herein.

(iv) We may or may not remain one country. Nevertheless, the advantages of remaining one country on a consensually agreed framework surpass separation. This is for your conjecture and action.

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